

Use of Force

300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner.

In addition to those methods, techniques, and tools set forth below, the guidelines for the reasonable application of force contained in this policy shall apply to all policies addressing the potential use of force, including but not limited to the Control Devices and Conducted Energy Device policies.

300.1.1 DEFINITIONS

Definitions related to this policy include:

Deadly force - Force reasonably anticipated and intended to create a substantial likelihood of causing death or very serious injury.

Feasible - Reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.

Force - The application of physical techniques or tactics, chemical agents, or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed, or restrained.

Imminent - Ready to take place; impending. Note that imminent does not mean immediate or instantaneous.

Totality of the circumstances - All facts and circumstances known to the officer at the time, taken as a whole, including the conduct of the officer and the subject leading up to the use of force.

Less-Lethal Force- Force not intended to or likely to cause death or result in serious injury.

Overt Physical Resistance:

1. A suspect's physical actions, beyond passive resistance, which prevent an officer's lawful actions in attempting to detain or arrest a suspect.
2. This typically involves an action(s) by a suspect that requires force beyond a normal arrest or handcuffing situation.
3. Examples of this would include (but are not limited to) a suspect forcing their hands underneath their body and physically resisting an officer's attempt to gain control, pulling away from an officer who is attempting to control them, actions causing the officer to carry them to the ground for control, or assaulting the officer to avoid detention or arrest.

Passive Physical Resistance:

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1. A suspect's failure to comply with an officer's lawful commands to move to a position for handcuffing or another position of control.
2. This typically involves actions by a suspect that can be overcome by verbal commands or the use of simple physical manipulation such as application of an arm bar or a pressure point that does not involve taking a suspect to the ground and does not cause physical injury or a complaint of pain or injury.
3. Examples of this would include (but are not limited to) a suspect sitting or lying down when directed to remain standing, a suspect refusing to exit a vehicle when directed, a suspect becoming limp (dead weight) when an officer is attempting to move them, or a suspect failing to place their hands behind their back for handcuffing.

Reasonable Belief - Belief that would cause a similarly trained law enforcement officer to act or think in a similar manner based on the facts and circumstances at the time of the decision. *Graham v. Connor*- 490 U.S.386 (1989).

Reasonably Necessary - A use of force is reasonably necessary when all other reasonable means to accomplish the desired action have been exhausted or would clearly be ineffective under the circumstances.

Serious Injury - any bodily injury that:

1. Creates a substantial risk of death, or
2. Causes or is likely to cause serious, permanent disfigurement, or
3. Results in or is likely to result in the long-term loss or impairment of any bodily member or organ

De-Escalation - a tactic designed to place officers in a position of advantage when dealing with irrational, unpredictable, or suicidal persons. De-Escalation helps officers stay focused and calm during a crisis situation to bring chaotic moments to as peaceful a resolution as the subject will afford. De-Escalation techniques make use of time, distance and communication in an effort to minimize the level of force needed in a particular situation.

300.2 LAWS

The following case laws govern all aspects of this policy listed herein.

Graham v. Connor - 490 U.S. 386 (1989)

Officer's actions are to be "objectively reasonable" in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. Reasonableness is judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.

Tennessee v. Garner - 471 U.S. 1 (1985)

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The Supreme Court ruled that deadly force may not be used unless necessary to prevent the escape of a fleeing felon and the officer has probable cause to believe that the suspect poses a significant threat of death or serious injury to the officers or others.

300.3 POLICY

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties. Officers should attempt to utilize de-escalation techniques whenever practicable.

Officers must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties.

The City of Danville Police Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests.

300.3.1 DUTY TO INTERVENE AND REPORT

Any officer present and observing another law enforcement officer or a member using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force.

Any officer who observes another law enforcement officer or a member use force that is potentially beyond that which is objectively reasonable under the circumstances should report these observations to a supervisor as soon as feasible.

300.3.2 PERSPECTIVE

When observing or reporting force used by a law enforcement officer, each officer should take into account the totality of the circumstances and the possibility that other law enforcement officers may have additional information regarding the threat posed by the subject.

300.4 DEADLY FORCE APPLICATIONS

Use of deadly force is justified in the following circumstances:

- (a) An officer may use deadly force to protect him/herself or others from what he/she reasonably believes would be an imminent threat of death or serious bodily injury.
- (b) An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the individual has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to any other person if the individual is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible. Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone.

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For example, an imminent danger may exist if an officer reasonably believes any of the following:

1. The individual has a weapon or is attempting to access one and it is reasonable to believe the individual intends to use it against the officer or another person.
2. The individual is capable of causing serious bodily injury or death without a weapon and it is reasonable to believe the individual intends to do so.

Officers shall not knowingly and recklessly place themselves in harm's way, thereby creating the need for the use of Deadly / Lethal force.

300.4.1 MOVING VEHICLES

Shots fired at or from a moving vehicle involve additional considerations and risks, and are rarely effective.

When feasible, officers should take reasonable steps to move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants.

An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the imminent threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others.

Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle.

300.5 USE OF FORCE

Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by this department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

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While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

300.5.1 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include but are not limited to:

- (a) Immediacy and severity of the threat to officers or others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- (c) Officer/subject factors (e.g., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The effects of suspected drug or alcohol use.
- (e) The individual's mental state or capacity.
- (f) The individual's ability to understand and comply with officer commands.
- (g) Proximity of weapons or dangerous improvised devices.
- (h) The degree to which the individual has been effectively restrained and his/her ability to resist despite being restrained.
- (i) The availability of other reasonable and feasible options and their possible effectiveness.
- (j) Seriousness of the suspected offense or reason for contact with the individual.
- (k) Training and experience of the officer.
- (l) Potential for injury to officers, suspects, and others.
- (m) Whether the individual appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.
- (n) The risk and reasonably foreseeable consequences of escape.
- (o) The apparent need for immediate control of the individual or a prompt resolution of the situation.
- (p) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (q) Prior contacts with the individual or awareness of any propensity for violence.
- (r) Any other exigent circumstances.

300.5.2 ALTERNATIVE TACTICS - DE-ESCALATION

When circumstances reasonably permit, officers should use non-violent strategies and techniques to decrease the intensity of a situation, improve decision-making, improve communication, reduce

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the need for force, and increase voluntary compliance (e.g., summoning additional resources, formulating a plan, attempting verbal persuasion).

300.5.3 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Officers may only apply those pain compliance techniques for which they have successfully completed department-approved training. Officers utilizing any pain compliance technique should consider:

- (a) The degree to which the application of the technique may be controlled given the level of resistance.
- (b) Whether the individual can comply with the direction or orders of the officer.
- (c) Whether the individual has been given sufficient opportunity to comply.

The application of any pain compliance technique shall be discontinued once the officer determines that compliance has been achieved.

300.5.4 USE OF FORCE TO SEIZE EVIDENCE

In general, officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, officers will not use force solely to prevent a person from swallowing evidence or contraband. Officers may use reasonable force to **prevent** a suspect from putting a substance in their mouth. In the instance when force is used, officers should not insert any object or hand into a suspect's mouth or use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted. In the event that an officer reasonably believes that a suspect has ingested a harmful substance, officers shall summon medical assistance as soon as feasible.

300.5.5 RESPIRATORY RESTRAINTS

The Danville Police Department prohibits the use of any respiratory restraint, also known as a chokehold, or any other technique that would restrict the intake of oxygen for the purpose of gaining control of a subject unless deadly force would be considered reasonable.

300.6 LESS-LETHAL FORCE APPLICATIONS

300.6.1 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Officers may only apply those pain compliance techniques for which they have successfully completed department-approved training. Officers utilizing any pain compliance technique should consider the following:

- (a) The degree to which the application of the technique may be controlled given the level of resistance.

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- (b) Whether the individual can comply with the direction orders of the officer.
- (c) Whether the individual has been given sufficient opportunity to comply.

The application of any pain compliance technique shall be discontinued once the officer determines that compliance has been achieved.

300.6.2 CONTROL DEVICES

For guidelines dealing with the Baton, refer to [City of Danville Police Department Policy Manual: 303.5 BATON GUIDELINES](#)

For guidelines dealing with Tear Gas, refer to [City of Danville Police Department Policy Manual: 303.6 TEAR GAS GUIDELINES](#)

For guidelines dealing with Oleoresin Capsicum (OC), refer to [City of Danville Police Department Policy Manual: 303.7 OLEORESIN CAPSICUM \(OC\) GUIDELINES](#)

For guidelines dealing with Kinetic Energy Projectiles, refer to [City of Danville Police Department Policy Manual: 303.9 KINETIC ENERGY PROJECTILE GUIDELINES](#)

For guidelines dealing with Conducted Electrical Weapons, refer to [City of Danville Police Department Policy Manual: 303.10 CONDUCTED ELECTRICAL WEAPON GUIDELINES](#)

For guidelines dealing with Handcuffing and Restraints, refer to [City of Danville Police Department Policy Manual: 302.5 APPLICATION OF HANDCUFFS OR PLASTIC CUFFS](#)

300.6.3 CANINES

For guidelines dealing with Police Canines, refer to Policy 310 (Canines) and Procedure 302 (Canine Procedures).

300.7 REPORTING THE USE OF FORCE

Any use of force by a member of this department shall be documented promptly, completely and accurately in an appropriate report depending on the nature of the incident. Reviewing supervisors should use the RMS for documentation. The department use of force form can also be used as a guide to gather information. The officer should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances. To collect data for purposes of training, resource allocation, analysis and related purposes, the Department may require the completion of additional report forms, as specified in department policy, procedure or law.

300.7.1 NOTIFICATIONS TO SUPERVISORS

Supervisory notification and use of force documentation shall be made as soon as practicable following the application of force in any of the following circumstances:

- (a) Any use of force that is applied to overcome overt physical resistance.
- (b) Any use of force that causes an injury and/or a complaint of injury to an officer or any other person or results in EMS being requested for a suspect or officer;
- (c) The individual subjected to the force was rendered unconscious;

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- (d) Any use of force that results in property damage to non-department owned property; (Examples include but are not limited to forced entry to a building or vehicle)
- (e) Any form of forcible stopping of a motor vehicle, roadblock, or use of tire deflation device (See Policy 307 Vehicle Pursuits);
- (f) A physical strike(s) of a suspect or a strike(s) of a suspect with any other object;
- (g) The use of a baton to make physical contact (a strike or other physical manipulation) with a suspect;
- (h) The release of a police canine for the purpose of apprehending a suspect;
- (i) The discharge of a firearm (with lethal or less lethal ammunition), use of any chemical agent or Conducted Electrical Weapon for any lawful purpose other than training;
- (j) The intentional pointing of a firearm (with lethal or less lethal ammunition) or Conducted Electrical Weapon towards a person;
- (k) The intentional drawing, extension, and display of a baton towards a person;
- (l) An individual alleges any of the above has occurred;
- (m) The individual indicates intent to pursue litigation.

Specialized units using force as a function of their operation such as SWAT and Civil Disturbance Unit will complete appropriate paperwork following a mobilization, complete a basic use of force entry in the RMS when applicable and attach all pertinent documents and videos that thoroughly documents their activity.

300.8 MEDICAL CONSIDERATIONS

Once it is reasonably safe to do so, medical assistance shall be obtained for any person who exhibits signs of physical distress, has sustained visible injury, expresses a complaint of injury or continuing pain, or was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed. Individuals should not be placed on their stomachs for an extended period, as this could impair their ability to breathe.

Based upon the officer's initial assessment of the nature and extent of the individual's injuries, medical assistance may consist of examination by an emergency medical services provider or medical personnel at a hospital or jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

The on-scene supervisor or, if the on-scene supervisor is not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

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Individuals who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics, and imperviousness to pain (sometimes called “excited delirium”), or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away.

See the Medical Aid and Response Policy for additional guidelines.

300.9 SUPERVISOR RESPONSIBILITIES

A supervisor should respond to an incident in which there has been a reported application of force, the supervisor is expected to:

- (a) Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- (b) Ensure that any injured parties are examined and treated.
- (c) When possible, separately obtain a recorded interview with the individual upon whom force was applied. If this interview is conducted without the individual having voluntarily waived his/her *Miranda* rights, the following shall apply:
 1. The content of the interview should not be summarized or included in any related criminal charges.
 2. The fact that a recorded interview was conducted should be documented..
 3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- (d) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, photographs of the suspect's face and hands, as well as overall photographs of uninjured areas. Photographs should also be taken of the officer's face and hands.
 1. These photographs should be retained until all potential for civil litigation has expired.
- (e) Identify any witnesses not already included in related reports.
- (f) Review all BWC footage, in-car video footage, and any other surveillance video footage that may have captured the incident.
- (g) Review and approve all related reports.
- (h) Determine if there is any indication that the individual may pursue civil litigation.
 1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.

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- (i) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy noncompliance or if for any reason further investigation may be appropriate.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

300.9.1 PATROL SHIFT COMMANDER RESPONSIBILITY

The on-duty unit-level supervisor shall document and review each use of force by any personnel within his/her command ([See attachments: Use of Force Checklist](#) to ensure compliance with this policy and to address any training issues. In the event a member's supervisor is unavailable, the patrol shift commander shall be responsible for documenting and reviewing the use of force.

300.10 TRAINING

Officers will receive periodic training on this policy and demonstrate their knowledge and understanding.

Subject to available resources, officers should receive periodic training on:

- (a) Guidelines regarding vulnerable populations, including but not limited to children, elderly, pregnant persons, and individuals with physical, mental, or intellectual disabilities.
- (b) De-escalation tactics, including alternatives to force.

300.11 USE OF FORCE ANALYSIS

At least annually, Professional Standards should prepare an analysis report on use of force incidents. The report should be submitted to the Chief of Police. The report should not contain the names of officers, suspects, or case numbers, and should include:

- (a) The identification of any trends in the use of force by members.
- (b) Training needs recommendations.
- (c) Equipment needs recommendations.
- (d) Policy revision recommendations.

Attachments

DPD-105-1 Use of Force Checklist.pdf

USE OF FORCE CHECKLIST AND REVIEW

(Review should be submitted within 10 days of date of incident)

1] Officer(s) Statements YES NO

If "NO" Explain: _____

2] Witness(s) Statements YES NO

If "NO" Explain: _____

3] Taser download YES NO N/A

If "NO" Explain: _____

4] Taser download reconciled with Officer Statements; date, time, # of cycles, etc.? YES NO N/A

If "NO" Explain: _____

5] Photos YES NO

If "NO" Explain: _____

6] In-Car Video YES NO

If "NO" Explain: _____

If "YES", Copy in UOF folder YES NO N/A

If "NO" Explain: _____

7] Officer Worn Camera Video YES NO

If "NO" Explain: _____

If "YES", Copy in UOF folder YES NO N/A

If "NO" Explain: _____

8] Incident Report YES NO

If "NO" Explain: _____

Supervisor Initial _____

USE OF FORCE CHECKLIST AND REVIEW

(Review should be submitted within 10 days of date of incident)

9] Detailed Supervisor review of incident:

Review must be done by a Lieutenant or higher not involved in incident. Review should answer: Who?What? When? Where? Why? How? and include a detailed account of actions by the citizen and detailed account of actions taken by Police personnel. Close with your conclusions with regard to officers' actions and whether or not his/her actions conformed to Danville Police Department policy as well as any other information pertinent to this incident.

Supervisor Signature: _____
(Handwritten Signature)

Supervisor Name: _____

Date: _____
(Handwritten Date)

Supervisor Initial _____