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## 1.8 Use of Force

*Employees shall treat all members of the public with whom they have contact fairly, without bias and in adherence with the rights afforded by the United States Constitution, federal law, and the Constitution and laws of the State of Arizona.*

*Officers must understand their authority and the limits placed upon their authority. This is especially true when it comes to the use of force by a police officer.*

### 1.8.1 Constitutional Authority for Use of Force in Law Enforcement

The U.S. Supreme Court has made it clear that law enforcement is entitled to use some degree of force in the enforcement of laws: “the right to make an *arrest* or investigatory *stop* necessarily carries with it the right to use some degree of physical coercion or threat thereof to effect it.” *Graham v. Connor*, 490 U.S. 386 (1989).


The degree of force which *may* be used is that which is “objectively reasonable.” Objectively means assessing the facts or totality of circumstances in a fair, neutral, or impartial manner. Reasonable means there is a logical, rational, or sensible explanation or basis.

In *Graham v. Connor*, the U.S. Supreme Court explained that:

*“The test of reasonableness under the 4<sup>TH</sup> Amendment is not capable of precise definition or mechanical application, however, its proper application requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight. **The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.** [emphasis added]*

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*The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments--in circumstances that are tense, uncertain, and rapidly evolving--about the amount of force that is necessary in a particular situation.”*

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In *Brower v. County of Inyo*, 489 U.S. 593 (1989), the *U.S. Supreme Court* defined a *seizure* under the 4<sup>TH</sup> Amendment as a governmental termination of freedom of movement through means intentionally applied and clarified that a use of force *may* constitute a *seizure* under the 4<sup>TH</sup> Amendment.

In *Tennessee v. Garner*, 471 U.S. 1 (1985), the *U.S. Supreme Court* analyzed the use of *deadly force* by law enforcement. A police *officer may use deadly force* when objectively reasonable to protect the officer or a third person from another's use or threatened imminent use of deadly force. The court further stated *deadly force may* be used to make an arrest or prevent the escape of a suspect "where the *officer has probable cause* to believe that the suspect poses a threat of serious physical harm, either to the *officer* or to others."

The 9<sup>th</sup> Circuit Court of Appeals has clarified that "objectively reasonable" does not mean the least amount of force that would possibly resolve the situation. In *Bryan v. MacPherson*, 630 F.3d 805, (2010) the Court stated "While police officers need not employ the least intrusive degree of force possible during an arrest, they must at least consider less intrusive methods, and the presence of feasible alternatives is a relevant consideration in an excessive force analysis." Further, In *Forrester v. City of San Diego*, 25 F.3d 804 (1994) the Court stated "Whether officers hypothetically could have used less painful, less injurious, or more effective force in executing an arrest is simply not the issue."

### 1.8.2 Arizona Law

Arizona statutes that address justification for the use of *physical force* are:

- A.R.S. § 13-409 Justification; use of *physical force* in law enforcement
- A.R.S. § 13-410 Justification; use of *deadly physical force* in law enforcement

### 1.8.3 Policy

A. *Officers may* only use force that is "objectively reasonable;" this means force that reasonably appears appropriate based upon the facts and circumstances as perceived by a reasonable *officer* on the scene. In other words, the threat or impending use of force reasonably appears imminent (based on articulable facts), and inaction poses an unreasonable risk. The *officer* using force *must* be able to articulate why the force used was "objectively reasonable" under the circumstances.



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- B. *Officers should* determine the amount of force to be used based upon the law, sound judgment, their training and experience and with respect for the sanctity of human life. The use of force is not a subjective determination left to the complete discretion of the involved *officer*. The *officer must* only use that force which a reasonably prudent *officer* would use under the same or similar circumstances.
- C. It is neither the policy of the *Department*, nor the intent of this policy, that *officers* unnecessarily or unreasonably endanger themselves or others. *Officers may* either escalate or de-escalate the use of force as the situation progresses or circumstances change. The type and amount of force used *must* be within the range of "objectively reasonable" options. When a subject is under control, either through the application of physical restraint or the suspect's compliance, the degree of force *shall* be de-escalated accordingly.
- D. Under no circumstances *will* the force used be greater than what is "objectively reasonable" to achieve lawful objectives and to conduct lawful public safety activities. *Officers will* be held accountable for their action, as well as inaction, when using force in the execution of their duties.
- E. Officers have a duty to intervene when unreasonable/unlawful force is applied by another Department employee. The duty to intervene applies when an officer has a realistic opportunity to prevent or stop the use of excessive force.
- F. Officers have a duty to immediately report to a supervisor any member of the Department who they believe, or have information that, the department employee used unreasonable/unlawful force.
- G. When safe, officers shall immediately provide first aid and call for medical assistance whenever a person has been injured, claims to be injured or requests medical attention.
- H. It is not possible for any written statement concerning an *officer's* use of force to cover all of the fact scenarios that *may* occur during the performance of an *officer's* duties. While there is no way to specify the exact amount or type of force that is reasonable to be applied in any situation, each *officer* is expected to use these guidelines to make such decisions in a professional, impartial and reasonable manner.



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### 1.8.3.1 De-escalation

A. When safe under the totality of the circumstances, and time and circumstances permit, officers shall use de-escalation tactics in order to reduce the need for force. De-escalation tactics, tools and techniques are actions, equipment and words used by officers, when safe and without compromising law enforcement priorities, that seek to stabilize the situation and minimize the immediate threat and the likelihood of the need to use force, additional force, or an increased amount of force during an incident and may increase the likelihood of voluntary compliance.

1. Good communication skills, patience and compassion resolve many situations. A soft, deliberate voice conveys emotional control and may diffuse situations, where a condescending or challenging tone of voice may escalate many situations.
2. When safe and feasible under the totality of circumstances, officers shall attempt to slow down or stabilize the situation so that more time, options and resources are available to resolve the incident.
3. When time and circumstances reasonably permit, officers shall consider whether a subject's lack of compliance may be a deliberate attempt to resist or an inability to comply based on factors including, but not limited to:
  - Medical conditions
  - Mental impairment
  - Developmental disability
  - Physical limitation
  - Language barrier
  - Drug interaction
  - Behavioral crisis

An officer's awareness of these possibilities, when time and circumstances reasonably permit, shall then be balanced against the facts of the incident facing the officer when deciding which tools, tactics and techniques are the most appropriate to bring the situation to a safe resolution.

4. Mitigating the immediacy of the threat, when reasonable, gives officers time to utilize additional available resources, and the time to call for additional available

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resources or officers. The number of officers on scene may increase the available force options and may increase the ability to reduce the overall force used.

5. Examples include:

- Placing barriers between an uncooperative subject and an officer
- Containing a threat
- Moving from a position that exposes officers to potential threats to a safer position
- Decreasing the exposure to potential threats by using
  - Distance
  - Cover
  - Concealment
- Communication from a safe position intended to gain the subject's compliance, using:
  - Verbal compassion and persuasion
  - Advisements
  - Warnings
- Avoidance of physical confrontation, when objectively reasonable given the immediacy of the threat (for example, to protect someone, or stop dangerous behavior)
- Using verbal techniques, such as Listen and Explain with Equity and Dignity (LEED) Training, to calm an agitated subject and promote rational decision making
- Calling extra resources or officers to assist:
  - CIT officers
  - Officers equipped with less-lethal tools
  - Crisis counselors
- Any other tools, tactics and techniques that attempt to achieve law enforcement objectives by gaining the compliance of the subject

**1.8.4 Determining the Objectively Reasonable Force to Use**

- A. When determining the objectively reasonable force to be used, the totality of the circumstances involved in the incident must be considered. Officers may initiate the use of force at an amount and type of force that is objectively reasonable under the circumstances. As the resistive individual increases the



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type of resistance or threat to the officer, the officer may increase the amount and type of force appropriate to overcome the resistance. Conversely, as compliance is attained the officer will decrease the level of force, when objectively reasonable.

B. Under the law, the most important circumstances that influence the amount and type of force that will be considered objectively reasonable for an officer to use include:

1. whether the subject poses an immediate threat to the safety of the *officers* or others, including the behavior and actions of the subject, such as resistive actions, aggressive acts, weapons known or reasonably believed to be available to the subject, etc. Whether the subject poses an immediate threat to the safety of the officers or others is the most important factor to be considered.
2. the nature of the offense, including the severity of the crime and the level of violence.
3. whether the suspect is actively resisting *arrest* or attempting to evade *arrest* by flight.

Additional circumstances that *may* influence the amount and type of force that is objectively reasonable for an *officer* to use include, but are not limited to:

4. the actions and behavior of the person; what the person is doing or saying that creates a reasonable concern for the safety of the *officer* or others.
5. apparent abilities of the subject and the *officer*, including size, age, fighting skills known or exhibited, unusual strength or resistance to pain that *may* be associated with drug or alcohol ingestion, injuries, conditioning, and level of exhaustion.
6. the availability of weapons, or the threat to use weapons to which the subject *may* reasonably have access.
7. whether the subject has a known history of violent behavior.





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8. whether more than one suspect or *officer* is involved or readily available to assist.
9. the potential for injury to citizens, officers, and suspects.
10. whether other dangerous or exigent circumstances exist at the time.

#### 1.8.4.1 Examples of Types of Resistance That May Be Encountered

A. Psychological and/or Physical Intimidation. Psychological and/or physical intimidation includes non-verbal cues indicating the subject's attitude, appearance, and physical readiness, which *may* include, but are not limited to:

- clenched fists; puffing up the chest,
- assuming a fighting stance by turning sideways, widening foot stance, etc.,
- facial expressions that *may* warn an *officer* of the subject's emotional state.

This is often referred to as "body language," which *may* influence an *officer's* decision on how to approach a subject or what amount and type of force to use if the subject starts to resist a detention or *arrest*. These non-verbal actions often provide valuable information to an *officer* of a subject's potential for violence when the subject has not made verbal threats.

B. Verbal Non-Compliance. Verbal non-compliance includes verbal responses indicating the subject's unwillingness to comply with direction and *may* include verbal threats made by the subject.

The objectively reasonable reaction to verbal threats made by a subject depends on the specific facts faced by an *officer* and the totality of the circumstances. An *officer's* decision regarding the reasonable force appropriate to control a subject *will* be based in part on the *officer's* perception of the verbal threat and the subject's apparent ability and willingness to carry out that threat, as well as the *officer's* knowledge of his or her own capabilities to manage the threat presented.



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- C. Passive Resistance. Passive resistance includes physical actions that do not directly prevent the *officer's* attempt at control. When using passive resistance, the subject never makes any attempt to defeat the physical actions of the *officer*. Passive resistance is usually in the form of a relaxed or "dead weight" posture intended to make the *officer* lift, push, or pull the subject to establish control.
- D. Active Resistance. Active resistance includes physical actions, other than solely running prior to physical contact, that attempt to prevent the *officer's* control, but do not involve direct attempts to assault the *officer*. For example, the offender attempts to push or pull away in a manner, stiffens up, and/or hides their hands in a manner that does not allow the *officer* to establish control. However, the subject does not attempt to assault the *officer*.
- E. Active Aggression. Active aggression includes behavior that is a physical assault on the *officer* or another, where the offender prepares to strike, strikes, or uses other physical techniques in a manner that *may* result in injury to the *officer*.
- F. Aggravated Active Aggression. Aggravated active aggression includes a physical assault on the *officer* or another person in a manner that creates a substantial risk of causing *serious physical injury* or death.

#### 1.8.4.2 Types of Force

Legally there are two types of force used by police officers. Case law generally refers to deadly force and non-deadly force. A.R.S. 13-105 defines both 15. "Deadly weapon means anything designed for lethal use, including a firearm" and 32. "Physical force means force used upon or directed toward the body of another person and includes confinement, but does not include deadly physical force." Officers must understand that weapons, techniques, tools and/or tactics that fall under the terms non-deadly force and physical force can cause injury, but when used as designed and intended, have less potential for causing death or serious physical injury than deadly force weapons, techniques, tools and/or tactics.

- A. *Officers must* be aware that any type of resistance *may* quickly escalate and *may* require a different amount and/or type of force to overcome the





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resistance/aggression, including *deadly force*. Any training in the amount and types of force, when to deploy force, or how to deploy force *shall* be done by trainers authorized by the *Department*. When the use of authorized weapons or techniques taught by the *Department*-authorized firearms and defensive tactics instructors are not practical, *officers* confronted with aggravated active aggression *may* resort to any reasonable method to overcome the attack.

- B. When practical, any use of force, other than officer presence and verbal direction, should be preceded by a verbal warning that force will be used if the suspect does not comply. The warning is unnecessary if it will endanger an officer or if the officer documents why it was not objectively reasonable to give away a tactical advantage. The officer employing force need not be the officer giving the warning.
- C. Types of force that the *officer may* use include:
1. **Officer Presence:** The *officer* is clearly identified as an *officer* and his/her authority is established by presence in uniform, or by verbally identifying him/herself, and when possible, clearly displaying a badge or identification. The presence of a police canine at a scene falls under this category.
  2. **Verbal Direction:** Verbal direction is communication by the *officer* intended to control the actions of a subject, including direction, persuasion, negotiation, or commands.
  3. **Empty Hand Control:** Empty hand control is a phrase that incorporates a number of subject control methods. These *may* be as simple as gently guiding a subject's movement, or more dynamic techniques such as strikes. Empty hand controls are divided into two categories:
    - a. Soft control techniques, which present a minimal risk of injury. Generally, these techniques are used to control passive or active resistance. However, soft control techniques can be utilized for any level of resistance if tactically appropriate and legally permissible. Soft control techniques *may* include, but are not limited to:



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1) Handcuffing or the use of other authorized restraint devices

2) Control holds involving pain compliance, including wrist locks, joint locks, pressure points, and other authorized techniques.

b. Hard control techniques, which *may* cause physical injury. These techniques are usually applied when lesser forms of control have failed or are not applicable because the suspect's initial resistance is at a heightened level. In such situations, *officers may* risk injury to themselves or *may* need to escalate force if hard control techniques are not used. Generally, these techniques are used to control active aggression, although these techniques *may* be used in some situations when facing active resistance. *Officers will* first attempt verbal persuasion and soft empty hand techniques when practical.

1) Hard control techniques *may* include, but are not limited to: closed fist strikes, hammer fist strikes, palm strikes, elbow strikes, knee strikes and kicks. *Officers shall* target large muscle groups with strikes and kicks.

Hard control techniques *should* not be intentionally used on the suspect's head, neck, kidneys, groin, joints, spine, or sternum. While there *may* be situations that *will* justify a strike to these areas, the *officer must* be able to specifically articulate the facts and circumstances that supported the strikes to those areas. When hard control techniques are applied to these areas and the subject is under control he or she *shall* be asked if they want medical assistance, unless the need is obvious. If the need is obvious or the subject asks for medical assistance, medical assistance *will* be sought and a *supervisor will* be notified. If the subject is booked,



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jail staff *will* be advised of the use of force and it *will* be noted on the booking slip.

- 2) "Take Downs." A take down is the forceful direction of the suspect to the ground. Generally, these techniques are used to counter active resistance or active aggression.
4. *Non-deadly tactics.* *Non-deadly weapons* provide a method of controlling subjects when *deadly force* is not justified. They are generally used when empty hand control techniques are either not sufficient or not tactically the best option for the safety of the *officer*, the suspect, and/or others. However, they can be used whenever reasonable to do so. When *non-deadly weapons* are used, injury is likely and appropriate medical care *shall* be provided.

*Officers should not use authorized non-deadly weapons unless they have received the required training for both when and how the weapons are used. Authorized non-deadly weapons include electronic control devices, police canines, impact weapons, chemical agents and specialized non-deadly ammunition. Supervisor vehicles will be equipped with specialized non-deadly equipment. Uniformed patrol officers will be required to carry an authorized electronic control device, and any combination of one or more of the following: non-flammable OC spray and/or authorized impact weapon.*

- a. Oleoresin Capsicum (OC) spray and Chemical Agents. These are generally used when reasonably necessary to subdue a person who is threatening or attempting physical harm to himself or others, resisting or interfering with an *arrest*, to disperse an unruly crowd, to prevent an attack by an animal or to prevent rioting or disperse rioters. The *Department* authorized chemical agents include OC spray or foam which does not contain alcohol or any other flammable ingredients.





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1) The following are guidelines for the use of OC spray or foam:

- OC *may* be used against subject(s) who are using, at a minimum, defensive resistance.
- Direct a one-second burst directly to the face.
- When possible, follow product specifications.
- Assess the effect and reasonableness of additional applications prior to deploying additional times.

Following use of the OC:

- When possible and when such an area is reasonably available, the subject *should* be handcuffed and removed from the exposure area to a well-ventilated area.
- Assistance *should* be requested from the fire department.
- Unless the subject refuses and if available, flush the face with water and/or apply a wet towel to the face.
- Do not leave the subject unattended.
- Keep the subject in a freestanding or upright position. Do not lay the subject on the stomach while transporting.

2) The use of other chemical agents including pepper ball guns and CN (chloroacetophenone) and CS (Orthochlorobenzalmononitrile) gas requires additional specialized training prior to any *officer* being authorized to deploy them. The training *will* include prescribed first aid measures for any person exposed to these chemical agents. The *Department will* maintain records of those *employees* trained and authorized to use chemical



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agents. These chemical agents *may* be used only upon the approval of a *supervisor*.

b. Impact Weapons. Impact weapons are generally used when the *officer* is facing active aggression or aggravated active aggression. Passive resistance such as an arrestee's refusal to enter or exit a vehicle or holding onto a fixed object to avoid accompanying an *officer*, etc., is not sufficient in itself to justify the use of impact weapon strikes.

1) The types of authorized impact weapons are expandable baton and straight baton.

2) In exigent circumstances, flashlights *may* be used as impact weapons. Such use *shall* be in compliance with the requirements for the use of impact weapons.

3) The primary target for impact weapons *shall* be large muscle groups and nerve motor points. *Officers will* not purposely strike or jab subjects with an impact weapon in the head, neck, kidneys, groin, spine, joints, or sternum unless the situation escalates to aggravated active aggression.

c. Specialized *non-deadly* Ammunition. This type of ammunition is generally used when *officers* are facing active aggression or aggravated active aggression. Specialized *non-deadly* ammunition is most often used in situations where there is a likelihood of injury to the *officer*, suspect, or a third person. This *may* include situations where the subject has picked up a rock, bat, or similar item that could incapacitate an *officer* and keeping a safe distance is advisable.

While specialized *non-deadly* ammunition is meant to be *non-deadly*, it is important for *officers* to understand that this ammunition can be deadly. *Officers* firing specialized



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*non-deadly* ammunition *shall* be trained and authorized to use the ammunition to be deployed and aware of current acceptable target areas and distance.

- 1) The types of authorized specialized *non-deadly* ammunition are stun-bag rounds, pepper balls, and direct fire 40 mm.

Stun-bag rounds are fired from a standard 12 gauge shotgun, modified in appearance that is intended to fire only *non-deadly* ammunition. The only modification to the shotgun is the replacement of the black stock with an orange stock. This color change allows *officers* to easily identify that the shotgun is for *non-deadly* purposes. *Officers shall* comply with the policy relating to non-deadly shotguns.

- 2) Only *officers* who have been trained, qualified, and are authorized in the use of *non-deadly* ammunition *may* deploy *non-deadly* ammunition.

- 3) The primary target area for *non-deadly* munitions fired from a shotgun is the lower abdomen, arms below the elbow, buttocks or legs of the suspect. Secondary target areas include the arms above the elbow, back (excluding the spine) and the knees of the suspect. *Officers shall* not intentionally target any other area.

- 4) When specialized *non-deadly* ammunition is deployed, the deploying *officer shall*, if practicable, ensure he/she has another *officer* present to provide lethal cover. Prior to firing the specialized *non-deadly* ammunition, the *officer shall* announce his or her intention to fire in order to alert the lethal cover *officer(s)* and other *officers* present.





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*Non-deadly* munitions *should* be deployed in accordance with manufacturer recommendations. When firing the specialized *non-deadly* ammunition, the firing *officer should* be aware that follow up shots *may* be required if the previous rounds miss or fail to incapacitate the suspect. Prior to firing additional shots, the *officer shall* assess the reasonableness of each additional shot before firing.

*Officers shall* not fire stun bag or direct fire rounds through any barrier (i.e., glass, fence, wall, etc.) as the rounds could tear, releasing lead shot. Firing the stun bag round at a suspect at a range of less than five yards is considered the use of *deadly physical force*.

d. *Conducted Electrical Weapon (CEW)*

*Department* authorized and issued *CEWs may* be deployed when reasonable against a subject engaging in acts of active aggression or aggravated active aggression, to prevent a person from seriously harming him/herself, or to prevent a known violent felon from escaping.

1) Officers shall deploy the conducted electrical weapon only as long as reasonable. Absent an on-going threat to officer safety, the primary objective is to approach the suspect and restrain him/her while under power, if possible, so that the suspect can be taken into custody safely.

2) The conducted electrical weapon is designed to continue to cycle as long as the trigger is depressed. Officers should deploy using a single trigger pull and release to administer a single five-second cycle unless it is objectively reasonable to keep the trigger depressed beyond five seconds. When practicable, officers deploying the conducted electrical weapon



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shall assess the effectiveness of the conducted electrical weapon after the initial application prior to administering additional cycles to the suspect.

- 3) When a subject is displaying active resistance, or higher levels of force, the conducted electrical weapon may be activated and displayed as a visual deterrent.
- 4) Prior to use of the conducted electrical weapon:
  - a) When circumstances permit, the officer shall advise the subject that if the subject's disruptive behavior does not cease, the conducted electrical weapon will be used.
  - b) When possible, officers shall announce their deployment of the conducted electrical weapon as a safety precaution to any officers providing cover with firearms.
  - c) In inter-agency operations, officers shall confirm that officers from another agency have not used flammable OC spray on the subject prior to deploying the conducted electrical weapon.
- 5) The conducted electrical weapon shall be carried/secured by each employee using an authorized duty holster, on the opposite side from the primary firearm or as authorized on a vest carrier.
- 6) Person(s) authorized to carry the conducted electrical weapon should, upon issuance and at least weekly, perform a spark test and inspect the weapon for proper functioning, battery charge, and count of cartridges. The lead conducted electrical weapon instructor or officer's supervisor shall be responsible for inspecting the weapon on a quarterly basis.
- 7) Methods of deployment.



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The courts have separated the two methods by which a conducted electrical weapon may be deployed:

- a) Drive stun, which involves contact with the suspect (but not contact to complete a circuit), is a pain compliance tool and the courts have not clarified the level of force involved.
  - b) Probe deployment, which involved firing the cartridge from a distance, which is an intermediate, significant level of force. (see Bryan v. MacPherson, 9<sup>th</sup> Cir. 2010)
- 8) Target areas for deployment:
- a) the subject's back, below the neck to the legs, if practicable.
  - b) the subject's side or front, splitting the belt line (one probe into the lower chest area and one below the pelvic region or into the upper thigh).
  - c) officers will not intentionally target the face or genitals.
- 9) Officer's responsibilities following deployment.

Once the subject has been taken into custody, officers will (while wearing latex gloves), remove the probes, unless the probes have penetrated the neck, face or groin area. In that case, officers will either call paramedics to the scene or transport the subject to the hospital for probe removal. Once the probes have been removed, the subject shall be transported to jail.

If an officer uses three or more cycles of the device on a subject, either paramedics will be called to the scene or the subject will be transported to the hospital to be medically evaluated.





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10) The conducted electrical weapon shall not be deployed in the following instances unless the officer can document why the weapon's use was objectively reasonable to prevent serious physical injury or death of any person:

- a) a subject who is in danger of falling from a significant height (e.g., one who is on a tree or roof).
- b) a subject who is near flammable liquids or gasses (including alcohol based OC spray).
- c) any subject that is fully secured in restraints (i.e., handcuffs, RIPP, Zip-ties, etc.).
- d) females who are or are believed to be pregnant.
- e) persons who appear frail, a small child, or a person who is operating a motor vehicle, unless reasonable to prevent serious physical injury or death.
- f) To awaken a sleeping, unconscious, or intoxicated person.
- e. Canines. The use of a police canine is considered a *non-deadly* use of force when properly deployed. However *officers must be aware that the 9th Circuit Court of Appeals has held that the improper use of a canine may amount to the use of deadly force.* The appropriate use of a canine is detailed in the *Department's* canine policy.
- f. Chokeholds and Carotid Control Techniques are not authorized. The use of vascular neck restraint (carotid) or choke holds is prohibited; however, this prohibition may not apply to every situation that could possibly arise.

5. *Deadly Force*



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As defined by the *9th Circuit Court of Appeals*, *deadly force* is force that creates a substantial risk of causing death or serious bodily injury. See *Smith v. City of Hemet*, 394 F.3d 689, (9<sup>th</sup> Cir. 2005). This is also the definition of aggravated active aggression. Additionally, A.R.S. 13-105.14 defines deadly force as: "force that is used with the purpose of causing death or serious physical injury or in the manner of its use or intended use is capable of creating a substantial risk of causing death or serious physical injury."

Deadly force is a measure to be employed only in the most extreme circumstances when less-lethal means of force have failed or could not reasonable be employed.

- a. Techniques. Use of a firearm is not the only means of employing *deadly force*; it *may* become necessary for *officers* to protect themselves or others with means other than a firearm. When the use of techniques taught by the *Department* are not practical under the circumstances, *officers may* resort to any reasonable means to overcome aggravated active aggression.
- b. Authorized use of *deadly force*. *Deadly force* is authorized in the following situations:
  - 1) When reasonable to protect the *officer* or a third person from another's imminent use or threatened use of *deadly force*.
  - 2) To prevent the escape of a subject whom the *officer* has *probable cause* to believe has committed or intends to commit a felony involving the infliction or threat of *serious physical injury* or death and is likely to endanger human life or cause *serious physical injury* to another unless apprehended without delay.



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3) Against a fleeing felon only when the officer has probable cause that the person to be arrested poses a threat of serious harm to the officer or others unless apprehended without delay.

c. Use of Firearms. When the use of a firearm on a suspect appears imminent *officers will*, when practical, issue a verbal warning.

1) *Officers may* discharge a firearm in connection with police duties:

a) At *Department* approved range training,

b) To kill an imminently dangerous or seriously injured animal,

c) When approved by a *supervisor* under special circumstances for tactical purposes, when other reasonable alternatives are not available (for example, to shoot out a street light at a scene to protect police *personnel* or to disable a vehicle prior to anyone entering or getting close to the vehicle). Such uses are rare and *will* be carefully evaluated by the chain of command, or

d) When *deadly force* is authorized, as stated above.

2) *Officers will not*:

a) Unnecessarily draw or display a firearm, or carelessly handle a firearm.

b) Generally, fire warning shots.





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- c) Use a firearm under circumstances in which a substantial and unjustifiable risk of *serious physical injury* or death to bystanders exists.
  - d) Deliberately place themselves in the path of a moving vehicle or one prepared to immediately move.
  - e) Fire at a moving vehicle unless *deadly force* is being used against the *officer* or a third person and the use of *deadly force* does not create a substantial and unjustifiable risk of *serious physical injury* or death that outweighs the benefit of its use. In such cases the *deadly force shall* be directed at the driver or occupant using the *deadly force*, as appropriate.
  - f) Fire from a moving vehicle, unless *deadly force* is being used against the *officer* or a third person and the use of *deadly force* does not create a substantial and unjustifiable risk of *serious physical injury* or death that outweighs the benefit of its use.
- 3) De-escalation required. Once the threat of *serious physical injury* or death has passed, the *officer will* de-escalate the force as reasonable, using approved *non-deadly force/tactics*.
- 4) Following the use of *deadly force*:
- a) If a person is injured by the use of *deadly force*, medical assistance *will* be summoned. If the scene is not secure, the medical assistance *will* be directed to a secure area nearby until it is safe to proceed.

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b) *Officers who have used deadly force that resulted in serious physical injury or death shall be removed from active duty, for their well-being and for administrative and investigative purposes. The removal from active duty shall be for no less than 3 shifts and may last as long as the duration of the investigation, as deemed appropriate by the Police Chief. Officers who have used deadly force that did not result in serious physical injury or death may be removed from active duty, for their well-being and for administrative and investigative purposes, as deemed appropriate by the Police Chief.*

c) *All personnel involved in a use of deadly force incident that results in serious injury or death must visit a Department authorized mental health provider prior to reporting back to duty, and a follow-up visit 6 months after the event. The employee may request additional visits as necessary which may be provided for by the Department.*

### 1.8.5 Physical Restraint Devices

#### A. Restraint Devices

1. Restraint devices are intended to prevent a person from, among other things:
  - a. leaving the scene of an investigative detention or *arrest*.
  - b. initiating or escalating violence against the *officer*, another person and/or themselves.
  - c. destroying *evidence* or property.



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2. Unless medical circumstances reasonably preclude the *officer* from placing a person in a restraining device, *officers shall* restrain individuals as necessary and appropriate in accordance with the 4<sup>TH</sup> Amendment. As soon as practical, a restrained person *shall* be placed in an upright position. The only exception is for transportation by a medical transport.
3. The following restraint devices are authorized by the *Department*:
  - a. Handcuffs. Only *Department* approved handcuffs are authorized for use by *Department personnel*. *Officers shall* carry at least one set of handcuffs; additional handcuffs *may* be carried at the *officer's* discretion. All handcuffs *must* be carried in *Department* approved carriers.
  - b. Handcuffs *shall* be doubled locked to avoid injury to the suspect. If a suspect complains that the handcuffs are too tight, *officers will* check the handcuffs. Generally, *officers should* be able to slide a finger between the suspect's wrist and the handcuffs.
  - c. Barring unusual circumstances or prisoner transport by detention personnel to and from court or another holding facility, a person *shall* be restrained by handcuffs with the person's arms behind his/her back with the palms facing out.
  - d. Alternative Restraint Device. Only *Department* approved devices *may* be carried and used by *Department personnel*. Alternative restraint devices *may* be carried on the duty belt in a *Department* in a manner that protects the device from being easily grabbed or hooking on an object. Alternative restraint devices, including "Zip-ties," *may* be used when handcuffing a person is not sufficient to minimize the risk of injury or the destruction of property, in mass *arrest* situations, in exigent circumstances, or otherwise when reasonable to do so. When an *officer* does not have handcuffs available, that *officer may* utilize alternate restraint devices to secure a person. If Zip-Ties are used, they *shall* be removed as soon as practical and replaced with handcuffs. For prisoner transport and court appearances, leg irons and/or restraint belt *may* be used to prevent prisoner mobility.





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- e. Leg-restraint straps may be used to secure combative or violent subjects to prevent injury to the subject, officers, and other and to minimize the opportunity for escape. If leg-restraints are used prisoners should be placed in an upright position, on their side or back. Employees **will not** restrain subjects with their legs behind their back (hog-tying).
- f. BolaWrap. BOLAWRAP is a hand-held, remote restraint device that discharges an eight-foot Kevlar cord to entangle an individual at a range of 10-25 feet. The BolaWrap is equipped with entangling barbs at each end of the Kevlar cord.

#### 1. GENERAL

- (a) Only a Department-approved BolaWrap device that has been issued by the Department shall be utilized by personnel *trained* in its deployment and use.
- (b) A BolaWrap device is not a substitute for deadly force; officers should employ a cover officer when using the device.
- (c) All BolaWrap devices shall be clearly and distinctly marked to differentiate them from the duty weapon and any other device.
- (d) Uniformed officers who have been issued the BolaWrap device shall wear the device in an approved holster or belt clip on their person. Officers issued a BolaWrap may elect to remove OC spray from their duty belts but will have it available for use.
- (e) BolaWrap devices should not be used on handcuffed persons unless they are actively resisting or exhibiting active aggression, and/or to prevent individuals from harming themselves or others.
- (f) Officers shall be responsible for ensuring their issued BolaWrap device is properly maintained and in good working order by conducting daily function checks.
- (g) Officers should not hold both a firearm and the BolaWrap device at the same time.
- (h) Any deployment of the BolaWrap should comply with the use of force guidelines outlined in this policy and A.R.S.
- (i) The BolaWrap is not intended to be a transportation restraint device and shall not be used as a substitute for a hobble.



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Once the subject has been detained in handcuffs or equivalent restraints, the cord should be cut with an approved device.

### 2. BOLAWRAP DEPLOYMENT CONSIDERATIONS

- (a) The BolaWrap device has limitations and restrictions requiring consideration before its use. The device should only be used when its operator can safely approach the subject within the operational range of the device. Although the BolaWrap device is generally effective in controlling most individuals, officers should be aware that the device may not achieve the intended results and be prepared with other options.
- (b) The use of the BolaWrap device on the individuals listed below should generally be avoided, unless an officer reasonably believes under the totality of the circumstances that other options would be ineffective or would present a greater danger to the officer, the subject, or others:
- (1) Individuals who are known to be pregnant.
  - (2) Elderly individuals or small children.
  - (3) Individuals who are handcuffed or otherwise restrained.
  - (4) Individuals detained in a police vehicle.
  - (5) Individuals in danger of falling or becoming entangled in machinery or heavy equipment, which could result in death or serious bodily injury.
  - (6) Individuals near any body of water that may present a drowning risk.
  - (7) Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles).

### 3. BOLAWRAP PRE-DEPLOYMENT RESPONSIBILITIES

A verbal warning of "Bola, Bola, Bola" should precede a BolaWrap device application, unless it would otherwise endanger the safety of officers or when it is otherwise not practicable due to the totality of the circumstances. The purpose of the warning is to provide the individual with a reasonable opportunity to voluntarily comply and provide other officers and individuals with a warning that the BolaWrap device may be deployed. The fact that a verbal or other warning was given, or the reasons it was not given, shall be



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documented by the officer deploying the BolaWrap device in the related report.

#### 4. APPLICATION OF THE BOLAWRAP DEVICE

(a) The BolaWrap device may be used in any of the following circumstances: when the totality of circumstances perceived by the officer at the time indicate that such application is reasonably necessary to control a person:

- (1) The subject is assaultive
- (2) The subject is actively or passively resisting,
- (3) The subject has demonstrated, by words or actions, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm officers, him/herself or others.

(b) Mere flight from a pursuing officer, without other known circumstances or factors, is not good cause for the use of the BolaWrap device to apprehend an individual.

(c) Simultaneous applications of the BolaWrap on a single individual by multiple devices is allowed in authorized target areas.

#### 5. TACTICAL USE

(a) Targeting considerations. Reasonable efforts should be made to target lower extremities or lower arms. The head, neck, chest and groin shall be avoided. If the dynamics of a situation or officer safety do not permit the officer to limit the application of the BolaWrap device to a precise target area, officers should monitor the condition of the subject if it strikes the head, neck, chest or groin until the subject is examined by paramedics or other medical personnel.

(b) The aiming laser should never be intentionally directed into the eyes of another as it may permanently impair his/her vision.

(c) The deploying officer should assemble a sufficient number of officers to assist with taking the suspect into custody, with a plan in place for using restraints—such as handcuffs—prior to using the BolaWrap.

(d) Multiple applications of the BolaWrap device:





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- (1) Multiple officers may use the BolaWrap device simultaneously on a subject, referred to in training as a "double wrap." The intent of the "double wrap" is to immobilize a subject and ensure effective application of the device. In this instance, the preferred application would be to apply BolaWrap "high" and "low" or to the legs and lower arms.
- (2) If the first application of the BolaWrap device appears to be ineffective in gaining control of an individual, the officer should consider certain factors before additional applications of the device, including:
  - (a) Whether the Kevlar cord and/or anchor's hooks are making proper contact.
  - (b) Whether the individual has the ability and has been given a reasonable opportunity to comply.
  - (c) Whether verbal commands, other options or tactics may be more effective.
  - (d) Under exigent circumstances, nothing in this policy prohibits an officer from deploying the BolaWrap at a subject without requesting or having the presence of additional officers, but having additional officers is optimal.

#### **6. Actions following deployments:**

- (a) Personnel shall request a supervisor to the scene after deployment.
- (b) Officers shall ensure all restrained subjects receive appropriate emergency medical care for individuals under police care or control.
- (c) Only medical personnel may remove hooks that are embedded in a subject's skin.
- (d) If the hooks penetrate only a subject's clothing, then the officer may remove the hooks. The supervisor or officer may cut the Kevlar cord with medical shears or a hook style seatbelt cutter.
- (e) The Kevlar cord shall be cut prior to any transportation.
- (f) In the event the BOLAWRAP deployment of device barbs cause injury to the subject, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These



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photographs should be retained until all potential for civil litigation has expired.

#### 7. REPORTING THE USE OF THE BOLAWRAP


- (a) The deployment of the BolaWrap is considered a use of force.
- (b) Officers shall complete the applicable report and Use of Force report for the incident. The report shall include the cartridge serial number, reason for the application of force, as well as the description of injuries sustained or claimed.
- (c) When booking an arrested subject, officers shall notify the appropriate jail staff of any sustained injury and the type of force used.

#### 8. SUPERVISOR RESPONSIBILITIES

- (a) The supervisor shall read and approve all applicable reports connected to a BolaWrap deployment. Following that review, the supervisor shall determine whether further documentation of the incident is necessary, in accordance with department policy.
- (b) When possible, supervisors should respond to calls when they reasonably believe there is a likelihood the BolaWrap device may be used.
- (c) A supervisor shall respond to all incidents where the BolaWrap device was activated.

#### 1.8.6 Proficiency in the Use of Force

- A. A recertification of proficiency is required every year for defensive tactics and all *Conducted Electrical Weapon (CEW)*. Officers must complete a recertification of proficiency on all other non-deadly weapons at a minimum of every three years.
- B. Instructors *shall* document whether an *officer* is proficient or needs remedial training in any area. The instructor *shall* also review policy changes at the first available training after the changes have been made and document the fact that current policy regarding use of force has been reviewed annually.
- C. If remedial training is required, the *officer shall* not be allowed to carry the *non-deadly weapons* or firearms until the remedial training is provided and the *officer* is determined to be proficient. Additional action (placement on administrative

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leave; transfer to another assignment) *may* be taken, as deemed appropriate by the *Chief*.

The instructor *shall* document the method of remedial training and forward all documentation to be placed in the *officer's* personnel (if placed on leave or temporarily reassigned) and/or training file.

### 1.8.7 Use of Force Reporting and Review

- A. Any time an *officer* uses force, including pointing a firearm in the direction of a subject, the use of *non-deadly* or *deadly weapons* or techniques, the *officer shall* do the following.
1. Examine any person(s) appearing or claiming to be injured and render first aid if necessary. Medical assistance *should* be called if requested or necessary.
- B. An officer shall notify a *supervisor* as soon as possible regarding the use of force, other than for training or recreational purposes, in these situations:
1. any use of force above or beyond the use of presence, commands, and/or soft (empty hand) control techniques.
  2. if the *officer* is injured, if the person on whom the force was used is injured or claims to be injured, or if any other person is injured as a result of the *officer's* conduct and/or
  3. the discharge of a firearm regardless of whether anyone was injured.
- C. Documenting the use of force.
1. *Officers will* document in their *Department reports* any use of force that involves *officer* presence, verbal direction, soft empty hand control, the use of restraint devices, and any situation in which the *officer* points their CEW, firearm in the direction of another person. Reports shall include any efforts made to de-escalate the situation.





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2. Officers will complete by the end of the workday a Department use of force report form for use of force in the following circumstances:
  - a. Control holds that involve pain compliance, including wrist locks, joint locks, pressure points and other authorized techniques not involved in the standard practice of handcuffing.
  - b. Any use of Hard control techniques including closed fist strikes, hammer fist strikes, palm strikes, elbow strikes, knee strikes and kicks.
  - c. Any take down.
  - d. The use, threatened use, or pointing a firearm or CEW at a suspect. The use or threatened use of OC spray
  - e. If the officer is injured, if the person on whom the force was used is injured, or if any person is injured or claims to be injured as a result of the officer's conduct

3. The *reports will* be forwarded through the chain of command to the Use of Force Review Committee. The Use of Force Review Committee *should* ensure that all reported use of force situations are reviewed for adherence to policy.


D. Use of Force Review Committee Procedures

1. The Use of Force Review Committee *shall*, within 45 days of the use of force incident, review the incident and provide a written recommendation to command staff regarding the use of force incident. The recommendation should include the following:
  - a. whether the use of force was within *Department* policy. The chain of command *should* make this decision taking into consideration the *U.S. Supreme Court's* direction that an *officer's* use of force *must* be judged from the perspective of a reasonable *officer* on the scene at the time of the use of force. This *must* allow for the fact that police *officers* are often forced to make split-second judgments--in circumstances that are tense, uncertain, and rapidly

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evolving--about the amount of force that is necessary in a particular situation, given the totality of the circumstances.

- b. any tactical considerations and/or training recommendations.
  - c. if the *officer(s)* involved had the appropriate training.
  - d. whether the training was properly documented.
  - e. whether *Department* policy needs to be modified.
  - f. the overall quality of supervision the *officer* received.
2. The Use of Force Review Committee *shall* be composed of *at least* three AZ POST certified peace officers and must include the following:
- a. a first line supervisor, who was not the direct supervisor to the officer involved in the use of force.
  - b. at least one AZ POST certified Defensive Tactics Instructor. The defensive tactics instructor is responsible for writing up the review board's decision.
  - c. committee members who were not directly involved in the call for service in which the use of force was applied.
  - d. one member must be the rank of officer or detective.
3. Use of force involving a firearm or taser.
- a. If the use of force involves the use of a firearm, the Use of Force Committee *shall* include a firearms instructor. If this is not possible, justification should be documented within the Use of Force Review.
  - b. If the use of force involves use of a taser, the Use of Force Committee *shall* include a taser instructor. If this is not possible, justification should be documented within the Use of Force Review.

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4. Documentation of the Use of Force Committee's Decision
  - a. The final determination of the committee on whether the use of force was reasonable, appropriate, and within policy shall be documented and signed by all participating committee members to ensure the review was consistent with the committee's final decision. The review will then be sent to command staff for final review.
  - b. If an amendment to the Use of Force Review is necessary, each original committee member is required to review and sign the amended document.
  - c. If a committee member is no longer employed by the department their signature is not required, but this circumstance must be documented in the amended Use of Force Review.
5. Officer Requirements
  - a. Once a review has been completed and approved by the Chief of Police, a copy shall be provided to the officer involved in the use of force within 14 days.
  - b. The officer has 14 days once they have received a copy of the Use of Force Review to review and submit a formal letter to their direct supervisor addressing any concerns if they so desire. This formal letter will be reviewed utilizing the chain of command, attached with the Use of Force Review, and included in the employee's personnel file.
  - c. If the Use of Force Review recommends or mandates training, which in turn is approved by the Chief of Police, the officer must complete the training within the time designated by command staff. The officer will coordinate with their direct supervisor to ensure the training is completed within the allotted time.

The Use of Force Review Committee *shall*, where appropriate, make recommendations to the *Chief* regarding:





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1. whether the use of force was within *Department* policy. The chain of command *should* make this decision taking into consideration the *U.S. Supreme Court's* direction that an *officer's* use of force *must* be judged from the perspective of a reasonable *officer* on the scene at the time of the use of force. This *must* allow for the fact that police *officers* are often forced to make split-second judgments--in circumstances that are tense, uncertain, and rapidly evolving--about the amount of force that is necessary in a particular situation, given the totality of the circumstances.
  2. any tactical considerations and/or training recommendations.
  3. if the *officer(s)* involved had the appropriate training.
  4. whether the training was properly documented.
  5. whether *Department* policy needs to be modified.
  6. the overall quality of supervision the *officer* received.
- E. The Use of Force Review Committee *shall* archive and annually review all documentation of uses of force to ensure consistency and completeness.
- An annual report and analysis shall be prepared that documents
1. number of times force was applied
  2. type of force used
  3. whether the force used was within or outside of policy
  4. any patterns or trends that could indicate training needs, needed equipment upgrades and/or recommended policy notifications.