

Use of Force

300.1 USE OF FORCE PURPOSE AND SCOPE

It is the policy of the UPD that officers hold the highest regard for the sanctity of human life, dignity, and liberty of all persons. Force may only be used to accomplish legitimate law enforcement purposes. The application of deadly force is a measure to be employed only in the most extreme circumstances.

300.1.1 USE OF FORCE DEFINITIONS

Definitions related to this policy include:

Objectively Reasonable - This term means that, in determining the necessity for force and the appropriate level of force, members shall evaluate each situation considering the known circumstances including, but not limited to, the seriousness of the crime, the level of threat resistance presented by the subject, and the danger to the community.

Influenced Apprehension - For purposes of this policy, “Influenced Apprehension” is defined as: Any arrest or detention of a subject where it can reasonably be articulated that the presence of a police service dog psychologically compelled or influenced the suspect to comply or surrender to law enforcement when the subject was previously non-compliant.

Force or less lethal 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 themselves to be searched, escorted, handcuffed or restrained.

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

300.2 USE OF FORCE POLICY

Officers are authorized to use only the force that reasonably appears necessary to effectively bring an incident under control, while protecting the safety of the members and / or others. The use of force must be objectively reasonable; that is, the force that a reasonably prudent peace officer would use under the same or similar circumstances.

Whenever feasible, officers should attempt to de-escalate confrontations with the goal of resolving encounters without force. Officers may only use force that is objectively reasonable, necessary and as a last resort.

The reasonableness of any use of force will be evaluated based on the applicable law enforcement legal standard. The law enforcement standard is whether the member’s actions are “objectively reasonable” considering the facts and circumstances (*Graham v. Conner* [490 U.S. 386 (1989)]).

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300.2.1 DUTY TO INTERVENE

Any officer present and observing another officer, regardless of rank, using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intervene to prevent the use of unreasonable force. An officer who observes another officer use force that exceeds the degree of force permitted by law shall promptly report these observations to a supervisor.

300.3 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 the 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.

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.

300.3.1 USE OF FORCE TO EFFECT AN ARREST

An officer may use reasonable force to effect arrest, to prevent escape or to overcome resistance. An officer who makes or attempts to make an arrest need not retreat or desist from their efforts by reason of resistance or threatened resistance of the person being arrested; nor shall such officer be deemed the aggressor or lose their right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance (UCA 77-7-7).

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300.3.2 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 person can comply with the direction or orders of the officer.
- (c) Whether the person 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.

300.3.3 USE OF CHOKEHOLDS & CAROTID HOLDS PROHIBITED

Chokeholds include direct force to the mouth, neck, or throat that will intentionally compress the airway or restrict an individual's ability to breathe. Carotid holds are restraints, or techniques intended to render an individual unconscious using bilateral carotid artery restriction.

Chokeholds and Carotid holds are prohibited and shall not be used except when an officer reasonably believes that the use of deadly force is necessary to prevent serious bodily injury or death to the officer or other persons.

300.4 USE OF DEADLY FORCE

Strict requirements must be met before an officer may use deadly force. As discussed in this policy, when feasible, officers should attempt to de-escalate situations, issue verbal warnings, or use non-lethal force with the goal of resolving encounters without using deadly force. There are, however, occasions when deadly force is necessary to protect officers or persons. An officer may use deadly force only when the officer reasonably believes such action is immediately necessary to protect the officer or another person from imminent danger of death or serious bodily harm.

Use of deadly force is justified only in the following circumstances:

- (a) An officer may use deadly force to protect themselves or others from what they reasonably believe would be an imminent threat of death or serious bodily injury.

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- (b) An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the person 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 subject 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. For example, an imminent danger may exist if an officer reasonably believes any of the following:
 - 1. The person has a weapon or is attempting to access one and it is reasonable to believe the person intends to use it against the officer or another.
 - 2. The person is capable of causing serious bodily injury or death without a weapon and it is reasonable to believe the person intends to do so.
- (c) The possession of a warrant of arrest does not provide the member any greater right to use deadly force than is authorized by UCA 76-2-404.

Utah State Code details Peace officer's use of deadly force as follows UCA 76-2-404:

- 1. A peace officer, or any person acting by the officer's command in providing aid and assistance, is justified in using deadly force when:
 - a. the officer is acting in obedience to and in accordance with the judgment of a competent court in executing a penalty of death under Subsection 77-18-5.5(2), (3), or (4).
 - b. effecting an arrest or preventing an escape from custody following an arrest, where the officer reasonably believes that deadly force is necessary to prevent the arrest from being defeated by escape; and
 - i. the officer has probable cause to believe that the suspect has committed a felony offense involving the infliction or threatened infliction of death or serious bodily injury; or
 - ii. the officer has probable cause to believe the suspect poses a threat of death or serious bodily injury to the officer or to others if apprehension is delayed; or
 - c. the officer reasonably believes that the use of deadly force is necessary to prevent death or serious bodily injury to the officer or another person.
- 2. If feasible, a verbal warning should be given by the officer prior to any use of deadly force under Subsection (1)(b) or (1)(c).

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300.4.1 SHOOTING AT OR FROM MOVING VEHICLES

Decisions to discharge a firearm at or from a vehicle are governed by this Use of Deadly Force policy and are prohibited if they present an unreasonable risk to the member or others. These decisions shall first be authorized when reasonably possible by a supervisor. (UAC R728-503-7)

Officers should 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 threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others.

300.5 USE OF LESS LETHAL FORCE

“Any person is justified in using any force, except deadly force, which they reasonably believe to be necessary to effect an arrest or to defend himself or another from bodily harm while making an arrest.” (UCA 76-2-403)

“If a person is being arrested and flees or forcibly resists after being informed of the intention to make the arrest, the person arresting may use reasonable force to effect the arrest. Deadly force may be used only as provided in section UCA 76-2-404.” (UCA 77-7-7)

“A public officer authorized to execute process issued by any court may use such force as is reasonable and necessary to execute service of process. If necessary, they may seize, arrest, and confine persons resisting or aiding and abetting resistance to his service of process.” (UCA 77-4-1)

When deadly force is not authorized, officers may only use that level of force that is objectively reasonable to bring an incident under control.

Officers are authorized to use department approved, less lethal force techniques, and authorized equipment to:

- Protect the members and others from physical harm.
- Restrain or subdue a resistant individual.
- Bring an unlawful situation safely and effectively under control.
- Enforce compliance with lawful orders to prisoners.

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300.6 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

Officers must use only the amount of force that is necessary and proportionate to the circumstances.

Officers must evaluate all the circumstances facing them in the field to determine whether force is appropriate and what amount is proportionate. Officers encounter a wide range of situations in the field, but the sanctity of human life should be at the heart of every decision an officer makes. When force cannot be avoided through de-escalation or other techniques, officers must use no more force than is proportionate to the circumstances. In general, the greater the threat and the more likely that the threat will result in injury or death, the greater the level of force that may be immediately necessary to overcome it. Consistent with training, some of the key factors that officers should consider when determining how much force to use include:

- a. The risk of harm presented by the person;
- b. The risk of harm to the officer or innocent citizens by using force;
- c. The seriousness of the crime at issue;
- d. Whether further de-escalation techniques are feasible, including the time available to an officer to make a decision, and whether additional time could be gained through tactical means;
- e. If there is a practical, less harmful alternative available to the officer;
- f. Mental or physical disability, medical condition, and other physical and mental characteristics; or
- g. Whether there are other exigent/emergency circumstances.

300.7 REPORTING THE USE OF FORCE

- a. Any incident involving a categorical or non-categorical use of force event as outlined in this policy by any UPD officer will be documented in a General Offense or Supplemental report, as appropriate.
- b. Reports will be submitted before the end of the shift the incident occurred or as otherwise directed.
- c. There are two Use of Force templates in RMS, one for categorical and one for non-categorical uses of force. The proper Use of Force Template contained in RMS shall be submitted by the end of shift in which the incident occurred by any involved officer and will include all the information prompted by the template, if applicable.
- d. The reporting officer will notify dispatch to add the secondary NCIC Code 5399-4.

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- e. Officers involved in a categorical or non-categorical use of force incident will promptly notify the on-duty supervisor. The on-duty supervisor must ensure the correct template has been used by the involved office member. (If the related event is conducted by S.W.A.T., then the tactical commander or designee shall review the tactical operation use of force templates within 72 hours of the operation).
- f. The on-duty supervisor will then notify the watch commander of all categorical and non-categorical uses of force and the officers' respective Commander(s) and Executive Officer(s) by email.
- g. Watch Commanders will note all categorical uses of force incidents in the Watch Command Log by including a brief narrative, the case number, date and time, and address of the incident on the daily log. Non-categorical uses of force will be listed in the watch command log by including the case number, date, time, division, or precinct of the involved officer.
- h. The on-duty supervisor will, before the end of their shift, initiate a new IA software incident case for all categorical and non-categorical uses of force and track the incident to the involved officer's Commander(s) including all members of the officers' chain of command. The supervisor will include the date, time, location, and officers involved in the incident format of the IA software system. The supervisor will provide details requested in the Incident format of the IA software system.
- i. All administrators reviewing the report will document their review in the IA software system. After opening the proper IA software case they shall follow the same process of reporting and tracking as outlined above for a categorical use of force.
- j. All categorical or any non-categorical use of force events sent to a Commander shall be reviewed to determine whether incidents involving their division personnel are within policy and / or require further review and document their findings in the IA software case, if applicable.
- k. Non-categorical uses of force need to be reviewed by a Commander or their designee. Commanders or their designee will close all non-categorical events in the IA software.
- l. The Commander or designee will be responsible for determining if further investigation is needed on the incident and direct that investigation as necessary. The involved officers' Commander or designee will be responsible for any follow-up investigation that is needed. (If the involved member is acting in a secondary assignment, the Commander of that secondary assignment will assume responsibility for the use of force investigation.)

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m. If an incident involves excessive force or other violations that require an investigation, the Commander will initiate an IA software case. The Commander is responsible for closing the IA software case once it is completed. Individual Precincts / Divisions may also keep their own documentation but must complete the department IA software Incident Review process as described herein.

300.7.1 REPORTABLE INCIDENTS

Uses of Force shall be categorized into two separate classifications: categorical and non-categorical.

Categorical uses of force:

- When a fatality occurs connected to use of force by a law enforcement officer;
- When a firearm is discharged by law enforcement at or in a direction of a person that did not otherwise result in death or serious bodily injury;
- Deployment of a tactical team (including task forces);
- Mechanical breaching which results in injury to a person(s);
- When a taser is discharged by law enforcement at or in a direction of a person that did not otherwise result in death or serious bodily injury;
- When physical force is used by law enforcement that did not result in death or serious bodily injury. Only report this type of force when it meets at least one of the following criteria:
 - Any canine inflicted injury;
 - Any discharge of pepper spray;
 - Any strike or attempted strike with an impact object;
 - Any strike or attempted strike of an individual with hands or feet;
 - Any physical contact with an individual resulting in an injury or complaint of injury that requires medical treatment or a medical release to book the individual into jail;
 - Any discharge of a less-lethal weapon to include:
 - Specialty impact munitions;
 - Chemical munition / agent;
 - Noise flash diversion device on a subject or subjects with the intent to overwhelm the senses, or to disperse them for any reason.

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Non-categorical uses of force:

- Display of any less lethal device while effecting an arrest or detaining a subject.
- Physical force used to influence a person to comply with commands, where no injury occurs.
- The pointing of lethal or less lethal devices to influence a person to comply with commands.
- Deploying a K9 with the intent to influence a subject into compliance by the mere presence or barking of the K9.
- K9 deployment for searches of lost or missing persons; articles or evidence; and narcotics searches; are not considered a use of force.
- Use of the police service dog for training and / or demonstrations are not considered a use of force.
- The Police Service Dog template in RMS will be used for the documentation of any and all direct target contacts and/or deployments that fit the listed use of force criteria.
- Forcible entry (with or without a warrant)

300.8 MEDICAL CONSIDERATION

Prior to booking or release, medical assistance shall be obtained for any person who exhibits signs of physical distress, who has sustained visible injury, expresses a complaint of injury or continuing pain, or who was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until they can be medically assessed.

Based upon the officer's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff or medical staff at the 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.

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The on-scene supervisor, or if 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). Persons 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. Officer who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away if appropriate.

300.9 ADMINISTRATIVE REVIEW

Administrative review of deadly force use will be based on the circumstances surrounding the decision to use deadly force and the facts of the incident known or reasonably inferred to be known, to the member at the time of the actual use of deadly force.

300.10 TRAINING

In addition to the training required for firearms qualification, officers will receive authorized training designed to simulate actual shooting situations and conditions and enhance discretion and judgment in using deadly and less lethal force in accordance with this policy.

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