

## SCRANTON POLICE DEPARTMENT POLICY

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**Use of Force**

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### I. PURPOSE

The purpose of this policy is to provide Scranton Police Officers with guidelines on the use of deadly and non-deadly force. This policy rescinds Policy 07-002 Reporting Use of Force.

### II. POLICY

The Scranton Police Department recognizes and respects the value and special integrity of each human life. It is the policy of the Department that officers shall use only that force that is reasonable and necessary on any particular occasion. They shall discharge their firearms only when doing so is necessary to save a life or when it is the only effective means to apprehend an individual who poses an imminent threat of death or serious bodily injury to officers or citizens.

### III. DEFINITIONS

*Use of Force* – For purposes of this document, use of force is the amount of effort required by police to compel compliance from a person. Except as noted below, this includes any force occurring while the officer is acting in an official capacity. This includes undercover, plainclothes, or uniform assignments whether on or off duty.

*Physical Force* – Use of any part of the officer's body or the use of a motor vehicle or canine to compel compliance.

*Chemical Force* – Use of any CN, CS, Mace or OC aerosol or foam spray to compel compliance.

*Impact Force* – Use of any object (nightstick, baton, flashlight, body shield, beanbag round, other) as a less-lethal weapon to compel compliance.

*Electronic Force* – Use of any electronic equipment (Taser, stun gun, or similar device) to compel compliance.

*Firearms Force* – The discharge of a firearm of any type to compel compliance.

*Bodily Injury* – Impairment of physical condition or substantial pain.

*Serious Bodily Injury* – Bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

*Deadly Force* – Force that can cause death or serious bodily injury.

*Non-Deadly Force* – Force that is not intended, nor reasonably likely to, result in death or serious bodily injury.

*Reasonable Belief* – The existence of facts, or combination of facts, that the circumstances are such to cause a reasonable person to believe them to be true.

*Control* – Force used by an officer to influence or overcome the unlawful or physical actions of a subject.

*Resistance* – The subject's attempt to evade an officer's attempts to control.

*Neck Restraint Control Technique* – A hard control technique applied to the neck designed to restrict blood and/or air flow.

#### **IV. USE OF FORCE CONTINUUM**

- A. Officers are confronted daily with situations requiring the use of force to affect an arrest or ensure public safety. The degree of force used depends on what the officer perceives as reasonable and necessary under the circumstances. Facts or circumstances unknown to the officer will not be considered in later determining whether force was justified. It is the policy of the Department that officers use only that amount of force, including deadly force, which an officer reasonably believes to be necessary to apprehend and arrest or any force which officers reasonably believe to be necessary to defend themselves or another from bodily injury.
- B. The Department expects an officer to employ only the force necessary to accomplish a lawful purpose. The officer may resort to a greater degree of force to overcome either increasing resistance or an increasingly dangerous threat to public safety; however, the level of response must be commensurate with the level of threat presented. The escalation in the use of force typically follows a pattern of increasing levels, as does the de-escalation of force as the threat diminishes. Officers are trained in the use of force continuum as a guideline in determining both the level of threat faced and the appropriate degree of force to be used in response to that threat. Nothing in this policy requires an officer to confine his or her progression only to the next level in the continuum, if confronted with an immediate or sudden greatly increased level of threat or risk.
  1. Officer Presence
  2. Verbal Directions
  3. Restraint & Soft Control Techniques – Basic defensive tactics and techniques designed to gain compliance with minimal resistance.
  4. Aerosol Subject Restraint (ASR)/OC – An officer may deploy ASR spray immediately if faced with a combative subject or if the soft control techniques fail and the situation continues to escalate.

5. TASER – The TASER may be deployed if faced with a combative subject or if the soft control techniques fail and the situation continues to escalate.
6. Hard Control Techniques – Defensive tactics designed to exert greater strength than the subject is expending utilizing department sanctioned tactics. Also includes impact weapons, specialty munitions, and K-9 (Canine).

Neck restraint control techniques are not authorized by the Scranton Police Department as a hard control technique.

7. Deadly Force

## V. USE OF FORCE REQUIREMENTS AND PROCEDURES

### A. General

1. The Pennsylvania Crimes Code, Title 18, Chapter 5, "General Principles of Justification," describes those circumstances in which the use of force is justified. These provision, and the related case law, including Federal case law made binding on Pennsylvania through the 14th Amendment to the United States Constitution, shall establish the only legally binding restrictions regarding the use of force by Scranton Police Department personnel, as it relates to criminal or enforceable civil matters.
2. Only the amount of force reasonably required to affect an arrest or control a person shall be utilized by the members of the Scranton Police Department, based upon the totality of circumstances known by the officer(s) at the time of the incident. The force used by an officer shall only be that which is required to overcome the resistance being offered by an offender. Clear and articulable facts shall be documented for the justification of the amount of force used to affect the arrest.
3. Police officers may resort to deadly force to affect the arrest of an offender only when the officer reasonably believes that the action is in the defense of human life, including the officer's own life, or in defense of any person in imminent danger of serious bodily injury. An officer if possible, shall first give a verbal warning (ex. "Police, don't move!").
4. This policy is consistent with Pennsylvania law and with the 1985 U.S. Supreme Court decision in *Tennessee v. Garner*.
5. Members of this department shall not unnecessarily or unreasonably endanger themselves or the public in applying this policy to actual situations.

### B. Restrictions

1. Deadly force will not be used when less force would be reasonably sufficient to affect an arrest.
2. Deadly force should not be used when there is a substantial danger of injury to innocent bystanders.
3. Officers will not discharge a firearm from or at a moving vehicle unless:
  - a. the officer reasonably believes that the occupant(s) of the vehicle are or are about to use deadly physical force against the officer or another person by means other than the vehicle; or

- b. The vehicle is operated in a manner deliberately intended to strike an officer or another person, and all other reasonable means of defense have been exhausted (or are not present or practical), which includes moving out of the path of the vehicle.
  4. Firearms shall not be discharged from a moving vehicle except in exigent circumstances. In these situations, an officer must have an articulable reason for this use of deadly force.
  5. Officers shall not fire warning shots.
  6. Officers normally may only arm themselves with or use weapons approved by the Department, as indicated in Policy 09-005 Firearms. An exception is in cases of extreme emergency where the officer's life or the life of another is in immediate danger; the officer may arm himself/herself with or use any weapon available until the circumstances creating such emergency are brought under control.
- C. Non-Deadly Physical Force
1. Police officers need not cease or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. Officers are justified in using force which they reasonably believe is necessary to defend themselves or others from bodily harm while making an arrest.
  2. Force should only be used as follows:
    - a. When an attempt is being made to affect an arrest and the suspect refuses to submit to the arrest and resisted the officer's efforts.
    - b. When officers are defending themselves or other persons from an attacker.
    - c. When "psychologically disturbed" persons are resisting efforts to be subdued.
    - d. In any other situation where officers deem it necessary to protect themselves, other person, or prevent efforts to defeat an arrest.
  3. Force shall not be used in a punitive manner and officers will discontinue its use when the offender stops resisting.
- D. Less-Lethal Weapons
1. Only officers who have been trained by a certified instructor and approved to use department authorized less lethal weapons will be approved to carry such weapons. Officers are prohibited from carrying or using blackjacks, saps, weighted gloves, bludgeons, metal knuckles, switchblade knives, or nunchucks.
  2. Flashlights utilized by department members are for illumination purposes only. Their use as weapons, except in emergency situations, is prohibited.
  3. The purpose of OC spray is to subdue resisting subjects who pose a threat to the safety of the officer, themselves or another person. After OC is used on a subject, officers will administer appropriate first aid measures as per departmental training and policy.
  4. Chemical Munitions (CN or CS) will only be used by Departmental personnel specifically trained in its use. It may only be used with the authorization of the incident commander.
  5. The purpose of the TASER is to subdue resisting subjects who pose a threat to the safety of the officer, themselves or another person. The TASER shall only be utilized by officers who have been trained by the department in use of the TASER.

6. Following exposure to a TASER, persons shall be transported to the hospital when:
    - a. They request medical attention.
    - b. They are struck in a sensitive area.
    - c. They do not appear to be recovering properly.
    - d. They have been energized more than three times.
    - e. They have been subjected to a continuous energy cycle of 15 seconds or more.
    - f. They exhibited signs of uncontrollable agitation or hyperactivity prior to being struck with the TASER.
  7. An expandable baton or fixed baton may be used by an officer to subdue a violently resisting subject, in self-defense or in defense of another, if lesser methods have failed or in circumstances warranting its immediate use. Officers shall use the baton in accordance with the methods taught during certification.
  8. Less Lethal Impact Munitions:
    - a. The purpose of the less lethal shotgun is to subdue resisting subjects who pose a threat to the safety of the officer, themselves or another person. The less lethal shotgun may be used to propel a round or device that is not normally lethal in nature. It is designed to offer an alternative to the use of deadly force when appropriate. The less lethal shotgun shall only be utilized by officers who have been trained and qualified by the department in use of the less lethal shotgun. The less lethal shotgun impact munitions may be used in a deadly force encounter to deliver deadly force when no other deadly force option is reasonably available to the officer.
    - b. Specialized weapons may be deployed by the SOG team during tactical operations in accordance with Policy 16-006 SOG Unit. These include diversionary devices, chemical munitions and/or impact munitions delivered by a 38mm or 40mm launcher or Pepperball.
  9. The department recognizes that officers may receive training in various other techniques from external sources; however, officers are prohibited from deploying any technique not authorized by the department. This prohibition shall not apply to deadly force situations.
- E. Deadly Force
1. The Pennsylvania Crimes Code, Title 18, Chapter 5, Section 508, Subsection (a), relating to "The Use of Force in Law Enforcement," provides for the lawful and justified use of deadly force by a police officer only when he/she believes that:
    - a. The action is in defense of human life, including the officer's own life, or in defense of any person in immediate danger of serious physical injury or death, or when he/she reasonably believes both that:
      - 1) Such force is necessary to prevent the arrest from being defeated by resistance or escape, and;
      - 2) The person to be arrested has committed or attempted a forcible felony or is attempting to escape and possesses a deadly weapon, or otherwise indicates that he/she will endanger human life or inflict serious bodily injury unless arrested without delay.
    - b. Shoot to Stop

- 1) Officers will fire their weapons to stop and incapacitate an assailant from completing a potentially deadly act as described in this policy.
- 2) For maximum stopping effectiveness and minimal danger to innocent bystanders, officers should shoot at "center body mass," or the largest body mass exposed.

## **VI. PROVIDING FIRST AID OR MEDICAL ASSISTANCE**

- A. Whenever an injury occurs, is suspected, or is alleged as a result of an officer's use of force, the officer shall immediately determine the physical condition of any injured person. If appropriate, the officer shall:
  1. Render first aid.
  2. Summon any necessary emergency medical help.
  3. Ensure the injured person is conveyed to an appropriate medical facility for treatment without unnecessary delay.
- B. OC Spray Exposure
  1. Remove the subject to a "fresh air" location.
  2. Flush the area with cool, clear water.
  3. If the officer believes the subject needs additional medical attention or if the subject requests medical attention, the officer shall immediately summon an ambulance or transport the subject to the hospital.
  4. Officers requiring treatment shall follow the same procedure as for duty-related injuries.
- C. Referral/Transport for Medical Attention
  1. Arresting and transporting officers shall ask prisoners whether they are injured or ill.
  2. A suspect shall be examined by an appropriate health care provider prior to interrogation or prisoner processing for purposes of detention when suffering from or complaining of injury or illness or when, among other circumstances, the individual:
    - a. is struck on the head with an impact weapon or other hard object;
    - b. is restrained about the neck or throat;
    - c. is struck with a less-lethal weapon projectile such as beanbag round, taser, stingball, pepperball; or
    - d. is bitten by a police canine.
  3. Any injured prisoner shall not be admitted to or held in Detention without being examined and released by a physician or qualified health care provider:
    - a. Whenever there is doubt concerning need for medical attention, it should be resolved through examination of the subject by an appropriate health care provider.
    - b. Refusal of treatment shall be documented and verified by the officer and attending physician or health care provider. The refusal of treatment shall be documented in the officer's initial and, when applicable, use of force reports.

## **VII. REPORTING USE OF FORCE INCIDENTS**

#### A. Responsibility for Reporting

1. Officers shall make an immediate verbal report to their supervisors following any use of force and complete a case report for the incident. Officers shall check the appropriate selections in the "Police Action Taken" field as well as the subject "Injury Info" field.
2. Each officer who uses force in an incident shall be included in the written case report. Assisting officers who use force shall each complete a supplemental report.
3. It shall be the responsibility of any and all officers that witness a use of force to verbally report the incident to a supervisor.

#### B. Reporting Requirements/Use of Force Report

1. Officers shall complete a Departmental Response to Resistance report prior to the end of their shift whenever they:
  - a. Discharge a firearm for other than training or recreational purposes.  
EXCEPTION: Firearm discharges for the destruction of an animal shall be documented by a departmental case report.
  - b. Take an action that results in, or is alleged to have resulted in, injury to or the death of another person.
  - c. Apply force through the use of lethal or less lethal weapons.
  - d. Use physical force, or is alleged to have used physical force, to another person.
2. In the event multiple officers are involved in a use of force incident as described above the initial responding officer, unless otherwise directed by a supervisor, will be responsible for reporting the incident. In the event of officers from multiple agencies being involved in a use of force incident as described above, and the incident occurs within the jurisdiction of the Scranton Police Department, the initial responding officer will be responsible for reporting the incident. If the incident falls under the jurisdiction of another agency the initial responding officer will complete a response to resistance report.
3. Actions found to indicate non-compliance with this policy may be directed for follow-up consideration with one or more of the following actions, depending on the circumstances:
  - a. Remedial training.
  - b. Internal Review and/or investigation.
  - c. Disciplinary action.
4. All use-of-force reports shall specify the actions of the suspect that necessitated the use of force, the reasons why the officer used force, as well as any suspect complaints of injury, medical treatment received, or refusal of medical treatment.
5. Officers shall notify his/her immediate supervisor when an arrestee has an injury, whether from the use of force or otherwise, and/or complains of pain and/or injury.
6. The arresting officer shall notify transporting officers if force was used on the arrestee, or if the arrestee has an injury and/or complaint of pain.

7. Photographs of any injuries, injury sites, or reported injury sites shall be taken unless in a sensitive area designated as the genitals or female breast area.
8. Supervisors shall investigate and report on uses of force as directed in Section VIII of this policy.
9. The completed report will be reviewed by the Chief of Police or his/her designee.

## **VIII. POST-INCIDENT INVESTIGATION AND SUPERVISORY REQUIREMENTS**

### **A. Investigation Requirements**

1. As soon as practical following officer-involved deadly force incident, regardless of the location or on-duty/off-duty status, the officer shall notify, or cause to be notified, the Scranton Police Department shift supervisor of the occurrence.
2. Upon notification by the officer, or another person, of an occurrence specified under this section, the shift commander shall notify the Division Commander who shall then notify the Chief of Police.
3. A complete investigation will be conducted into any discharge of a firearm in the line of duty, except when firing to destroy a wounded or suspected rabid animal or on the police firing range, unless an injury results from such discharges. This includes both on and off-duty incidents.

### **B. Supervisory Responsibilities**

1. An officer's immediate supervisor shall be summoned and shall respond to any incident of use of force on a priority basis. In any instance of use of force, the supervisor shall conduct a cursory investigation of the use of force incident and shall;
  - a. ensure that the appropriate officers complete a use-of-force report.
  - b. shall notify the shift commander in cases involving injury or complaint of injury, hospitalization, or death of a person resulting or allegedly resulting from an officer's use of force.
  - c. the shift commander shall notify the patrol commander when death or injury is alleged to have occurred as the result of an officer's use of force.

### **C. Removal of Officer from Line Duty Assignment Pending Administrative Review**

1. Officers that are involved in use of force incidents resulting in death or serious bodily injury shall not be required to give a formal and/or detailed statement for the first 48 hours. However, he or she shall be required to give a basic synopsis of the incident to aid in the initial investigation.
2. When death or serious injury has resulted from an officer's use of force, that officer will, as soon as practical, be released from field duty by the Chief of Police pending a full investigation into the incident by the department.
3. During the period of time an investigation into the incident is being conducted, the Chief of Police may, at his option, assign the officer involved to office related duties. Such relief from duty shall not be considered a suspension or disciplinary action taken against the officer, but rather an administrative course of action relieving the officer from further performance of field duties while undergoing the

extreme emotional stress of having used deadly force and permitting the department time to conduct an objective investigation into the matter.

4. It shall be the policy of the department that when an officer discharges a firearm for his/her own defense, to defend a fellow officer or citizen, etc., while on-duty or off-duty, a psychological evaluation of the officer be conducted by a licensed psychologist who is approved by the Department, within thirty (30) days, at the City of Scranton's expense.
  - a. Any follow-up treatment which the examiner deems necessary shall be provided at the expenses of the City of Scranton.
  - b. The officer shall not be returned to full official duties until the examination and/or treatment is completed and a certification of fitness is provided to the City of Scranton.
  - c. This action is not punitive and is separate and apart from departmental disciplinary procedures.
5. The period of time spent on administrative leave or office assignment will be determined by the Chief of Police.

#### **IX. ORDER REVIEW**

- A. Annually, officers must attend training on the use of force which would review areas such as the law on the use of force, use of force continuum, moral and ethical uses of force and safety issues related to the use of force situations.
- B. This requirement can be met either by material contained in the Municipal Police Officers Education and Training Commission's annual In-Service Training courses, online training such as L.E.T.N., PowerDMS training and testing, outside law enforcement training courses or during annual firearm qualifications.

By Order Of:

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Chief Carl R. Graziano  
Superintendent of Police  
Scranton Police Department