

Georgia Department of Public Safety

Policy Manual

SUBJECT USE OF FORCE	POLICY NUMBER 10.01
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10.01.1 Purpose

To establish policy governing the use of force by members of the Department of Public Safety (DPS). This policy and the standards contained herein are for the use of DPS only, and do not apply in any criminal or civil proceedings. Even though in certain instances our standards contained herein may be more stringent than legal standards for criminal or civil liability, they are not to be construed as creating a higher legal standard of safety or care by which the member is to be bound in an evidentiary sense with respect to claims by others involving criminal or civil liability. The violation of this policy will subject the member to DPS disciplinary action only and shall not form the basis for civil and/or criminal action.

10.01.2 Policy

DPS recognizes and respects the value of human life. Occasionally, members in the performance of their duties encounter situations where the use of force reasonably appears necessary in order to effect a detention or an arrest, overcome resistance, control a subject or protect themselves or others from injury. Reasonable force, as set forth in this policy, may be used in those situations.

10.01.3 Definitions

- A. Member – For purposes of this policy, a “member” means a sworn employee of DPS who has been certified by the Peace Officer Standards and Training Council as a law enforcement officer possessing arrest powers, as well as a DPS non-sworn security employee.
- B. Authorized Weapon - A weapon approved or issued by DPS for official use by its members.
- C. Deadly Weapon - A firearm, object, substance, device, or anything manifestly designed, made, or adapted for the purpose of inflicting death or serious bodily injury or which in the manner of its use or intended use can cause death or serious bodily injury.
- D. Serious Bodily Injury – Physical injury that involves a substantial risk of death; protracted and obvious disfigurement; serious permanent disfigurement; or protracted loss or impairment of the function of any bodily member, organ or mental faculty.
- E. Use of Force – The intentional application by a member of any weapon, instrument, device, or physical power in order to control, restrain, or overcome the resistance, or gain compliance or custody, of another. For purposes of DPS policy, drawing a firearm without discharging it may constitute a use of force, but does not constitute a

use of deadly force.

- F. Less-Lethal Force - Force which, under the circumstances, does not have a reasonable probability of causing death.
- G. Less-Lethal Device – Any DPS authorized tool that is intended to be less likely to cause death or serious physical injury than a conventional lethal weapon such as a firearm.
- H. Less-Lethal Munitions – A DPS approved projectile that, when used in accordance with DPS Less-Lethal Munitions training and certifications, both initial and recurring, is less likely to cause death or serious physical injury than a conventional lethal weapon such as a firearm.
- I. Deadly Force - The force that has a reasonable probability of causing death.
- J. Forcible Felony - Any felony that involves the use or threat of physical force or violence against any person.
- K. Physical Strength and Skill - Any physical actions by one or more members (e.g. holding, restraining, pushing, and pulling) which may include special skills (e.g. boxing, karate, and judo) but do not include the use of deadly force or any authorized or other weapons.
- L. Probable Cause - Probable Cause is an objective standard. It is that total set of apparent facts and circumstances that forms a reasonable belief that a crime has been or is about to be committed.
- M. Reasonable – The U.S. Supreme Court in *Graham v. Connor*, 490 U.S. 386 (1989), acknowledged that the “reasonableness” test in analyzing the use of force is “not capable of precise definition or mechanical application.” For that reason, in determining whether a member’s use of force is reasonable in a particular case, it is necessary to evaluate the facts and circumstances confronting the member at the time force was used. Courts allow for the fact that law enforcement officers are often forced to make split-second judgments, in circumstances that are tense, uncertain, and rapidly evolving. All of the surrounding circumstances will be considered, including whether the subject posed an immediate threat to the safety of the member or others, the severity of the crime at issue and whether the suspect actively resisted arrest or attempted to flee. The evaluation of a member’s use of force will be undertaken from the perspective of a reasonable law enforcement officer on the scene, not through the 20/20 vision of hindsight. Consequently, there may be a range of responses that are reasonable and appropriate under a particular set of circumstances. The central inquiry in every use of force case is whether the amount of force used by the member was objectively reasonable in light of the particular circumstances perceived by the member.

10.01.4 General Provisions

- A. Use of Force
 - 1. Reasonable force may be used to effect a lawful investigative detention or arrest; control a subject who is in lawful custody; prevent an escape from lawful custody; or protect the member, the subject, or another person from injury or death.
 - 2. Any other provision notwithstanding, members may use any weapon (or use any weapon in any manner) if any member reasonably believes that emergency circumstances make it immediately necessary to do so to prevent serious bodily injury or death.

3. A member's actions of establishing a grip, unholstering, and pointing a firearm constitutes the use of force, but do not constitute discharge of the firearm or the use of deadly force. Members may draw and have ready any of their Authorized Weapons for use only when they reasonably anticipate that such weapons may lawfully be used.

B. Amount and Degree of Force

Any use of force (up to and including deadly force) by a member must be objectively reasonable. In determining whether a member's use of force is reasonable in a particular case, it is necessary to evaluate the facts and circumstances confronting the member at the time force was used. All of the surrounding circumstances will be considered, including whether the subject posed an immediate threat to the safety of the member or others, the severity of the crime at issue and whether the suspect actively resisted arrest or attempted to flee. The evaluation of a member's use of force will be undertaken from the perspective of a reasonable member on the scene, not through the 20/20 vision of hindsight. The central inquiry in every use of force case is whether the amount of force used by the member was objectively reasonable in light of the particular circumstances perceived by the member.

C. Application of Force

When a member is performing his or her duty, there exists the potential for the use of force. The member should not only maintain environmental and situational awareness, but also be mentally and physically prepared to control a resisting or violent subject. When confronted with a resisting or violent subject, the member will have to utilize some level of force to ensure control. This level of force should be objectively reasonable (as referenced in 10.01.4 (B)) to maintain control, effect an arrest, or to accomplish other lawful objectives.

D. De-escalation

To ensure that DPS sworn members are proficient in a variety of techniques that could aid them in appropriately resolving an encounter, DPS Training shall provide Use of Force training that includes de-escalation tactics and techniques.

E. Medical Care

As soon as practicable following a use of force and the end of any perceived public safety threat, a member shall obtain appropriate medical assistance for any subject who has visible or apparent injuries, complains of being injured, or requests medical attention. This may include rendering first aid if properly trained and equipped to do so, requesting emergency medical services, and/or arranging transportation to an appropriate medical facility. In those cases where professional medical assistance is rendered, the member will notify his or her immediate supervisor of the incident and location. If the member is unable to contact a supervisor, the first member on the scene with the opportunity to do so will.

F. Additional Considerations

1. A member has no obligation to retreat before resorting to the use of reasonable force (including deadly force) and is not required to wait for an attack before using reasonable force to stop a threat.
2. A member is permitted to use force that is reasonable in light of the totality of the circumstances. This standard does not require members to meet force with equal or lesser force.

10.01.5 Less-Lethal Force and Less-Lethal Devices

A. Members are prohibited from carrying any unauthorized Less-Lethal Device for duty use. (Authorized Weapons & Devices Exhibit 10.03-1)

B. Authorized Less-Lethal Munitions (Authorized Weapons & Devices Exhibit 10.03-1)

1. Training

Only sworn members who have successfully completed DPS Approved Less-Lethal Munitions Training are authorized to use and carry the Less-Lethal Munitions. Each Troop will designate a Less-Lethal Coordinator who will coordinate with the Training Division to develop annual training that shall be delivered to Troop certified less-lethal operators.

2. Storage and Replacement

1) All Less-Lethal launchers and munitions should be stored in a climate-controlled environment in accordance with manufacturer's recommendations.

2) The Training Division will purchase and replace approximately 25% of existing stock of less-lethal munitions on an annual basis.

3) Expired munitions will be used to conduct less-lethal training.

3. Usage

Less-Lethal Munitions may only be used when use is objectively reasonable in response to instances that threaten the safety of the member or others, the destruction of property, or in response to a civil disturbance.

C. Batons

Only DPS-issued batons shall be carried and used in a manner consistent with DPS training.

D. Conducted Energy Weapons

DPS authorizes the use of Conducted Energy Weapons (CEW) by sworn members who have been trained and certified in their use.

1. Training

Only sworn members who have successfully completed CEW Training, including exposure, provided by the DPS Training Division are authorized to use and carry the CEW.

2. Usage

a. The CEW may be used when it reasonably appears that it will be an effective and objectively reasonable less-lethal response to resistance, balancing the need to arrest or subdue the person; the likelihood of injury to the person, to bystanders, or law enforcement officers; and officer safety concerns.

b. Use and carry of the CEW should be consistent with DPS policy and DPS training. Members assigned a CEW will wear the CEW on his or her duty belt, in a DPS-issued holster and in a cross-draw manner on the opposite side of the

body from the firearm.

- c. The CEW is not intended to be used as an alternative to the use of deadly force.
 - d. When possible, the member should give a warning before deploying the CEW and subsequent warnings for additional cycles. The member shall only energize the subject the number of times reasonably necessary to accomplish the operational objective.
 - e. When applicable, an announcement should be made to other members or law enforcement officers on the scene that a CEW is going to be used.
 - f. In determining the need for additional energy cycles, members should be aware that an energized subject may not be able to respond to commands during or immediately following exposure.
 - g. The CEW may be used in certain circumstances in a drive stun mode, which is intended as direct contact with the subject without use of the probes. Because the application of the device in the drive-stun mode relies primarily on pain compliance, the use of the drive-stun mode should be limited to supplementing the probe-mode to complete the circuit.
3. Restrictions on Usage
- a. The CEW should be used only for official law enforcement purposes. No member shall playfully, maliciously, or intentionally misuse a CEW.
 - b. The CEW should not be pointed at any person unless the member involved reasonably believes that it will be necessary to use the device.
 - c. The CEW should not be used when the following circumstances are known to exist:
 - 1) When the operator cannot, for safety or other reasons, approach the person within the device's effective range;
 - 2) In proximity to flammable liquids, gases, blasting materials, or any other highly combustible materials that may be ignited by use of the device, including but not limited to any person who may have been contaminated with combustible liquids;
 - 3) When it is reasonable to believe that incapacitation of the person may result in serious injury or death or where the person's fall may result in injury or death;
 - 4) When the person is standing on any form of elevated platform or where the person may not fall directly to the ground;
 - 5) A subject fleeing should not be the sole justification for use of a CEW. Severity of the offense and other circumstances should be considered before the member's use of a CEW on a fleeing subject.
 - 6) On a handcuffed or secured prisoner, absent active aggressive behavior that cannot be reasonably dealt with in any other less intrusive fashion.
4. In less-lethal responses to resistance situations, when possible, members should avoid using CEW on persons who are:

- a. In wheelchairs;
- b. Known to be pregnant;
- c. Observed to have a debilitating injury or illness;
- d. Elderly;
- e. Children or those under 80 pounds;
- f. Known to have a neuromuscular disorders such as multiple sclerosis, muscular dystrophy, or epilepsy, or
- g. In control of a vehicle.

5. Probe Removal

- a. CEW probes that penetrate sensitive areas of the subject's body (i.e., neck, face, groin, and, with female subjects, the breast area) will only be removed by medical personnel.
- b. Other than in sensitive areas, probe removal may be performed, in accordance with training, by a member certified in the use of the CEW.
- c. Members should dispose of cartridges and probes in the nearest sharps container (e.g. in a hospital or in an ambulance).
- d. Photos should be taken of the affected area before and after probe removal. With probes that penetrate sensitive areas, photos should be taken (by members of the same gender as the subject) of the affected area prior to and after probe removal.

6. Cartridges

- a. CEW cartridges shall not be carried loosely in pockets or in similar fashion for long periods of time, because static electricity may cause discharge and serious injury.
- b. Post/Unit/Station Commanders shall maintain an adequate supply of replacement cartridges in a secured area at their Post/Unit/Station. The cartridges shall only be accessible by NCO's assigned to the Post/Unit/Station.

7. Testing

- a. The CEW shall be function tested each workday, prior to the start of the member's shift, or as soon as practical, for a standard cycle.
- b. A CEW that does not meet the testing protocol should be taken out of service until repaired.
- c. The firing log generated by the CEW's internal software will be inspected by the Supervising Officer at Post/Unit/ Station inspections to ensure that testing is being conducted and the latest firmware updates are installed.

8. Documentation

- a. With the exception of training, all instances of CEW usage, including

unintentional discharges, shall be reported to a supervisor and documented.

- b. Unintentional discharge of the CEW will be explained in a letter through the chain of command to the Troop/Region Commander. Unintentional discharges that are deemed negligent will require the member's letter to be forwarded to the appropriate Adjutant's Office for possible disciplinary action.

9. Use of Force Report

Use of the CEW is considered a use of force and requires completion of the Use of Force Report.

10. Maintenance - CEWs shall be maintained in accordance with the manufacturer's recommendations (e.g. Tasers shall be protected from exposure to moisture to avoid an accidental discharge.)

10.01.6 Deadly Force

- A. DPS recognizes and respects the value and special integrity of each human life. In vesting the members of this agency with the lawful authority to use force to protect the public welfare, a careful balancing of all human interests is required. Members will only use force that is objectively reasonable to effectively bring an incident under control, while protecting the lives of the member and/or others.
- B. A member may use deadly force to apprehend a suspected felon only when the member reasonably believes that the suspect possesses a deadly weapon or any object, device, or instrument which, when used offensively against a person, is likely to or actually does result in serious bodily injury or death; when the member reasonably believes that the suspect poses an immediate threat of physical violence to the member or others; or when there is probable cause to believe that the suspect has committed a crime involving the infliction or threatened infliction of serious physical harm. (See also O.C.G.A. §§ 17-4-20 and 16-3-21).
- C. Members are equipped with firearms as a means to protect themselves and others from immediate threat of death or serious bodily injury. Even though all members must be prepared to use his or her firearms, they should only do so when objectively reasonable.
- D. Administrative Requirements After the Use of Deadly Force
 1. DPS shall thoroughly investigate incidents of a member's use of force that result in serious bodily injury or death for determination of compliance with existing policy and law.
 2. Any member involved in a use of force incident resulting in serious bodily injury or death shall immediately notify his or her supervisor. The supervisor shall notify the appropriate adjutant/division director through the chain of command. A Troop/Region Officer will make the initial inquiry.
 3. The DPS Office of Professional Standards (OPS) must be notified from the scene, when possible, and given the opportunity to view the scene before it is disturbed.
 4. An OPS Investigator will be assigned and shall make a complete investigation of all incidents of a member using deadly force during the course, scope, or performance of that member's duties.
 5. A member involved in the use of deadly force during the course, scope or performance of his or her official duties shall be placed on paid administrative leave

until approved for return to duty by the respective Adjutant, or their designee. If the use of deadly force results in death, then the administrative leave shall be for a minimum of five (5) calendar days. This period of leave is intended to provide sufficient time for DPS to conduct an initial investigation of the incident and the member to participate in a post-incident debriefing, and seek professional counseling if necessary. Placement on paid administrative leave as outlined above shall not be interpreted to imply or indicate that the member has acted improperly.

10.01.7 Discharge of Firearm

Prohibited Discharge of Firearms

- A. Members shall not discharge their firearms under any of the following circumstances:
 - 1. When not in accordance with the provisions of this policy;
 - 2. As a warning shot;
 - 3. At a fleeing vehicle involved in a pursuit, unless authorized by a Post Commander, or higher ranking commissioned officer. However, this shall not prohibit the use of firearms against occupants of a vehicle when the use of deadly force is authorized by law, or
 - 4. At the operator of a moving aircraft, boat, or vehicle unless the use of deadly force is authorized by law or otherwise justified under the standards articulated elsewhere in the policy.
- B. Negligent discharge of a firearm by a member.
 - 1. A negligent discharge of a firearm shall be reported by the member to his or her immediate supervisor and through the chain of command to the appropriate Adjutant.
 - 2. The Adjutant shall determine whether the negligent discharge of a firearm will be investigated by the Office of Professional Standards or at the Troop/Region level.
 - 3. Members are authorized to euthanize an injured animal if the following conditions are met:
 - a) A reasonable attempt is made to contact the animal's owner or caretaker before the animal is euthanized. Such notification, or attempt at notification, shall be documented in the CAD notes;
 - b) Precautions are taken to prevent any ricochets; and
 - c) The appropriate agency is called to dispose of the carcass.
 - d) Use of a firearm in this manner shall not be considered a use of force for reporting purposes, as defined by DPS policy. However, an incident report shall be completed.

10.01.8 Weapons Carry

- A. Only issued handguns may be carried while in uniform.
- B. Shotguns shall be carried with the bolt forward on an empty chamber, trigger pressed,

safety on and shells loaded in the magazine tube.

- C. Rifles shall be carried with the bolt forward on an empty chamber, safety on and a loaded magazine inserted into the magazine well.
- D. The member must demonstrate, through participation in DPS training, proficiency in the operation of any Authorized Weapon.
- E. Ammunition
 - 1. No plugs are allowed in the magazine.
 - 2. For shotguns, reserve shells shall be maintained in the speed-feed stocks when the shotgun is not in use.
 - 3. For rifles, extra magazines/ammunition will be stored in the issued immediate response bag.
 - 4. Except in an emergency, only authorized ammunition shall be used in Authorized Weapons. Authorized ammunition is approved by the DPS Commissioner or his/her designee.

10.01.9 Security of Firearms

- A. Firearms shall not be left accessible to unauthorized persons.
- B. At no time will a member allow any unauthorized person to handle, control or fire any Authorized Weapons.
- C. If a shotgun/rifle mount is installed in a Patrol Vehicle, the shotgun/rifle shall be carried in the mount in accordance with DPS training.
- D. Shoulder weapons may be carried in the passenger compartment of the Patrol Vehicle or in the trunk if a mount is unavailable.
- E. When a Patrol Vehicle is left unattended in a garage for service or repairs or at any other time where it would be prudent, weapons will be removed and stored in a secure place.

10.01.10 Use of Force Reporting and Annual Review

- A. Any Use of Force by a member during the course, scope, or performance of his or her duty requires completion of a Use of Force Report, by the member in accordance with policy or as directed by the appropriate adjutant/division director.
 - 1. For the purposes of the report, the member shall describe in detail the force used and all of the circumstances and facts surrounding the use of force. The basic questions-who, what, where, when, how and why-must be answered.
 - 2. When complete, the Use of Force Report shall be submitted to the appropriate adjutant/division director through the member's chain of command. The adjutant/division director will forward a copy of the report to the Director of the Office of Professional Standards.
 - 3. Use of Force Reports(s) shall be completed for DPS deployment in response to a civil uprising, disorder, or protest, unless otherwise suspended by issuance of a written directive of the Commissioner.

4. In the event the Commissioner issues such a directive, the directive shall be maintained as part of the official documentation of the deployment.
 5. The preparation of the Use of Force Report shall not relieve the member of his or her responsibility to immediately notify their supervisor of a use of deadly force incident.
- B. The Office of Planning and Research will compile an annual Use of Force Statistical report. The Use of Force Statistical report will be reviewed by the Training Unit, Legal Services, Human Resources, and the Office of Professional Standards to determine if any patterns or trends in the use of force exist within the Department that would affect the training needs of employees, equipment issued to employees, or Department policy and procedures.