

Georgia Department of Public Safety

Policy Manual

SUBJECT USE OF FORCE	POLICY NUMBER 10.01
DISTRIBUTION ALL EMPLOYEES	REVISED DATE 1/7/2022
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10.01.1 Purpose

To establish policy and procedures governing the use of force by members of the Department of Public Safety. This policy and the standards contained herein are for the Department of Public Safety's use only, and the standards or policy established do not apply in any criminal or civil proceedings. Even though in certain instances our standards or policy 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 Department disciplinary action only, and shall not form the basis for civil and/or criminal action.

10.01.2 Policy

The Department of Public Safety 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 affect 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 – Sworn employees of the Department of Public Safety who have been certified by the Peace Officer Standards and Training Council as law enforcement officers possessing arrest powers, and non-sworn security employees of the Department of Public Safety.
- B. Authorized Weapon - A weapon approved or issued by the Department for official use by its members.
- C. Deadly Weapon - A firearm or anything manifestly designed, made, or adapted for the purpose of inflicting death or serious bodily injury or anything that in the manner of its use or intended use can cause death or serious bodily injury.
- D. Bodily Injury - Physical pain, illness, or any impairment of physical condition.
- E. Serious Bodily Injury - Bodily injury that creates a substantial risk of death or causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

- F. Less-Lethal Force - Force which, under the circumstances, does not have a reasonable probability of causing death.
- G. Less-Lethal Munitions – A DPS approved projectile delivery tool that, when used in accordance with DPS training, is less likely to cause death or serious physical injury than a conventional lethal weapon such as a firearm.
- H. Deadly Force - The force that has a reasonable probability of causing death.
- I. Forcible Felony - Any felony that involves the use or threat of physical force or violence against any person.
- J. 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.
- K. 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.
- L. Reasonable – The U.S. Supreme Court in *Graham v. Conner*, 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. 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.

10.01.4 General Provisions

- A. Use of Force
 - 1. Reasonable force may be used to affect a lawful investigative detention or arrest; control a subject who is in lawful custody; prevent an escape; 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.

- 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 their 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. A member shall, in a timely manner, render or summon necessary medical aid to a person who has been injured if such can be done without endangering the member or others. In those cases where professional medical assistance is rendered, the member will notify their 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, will do so.
- E. A member has no obligation to retreat before resorting to the use of force (including deadly force).

10.01.5 Less-Lethal Force

A. Authorized Less Lethal Munitions (Exhibit 10.03-1)

1. Training

Only sworn members who have successfully completed Less-Lethal Munitions Training provided by the DPS Training Division are authorized to use and carry the less lethal munitions, provided however that members with specialized assignments as defined in Policy 25.06-Specialized Assignments, are authorized to use and carry less lethal munitions for which they have successfully completed less-lethal munitions training approved by the commanding officer of the specialized unit to which the member is assigned. 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

- a. All less lethal launchers and munitions should be stored in a climate-controlled environment in accordance with manufacturer's recommendations.
- b. The Training Division will purchase and replace approximately 25% of existing stock of less lethal munitions on an annual basis.
- c. 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.

B. Batons

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

C. Conducted Energy Weapons

The department authorizes the use of Conducted Energy Weapons by sworn members who have been trained and certified in their use.

1. Training

Only sworn members who have successfully completed Conducted Energy Weapons 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 option, balancing the need to arrest or subdue the person; the likelihood of injury to the person, to innocent 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 their duty belt. It will be carried in the holster issued by the department and worn on their duty belt in a cross-draw manner on the opposite side of the body from their firearm.
- c. Deployment of the CEW against any person shall be considered a use of less-lethal physical force. The CEW is not intended to be used as an alternative to the use of deadly physical 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. The CEW should be used only for official law enforcement purposes. No member shall playfully, maliciously or intentionally misuse a CEW.
- g. 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.
- h. The device may also be used in certain circumstances in a drive stun mode. Because the application of the device in the drive-stun mode (*i.e.* direct contact without probes) 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. The CEW should not be pointed at any person unless the member involved reasonably believes that it will be necessary to use the device.
4. Restrictions on Usage

The CEW should not be used when the following circumstances are known to exist:

- a. When the operator cannot, for safety or other reasons, approach the person within the device's effective range;
 - b. 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;
 - c. 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;
 - d. When the person is standing on any form of elevated platform or where the person may not fall directly to the ground;
 - e. 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.
 - f. On a handcuffed or secured prisoner, absent active aggressive behavior that cannot be reasonably dealt with in any other less intrusive fashion.
5. In less-lethal responses to resistance situations, when possible, members should avoid using CEW on:
 - a. Persons in wheelchairs;
 - b. Pregnant women;
 - c. People with apparent debilitating illness or the elderly;
 - d. Children or those under 80 pounds;
 - e. Persons with known neuromuscular disorders such as multiple sclerosis, muscular dystrophy, or epilepsy, or
 - f. In control of a vehicle.
 6. 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. All other 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 (i.e. hospital or 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.
7. 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 Commanders shall maintain an adequate supply of replacement cartridges in a secured area at the Post. The cartridges shall only be accessible by NCO's assigned to the Post.
 8. The CEW shall be function tested each workday for a standard cycle of 5 second spark test. A CEW that does not meet the testing protocol should be taken out of service until repaired. The firing log generated by the CEWs internal software will be inspected by the Troop Officer at post inspections to ensure that testing is being conducted and the latest firmware update is installed.
 - a. With the exception of training, all instances of CEW usage, including unintentional discharges, shall be reported to a supervisor and documented. Unintentional discharge of the CEW will be explained in a letter through channels to the Troop Commander. Unintentional discharges that are deemed negligent will require the member's letter to be forwarded to the Commanding Officer'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 Incident/Use of Force Report.
 10. CEWs shall be maintained in accordance with the manufacturer's recommendations (i.e. Tasers shall be protected from exposure to moisture, to avoid an accidental discharge.)

10.01.6 Deadly Force

- A. Use of Deadly Force/Firearms Discharge, Generally
 1. The Department 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 reasonably necessary to effectively bring an incident under control, while protecting the lives of the member and others.
 2. 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; 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. (O.C.G.A. § 17-4-20).

3. 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 their firearms when necessary, they should only do so when objectively reasonable (as referenced in 10.01.4, B).

B. Administrative Requirements After the Use of Deadly Force

1. All incidents involving use of force, which results in serious bodily injury or death, by department members shall be thoroughly investigated by this department 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 their supervisor. The supervisor shall notify the appropriate adjutant through the chain of command. A Troop/Region Officer will make the initial investigation.
3. An Investigator from the Office of Professional Standards will make a complete investigation of all shootings by members that occur in the performance of their duties.
 - a. The Office of Professional Standards must be notified from the scene of the shooting, when possible, and given the opportunity to view the scene before it is disturbed.
4. A member involved in an incident involving the use of deadly force during the discharge of his official duties shall be placed on paid administrative leave until approved for return to duty by his/her Troop/Region commander, a member of his/her Troop/Region commander's chain of command or someone acting on their behalf. If the use of deadly force results in death, then the administrative leave shall be for a minimum of five calendar days. This period of leave is intended to provide the department sufficient time to conduct an initial investigation of the incident and to provide the member time to participate in a post-incident debriefing or 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.

C. Prohibited Use of Firearms

1. Members shall not discharge their firearms under the following circumstances:
 - a. When not in accordance with the provisions of this policy;
 - b. As a warning shot;
 - c. At a fleeing vehicle unless authorized by a Post Commander, or above, in an attempt to disable a vehicle during a pursuit. This shall not prohibit the use of firearms against occupants of a vehicle when the use of deadly force is authorized by law.

D. Members may draw and have ready any of their authorized weapons for use only when they reasonably anticipate that such weapon(s) may lawfully be used.

E. Members shall consider the risks to innocent bystanders.

1. A negligent discharge of a firearm, where there is a risk to the public will be investigated by the Office of Professional Standards.

2. A negligent discharge of a firearm, where there is no risk to the public, maybe investigated at the Troop level, at the discretion of the Commanding Officer.
- F. Members are authorized to euthanize an injured animal if the following conditions are met:
1. A reasonable attempt is made to contact the animal's owner or caretaker before the animal is euthanized. Such notification, or attempt, shall be documented on the Dispatcher's Report;
 2. Precautions are taken to prevent any ricochets; and
 3. The appropriate agency is called to dispose of the carcass.
 4. Use of a firearm in this manner shall not be considered a use of force for reporting purposes, as required by this policy. However, an incident report shall be completed.
- G. Carrying Firearms
1. Issued Weapons
 - a. Only issued handguns may be carried in uniform.
 - b. Members must carry their badge and a picture I.D. to carry any authorized weapon off-duty.
 - a. The member must have shown, through the Training Unit, proficiency in the operation of any authorized weapon carried off-duty.
 - b. Only department-authorized ammunition shall be carried in off-duty weapons.
 - c. Shotguns shall be carried with the bolt forward on an empty chamber, trigger pressed, safety on and shells loaded in the magazine tube.
 - a. No plugs are allowed in the magazine.
 - b. Reserve shells shall be maintained in the speed-feed stocks when the shotgun is not in use.
 - d. Rifles shall be carried with the bolt forward on an empty chamber, safety on and a loaded magazine inserted into the magazine well. Extra magazines/ammunition will be stored in the issued immediate response bag.
 2. Except in an emergency, only authorized ammunition shall be used in authorized firearms. Authorized ammunition is that approved by the Commissioner of the Department of Public Safety.
- H. Security of Firearms
1. Firearms shall not be left accessible to unauthorized persons. At no time will a member allow any unauthorized person to handle, control or fire any Department authorized weapons.
 - a. Shoulder weapons may be carried in the passenger compartment of the vehicle or in the trunk.

- 1) If a shotgun/rifle mount is installed in the vehicle, the shotgun/rifle shall be carried in the mount in accordance with DPS training.
- b. When the 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.

10.01.7 Reporting and Investigations

A. Use of Force Report

1. Any use of force, as referenced in this policy statement, shall require that the member involved complete an Incident/Use of Force Report (DPS-1113) as soon as possible. The member will 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. When complete, the Use of Force Report shall be submitted to the appropriate adjutant through the member's chain of command. The adjutant will forward a copy of the report to the Director of the Office of Professional Standards.
 - a. This policy shall remain in effect at the scene of a civil disorder, unless suspended by issuance of a written directive by the Commissioner prior to deployment of personnel to the incident.
 - b. In the event the Commissioner issues such a directive, the directive shall be maintained as part of the official documentation of the incident.
2. The preparation of the Incident/Use of Force Report (DPS- 1113) shall not relieve the member of their responsibility to immediately notify their supervisor of a use of deadly force incident.
3. The Office of Professional Standards will compile an annual Use of Force Statistical analysis. The Office of Professional Standards will check the report for accuracy and forward it to the Computer Services Section for data entry. If the force used resulted in serious bodily injury or death to the suspect, third-party or a member, a copy of the Use of Force Report will also be forwarded to the Legal Services Division. The Use of Force Statistical analysis will be reviewed by the Training Unit, Legal Services and the Office of Professional Standards to determine whether there are policy, training, weapon/equipment or discipline issues that should be addressed.
4. The Use of Force report and determinations shall be entered into the Employee Tracking System (ETS) by the appropriate Troop/Region/Unit.