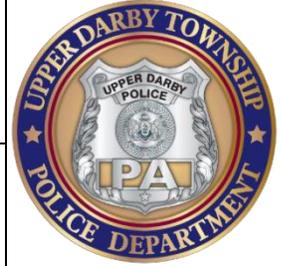


**UPPER DARBY TOWNSHIP  
POLICE DEPARTMENT  
POLICY & PROCEDURES**



**SUBJECT: USE OF FORCE**

**BY THE ORDER OF:**  
Superintendent of Police Timothy Bernhardt

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**PURPOSE:** The purpose of this policy is to maintain guidelines and procedures governing the use of force (lethal and less-lethal force) by all officers of Upper Darby Township Police Department.

**POLICY:** It is the policy of the Upper Darby Township Police Department that officers hold the highest regard for the dignity and liberty of all persons and place minimal reliance upon the use of force and instead use de-escalation tactics to the extent possible under the circumstances. This department respects and values the sanctity of human life and the application of deadly force is a measure to be employed only in the most extreme circumstances.

It is a priority of the Upper Darby Township Police Department to actively protect life. It is the policy of the Upper Darby Township Police Department that its officers use only the amount of force that is reasonably necessary under the circumstances. The use of force must be objectively reasonable. Force that is not objectively reasonable shall be deemed excessive. The use of excessive force is prohibited.

Officers shall take reasonable steps to protect an individual from the use of excessive force by another officer, regardless of rank, if there is a realistic and reasonable opportunity to intervene. An officer who uses excessive force or fails to intervene when there is a realistic and reasonable opportunity to do so, shall be subject to discipline, criminal prosecution, and/or civil sanctions.

Officers using force must be able to articulate the need and justification for the use of force and the reason(s) why the level of force utilized was selected. Full disclosure of the circumstances requiring the use of force, and the type and extent of force, shall be thoroughly documented in the departmentally required use of force report and/or other reports, as required in this policy.

It is further the policy of the Upper Darby Township Police Department that all persons, regardless of their involvement in a situation, shall be treated with humanity, courtesy, and the dignity due any human being, to the extent possible.

Police officers and civilian employees shall maintain a professional bearing at all times. They shall not be argumentative or engage in acts that might incite a subject to become physically aggressive.

All officers are required to review, understand, and adhere to this policy, as amended.

## DEFINITIONS:

**Active aggression**: is the physical action of an assault towards a law enforcement officer. This includes anyone who attempts to attack, grab, punch, kick, and/or wrestle with any officer or civilian.

**Airway restraints**: a control technique designed to restrict a person's normal breathing and air flow by constricting his/her airway with a chokehold or other manual pressure. Airway restraints or similar control techniques are prohibited unless deadly force is authorized. Airway restraints also include:

1. **Chokehold**: a control technique designed to interfere with the normal breathing of another by manually constricting his/her windpipe. Chokeholds are prohibited unless deadly force is authorized.
2. **Vascular restraint**: a control technique designed to restrict a person's normal blood flow to the brain by constricting his/her carotid arteries with a chokehold or other manual pressure. Vascular restraints are prohibited unless deadly force is authorized.

**Conducted Energy Weapon (CEW)**: any device that is capable of firing darts/electrodes that transmit an electrical charge or current intended to temporarily disable a person; commonly referred to as a Taser (AXON). Personal owned CEWs are not authorized. Related definitions include:

1. **Anti-felony identification device (AFID)**: is the confetti-like contents of a conducted energy device cartridge bearing the serial number of the cartridge deployed. (AFID is a product associated with AXON devices).
2. **Cartridge**: is a shell containing AFIDs and two probes that penetrate the target and deliver neuromuscular incapacitation (NMI).
3. **CEW control manager**: a CEW instructor appointed by the Superintendent of Police to manage this department's CEW program.
4. **CEW instructor**: all approved CEW instructors of this department.

5. Conventional tactics: those tactics and other uses of force described in this policy.
6. Data download: is the method of electronic recovery of the firing and video data saved by the CED upon activation.
7. Deployment: the activation of a CEW resulting in the arcing of the unit, a contact maneuver on a subject or animal, and/or the discharge of an air cartridge whether or not the probes strike its intended target. The mere display of a CEW is not considered deployment.
8. Discharge: means to cause an electrical charge or current to be directed at a person in contact with the darts/electrodes of a conducted energy device.
9. Drive stun mode: means to discharge a conducted energy device when the main body of the device is in direct contact with the person against whom the charge or current is transmitted.
10. Fire: means to cause the darts/electrodes of a conducted energy device to be ejected from the main body of the device and to come into contact with a person for the purpose of transmitting an electrical charge or current against the person.
11. Spark display: means a non-contact demonstration of a conducted energy device's ability to discharge electricity that is done as an exercise of constructive authority to convince an individual to submit to custody.
12. Tasered: is a colloquial term indicating that a person or animal has received an electrical charge from a CEW.

**De-escalation**: Taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary. De-escalation can include the use of such techniques as command presence, advisements, warnings, verbal persuasion, and tactical repositioning.

**Excited delirium**: a medical disorder generally characterized by observable behaviors, including extreme mental and physiological excitement, intense agitation, hyperthermia often resulting in nudity, hostility, exceptional strength, endurance without apparent fatigue, and unusual calmness after restraint accompanied by a risk of sudden death. Specific signs and characteristic symptoms may include, but are not limited to:

1. Constant or near constant physical activity;

2. Unresponsiveness to police presence;
3. Nakedness/inadequate clothing that may indicate self-cooling attempts;
4. Elevated body temperature/hot to touch;
5. Rapid breathing;
6. Profuse sweating;
7. Extreme aggression or violence;
8. Making unintelligible, animal-like noises;
9. Insensitivity to or extreme tolerance of pain;
10. Excessive strength (out of proportion to the person's physique);
11. Lack of fatigue despite heavy exertion;
12. Screaming and incoherent talk;
13. Paranoid or panicked demeanor;
14. Attraction to bright lights/loud sounds/ glass or shiny objects.

**Forcible felony:** the crimes of murder, voluntary manslaughter, rape, robbery, kidnapping, involuntary deviate sexual intercourse, arson endangering persons, and aggravated assault causing serious bodily injury.

**Impact weapon:** the department issued/authorized expandable baton. However, officers are advised that this term can also apply to other objects such as a flashlight provided that officers utilize the object in strict compliance with the law and department training regarding the use of impact weapons.

**Less-lethal impact munitions:** beanbags from a less-lethal shotgun or projectiles discharged from a 40mm launching system that are designed to gain compliance by causing temporary pain and discomfort via blunt trauma.

**Medical personnel:** include, but are not limited to doctors, physician assistants, nurses, nurse practitioners, paramedics, and emergency medical technicians.

**Negligent discharge:** the unintentional discharge of a firearm whether on-duty or off-duty.

**Objectively Reasonable:** The determination that the necessity for using force and the level of force used is based upon the officer's evaluation of the situation

in light of the totality of the circumstances known to the officer at the time the force is used and upon what a reasonably prudent officer would use under the same or similar situations.

**Officer-involved shooting incident:** any discharge of a firearm by an on-duty officer, which results in death, any bodily injury to another person, or where another person was the target of the firearm's discharge (regardless of whether or not the target subject had been struck).

**Positional asphyxia:** happens when a person cannot get enough air to breathe due to the positioning of his/her body. This happens when a person is placed in a position where his/her mouth and nose is blocked or where his/her chest/torso may be unable to fully expand resulting in suffocation.

**Reasonable belief:** the facts or circumstances the officer knows, or should know, that are such as to cause an ordinary and prudent person to act or think in a similar way under similar circumstances.

**Serious bodily injury:** bodily injury that 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.

## PROCEDURES:

### I. GENERAL:

- A. All agency personnel authorized to carry weapons and/or use law enforcement force, including less lethal options, shall receive training, at least annually, on this *Use of Force Policy*. This training can be administered electronically. Successful completion of such required training is considered an essential job requirement.
- B. The *Pennsylvania Crimes Code, Title 18, Chapter 5, General Principles of Justification*, describes those circumstances in which use of force is justified. These provisions, and the related case law, including federal case law made binding on Pennsylvania through the 14<sup>th</sup> Amendment to the United States Constitution, shall establish the only legally binding restrictions regarding the use of force by police department personnel, as it relates to criminal or enforceable civil matters. Officers will be governed in the use of force by Title 18, Pennsylvania Crimes Code, Chapter 5, General Principles of Justification, Section 505, Use of Force for Self-Protection, Section 506, Use of Force for the Protection of Other Persons, Section 507, Use of Force for the Protection of Property and Section 508, Use of Force in Law Enforcement.
- C. In any incident involving use of force, officers shall only utilize that force reasonable to effectuate lawful objectives in conformance with the provisions of the Pennsylvania Crimes Code, other Pennsylvania statutory provisions, and applicable Pennsylvania and federal court decisions in accordance with this policy.
- D. Such reasonable and necessary force may be used:
  - 1. For self-defense;
  - 2. For the defense of others;
  - 3. To effectuate an arrest;
  - 4. To prevent an escape;
  - 5. To overcome resistance.
- E. The level of force utilized by an officer must be objectively reasonable and based upon:
  - 1. The severity of the crime/offense under investigation;
  - 2. The threat represented by a subject;
  - 3. The level of resistance offered by a subject or the attempt to evade detention or arrest by flight.

## **II. DE-ESCALATION:**

- A. When all of the reasonably known circumstances indicate it is safe and feasible to do so, officer's shall:
  - 1. Attempt to slow down or stabilize the situation so that more time, options, and resources may become available.
  - 2. Consider, based on the officer's actual observations and in the totality of the circumstances, whether a subject's lack of compliance is a deliberate attempt to resist or an inability to comply based on factors including, but not limited to, the subject's thoughts, medical conditions, developmental behavior, language barrier, emotions and behavioral crisis.
- B. De-escalation tactics include, but are not limited to:
  - 1. Requesting additional officers to the scene, which may make more force options available and may help minimize the overall force used.
  - 2. Placing barriers between an uncooperative subject and an officer.
  - 3. Attempting to isolate the subject and contain the scene.
  - 4. Minimizing risk from a potential threat using distance, cover or concealment.
- C. Prior to using force, officers shall attempt to use the following concepts and tactics when safe and feasible, which may help officers minimize risk to themselves and others.
  - 1. Identify themselves as a law enforcement official;
  - 2. Attempt to verbally de-escalate;
  - 3. Attempt to use additional de-escalation tactics or control options;
  - 4. Give commands to be followed; and
  - 5. Afford the person a reasonable opportunity to comply.
- D. If use of force is initiated, force shall be de-escalated immediately as resistance decreases or control is achieved.

## **III. LEVELS OF RESISTANCE:**

- A. The following are categories of resistance that officers may encounter during an encounter with a subject. Officers will select a use of force option as dictated by the level of resistance presented by the subject. Officers shall categorize and provide specific information regarding the

level of resistance while preparing the required use of force report and other reports, as required in this policy.

1. **Cooperative Subject:** The subject is paying attention to and complying with the officer's verbal directions or commands.
2. **Non-Moving Resistor:** The lowest level of physical resistance. The subject resists the officer's attempts at control by passive physical actions. No active attempt is made to resist the officer but the person is non-compliant.
3. **Moving Resistor:** Physically resisting the officer's attempts at control by direct, overt, physical actions. At this level, the subject may be attempting to push or pull away in a manner that does not allow the officer to establish control. The person is not assaultive towards the officer, however. It should be noted that within this category there are an infinite number of sub-categories in which a person may qualify as a moving resistor. The description of a moving resistor as listed here should not be considered comprehensive.
4. **Assailant:** The subject attacks the officer to resist attempts at control. The attack is a physical assault on the officer that could result in injury to the officer.
5. **Threat of Death or Serious Physical Injury:** Overt, physical actions or force by a subject in which the subject assaults or attempts to assault the officer with a weapon, a technique, or an object that could result in death or serious physical injury to the officer or others.

#### **IV. USE OF FORCE OPTIONS:**

- A. The following options serve as guidelines for officers when deciding the appropriate level of force to be used. Nothing in this section will require an officer to use all lower levels of force before using the appropriate level. The totality of circumstances and reasonableness will determine with which use of force option an officer will begin.
  1. Officer presence: the identification of a police officer's authority by the uniformed presence or the verbal identification of being a police officer.
  2. Verbal commands: The officer begins a verbal dialog, and if needed, utilizes commands or warning to control the incident.
    - a. During civilian contacts, each officer must make every reasonable attempt to ensure that his/her conduct inspires respect and generates cooperation and a feeling of good will between the civilian and the department.
    - b. The manner and form in which an officer speaks to an individual can be an effective means of exerting control

over the situation. Verbal control may be in the form of advice, persuasion, admonitions, or orders. The volume and tone of the officer's comments may also be an effective tool to assume control over a situation without having to progress to any higher level of force.

3. Restraint and control: include soft empty-hand techniques (e.g., grabs, holds, locks, come-along, etc.) and oleoresin capsicum aerosol. The object of this level of force option is to gain control and compliance while minimizing the risk of injury to the officer, the person being placed in custody, or innocent bystanders.
4. Active resistance: include hard empty-hand techniques (e.g., punches, kicks, blows, head butt, etc.) and the use of a CEW. Officers may use these striking techniques or CEW to defend themselves against unlawful assaults where higher levels of force are not necessary and lower levels of force would be inappropriate or have been ineffective.
5. Intermediate force:
  - a. The use of impact weapons shall be restricted to quelling physical confrontations where higher levels of force are not necessary and lower levels of force would be inappropriate or have been ineffective.
  - b. Less-lethal impact munitions may be directed against a person when such force is reasonably necessary to prevent the person from causing death or serious bodily injury to him/herself, an officer, or any other person. Examples include:
    - 1) When a person is armed with a weapon, which is not readily capable of causing death or serious bodily injury to officers or others due to distance and/or time, but may cause death or serious bodily injury should the suspect's position of tactical advantage change and when the officer deploying the impact munitions has deadly force cover from a backup officer.
    - 2) A person is threatening or actively engaging in suicidal or other self-destructive behavior and the use of less lethal munitions is necessary to prevent that person from causing death or serious bodily injury to him/herself.
6. Deadly or potentially deadly force: Officers can utilize deadly force on another only when legally justified and when lower levels of force have been ineffective or would be inappropriate given the threat level confronting the officer.

- a. Deadly force may consist of the use of items, articles, instruments, or equipment other than firearms, which are designed, intended, and routinely utilized for other legitimate, police purposes, such as vehicles, batons, flashlights, etc.
  - b. Deliberate use of any such item, article, instrument or equipment for any purpose other than which it was designed and intended, or in a potentially deadly manner (i.e. as a club), is prohibited except in cases where the use of deadly force is specifically authorized in this policy.
- B. Generally, officers are strictly prohibited from using airway restraints, carotid restraints, chokeholds, or other neck restraints. EXCEPTION: If an officer is in fear of death or serious bodily injury and there is no other alternative available based on the presenting circumstances, airway restraints, carotid restraints or other chokeholds are permissible for defense of the officer's or another's life.
- C. When responding to any incident, which may require the use of force, officers should:
  1. Evaluate the situation:
    - a. Officers should consider any known physical and/or mental disabilities of a subject in assessing the appropriate level of force.
    - b. However, the fact that a subject suffers from a physical and/or mental disability shall not prevent an officer from using that level of force that is objectively reasonable.
  2. When feasible and safe, provide some warning to the individual with the intent to prevent the need for force;
  3. Illuminate the subject, when necessary;
  4. If force is necessary, coordinate appropriate tactics with a sufficient number of readily available law enforcement personnel to safely overcome any resistance;
  5. Use the minimum force necessary, but officers are not required to use force at or below the resistance met, but can meet or exceed that force;
  6. Use of force shall cease once the subject is under control, poses no threat to the safety of officers and/or others, and there is no risk of escape.

**V. DEADLY FORCE:**

- A. Officers shall only use deadly force when reasonable and justified to effectuate lawful objectives in conformance to the Pennsylvania Crimes Code, other Pennsylvania statutory provisions, and Pennsylvania and federal court decisions. 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:
1. The action is in defense of human life, including the officer's own life, or in defense of any person in imminent danger of serious bodily injury, or
  2. When he/she reasonably believes **both of the following**:
    - a. Such force is necessary to prevent the arrest from being defeated by resistance or escape; **and**
    - b. 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.
  3. When feasible, the officer shall identify himself or herself as a law enforcement officer and warn of his or her intent to use deadly force.
  4. Officers should be aware that the mere fact that a person is a "fleeing felon" does not justify the use of lethal force.
- B. Shoot to stop the threat:
1. Officers are authorized to use firearms to stop an assailant from completing a potentially deadly act as described in Title 18, Chapter 5, Section 508, Subsection (a.), relating to *The Use of Force in Law Enforcement*.
  2. For maximum stopping effectiveness and minimal danger to innocent bystanders, officers should shoot at center body mass or the largest body mass exposed.
- C. Use of deadly force to destroy an animal:
1. Officers are justified in using deadly force to destroy an animal that represents an imminent threat to the safety and welfare of the community or where it is determined that the animal is so severely injured that its destruction is considered to be a humanitarian measure.

2. The use of a firearm in the destruction of a domesticated animal will ONLY be utilized upon authorization of the on-duty shift supervisor, unless the urgency for immediate destruction prevents such authorization and after making a reasonable attempt to contact the animal's owner, or animal control if the owner is unknown or unavailable.

D. Prohibited use or display of firearms:

1. Except for maintenance or during training and department-sanctioned events, police officers shall not draw or exhibit a firearm unless circumstances create reasonable cause to believe that it may be necessary to use the weapon.
2. Officers are prohibited from discharging firearms under the following circumstances:
  - a. Discharging any firearm into the air or the ground (e.g., a warning shot intended to cause a fleeing suspect to stop or surrender).
  - b. Discharging a firearm to summon assistance.
  - c. When it appears that an innocent bystander or other officers are likely to be injured by the officer's firearm discharge.
  - d. Firing a weapon at or from a moving vehicle, except:
    - 1) If the occupants of another vehicle are using deadly force against the officer or another person, either within or from a vehicle.
    - 2) If no other alternative is available based on the presenting circumstances.

**VI. USE OF FORCE – LESS LETHAL WEAPONS:**

- A. NOTE: less-lethal force weapons could be ineffective for subjects exhibiting signs of excited delirium (see definitions) due to the subject's elevated threshold of pain. See this department's policy on *Emotionally Disturbed Persons* for instructions on dealing with someone with signs of excited delirium.
- B. Oleoresin capsicum (OC) is authorized for use (see this department's policy on *Weapons and Ammunition* for authorized OC).
  1. Officers may utilize OC on individuals to:
    - a. Effectuate an arrest in accordance with this policy;

- b. Protect himself/herself or a third party from physical harm;
  - c. Subdue a violently resisting subject.
  - d. Subdue a combative restrained/handcuffed arrestee/prisoner only when other available means of control have been exhausted or would be ineffective, or other methods would cause physical injury to the arrestee/prisoner.
2. Officers shall use only the amount of OC reasonably needed to achieve the desired effects. Once the desired effects are achieved, the officer shall discontinue usage.
3. Officers may use OC on crowds to disperse unlawful groups/crowds or others gathering who are unruly or persons gathering without authority or permission, after being ordered to cease, desist, and/or depart the area. Prior to introducing oleoresin capsicum in disorderly group/crowd situations:
- a. Officer(s) shall withdraw to a point of safety from where sufficient information can be obtained to properly evaluate the effectiveness of chemical agents in dispersing the assemblage.
  - b. Request the presence of the shift supervisor to all such situations where oleoresin capsicum may be utilized to control group/crowd behavior prior to its introduction.
  - c. The Sergeant/OIC can authorize the utilization of oleoresin capsicum only after a thorough review of the potential effectiveness of chemical agents in neutralizing or resolving the disorderly behavior of the group/crowd or other means available.
- EXCEPTION:** When it is not reasonable to withdraw as previously indicated, or the safety of police officers or civilians is jeopardized and subjected to actual or potential bodily injury, the immediate introduction of oleoresin capsicum is preauthorized under the authority of this order, consistent with guidelines established by this order.
4. Officers may utilize OC on animals to deter and protect officers or others from animals that present a threat of bodily injury.
5. Restrictions on deployment of OC:
- a. OC shall not be used to elicit information from a subject.
  - b. OC shall never be used as a means of punishment or interrogation technique.

6. Deployment of OC:

- a. When deploying OC at an individual or animal, it should be directed across the brow of the person in an ear-to-ear motion.
- b. When OC is deployed in an outside environment and whenever reasonable, given the context of the presenting situation, officers should be cognizant of the wind direction and avoid spraying upwind where the potential exists for residual contamination of other officers involved in the neutralization action.
- c. The shift supervisor shall examine all depressurized OC canisters and determine whether the canister must be immediately replaced. In the event that the canister must be replaced, the shift supervisor will secure the depressurized canister and arrange for the issuance of a new canister to the officer(s). All depressurized canisters will be transmitted to one of the department's OC instructors for destruction.

C. Impact weapons (expandable baton):

1. Patrol officers shall carry an authorized expandable baton while on duty. Detectives and non-uniformed administrative staff officers can carry an authorized expandable baton at their option.
2. The authorized expandable baton shall be used in a manner consistent with the use of force continuum, as outlined in this policy and in accordance with training standards and/or programs instituted by this department.
3. Officers may utilize a expandable baton on individuals to:
  - a. Effectuate an arrest in accordance with this policy;
  - b. Protect himself/herself or a third party from physical harm;
  - c. Subdue a violently resisting subject.
4. The expandable baton shall not be used as a pry bar, hammer, etc, unless emergency exigent circumstances exist. Expandable batons are to be used for its intended purpose, that of a less lethal force option.
5. Officers shall not intentionally strike a subject with an expandable baton in the skull, face, neck, spine, sternum, or groin, and shall not use the baton to choke a subject, unless the use of deadly force is justified.

6. When lethal force is not justified, an officer lawfully using a expandable baton shall target the subject's lower extremities and upper extremities in accordance with the department's approved strike chart.
7. Expandable batons will not be carried or used by officers while off duty except for purposes other than proficiency practice and/or training for qualification (i.e., certification).
8. Officers may carry authorized straight batons. The authorized baton shall be used in a manner consistent with the use of force continuum, as outlined in this policy and in accordance with training standards and/or programs instituted by this department.

D. Conducted electrical weapon (CEW):

1. Patrol officers shall carry the approved department issued CEW(s) on their person (duty belt, vest carrier, leg holster, etc.);
2. A CEW can be deployed on humans and animals to provide protection for an officer or a third party and to effectuate a legal arrest.
3. A CEW can be deployed:
  - a. When the subject is suspected of committing a crime of violence or when it is believed that an altercation is imminent and would expose the officer or others to unnecessary danger.
  - b. When the officer has articulated his/her authority and intends to take a subject into custody.
  - c. When the subject by words or gestures indicates to the officer that he/she will physically resist.
4. Officers shall take into consideration the duration of the deployment of electrical charge from the CEW.
  - a. The longer the duration of the exposure the greater the health and safety concerns should be for the subject.
  - b. Officers shall pay special attention to deployments (whether continuous or multiple) lasting 15 seconds or longer.
  - c. In instances where multiple deployments have not resolved the suspects resistance, officers must develop an alternative plan to control the situation.

5. A CEW may be used in a touch stun mode. The unit is pressed firmly into an appropriate area such as the abdominal region, hips, thigh, and the pelvic girdle.
6. Officers **shall not** use an CEW in the following situations:
  - a. When lethal force is otherwise authorized by this policy;
  - b. The subject is in a body of water;
  - c. The subject is in danger of falling from a significant height that would cause serious bodily injury or death (level of active threat the subject poses to officers or others may be considered);
  - d. The subject is known to be saturated in or near a flammable liquid;
  - e. The subject is a woman who is obviously pregnant;
  - f. The subject is a small child;
  - g. The subject is known to have a pacemaker;
  - h. To experiment on another person;
  - i. If there is a reasonable certainty that a serious injury would occur resulting from a CEW discharge.
7. Particular consideration should be exercised when deploying a CEW in the following situations:
  - a. To those who are believed to be suffering from mental illness or an emotional disturbance, including suicidal thoughts. When practicable, other means should be used to control the subject; however, officers are justified in deploying a CEW when such action is deemed to prevent bodily injury to that person or another.
  - b. On a subject operating a moving vehicle;
  - c. The elderly, the visibly frail and individuals with physical disabilities that impair their mobility.
  - d. When the size, age, and/or weight of the subject could increase the potential of injury to the subject.
8. Tactical deployment of a CEW:

- a. Prior to the use of a CEW, officers shall announce deployment and communicate the intended use with other officers.
  - 1) This shall be accomplished through the warning announcement '**TASER! TASER! TASER!**' to alert other officers, as well as to provide the subject an additional opportunity to cease the conduct that has given rise to the deployment of the CEW.
  - 2) When an officer approaches a subject with the intent to deploy the CEW, an additional officer should also approach whenever possible to provide lethal cover should it become necessary for the protection of life.
  - 3) Verbal commands should be used constantly before (whenever practicable), during, and after the deployment of the CEW to warn the subject to cease his/her aggressive demeanor or action.
- b. If reasonable, the primary target area for probe deployment shall be the subject's back. If circumstances do not allow for the officer to target the center of the subject's back area, then the officer should target the lower torso below the center of mass and upper thigh. Officers shall **not** intentionally target the head, neck, groin, or heart area of the subject.
- c. After deployment, the area where the probes imbed into the subject shall be photographed and any injury shall be documented.
- d. The deploying officer shall immediately notify the shift supervisor.
- e. A CEW instructor trained to recover the deployment data from the CEW shall download such data. The CEW instructor/manager shall then submit a supplemental report indicating he/she downloaded the data. The report shall be submitted for inclusion in the case file.

E. 40mm Less-Lethal Launcher:

1. 40mm Less-Lethal Launchers shall be stored in the ESU armory until needed in the field.
  - a. Less-lethal launchers shall be used in compliance with this policy.

- b. Only qualified, trained officers shall be allowed to deploy and use these launchers.
- c. Any problems with the system will be reported to a department armorer.
- d. Officers encountering a situation, which could require the use of a less-lethal launcher, when feasible, shall immediately notify a supervisor. This system can be used before the arrival of a supervisor when the situation dictates such use. The supervisor shall respond to all device deployments.
- e. Officers will give a verbal warning, loudly and clearly before dispensing less-lethal projectiles.
- f. Officers shall always strive to use only that degree of force that is objectively reasonable, necessary, and proportional considering the totality of the circumstances. Officers authorized to use a less-lethal launcher pursuant to this policy may fire or discharge the device during an actual operation, only against:
  - 1) An active assailant; or
  - 2) A threatening assailant who will not voluntarily submit to custody after having been given a reasonable opportunity to do so considering the exigency of the situation and the immediacy of the need to employ law enforcement force; or
  - 3) A person who is attempting to cause death or serious bodily injury to him/herself; or
  - 4) A fleeing suspect if clear and convincing evidence exists to believe the suspect has committed a crime in which the suspect caused or attempted to cause death or serious bodily injury.
- g. Officers shall reevaluate the situation and reassess the need to use force before any second or subsequent firing or discharge of a less-lethal device against the same person. Any second or subsequent firing or discharge of a less-lethal launcher must be necessary and justified by the circumstances at that moment.
- h. Less-lethal ammunition and/or or impact projectiles shall not be used at a lesser or greater distance than that specified and approved by the manufacturer and/or less lethal instructor.

- i. When it can be reasonably accomplished without increasing the danger to officers or others, an officer about to discharge a less-lethal device should advise other law enforcement officers at the scene prior to the discharge of the less-lethal weapon. This is to minimize the possibility that the firing of a less-lethal platform or ammunition would provoke other officers to discharge their weapons.
- j. Weapons used for the deployment of less than lethal platforms or ammunition **shall** be dedicated exclusively for that purpose. These weapons **shall** be clearly marked to distinguish them from firearms intended for the use of lethal ammunition. The use of other than less-lethal ammunition in these designated weapons is prohibited unless it is immediately necessary to protect the life of a law enforcement officer or other person, and there is no other means available.
- k. During the deployment of less-lethal devices or impact projectiles, the deploying officer and supervisor **shall**, when feasible, continually evaluate the options selected against changing circumstances.
- l. Intentionally aiming approved impact projectiles at the head, neck, chest, or groin **shall** be avoided unless deadly force is justified, necessary, appropriate, and proportional.
- m. No impact projectiles designed to be skip-fired and/or non-target specific are deemed acceptable.
- n. Less-lethal devices or impact projectiles **shall** not be used to prevent a person from causing property damage.
- o. Less-lethal device or impact projectiles **shall** not be directed against a person who is situated on an elevated surface (e.g., a ledge, scaffold, near a precipice, etc.) unless reasonable efforts have been made to prevent or minimize a fall-related injury (e.g., deploying a safety net).
- p. Restrictions:
  - 1) Never aim or shoot at the head, face, eyes, ears, throat, or spine. Impact in these areas could result in unintended severe or permanent injury or death.
  - 2) Never look down the barrel of less-lethal launcher devices. Accidental discharge into the eyes may cause permanent injury or death.
  - 3) Eye, face, and ear protection should be worn when utilizing this system.

- 4) Handle less-lethal launcher devices as if they are always loaded.
- 5) Keep your finger off the trigger until ready to fire.
- 6) Keep less-lethal devices on 'Safe' until ready to fire.
- 7) Always keep the barrel pointed down or in a safe direction.
- 8) Never point or discharge less-lethal devices at anything you do not intend to shoot
- 9) Never discharge less-lethal devices at the personal property of others.
- 10) Use only authorized projectiles in less-lethal devices.
- 11) Always verify that less-lethal devices are rendered 'Safe' and stored in the armory when not in use.

## **VII. MEDICAL ATTENTION FOLLOWING USE OF FORCE:**

- A. General rule: After any application of force by agency personnel and when safe to do so, officers shall apply that level of first aid/CPR to the extent of their training and arrange for appropriate emergency medical service (EMS) to examine, treat, and/or transport a subject to a medical facility when:
  1. An injury is known;
  2. An injury is suspected;
  3. An injury is alleged (e.g., the subject is complaining of an injury);
  4. After receiving a direct contact impact or projectile hit.
- B. In all cases:
  1. If the subject is under arrest or actively resisting officer control, handcuff him/her. As soon as it is reasonably safe to do so, check the subject's condition to determine if there are any apparent medical difficulties.
  2. As soon as practicable, place him/her in an upright seated position. Subjects can be placed on their side if officers are unable to keep them in an upright seated position. *DO NOT place the subject in a prone or supine position.*

3. Officers shall monitor such subjects until releasing them to medical personnel or securing them in a detention facility.
- C. Be alert for signs of potential excited delirium (see definitions, subsection I.E of this policy).
1. Officers should check the subject's condition on a continuous basis until transferred to EMS personnel. Officers shall ensure the airway is unrestricted and be prepared to administer CPR or an automated external defibrillator (AED) if the subject becomes unconscious.
  2. Whenever possible, an officer should accompany the subject to the hospital for security purposes and to provide assistance as necessary.
- D. Medical treatment of oleoresin capsicum contaminated persons:
1. Decontamination:
    - a. After control has been established and/or resistance has ceased, the officer will make reasonable efforts to allow the subject relief from discomfort associated with the application of OC.
    - b. Severe symptoms of OC exposure are expected to disappear in forty-five (45) minutes or less with only minor after-effects (red skin, mild burning sensations, etc.)
    - c. OC decontamination efforts may include:
      - 1) Remove the affected person from the spray area to an area of fresh air or provide some other form of ventilation.
      - 2) If practicable, verbally explain to the person what he/she has been exposed to and assure him/her that he/she will quickly recover.
      - 3) Have the person remove contact lenses. Person(s) shall then be advised to follow the contact lens manufacturer's instructions regarding decontamination or dispose of the contaminated contacts to prevent further injury to the eyes.
      - 4) Instruct the affected person to blow his/her nose to remove lodged OC particles.
      - 5) If the affected person is having difficulty breathing, or severe symptoms last longer than forty-five (45) minutes, EMS shall be contacted immediately.

- 6) Allowing the affected person to flush the affected area with clear water (if available) to relieve the inflammation to the eyes and skin.
  - 7) If practical, the affected person should be allowed to wash all exposed skin areas with water.
  - 8) Do *not* apply or allow it to be applied; any soap or salve on the affected areas, which include butter, cold cream, Vaseline, lanolin, or other similar materials.
  - 9) Officers shall be on constant alert for medical problem(s) or difficulty that the exposed subject may experience. Officers shall also monitor for positional asphyxiation.
- d. Secondary contamination or effects on the user are generally negligible. The subject may be handled immediately after being subjected to the OC aerosol. The user should exercise caution to avoid contact between their hands and face.
- e. Reasonable efforts to decontaminate buildings after OC exposure may include:
- 1) Washing affected areas with water;
  - 2) Opening doors and windows as soon as possible or practical;
  - 3) After about 30-minutes of ventilation, the building and area should be clear of the airborne OC.
2. Evaluation by medical personnel (EMS) shall be initiated without delay in any of the following circumstances:
- a. Any person who has been exposed to oleoresin capsicum who complains of itching, hives, difficulty swallowing, facial swelling (particularly around the eyes, lips, or nose) or who state that they have a known allergy to any variety of pepper.
  - b. Any person who admits to being under the influence of cocaine, amphetamines, barbiturates, PCP, opiates, heroin, or high levels of alcohol.
  - c. Any person who admits a history of heart problems, lung problems, diabetes, high blood pressure, or other potentially serious medical condition.

- E. Medical treatment of persons struck with an expandable baton or less lethal impact projectile:
  - 1. If an expandable baton is used, officers shall observe the affected subject(s) for obvious changes in condition or breathing and shall immediately summon EMS for evaluation.
  - 2. In the event a less-lethal projectile strikes a subject, contact EMS to respond and provide treatment as deemed necessary by medical personnel. Provide decontamination in accordance with subsection VI.D.1 above.
  - 3. Take photographs or digital images of the defendant and any injured areas.
  
- F. Medical treatment of persons following CEW deployment:
  - 1. Any person who receives an electrical charge through either CEW probes or contact points (i.e., drive stun) must be offered the opportunity to be examined by emergency medical service (EMS) on scene or emergency room personnel.
  - 2. Probe removal:
    - a. Only medical personnel can remove probes that have lodged in the face, eye, neck, head, or groin of a subject.
    - b. Officers shall be trained by the department's CEW instructors on how to properly remove probes from non sensitive areas a subject. Only certified CEW officers are permitted to remove the probes.
    - c. Officers shall remove probes from a subject once the subject is in custody and is calm.
    - d. Officers shall use universal precautions in probe removal and use latex gloves during the removal process.
    - e. Officers shall examine the probes to ensure that they are not broken.
    - f. Officers are to place the probes, point down, into the spent CEW cartridge as taught by the department's CEW instructors.
  
- G. Medical release required:
  - 1. When a person subjected to law enforcement force is examined, treated, and subsequently released from medical care, a written medical release shall be obtained from medical personnel.

2. Refusals: When emergency medical services (EMS) are summoned to evaluate and/or treat an arrestee and the individual refuses medical attention, the officer shall obtain a copy of the release and note the medical attention or declination of medical attention in his/her report of the incident, along with the name(s) of the attending EMS personnel and/or the attending physician.

**VIII. NOTIFICATION, REPORTING AND REVIEW REQUIREMENTS:**

- A. The shift supervisor will be immediately summoned to the scene and will comply with this department's policy on *Professional Standards* in the following situations:
  1. When a firearm is discharged outside of the firing range;
  2. When the use of force results in a death or an injury;
  3. When a subject complains that an injury has been inflicted through the use of force;
  4. When misconduct is alleged or suspected.
  5. The shift supervisor shall send a copy of all related reports to the Superintendent of Police.
- B. Officers shall complete a departmental *Use of Force Report* and a department *Incident Report* whenever they:
  1. Discharge a firearm other than for routine training, recreational purposes, or routine animal destruction;
  2. Takes any action that results in, or is alleged to have resulted in, any injury to another person;
  3. Apply force through the use of lethal or less lethal weapons including OC, expandable batons, CEWs, or pepper ball launching system and less lethal munitions.
  4. Important factors to document in the *Use of Force Report* and *Incident Report* shall include:
    - a. The totality of the situation – age, gender, size, fitness level, skill level of officers or subject;
    - b. Number of officers and number of subjects present;
    - c. Special circumstances – close proximity to a weapon, special knowledge of the situation, injury or exhaustion, ground position and imminent danger.

NOTE: This requirement to complete the use of force report shall apply regardless of whether the use of force occurs in Upper Darby Township or in the jurisdiction of another department when the officer is providing back up to another agency.

- C. If the incident involves the use or display of force against multiple persons, a separate *Use of Force* report shall be completed for each individual.
  - 1. For uniformity, officers shall enter the incident number assigned by the department RMS.
  - 2. Articulating your actions as well as the actions of the subject is extremely important.
- D. In the event that multiple officers use force, the shift supervisor will ensure that each officer completes a use of force report per subject. These use of force reports shall be:
  - 1. Completed and signed by the officer(s) prior to concluding their shift during which the use of force occurred; and
  - 2. Submitted to the shift supervisor responsible for the shift on which the use of force occurred.
  - 3. If an officer is incapacitated, his/her immediate supervisors shall provide basic information for the report.
- E. All reports shall be completed and submitted in a timely fashion. Officers shall include the related incident report with the *Use of Force Report*.
  - 1. The shift supervisor shall review the use of force reports and forward the completed and reviewed use of force reports through the chain-of-command to the Superintendent of Police.
  - 2. Supervisors shall ensure that all related videos and digital images, such a BWC from the officer(s), are submitted with the *Use of Force Report* through the chain-of-command.
- F. Downloading CEW deployment data:
  - 1. After a CEW deployment, the CEW will be placed in the docking stations which automatically uploads all data to Evidence.com.
    - a. It is the responsibility of the shift supervisor to ensure the CEW is uploaded by the end of the shift.
- G. The shift supervisor will review and endorse (or return for additional information) all use of force reports following submission by the involved officer(s). The supervisor will then forward all use of force reports and the

required incident report(s) through the chain of command to the Superintendent of Police.

- H. The Superintendent of Police shall review all the documents related to a use of force incident to determine whether:
  - 1. Department training is currently adequate;
  - 2. Departmental equipment is adequate;
  - 3. Departmental rules, policies or procedures were followed.
  - 4. Once reviewed, a copy of *the Use of Force* reports shall be attached to the related incident reports.
    - a. The Office of Professional Standards shall maintain the original copies of all *Use of Force* reports.
    - b. All use of force reports shall be stored in a separate file.
  - 5. Reports found to indicate that officer actions are in non-compliance with this policy may be directed for follow-up consideration in accordance with one or more of the following actions depending upon the circumstances of the non-compliance:
    - a. Remedial training;
    - b. An administrative investigation as determined by the Superintendent of Police;
    - c. Disciplinary action.
- I. Use of force reports are an internal management document. Copies of these reports SHALL NOT be released in whole or in part to any person, organization, or entity outside of the police department without specific permission of the Superintendent of Police.
- J. The Office of Professional Standards, as directed by the Superintendent of Police, shall maintain all use of force reports for a period of 20 years.

**IX. RESPONSE TO USE OF FORCE INCIDENT RESULTING IN DEATH OR SERIOUS BODILY INJURY OR INVOLVING AN OFFICER-INVOLVED SHOOTING:**

- A. Immediate actions:
  - 1. Officers at the scene shall administer first aid to the injured to the extent of their training unless the scene is not tactically safe.
  - 2. The shift supervisor shall be dispatched to the scene of the incident and shall assume primary responsibility for the incident until relieved.

3. The shift supervisor shall, as quickly as operationally possible, ensure that the Superintendent of Police is notified.
  4. In the event of an officer-involved shooting incident, the shift supervisor shall notify the District Attorney's Office and the Delaware County Criminal Investigative Division via police radio as quickly as operationally possible.
- B. When deadly force is used or a firearm is discharged resulting in death or injury the shift supervisor shall cause immediate notification to:
1. The Superintendent of Police;
  2. The duty criminal investigator;
  3. The Delaware County District Attorney or his/her designated representative;
  4. The Delaware County Criminal Investigation Division;
  5. The Delaware County Coroner's Office (in the event of death).
- C. Handling of officers at the scene:
1. Upon arrival, the shift supervisor shall assume primary responsibility in caring for involved personnel and any other injured party.
  2. The shift supervisor shall make appropriate arrangements for all necessary medical treatment.
  3. During any period where the involved officer(s) is(are) required to remain on the scene, but has no immediate duties to fulfill, the officer(s) should be taken to a quiet area away from the scene of the incident. A peer counselor or other supportive friend or officer should remain with the officer(s), but should be advised not to discuss details of the incident.
  4. The supervisor should arrange for the officer(s) directly involved in the incident to leave the scene as soon as possible and be taken to a quiet, secure setting.
  5. Where possible, the supervisor shall briefly meet with the involved officers.
    - a. No caffeine or other stimulants or depressants should be given to the officers unless administered by medical personnel.

- b. Only minimal, preliminary questions should be asked about the incident. The officers should be advised that a more detailed debriefing would be conducted at a later time as part of the investigation and administrative review.
- c. Officers should be advised that they can seek legal counsel.
- d. Officers should be advised not to discuss the incident with anyone except a personal or agency attorney, union representative or investigator, until the conclusion of the preliminary investigation.
- e. Involved officers should be given an opportunity to notify their families about the incident as soon as possible. Where an officer is unable to do so due to injury, a representative of the agency shall personally notify his/her family and arrange for their transportation to the hospital.
- f. All personnel involved in the incident should be advised that they are not permitted to speak with the media about the incident. Officers shall refer inquiries from the media to a designated spokesperson from the District Attorney's Office.
- g. The officer using such deadly force or discharging the firearm will not make any statement except to investigating personnel or the Superintendent of Police, unless otherwise authorized by the Superintendent of Police or his/her designated representative.
- h. In order to protect against crank or abusive calls, officers should be advised to have phone calls answered by another person for several days in the event that their names are released to the media.

D. Handling the scene:

- 1. After the safety of any injured person and the involved officer(s) has been secured, the scene is to be secured immediately.
- 2. A perimeter shall be established using crime scene tape and personnel. An officer shall be assigned to record the name and purpose of any authorized person entering the scene.
- 3. No evidence at the scene shall be moved or altered, except where required for safety concerns.
- 4. To the extent possible, any weapons involved in the incident or located at the scene should remain in place and undisturbed prior to the scene being processed.

5. If the scene is fully secure and a weapon is at the scene, an officer should be posted to guard the weapon.
  - a. Do not alter the weapon from its present condition (i.e., do not unload, make safe, etc.);
  - b. If the scene is of such a nature that the weapon cannot be safely left at the scene, officers at the scene should move the weapon to a secure location, but **not** otherwise alter the condition of the firearm (i.e., unload it). Unless impracticable, photograph the weapon in the place in which it is found.
6. If an involved weapon is still in the possession of the officer(s) involved in the shooting:
  - a. The shift supervisor shall take custody of the officer's weapon in a discreet manner.
  - b. The shift supervisor shall make arrangements for the replacement of the weapon as quickly as operationally possible, unless prohibited by the District Attorney's Office.
  - c. The shift supervisor shall then secure the weapon for later inspection without altering the condition of the weapon.

E. Handling the investigation:

1. The Superintendent of Police shall ensure that both an administrative and criminal investigation of the incident is conducted. The administrative investigation will **NOT** commence until after the conclusion of the criminal investigation.
2. Criminal investigation:
  - a. In the case of an officer-involved shooting incident, the criminal investigation shall be referred to the District Attorney's Office. This department's criminal investigation division will assist in the criminal investigation in a manner prescribed by the primary investigative agency.
  - b. In the case of an incident resulting in death or serious bodily injury that does **not** involve an officer-involved shooting, the criminal investigation may be referred to the District Attorney's Office. The decision to refer the criminal investigation to an outside agency will be made by the Superintendent of Police. In the event that the investigation is referred to an outside agency, the criminal investigation division will assist in the criminal investigation

in a manner prescribed by the primary investigative agency.

- c. The investigation of deadly force/serious bodily injury incidents involving outside agencies or any deadly force/serious bodily injury incident involving an outside agency within the boundaries of Upper Darby Township will be investigated by the Delaware County District Attorney's Office.

3. Administrative investigation – not involving a weapon:

- a. In the event that the use of force by an officer of this department results in death or serious bodily injury to a subject, the Superintendent of Police will conduct an administrative investigation.

- b. The Superintendent of Police will direct the Office of Professional Standards to conduct an investigation into the incident, which will examine:

- 1) Whether Pennsylvania law was violated;
- 2) Whether departmental rules, policies or procedures were violated;
- 3) Whether the relevant departmental policy was clearly understandable and effective to cover the situation;
- 4) Whether department training is currently adequate;
- 5) Whether department equipment is currently adequate.

- c. Determination of compliance: Incidents found to indicate officer actions were consistent with Pennsylvania law and this policy shall be filed by the Superintendent of Police or his/her designee with no further administrative action taken.

- d. Determination of non-compliance: Incidents found to indicate officer actions that are in non-compliance with this policy may be directed for follow-up consideration by the Superintendent of Police in accordance with one or more of the following actions depending upon the circumstances of the non-compliance:

- 1) Remedial training;

- 2) Disciplinary action including reprimand, suspension, demotion, and/or termination.

F. When death or serious bodily injury to another person has resulted from an employee's actions or use of force in an official capacity, that employee will, as soon as practical, be released from line-duty assignment or placed on administrative leave by the Superintendent of Police or his/her designee.

1. During the period of time an administrative review and/or investigation into the incident is being conducted, the Superintendent of Police may at his/her discretion place the involved employee on either administrative leave or assign the employee to perform administrative duties.
2. Such relief and reassignment shall not be considered a suspension or disciplinary action taken against the employee, but rather an administrative course of action relieving the employee from further performance of line duties while undergoing the extreme emotional stress of having been involved in a death or serious injury action.
3. Administrative leave shall be without loss of pay or benefits pending the results of the investigation/review of the shooting incident.
4. The Superintendent of Police will determine the period of time spent on administrative leave or administrative duties.

G. Mandatory counseling requirement:

1. It is the policy of this department that a psychological evaluation of the officer shall be conducted by a licensed psychologist of the department's choosing, within thirty (30) days, at the department's expense under either of the following circumstances:
  - a. 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.
  - b. When serious bodily injury or death to another person has resulted from an employee's actions or use of force in an official capacity.
2. Any follow-up treatment, which the examiner deems necessary, shall be provided at department expense.
3. The employee 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 Superintendent of Police.

4. This action is not punitive and is separate and apart from departmental disciplinary procedures.
- H. This department respects the obligations of the federal government and/or the Delaware County Criminal Investigation Division or Attorney General's Office to conduct an independent investigation to identify any civil rights violations that may have occurred.
1. In the event of such investigations, supervisors of this department will not order or request any of its personnel who may be suspects to confer with investigators without the advice of counsel.
  2. The Superintendent of Police will review the investigation report for recommendations regarding the use of force incidents.
  3. If it is determined by the Superintendent of Police that the use of force incident is not within agency guidelines, then the Superintendent of Police shall initiate the appropriate retraining, disciplinary action, and/or criminal action.