

Manalapan Township Police Department



Use of Force Review

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Attorney General's Use of Force Policy

This use of force policy clearly defines the circumstances when a law enforcement officer would be justified in using force to accomplish a law enforcement objective

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Performance Objectives

By the end of this course, officers will be able to:

- Identify the five (5) levels of force;
- Define mechanical force;
- Distinguish between lethal and less lethal weapons;
- Define the term "imminent danger";
- Describe when medical care is necessary;
- Define when a Use of Force report is necessary.

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Authority to Use Force

- Grounded in the **responsibility** to act consistently with **laws** of the State, and with Attorney General's **Use of Force Guidelines** and this department's **Use of Force Policy**.

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Important Concepts

- Use of force should ***never be*** considered routine
- Guiding Principle: the degree of force employed should be ***only*** that which is ***reasonably necessary***

Tennessee v Garner 471 U.S.1 (1985)

- Landmark U.S. Supreme Court case on how force is employed upon citizens by law enforcement officers.
- Important facts to be considered as a result of the decision:
 - ***Apprehension*** by the use of deadly force is a "seizure" of a person.
 - This "seizure" is subject to the reasonableness test of the 4th Amendment.
- What this means to us as Officers is that we can not "seize" an unarmed, non-dangerous fleeing felon by shooting them dead.

Professional Obligation

- A law enforcement officer is a person sworn to enforce the laws in NJ, who is certified by the PTC, or currently employed by a public safety agency and is authorized to carry a firearm under 2C:39-6
- An officer is required to ***take appropriate action*** when the officer is clearly convinced that ***another officer*** is using ***excessive*** force
- Prevent other officers from doing the wrong thing.

Foundation of Police Decision Making

Sound judgment

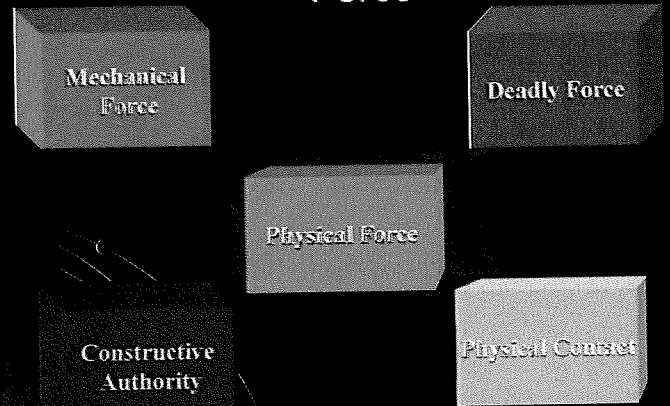
Appropriate exercise of discretion

Support of Officer's Actions

- An officer who uses force consistent with the law and this policy will be ***strongly supported*** by the law enforcement community in any review of the officer's actions

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The Building Blocks of Use of Force



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Constructive Authority

- Not involve actual physical contact
- Use of officer's ***authority*** to ***exert control*** over a subject
- Examples: verbal commands, gestures, warnings, unholstering weapon, pointing weapon at a subject

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Physical Contact

- Routine or ***procedural contact*** with subject
- necessary to effectively ***accomplish*** a law enforcement objective
- Examples: guiding subject into vehicle, holding subject's arm while transporting, handcuffing, maneuvering or securing subject for a frisk

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Physical Force

- Contact with subject **beyond** what is generally used to effect an arrest or other objective
- Employed when necessary to **overcome** subject's physical resistance or to protect persons or property
- Examples: wrestling, wrist or arm locks, striking with hands or feet

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Mechanical Force

- Use of some **device** or **substance**, other than a firearm
- to **overcome** subject's resistance
- Examples: use of baton or other object, canine physical contact with a subject, chemical spraying

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Deadly Force

- Force used with the **purpose** of causing or which officer **knows** to create a **substantial risk** of causing death or serious bodily harm
- Purposely firing **at or in direction of another person, vehicle, building** or structure in which another person is believed to be

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What is Not Considered Deadly Force is:

- The production of a weapon to create an apprehension that deadly force will be used if necessary does not constitute deadly force
- This action described above is an element of Constructive Authority

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A Reasonable Belief is defined as :

- An Objective assessment
- Based upon how a **reasonable officer** with comparable training & experience would react or draw inferences from
- Facts & circumstances known by officer **at the scene**

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A Reasonable Belief is:

- The Cornerstone for appropriate use of force

Officers often forced to make split-second decisions in circumstances that may be tense, unpredictable, rapidly evolving

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Reasonable Force

- Officer can only use **reasonable force** to accomplish objective
- No precise prescription for application of force
- All of the events **transpiring** during the officer's interaction with the subject **can be considered** in evaluating the reasonableness of force used

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The Reasonable Belief of the Officer

- **Can change** as circumstances change to situations that require the use of **more** or **less** force
- "A passing risk to a police officer is not an ongoing license to kill an otherwise unthreatening suspect."
 - federal appeals court ruling

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What is the Subject Doing to Formulated a Reasonable Belief?

- Is it verbal resistance?
- Passive physical resistance?
- Active physical resistance?
- Armed resistance?

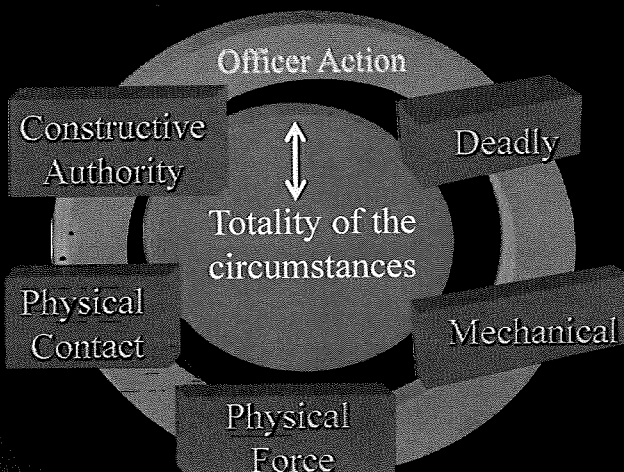
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The Officer's Actions

- Depends on *totality of the circumstances*
- An officer may utilize a **reasonable force option** to accomplish the law enforcement objective

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What To Do?



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Escalation - De-Escalation

- An officer may increase or decrease use of force to accomplish a law enforcement objective
- Not required to desist because suspect resists
- But once suspect **submits**, the officer **must stop using** force

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Imminent Danger

- Threatened actions or outcomes ***that may occur*** during an encounter
- threatened harm ***does not*** have to be instantaneous
- Examples: Subject is carrying a weapon & running for cover

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A Substantial Risk is:

- Disregard of a ***foreseeable likelihood*** that innocent persons will be endangered
- Example: Firing weapon into confined space (room, vehicle, etc.) occupied by innocent persons

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The Use of Non-Deadly Force

Officer may use

- ***physical or mechanical*** force when the officer has ***reasonable belief***
- it is ***immediately*** necessary

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Use of Non-deadly Force (cont.)

- Overcome resistance; or
- Protect officer or third party from unlawful force; or
- Protect property; or
- Effect other lawful objectives

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Use of Non-deadly Force (cont) When Feasible:

- Officer **should identify** himself or herself
- State **purpose** of officer's actions
- Need **not** do so if it would **increase danger** to officer or another person

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Use of Non-Deadly Force in the Protection of Property

Before using **physical or mechanical** force, officer should where feasible ask person to desist **unless**

- request would be useless
- be dangerous to make request
- substantial harm would be done to property

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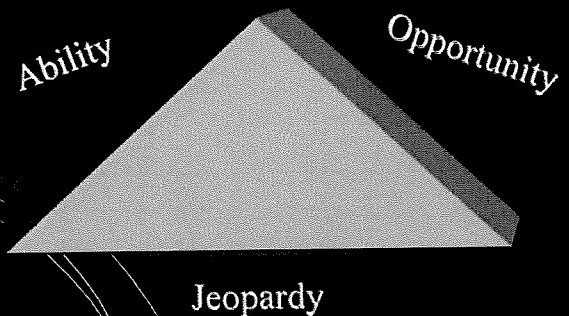
Use of Deadly Force

Officer may use deadly force

- when the officer **reasonably believes** it is immediately necessary
- to **protect** the officer or another person
- from **imminent threat** of death or serious bodily harm

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3 Basic Factors to Consider in Using Deadly Force



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Ability

- Does the subject have physical capacity to cause injury to officer or another person?
- Is the subject armed with a weapon?
- Does the subject present an imminent threat to officer or another?

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Opportunity

- Does the subject have the opportunity to use his **ability** to injure or kill officer or another person?

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Jeopardy

- Does the combination of the subject's ability and opportunity provide the officer with a **reasonable objective belief**
- that the officer or another person is in **imminent** physical danger?

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Principles to Use Deadly Force to Prevent Escape

- Officer has probable cause to believe subject committed an offense which caused or attempted to cause death or serious bodily harm, *and*
- subject will pose an **imminent threat** of death or serious bodily harm should escape succeed, *and*

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Principles to use Deadly Force to Prevent Escape (cont.)

- Use of deadly force presents no substantial risk of injury to innocent persons
- If feasible, officer should identify himself or herself & state intention to shoot before using a firearm
- Protection of life is guiding principle

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Restrictions on Use of Deadly Force

- An officer is under *no obligation* to retreat or desist when resistance is encountered or threatened.
- An officer *shall not resort* to the use of deadly force if the officer *reasonably believes* that an *alternative* is available:

An *alternative* to use of deadly force will:

- Avert or eliminate imminent danger of death or serious bodily harm, and
- Achieve the law enforcement purpose at *no increased risk* to officer or another person

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Factors to Consider

- Officer are *not required* to do anything which will increase the danger to the officer or anyone else
- Alternatives include: taking cover, use of voice commands

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Property Destruction

- An officer *shall not use* deadly force to subdue persons whose actions are only destructive to property

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Suicide

- Deadly force shall ***not be used*** against persons whose conduct is injurious only to themselves
- What options are available?
- What change in circumstances could justify the use of deadly force?

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Less Lethal Weapons

- Discharge of certain types of projectiles from a firearm is considered to be ***deadly force***
- No longer includes use of bean bag ammunition, breaching rounds or rubber bullets, among others
- Can only be used if on approved list from the Attorney Generals Office

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Warning Shots

- An officer ***shall not*** discharge a weapon as a signal for help or as ***warning*** shot
- An officer can be held ***responsible*** for any bullet the officer has fired

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Shooting at or from Moving Vehicle

- Any discharge of a firearm entails some risk
- Discharging a firearm at or from a moving vehicle entails ***greater risk*** of death or serious injury to innocent persons

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Shooting at or from Moving Vehicle (cont.)

- Safety of innocent people is jeopardized when a fleeing suspect is disabled and loses control of vehicle
- Substantial risk of harm to occupants of suspect vehicle who may not be involved in incident
- Firearms are not effective in bringing moving vehicles to a rapid halt

Are You Ever Justified in Shooting At or From a Moving Vehicle?

- Officers **shall not** fire from a moving vehicle or at the driver or occupant of a moving vehicle unless the officer reasonably believes:
- There exists an *imminent* threat of death or serious bodily harm to the officer or another person, and
- no other means are available to avert or eliminate the danger

Shooting at or From a Moving Vehicle is Not Justified if:

- An officer fires a weapon solely to disable moving vehicles

Considerations for Shooting at Moving Vehicle

- First priority of an officer should be to **move out of the way** of an oncoming vehicle if possible
- An officer **shall not intentionally** place himself in the path of an oncoming vehicle or **attempt** to disable the vehicle by shooting at it

Exhibiting a Firearm

An officer shall not unholster or exhibit a firearm except:

- Maintenance of firearm
- Secure firearm
- During training exercises, practice or qualification

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Exhibiting a Firearm (cont.)

- When circumstances create reasonable belief it may be necessary to use firearm
- When circumstances create reasonable belief that display of a firearm as an element of constructive authority helps establish or maintain control in a potentially dangerous situation in an effort to discourage resistance and ensure officer safety

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Use of Force Reports

When physical, mechanical or deadly force is used, any officer who used such force must complete:

- any reports necessary by nature of underlying incident; *and*
- **Use of Force Report**



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Notification to Prosecutor's Office the use of certain force options:

- A law enforcement agency shall report ***immediately*** to the Prosecutor's Office the use of physical, mechanical or deadly force that:
 - Results in death or serious bodily injury to another.
 - or injury of any degree that was the result of a discharge of a firearm by a law enforcement officer

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Annual Report to the Prosecutor's Office

- All Municipal and County Law Enforcement agencies shall report *annually* to the Prosecutor's Office the use of any situations involving physical, mechanical and deadly force situations.

Spring
2017

Signatures

55 Rows, Generated by Michael Hoppock 12/14/2017 10:37 AM Eastern Standard Time

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Fall
2017

Signatures

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116	Emslie	Jeffrey	Use of Force Fall 2017 - Use of Force Training	9/20/2017 12:00:00 AM	Revised	Training Module	Patrolman	Patrol Division	9/22/2017 2:09:16 PM
S016	Mattson	Jeffrey	Use of Force Fall 2017 - Use of Force Training	9/20/2017 12:00:00 AM	Revised	Training Module	Special Officer	Patrol Division	10/13/2017 9:39:53 AM
100	Hensley	Jennie Rae	Use of Force Fall 2017 - Use of Force Training	9/20/2017 12:00:00 AM	Revised	Training Module	Patrolman	Patrol Division	10/9/2017 8:43:44 AM
145	Lightbody	John	Use of Force Fall 2017 - Use of Force Training	9/20/2017 12:00:00 AM	Revised	Training Module	Patrolman	Patrol Division	10/8/2017 10:42:25 AM
139	DeFilippis	Joseph	Use of Force Fall 2017 - Use of Force Training	9/20/2017 12:00:00 AM	Revised	Training Module	Patrolman	Patrol Division	10/21/2017 9:16:41 AM

119	Mikulik	Kenneth	Use of Force Fall 2017 - Use of Force Training	9/20/2017 12:00:00 AM	Revised	Training Module	Patrolman	Patrol Division	10/16/2017 11:57:20 AM
085	Dobbin	Kevin	Use of Force Fall 2017 - Use of Force Training	9/20/2017 12:00:00 AM	Revised	Training Module	Lieutenant	Patrol Division	10/11/2017 10:24:11 PM
087	McIntosh	Kevin	Use of Force Fall 2017 - Use of Force Training	9/20/2017 12:00:00 AM	Revised	Training Module	Sergeant	Patrol Division	10/1/2017 7:30:44 PM
088	Schmidt	Kevin	Use of Force Fall 2017 - Use of Force Training	9/20/2017 12:00:00 AM	Revised	Training Module	Detective	Investigations Bureau	9/26/2017 1:09:01 PM
099	Ruditsky	Kevin	Use of Force Fall 2017 - Use of Force Training	9/20/2017 12:00:00 AM	Revised	Training Module	Patrolman	Patrol Division	10/9/2017 9:51:56 AM
091	Whitehill	Kimberly	Use of Force Fall 2017 - Use of Force Training	9/20/2017 12:00:00 AM	Revised	Training Module	Patrolman	Patrol Division	10/12/2017 10:08:37 PM
142	Earley	Kyle	Use of Force Fall 2017 - Use of Force Training	9/20/2017 12:00:00 AM	Revised	Training Module	Patrolman	Patrol Division	9/29/2017 2:58:05 PM
SO15	Williams	Kyle	Use of Force Fall 2017 - Use of Force Training	9/20/2017 12:00:00 AM	Revised	Training Module	Special Officer	Patrol Division	10/25/2017 8:35:14 AM

121	Maltese	Leonard	Use of Force Fall 2017 - Use of Force Training	9/20/2017 12:00:00 AM	Revised	Training Module	Sergeant	Patrol Division	9/21/2017 7:38:54 PM
084	Freeman	Margaret	Use of Force Fall 2017 - Use of Force Training	9/20/2017 12:00:00 AM	Revised	Training Module	Sergeant	Patrol Division	9/21/2017 2:48:17 PM
132	Mattia	Matthew	Use of Force Fall 2017 - Use of Force Training	9/20/2017 12:00:00 AM	Revised	Training Module	Patrolman	Patrol Division	10/22/2017 10:02:03 PM
140	Meyler	Matthew	Use of Force Fall 2017 - Use of Force Training	9/20/2017 12:00:00 AM	Revised	Training Module	Patrolman	Patrol Division	10/4/2017 7:10:20 PM
148	Porricelli	Matthew	Use of Force Fall 2017 - Use of Force Training	9/20/2017 12:00:00 AM	Revised	Training Module	Patrolman	Patrol Division	10/18/2017 3:37:43 AM
082	Fountain	Michael	Use of Force Fall 2017 - Use of Force Training	9/20/2017 12:00:00 AM	Revised	Training Module	Chief of Police	Chief of Police	10/17/2017 12:45:29 PM
122	Hoppock	Michael	Use of Force Fall 2017 - Use of Force Training	9/20/2017 12:00:00 AM	Revised	Training Module	Sergeant	Patrol Division	10/6/2017 10:20:00 AM
086	Chalfin	Peter	Use of Force Fall 2017 - Use of Force Training	9/20/2017 12:00:00 AM	Revised	Training Module	Sergeant	Patrol Division	9/21/2017 1:52:04 PM

151	Bylsma	Peter	Use of Force Fall 2017 - Use of Force Training	9/20/2017 12:00:00 AM	Revised	Training Module	Patrolman	Patrol Division	9/23/2017 12:05:22 AM
141	Accatatta	Philip	Use of Force Fall 2017 - Use of Force Training	9/20/2017 12:00:00 AM	Revised	Training Module	Patrolman	Patrol Division	9/21/2017 12:23:46 PM
097	Grant	Reginald	Use of Force Fall 2017 - Use of Force Training	9/20/2017 12:00:00 AM	Revised	Training Module	Sergeant	All supervisors	9/29/2017 2:27:30 AM
109	Gallo	Richard	Use of Force Fall 2017 - Use of Force Training	9/20/2017 12:00:00 AM	Revised	Training Module	Sergeant	Patrol Division	9/22/2017 3:28:55 AM
093	Kelly	Robert	Use of Force Fall 2017 - Use of Force Training	9/20/2017 12:00:00 AM	Revised	Training Module	Sergeant	Patrol Division	10/24/2017 10:35:18 AM
129	Herring	Robert	Use of Force Fall 2017 - Use of Force Training	9/20/2017 12:00:00 AM	Revised	Training Module	Sergeant	Patrol Division	9/23/2017 6:09:20 PM
105	Dessel	Ross	Use of Force Fall 2017 - Use of Force Training	9/20/2017 12:00:00 AM	Revised	Training Module	Patrolman	Patrol Division	10/24/2017 10:23:03 AM
146	McCarthy	Sean	Use of Force Fall 2017 - Use of Force Training	9/20/2017 12:00:00 AM	Revised	Training Module	Patrolman	Patrol Division	10/18/2017 1:03:17 AM

094	Kreizman	Seth	Use of Force Fall 2017 - Use of Force Training	9/20/2017 12:00:00 AM	Revised	Training Module	Patrolman	Patrol Division	9/23/2017 9:04:59 AM
107	Turner	Steven	Use of Force Fall 2017 - Use of Force Training	9/20/2017 12:00:00 AM	Revised	Training Module	Patrolman	Patrol Division	10/12/2017 4:45:34 AM
079	Barstow	Thomas	Use of Force Fall 2017 - Use of Force Training	9/20/2017 12:00:00 AM	Revised	Training Module	Captain	Division Commanders	9/21/2017 11:17:19 AM
095	Mantle	Thomas	Use of Force Fall 2017 - Use of Force Training	9/20/2017 12:00:00 AM	Revised	Training Module	Lieutenant	Patrol Division	10/3/2017 11:08:43 AM
123	Dutton	William	Use of Force Fall 2017 - Use of Force Training	9/20/2017 12:00:00 AM	Revised	Training Module	Patrolman	Patrol Division	9/23/2017 11:04:45 AM