



ALBUQUERQUE POLICE DEPARTMENT  
PROCEDURAL ORDERS

SOP 2-52

Effective: 6/2/17 Review Due: 6/2/18 Replaces: 4/1/16

## 2-52 USE OF FORCE

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### 2-52-1 Purpose

The purpose of this policy is to describe the procedures, requirements, and expectations surrounding the use of force by sworn personnel.



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### **2-52-2 Policy**

The Department values the sanctity of human life and is committed to protecting people, their property, and their rights. It is the policy of the Department to de-escalate situations without using force when possible. Officers must remain mindful that they derive their authority from the United States Constitution, federal and state Laws, and the community. Unreasonable force degrades the legitimacy of the officer's authority. Therefore, officers shall only use force that is objectively reasonable based on a totality of the circumstances the officer is confronted with in order to effect an arrest or protect the safety of the officer or another person. Department policy and training requires that officers not only follow the legal standard of using force, which was established in *Graham v. Connor*, 490 U.S. 386 (1989), but also strive to utilize the minimum amount of force necessary in order to bring about their lawful objectives. This policy is not intended to limit the lawful authority of Department officers to use objectively reasonable force or otherwise to fulfill their law enforcement obligations under the Constitution and laws of the United States and the State of New Mexico.

The Department allows for certain classifications of civilian employees to carry firearms and less-lethal force weapons while on duty, including electronic control weapons and oleoresin capsicum. Civilian employees have no power of arrest and therefore may only use force consistent with New Mexico law on self-defense or defense of others.

### **2-52-3 Definitions**

Key terms specific to use of force in this policy are green in color. Hovering over the text with the mouse cursor will display the definition. For a listing of definitions specific to use of force, refer to [SOP 2-55 – Use of Force Appendix](#).



## 2-52-4 Use of Force Requirements

### A. General Requirements

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1. Policing at times requires that an officer exercise control of a violent or resisting subject to make an arrest or to protect the officer, other officers, or members of the community from risk of imminent harm. Clearly, not every potential violent confrontation can be de-escalated. However, officers do have the ability to impact the direction and the outcome of many situations they handle, based on their decision-making and the tactics they choose to employ. The officer shall consider and use, where appropriate, de-escalation techniques.

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2. Officers should continually assess the situation in order to increase an officer's ability to bring a situation to a safe, peaceful conclusion. This conclusion may be accomplished by using time, distance, information, isolation, teamwork, force array, coordination and other techniques, to maximize an officer's advantage.

N/A

### B. Assessing the Situation

The following questions help an officer assess the "totality of the circumstances," i.e., the facts and conditions confronting an officer when making decisions. Officers should consider these questions when assessing a situation that may require use of force:

1. What resources can the officer use to de-escalate the situation or to minimize the need for the use of force?
2. Can the officer allow the person time to submit to arrest before using force?
3. Is the officer using the minimum amount of force necessary to carry out lawful objectives?
4. Is the person physically or mentally capable of complying with the officer's commands?
5. Does the officer have an opportunity to utilize additional resources or other officers to bring the situation to a peaceful resolution?
6. What is the risk of bodily harm to the subject and/or officer as a result of the officer's lawful use of force in light of the level of threat the subject posed to the officer or others?
7. Does the proximity of weapons allow the subject to access them?
8. What is the time available to an officer to make a decision? What efforts has the officer made to gain additional time?



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9. What are the physical considerations for the officer, such as officer exhaustion or injury during a physical confrontation?
10. Are innocent bystanders present who could be harmed if force is or is not used?
11. Are there hostile bystanders present who are sympathetic to the subject?

C. De-escalation

N/A

1. Officers should look for opportunities to de-escalate the situation. When reasonable under the totality of circumstances and where it may be accomplished without increasing the risk of harm to the officer or others, officers should--
  - a. gather information about the incident;
  - b. assess the risks to the subject(s), officer(s) and general public;
  - c. assemble resources;
  - d. communicate and coordinate a response; and
  - e. attempt to slow the momentum of the incident.

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2. In their interaction with subjects, officers shall use advisements, warnings, verbal persuasion, and other tactics prior to escalating to the use of force, if feasible. Officers should recognize that they may be able to move to a more tactically sound position or to a position which allows greater distance between them and the subjects, in order to consider or use a greater variety of tactical options.

N/A

3. Officers are expected to recognize that their approach to a civilian interaction may influence whether a situation escalates to the need for use of force.

N/A

4. When a use of force is necessary, officers will assess each incident to determine, based on policy, training and experience, which use of force option will de-escalate or control the situation.

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5. Supervisors will become involved as soon as practicable in the management of an overall response to potentially violent encounters by coordinating resources and officers' tactical actions. Supervisors should possess a good knowledge of tactics and ensure that officers under their supervision perform to Department standards.

N/A

6. A degree of force which may have been justified earlier in an encounter does not remain justified indefinitely. Force shall be de-escalated as resistance decreases.

N/A

D. Objectively Reasonable Force

1. The test and analysis that courts will use to examine whether a use of force is constitutional was set forth in *Graham v. Connor*, 490 U.S. 386 (1989) and the test has been expanded by subsequent court cases.



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2. The United States Supreme Court decided in *Tennessee v. Garner*, 471 U.S. 1 (1985) that the use of force by police officers is a seizure under the Fourth Amendment of the United States Constitution.
3. The Court determined in *Graham* that an objectively reasonable standard shall apply when police officers make an arrest, investigatory stop, or other seizure of a person.
4. The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than from 20/20 hindsight. The standard of reasonableness must take into account the fact that officers are often forced to make split-second judgments, in circumstances that are tense, uncertain, and rapidly evolving.
5. The standard of reasonableness in reviewing use of force is an objective one: were the officer's actions objectively reasonable given the facts and circumstances confronting him or her? The officer's perception of the situation must be considered, along with other objective factors that may impact the reasonableness of an officer's actions. The courts analyze the reasonableness of an officer's use of force actions by utilizing the "test of reasonableness," which consists of the following "*Graham Factors*":
  - a. "the severity of the crime at issue";
  - b. "whether the suspect poses an imminent threat to the safety of the officers or others"
  - c. "whether he/she is actively resisting arrest or attempting to evade arrest by flight"
6. Other factors which can influence reasonableness include the following:
  - a. The knowledge or belief the subject is under the influence of alcohol and/or drugs.
  - b. The subject's medical or mental history or condition known to the officer at the time.
  - c. The subject's known history to include violent tendencies or previous encounters with law enforcement which were combative.
  - d. The relative size, age, and condition of the subject as compared with those of the officer.
  - e. The number of subjects compared to the number of officers.
  - f. The subject's condition, i.e., if it is apparent to the officer a subject is in crisis, this condition must be considered when reviewing the officer's approach to the situation (also refer to SOP 2-19 - Response to Behavioral Health Issues ).
  - g. The special knowledge or skills possessed by the subject (such as known experience in martial arts or hand-to-hand combat)
  - h. The opportunities the officer had to use verbal de-escalation or to limit the amount of force used.

N/A



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7. Disparities of force (i.e. differences in factors such as physical size, numbers, gender, age, weapons, injury, special knowledge or skills that place an officer at an advantage (positive disparity) or disadvantage (negative disparity)), are part of the “totality of the circumstances” and can have direct implications on the reasonableness of a use of force. The existence of a negative disparity for the officer could justify the use of a higher level of force in given situation whereas a positive disparity for the officer could reduce the level of force deemed reasonable in a given situation.

N/A

8. Officers must be aware that the dynamics of a use of force encounter can change rapidly which may affect reasonableness of their current actions and require them to quickly escalate or de-escalate the level of force they are using against an individual.

4-7

E. Minimum Amount of Force

When force is necessary and objectively reasonable, officers shall strive to use the minimum amount of force that is feasible within the available range of objectively reasonable force options.

1. Officers need not start at the lowest level of force in every situation. Prior to using a particular force option, officers should evaluate their objectively reasonable options and select an option anticipated to minimize the level of injury to the subject and the officer while achieving the arrest or lawful objective.
2. While utilizing a particular force option, officers should continually assess whether the opportunity exists for them to safely deescalate their level of force while still achieving the arrest or lawful objectives.
3. Whether a particular use of force is the minimum amount of force necessary must be objectively judged from the perspective of a reasonable officer on the scene, rather than from 20/20 hindsight. The objective determination of “minimal” must account for the fact that officers are often forced to make split-second judgments, in circumstances that are tense, uncertain, and rapidly evolving.

F. Unreasonable Force

1. The use of unreasonable force will subject officers to discipline, as well as to possible criminal prosecution and/or civil liability.

1-4

2. Officers must not engage in actions or tactics that precipitate the use of unreasonable force or that unduly jeopardize their own safety or the safety of others. Officers shall not use force to attempt to effect compliance with a command that is unlawful.

1-7

3. Any on-scene officer who observes another officer using force that a reasonable officer would view as excessive or unnecessary under the circumstances shall, when in a position to do so, safely intercede to prevent the use of such force.



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4. A use of force against a handcuffed individual, when required, must be objectively reasonable and may only be allowed under the following circumstances:
  - a. To prevent imminent bodily harm to the officer or another person or persons.
  - b. To overcome active resistance.
  - c. To employ physical removal when necessary to overcome passive resistance.

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5. Prior to escalating to the use of deadly force, an officer must have probable cause to believe that a suspect who is fleeing or attempting to escape is a violent fleeing felon or poses a significant threat of death or serious physical injury to the officer or to others.

G. Use of Force to Effect a Detention, Conduct a Search, or Make an Arrest

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Officers shall, whenever possible, make clear their intent to detain, search, or arrest a subject before resorting to use of force. When feasible, officers will identify themselves as peace officers before using force.

6-7

H. Lawful Objectives

1. Officers may use force consistent with this policy to accomplish lawful objectives.
2. Any use of force, to include a show of force, shall be done only as objectively reasonable to accomplish a lawful police objective.
3. The lawful objectives for which force may be appropriate include:
  - a. To effect a lawful arrest or detention of a person;
  - b. To gain control of a combative subject;
  - c. To prevent and/or terminate the commission of a crime;
  - d. To intervene in a suicide or self-inflicted injury;
  - e. To defend an officer or person from the physical acts of another; or
  - f. To conduct a lawful search.

I. Levels of Force

Officers shall consider the level of resistance, whether passive or active, presented by the subject when determining their use of an appropriate level of force. Officers must be able to articulate an objectively reasonable basis to justify the level of force used.

This section describes the use of force options available to an officer in situations when force is objectively reasonable and necessary. Each section describes the force option and factor(s) to consider pre-deployment and post-deployment, as applicable.

**Low Level Control Tactics**



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|-----------|----|--|
| <b>1.</b> | a. | Officer Presence – a legally-designed show of force which has the potential to de-escalate situations.   |
|           | b. | Verbal Communication – Officers should attempt to use verbal communication skills to de-escalate situations before resorting to physical control methods.  |
|           | c. | Escort Techniques  |
|           | d. | Application of handcuffs or other APD-approved restraint devices to a compliant person.  |
|           | e. | Show of Force – A show of force shall be done only as objectively reasonable to accomplish a lawful police objective. It shall be reported following the requirements set forth in SOP 2-54 – <u>Use of Force Reporting and Supervisory Force Investigation Requirements</u> . |

**2. Intermediate Force**

The use of any of the following tactics requires a Use of Force report and includes:

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|-----|--|
| 1-6 | a. Empty hand tactics  |
|     | <ul style="list-style-type: none"> <li>i. Strikes, grabs, kicks, takedowns, distraction techniques and proper arrest techniques to control an actively resistant subject.</li> </ul>   |
|     | <ul style="list-style-type: none"> <li>iii. The use of leg sweeps, arm-bar takedowns, or prone restraints must be objectively reasonable and shall only be considered and utilized in the following circumstances:           <ul style="list-style-type: none"> <li>• to prevent imminent bodily harm to the officer or to another person or persons</li> <li>• to overcome active resistance</li> <li>• to overcome passive resistance and handcuff the subject, as is objectively reasonable and where physical removal is necessary</li> </ul> </li> </ul>  |
| 6-7 | b. Oleoresin capsicum (OC) spray   |
|     | <ul style="list-style-type: none"> <li>i. Oleoresin capsicum is an inflammatory agent. With proper use, it is meant to assist officers in the control of actively resistant subjects.</li> </ul>   |
|     | <ul style="list-style-type: none"> <li>ii. Pre-deployment considerations           <ul style="list-style-type: none"> <li>• Conditions where it is likely to affect innocent bystanders</li> <li>• Possibility of cross contamination in confined or enclosed environments.</li> <li>• Respiratory sensitivity of the elderly, infants, or children.</li> </ul> </li> </ul>  |
| 5-7 | <ul style="list-style-type: none"> <li>iii. Post-deployment considerations           <ul style="list-style-type: none"> <li>• Where handcuffing is appropriate, subjects should be handcuffed as soon as practical.</li> <li>• Once control is established and the scene is secure, officers may assist with decontamination of the subject. Officers shall ensure that subject decontamination by officers, EMS, jail, medical, or other authorized personnel is offered as soon as practicable and without unnecessary delay.</li> <li>• EMS shall be summoned in all instances when OC has been applied to a person.</li> <li>• Suspects who have been exposed to OC shall not be left alone and shall be continuously monitored for any indications of medical complications.</li> </ul> </li> </ul> |





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- Common, normal reactions to OC include twitching, contraction of the eyelids, shortness of breath, and burning sensation on affected skin areas.

c. Baton or impact weapons (using jabs or strikes)

i. Batons are considered an impact tool or weapon and are designed to assist officers in lawful use of force objectives where such force is authorized by this policy.

ii. Pre-deployment considerations

- Strikes delivered to the head, neck, throat, or spine are considered lethal force. These areas shall not be intentionally targeted unless, based on the totality of circumstances and facts known to the officer at the time, the use of lethal force is warranted.
- Physical struggles are often dynamic, rapidly changing encounters, and officers are not expected to predict a subject's movements. Strikes should be aimed toward attacking limbs and large muscle groups presented to the officer.

iii. Post-deployment considerations

- Due to the increased blunt trauma capability from the use of a baton, officers will immediately summon EMS personnel once control of the subject is established and the scene is secure.
- If an officer inadvertently strikes the head, neck, or spine, the officer shall articulate how this occurred in the appropriate Departmental report.

d. Electronic control weapon

ECW utilization is considered a use of force and shall be deployed in a manner consistent with the Department's Use of Force policies and training guidelines. Although ECWs are considered a less-lethal force option, officers must remember that improper or unauthorized deployment can result in serious physical injury or death. ECWs shall not be used solely as a pain compliance technique or to overcome passive resistance. Officers may use ECWs only when such force is objectively reasonable to protect the officer, the subject, or another person from physical harm and only after considering less intrusive means based on the threat or resistance encountered. Officers are authorized to use ECWs to control an actively resistant person when attempts to subdue the person by other tactics have been or will likely be ineffective, and there is a reasonable expectation that it would be unsafe for officers to approach the person within contact range. Refer to SOP 2-53, Electronic Control Weapon.

e. [Less-lethal impact munitions](#)

i. Pre-deployment considerations

- In potentially lethal force situations, officers will have a lethal cover officer when deploying less-lethal impact munitions.
- The distance from which the less-lethal impact munitions are fired will be based on these considerations:
  - (i) Manufacturer's recommendations
  - (ii) Performance of the impact munitions
  - (iii) Objective reasonableness of the force being used

ii. Post-deployment considerations



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- Once the person is in custody and the scene has been secured, involved officers shall immediately request EMS personnel if a person has been hit by a less-lethal impact munition.

**3. Lethal Force**

a. Firearms (refer to SOP 2-3 - Firearms and Ammunition Authorization )

2-5

i. Officers shall carry only those weapons and ammunition that have been authorized by the Department. Modifications or additions to weapons shall only be performed by the Department's armorer, as approved by the Chief.

2-5

ii. Pre-deployment considerations

- Officers will adhere to all firearms safety rules as outlined in department training.
- Officers must recognize that once a firearm is drawn and no longer secured in the holster, their ability to react with less-lethal force in a particular situation may be diminished.
- Nothing in this section is meant to prevent officers from having their firearms in a deployed position when confronted with situations which may escalate rapidly.

N/A

N/A

5-7

iii. Post-deployment considerations

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- Due to the high probability of death or serious physical injury when firearms are used, officers will immediately summon EMS when safe to do so.

J. Use of Lethal Force

1. Lethal Force includes, but is not limited to, the following:

- Discharge of a firearm
- A strike to the neck, head or throat with a hard object that is likely to cause serious physical injury or death.
- When lethal force is objectively reasonable and necessary to protect the lives of officers or others, officers may generally utilize any tactics or weapons of opportunity available.
- Neck holds shall be considered lethal force and are prohibited except where lethal force is authorized.

2. Officers may use lethal force when they have a reasonable belief that a subject presents an imminent threat of serious physical injury or death to the officer, another officer, or a member of the public.

OR

Officers may use lethal force when there is probable cause to believe the subject has just committed a violent felony involving actual or threatened infliction of serious physical injury to another person and probable cause exists to believe



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that lethal force is necessary to prevent the escape of the subject in order to protect the public or other officers from death or serious physical injury.

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3. Verbal warnings shall be given when feasible.

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4. Warning shots are prohibited.

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K. Lethal Force and Motor Vehicles

1. Officers are prohibited from reaching into vehicles, or intentionally placing themselves in the path of a vehicle, thereby creating a justification for the use of lethal force.
2. Officers shall make every effort to move out of the path of a moving vehicle to a position of cover.
3. Officers shall not discharge a firearm at or from a moving vehicle, unless an occupant of the vehicle the officer is engaging is using lethal force (other than the vehicle itself) against the officer or another person. Such action must be necessary for self-defense, for defense of other officers, or for the protection of another person, or because the officer has no reasonable alternative course of action.
4. If an officer faces an imminent threat from a moving vehicle that the subject is intentionally driving into the officer or others, the officer may use lethal force only if (1) the officer has no reasonable alternative; and (2) a reasonable officer would believe the lethal force will remove the danger the vehicle poses, without creating additional risks to bystanders. Officers should consider whether the use of lethal force creates a danger to the public that outweighs the likely benefits of its use.

N/A

L. Response to High Threat Level Situations

1. Absent an immediate need to act, officers should take time to plan how they will respond to the situation. However, under exceptional circumstances, such as an active shooter, immediate intervention should be considered. Officers should continuously evaluate whether their response is objectively reasonable.
2. Officers are expected to recognize and utilize positions of advantage, cover, and concealment, as well as utilize barriers, to maximize their reaction time and deployment of resources.
3. Supervisors should possess a working knowledge of a force array of tactics and less-lethal force options to ensure that the officers under their supervision perform to the standards established in this policy.
4. When an individual officer arrives on the scene of a potentially violent encounter, the officer should not attempt to resolve the incident alone, unless it is a violent,



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ongoing situation involving imminent threat of death or serious physical injury. When feasible, officers arriving on scene will secure additional less-lethal force and lethal force resources as a part of the force array prior to the initial contact.

- Supervisors should manage the overall response to potentially violent encounters by coordinating resources and officers' tactical actions.

**2-52-5 Use of Force Training and Certification**

- 2-5** A. Officers will perform only those use of force options which they have been trained to use. Officers will carry only those use of force tools and equipment that are issued and authorized by the department.
- N/A** B. Officers must complete and pass a Department-approved certification course of instruction on each specific operation or tactic in order to be authorized to utilize any department-authorized use of force option. Officers are required to receive annual or biennial recertification training, or as directed, in order to maintain their certification to utilize any department-authorized use of force option.
- N/A** C. For training and certification requirements and for all training in use of force options, please refer to the current APD Academy and New Mexico Law Enforcement Academy lesson plans housed on APDWeb, and to the Use of Force Appendix.

**2-52-7 Medical Attention Following Use of Force**

- 5-7** Due to the wide range of possible outcomes from the use of force, officers shall immediately assess the subject for visible injuries or complaints of injuries once they gain control and secure the scene. The officer will monitor the subject and immediately request medical attention if needed or as required by this section. Officers who transport a civilian to a medical facility for treatment shall take the safest and most direct route to the medical facility if feasible. Officers shall notify APD Communications of their starting and ending mileage.
- 1. In situations where the subject is forced into a face-down position, officers are expected to release pressure/weight from the subject as soon as it is safe to do so and monitor the subject for any respiratory or breathing problems; and
- 2. Position the subject on their side or sit them up as circumstances allow so as not to reduce airflow or diaphragm function.
- 3. Medical attention shall be requested immediately when an individual is injured or complains of injury following a use of force.
- 4. Medical attention shall be summoned for the following Use of Force applications regardless of visible injury or complaint of injury when the subject is in custody and it is



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safe to do so:

- a. Baton (Expandable or Straight)/Bokken
- b. Oleoresin Capsicum (OC) Spray
- c. Electronic Control Weapons
- d. Use of patrol canine
- e. Use of Force with a vehicle (refer to SOP 2-45 Pursuit by Motor Vehicle )
- f. Less-Lethal Impact Munitions
- g. Firearm
- h. Strikes to the head, throat or neck with a hard object.

**2-52-8 Use of Force Reporting and Supervisory Force Investigations**

N/A

- A. Officers shall report use of force incidents pursuant to the requirements set forth in SOP 2-54 – Use of Force Reporting and Supervisory Force Investigation Requirements.
- B. Supervisors shall investigate use of force incidents pursuant to the requirements set forth in SOP 2-54 – Use of Force Reporting and Supervisory Force Investigation Requirements.