



ALBUQUERQUE POLICE DEPARTMENT  
PROCEDURAL ORDERS

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**2-52 USE OF FORCE**

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**2-52-1 Policy**

[N/A]

The Albuquerque Police Department is committed to protecting people, their property, and rights. However, there are circumstances where individuals will not comply with the law unless compelled or controlled by the use of force. When force is required officers shall use only that force which is reasonably necessary under a totality of the circumstances to protect the sanctity of human life, preserve and protect individual liberties, and to effect lawful objectives. Officers must remain mindful that they derive their authority from the community and that unreasonable force degrades the legitimacy of that authority.

**2-52-2 Definitions**

[N/A]

**A. FORCE**

Any application of physical techniques or use of tools as listed in this section, or any other means used to defend, restrain, overcome, or otherwise gain physical control of a person. Handcuffing, escorts, and holds of otherwise cooperative individuals do not constitute an application of Force as used in this section.

**B. DEADLY FORCE**

Any force used by an officer which either causes or creates a substantial likelihood to cause serious physical injury or death.



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C. NON DEADLY FORCE

A level of force that is required to compel compliance, which is not intended to, and is not known to create a substantial likelihood of causing death or serious bodily harm.

D. MINOR PHYSICAL INJURY

Injuries which may or may not require medical attention but are not permanent in nature or do not require significant medical treatment.

E. SERIOUS PHYSICAL INJURY

Injury which is likely to result in serious, permanent disfigurement, long-term loss or impairment or death.

F. CONSTITUTIONAL STANDARD

The United States Supreme Court case *Graham vs. Connor* and other subsequent cases have established an officer's right to make an arrest or investigatory stop necessarily carries with it the right, if necessary, to use physical coercion or threat thereof to effect it. An officer's use of force is considered a seizure under the 4<sup>th</sup> Amendment and must therefore be reasonable when analyzed under the "Objective Reasonableness" standard as defined below.

G. OBJECTIVE REASONABLENESS

The standard under which all uses of force by an officer are evaluated. Based on a totality of the circumstances and the facts known to the officer at the time of the incident, the reasonableness of an officer's use of force must be evaluated from the perspective of the reasonable officer on-scene at the time of the action rather than with 20/20 hindsight. The United States Supreme Court recognized some allowance must be made for the fact police officers are often forced to make split second decisions with limited information in situations which are tense, uncertain, and rapidly evolving.

H. IMMEDIATE THREAT

An articulable threat that currently exists or may happen within moments, with or without warning. The "immediacy" of a threat may be assessed through the following legal standards:

**Intent:** The suspect demonstrates his/her intent to resist being controlled or to inflict physical injury e.g., gives pre-assault indicators.

**Means and Opportunity:** The subject is physically capable of carrying out the perceived threat and is in a position to do so.



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### I. LESS LETHAL FORCE

Force that creates a substantial likelihood to cause bodily harm; however, in certain circumstances may result in death or great bodily injury.

### J. TOOLS

Any mechanical implement or equipment used by an officer for the purpose of assisting the officer during a use of force. Authorized tools are those tools and equipment issued by the Department and for which the officer has received the required training and/or certification to carry and use. Department tools include the following:

- Empty Hand
- Oleoresin Aerosol Projectors
- Electronic Control Device (TASER)
- Baton: Expandable/Straight/Bokken
- Less Lethal Impact Munitions (See Below)
- Canine
- Firearms

### K. LESS LETHAL IMPACT MUNITIONS

Those munitions or tools which are specifically designed to incapacitate an individual but are less likely to cause death or serious injury than other conventional lethal options. The use of these munitions or tools does not guarantee an individual will not suffer serious injury or death.

- Bean Bag Shotgun
- Taser Shotgun
- Foam Projectiles
- Wooden Baton Rounds
- Rubber Pellet Rounds

### L. FORCE ARRAY

A deployment tactic utilizing a layer of force options. The layered response can range from officers' presence to deadly force. The force array is used as a team response where officers are working in concert with one another through various force options. This style of deployment allows the officers to fluidly escalate and deescalate their force response.



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M. DUTY TO INTERVENE

Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, safely intercede to prevent the use of such force.

2-52-3 General Requirements and Expectations of all Officers with regard to Uses of Force.

[2-6]

A. Officers may use force when objectively reasonable based on a totality of the circumstances. The objectives for which force may be appropriate include:

- To effect a lawful arrest or detention of a person.
- To gain control of a combative prisoner
- Prevent and/or terminate the commission of a crime.
- To intervene in a suicide or self-inflicted injury
- To defend an officer or member of the public from the physical acts of another.

B. Reasonable force requires balancing the governmental interests in seizing a person weighed against that of the individual's 4<sup>th</sup> Amendment rights. In general, the greater the intrusion against the individual, the more objective justification needed for it to be a reasonable course of action

C. While it is not possible to precisely define what is reasonable for a given situation, use of force requires careful consideration of the facts and circumstances that surround that particular situation.

When determining whether force is reasonable and the level of force used, officers will always consider:

1. Threats presented by the subject to the officer and/or the public and the immediacy of them.
2. The Severity of the crime being committed by subject(s).
3. Attempts by the subject to actively resist arrest or evade arrest by flight.

D. The Supreme Court has held that uses of force by police must be evaluated under the totality of the circumstances known or perceived by the officer at the time the decision to use force is made.



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E. Independently, the following will not justify a use of force, however, officers should be alert to the following circumstances throughout their encounter with a subject:

- Known history of the subject to include violent tendencies, previous encounters with law enforcement which were combative, etc.
- Known or perceived belief the subject is under the influence of alcohol and/or drugs.
- Relative size, age, condition of the subject as compared to the officer.
- The number of subjects compared to the number of officers.
- Availability of weapons to the subject.
- Duration of the action e.g. officer exhaustion during a physical confrontation
- The subject's mental or psychiatric history known to the officer at the time. Where it is apparent to the officer a subject is in a state of crisis, this must be taken into account in the officer's approach to the situation.
- Presence of innocent bystanders who could be harmed if force is not used.
- Location of incident and probability of sympathy for the subject amongst bystanders present
- Special Knowledge possessed by the subject (i.e. known experience in martial arts or hand-to-hand combat)
- Physical confrontations with the subject in which the officer is on the ground.
- Environmental/Terrain factors such as an incident near a busy street.

Officers must be able to provide an objectively reasonable basis for any factors used to justify the level of force used.

F. In general, once control of a combative subject is gained and there is no longer an objectively reasonable threat, strikes, blows, or other use of tools is considered excessive and will not be tolerated. A degree of force which may have been justified earlier in an encounter does not remain justified indefinitely. As the circumstances change, so do the options.

G. When circumstances allow, in their interaction with subjects, officers should use advisements, warning, verbal persuasion, and other tactics in an attempt to resolve the incident.

H. Officers are expected to recognize their approach to citizen interactions may influence whether a situation escalates to the need to use force.

I. When practicable officers must not engage in unreasonable actions or tactics that precipitate the use of force as a result of tactical, strategic, and procedural errors that unduly jeopardizes their safety or the safety of others.



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J. Officers must continually assess the effectiveness of their actions and consider the desired outcome for the level of force used, including:

- Can the resistant subject physically comply with the officer's commands?
- Does the officer have the ability to utilize additional resources to bring the situation to a peaceful resolution?
- What is the officer's end objective for using force and is the risk of injury to either the subject or officer worth achieving this objective? As agents of the Government, officers must attempt to balance the public need of effecting the arrest of the individual against that of the individual's rights.

K. When a confrontation escalates suddenly, an officer may use any means or device necessary to defend himself/herself as long as the force is reasonable given the existing circumstances.

#### 2-52-4 Deadly Force

[2]

A. The decision to use Deadly Force still falls under the general requirements for all uses of force as outlined in 2-52-3 of this policy. Additionally, the reasonableness of the officer's decision will include:

- Reasonable belief the subject presents an immediate threat to cause serious physical injury to the officer, another officer, or another member of the public

OR

- Probable cause for the officer to believe the subject has just committed a crime involving inflicted/threatened infliction of serious physical injury to another and deadly force is necessary to prevent the escape of the subject in order to protect the public or another officer(s).

B. Officers need not exhaust lesser options of force in order to use deadly force.

C. Warnings are not required but should be given when feasible. A number of factors can be considered, including:

- Availability of cover
- History of subject
- Whether such a warning may cause the offender to act before an officer could respond.

D. Warning shots are prohibited.

[5]



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E. Deadly Force and Motor Vehicles

[4]

1. When the only means of assault on an officer is by motor vehicle, officers:
  - a. Should not fire upon the vehicle but must place themselves in the most tactically safe position possible.
  - b. Shall not knowingly place themselves into the path of a moving vehicle or into the likely path of a moving vehicle that is currently stopped but still under the immediate control of the driver.
  - c. Shall not purposely place themselves in the path of a fleeing/aggressively driven vehicle to justify the use of deadly force.

2-52-5 Response to High Threat Level Situations

[4-6]

- A. At times officers, as a result of either a self-initiated police action (such as securing of a residence for a felony warrant) or a dispatched call, respond to a situation where, based on information obtained prior to going on-scene, the officer knows or should know there exists a strong likelihood of resistance.
- B. When reasonable under the totality of circumstances, officers should gather information about the incident, assess the risks, assemble resources, attempt to slow momentum, and communicate and coordinate a response
- C. Supervisors should become involved in the management of the overall response to potential violent encounters by coordinating resources and officers' tactical actions.
- D. Supervisors should possess a working knowledge of a force array of tactics and less lethal options to ensure that the officers under their supervision perform to the standards established in this policy.
- E. Individual officers should not arrive on a potentially violent encounter and attempt to resolve the incident by themselves. Officers should arrive and secure additional less lethal and lethal resources as part of a force array prior to initiating contact.
  1. Although these tactics are intended to provide a force array for officers to resolve unknown violent encounters, this section in no way prohibits officers from responding independently to violent on going calls involving death or great bodily harm (Active-Threat)
- F. Officers are expected to recognize and utilize positions of advantage, cover, concealment, and barriers to maximize their reaction abilities and deployment of resources.

2-52-6 Use of Authorized Tools/Force Options

[6]



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- A. Officers should consider the actions of a subject and the desired outcome when considering force options.
- B. Officers will use only those tools and techniques with which they have been trained unless the threat escalates so rapidly the officer must use any means necessary to defend themselves or another.
- C. Officers should be prepared to employ various force options to control the combatant in the event one particular tool or technique is not effective or the circumstances of the encounter change such that the tool is no longer a reasonable option.

D. Empty Hand Techniques

[5, 6]

- 1. Empty Hand Techniques include the use of close quarters striking, grabs, takedowns, and proper arrest techniques to effect control of a resistant/combative subject.
- 2. Post Deployment Considerations
  - a. Due to the wide range of possible outcomes to the use of empty hand techniques officers are expected to immediately assess the subject for visible injuries or complaints of injuries once control is gained and the scene is secure.
  - b. In situations where the combative subject is forced into a face-down position, when safe to do so officers are expected to:
    - Release pressure/weight from the subject
    - Monitor the subject for any respiratory or breathing problems.
    - Position the subject on their side or sit them up as circumstances allow so as not induce reduced airflow or diaphragm function.

E. Aerosol Tools/Oleoresin Capsicum

[5, 6]

- 1. Oleoresin Capsicum is considered an inflammatory agent. With proper use it is meant to assist officers in the control of resistive/combative subjects.
- 2. Pre-Deployment Considerations
  - a. Use of OC Aerosol should be limited, if possible, under conditions where it is likely to affect innocent bystanders.
  - b. Use of OC Aerosol in confined or enclosed environments is not recommended
  - c. Officers should make a reasonable attempt to not deploy OC around the elderly, infants, and small children due to their respiratory systems being more sensitive.
- 3. Post Deployment Considerations
  - a. Subjects should be handcuffed as soon as practical.



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- b. Once control is established and the scene is secure officers may assist with decontamination of the subject.
- c. Suspects who have been exposed to OC shall not be left alone, and be continuously monitored for any indications of medical problems.
- d. Common normal reactions to O.C. Include twitching contraction of the eyelids, shortness of breath, and burning sensation on affected skin areas.
- e. Symptoms should dissipate within 45 minutes.
- f. EMS Personnel need not be summoned automatically when O.C. is deployed but at first sign of adverse reaction by any person on-scene.

F. Baton – Expandable, Straight, Bokken

[4-6]

1. Batons are considered an impact tool designed to assist officers in lawful use of force objectives when reasonable under a totality of the circumstances.
2. Deployment Considerations
  - a. Strikes intentionally delivered to the head, neck, and spines are considered deadly force. These areas should not be targeted unless the officer perceives the use of deadly force is warranted under the requirements set forth in 2-52-3 and 2-52-4 of this policy.
  - b. A fight is a dynamic, rapidly changing encounter and officers are not expected to predict subject's movements. Strikes should be aimed toward attacking limbs and large muscle groups available to the officer.
  - c. If an officer strikes inadvertently to the head, neck, or spine he/she will articulate how this occurred.
3. Post-Deployment Considerations
  - a. 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.

G. ELECTRONIC CONTROL DEVICE (TASER)

[5, 6]

1. The ECD is a use of force tool which is designed to use propelled wires or direct contact to conduct electrical charge to primarily affect motor functions and/or the sensory nervous system. It can be used in three distinct modes.
2. Deployment Considerations
  - i. Not utilize a ECD in any environment where an officer knows that potentially flammable, volatile, or explosive material is present (including but not limited to OC spray with volatile propellant, gasoline, natural gas, drug lab flammables, or propane).



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- ii. Not utilize an ECD/TASER in any environment where the subject's fall could reasonable result in death (such as in water or on an elevated structure).
- iii. Officers shall consider other available force options prior to deploying an ECD on potentially at risk individuals such as pregnant women, the elderly, frail or infirm and small children.
- iv. Due to the incapacitating effects of the ECD, officers should not expect an individual under the effects of the ECD to comply with commands.
- v. The device may also be used in certain circumstances in a "drive stun" mode. This involves removing or not removing the cartridge, based on the situation, and pressing the unit against an appropriate area of the body based on training. Officers must understand that when the device is used in this manner, it:
  1. Limits the effectiveness of the device by rendering it as primarily a pain compliance tool.
  2. Is minimally effective compared to deployments in standoff mode (probe deployments) as it will generally not cause incapacitation. For this reason, probe deployments are usually more desirable/effective than drive stuns.
  3. Will likely leave marks on the subject's skin.
  4. Is subject to the same deployment (use) guidelines and restrictions as those of the ECD/TASER in stand off deployments.

3. Post Deployment of ECD

- i. AFD Rescue Personnel will be called to the scene and will remove probes and provide medical treatment for any injuries, if necessary. AFD shall determine (per their protocol) if the person needs to be transported to a medical facility for high-risk/sensitive probe removal and/or other medical care. If it is determined that the person should be transported, transportation shall be provided as soon as possible.
- ii. Supervisors will ensure that any ECD/TASER that has been deployed is downloaded and a printout of the download will be turned in with the Use of Force Report Form.

4. Use on Animals

- i. Officers may deploy the ECD/TASER on dangerous animals which pose an immediate threat to officers or others.
- ii. If an officer is required to deploy an ECD/TASER against a dangerous animal, the officer will notify their immediate supervisor once the scene has been secured.
- iii. Animal Control will be requested to the scene.

H. Less Lethal Impact Munitions Systems

[4, 5]

1. Pre-Deployment Considerations



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- i. Officer will have, at a minimum, a lethal cover officer when deploying with a less lethal munition.
- ii. The distance the less lethal munitions is fired from will be based on: manufacturer's recommendations, the performance of the bean bag round and the objective reasonableness of the force being used.

2. Post Deployment Considerations

- i. EMS personnel will be immediately summoned when officers successfully deploy the Bean Bag Shotgun.

I. Firearms

[3]

1. Pre-Deployment Considerations

- i. Officers will adhere to all firearms safety rules as outlined in Department training.
- ii. Officers must recognize once a firearm is drawn and no longer secured in the holster their ability to react with other than deadly force to a particular situation may be diminished. It is therefore vital a firearm be drawn only when deadly force can be reasonably anticipated.

1. Nothing in this section is meant to prevent officers from having their firearms in a deployed position when confronted with situations which may escalate with such speed as the officer's ability to react defensively would be unacceptably slow as a result of having a holstered firearm.

2. Post Deployment

- i. 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.

2-52-7 After Action Requirements for Use of Force

A. Medical Aid

[5]

Once control is established and it is practical to do so, Officers will immediately assess the arrested subject and any other involved persons determine the need for and level of medical aid.

1. For additional medical aid requirements specific to authorized tools refer to 2-52-6 Post Deployment Procedures.

2-52-6(E): Aerosol Projectors

2-52-6(F): Baton

2-52-6(G): Electronic Control Device

2-52-6(H, I): Less-Lethal Munitions

2-52-6(J): Firearms



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B. Reporting Requirements

[6]

All officers will notify an on-duty supervisor as soon as practical when a use of force incident occurs. In all cases, officers will notify an on-duty supervisor prior to leaving the scene of the Use of Force incident, unless it is unsafe to do so.

Supervisors who receive a notification of a use of force shall immediately respond to the scene to ensure all directives set forth in this policy are adhered to.

Non-Deadly Use of Force Incident Reports:

1. Officers shall complete a primary incident report providing an accurate, detailed account of the incident to include:
  - i. The justification for police contact with the subject.
  - ii. All circumstances which lead to the decision to use force
  - iii. The amount and type of force used.
  - iv. The identity of all officers, witnesses, combatants, and any other involved parties.
  - v. The nature of medical aid provided.
  - vi. All other pertinent information.
2. In addition to the primary incident report, all officers who are present and/or involved during a use of force incident must complete supplemental incident reports detailing the above information.
3. Officers are individually responsible for ensuring complete video recordings of their involvement in the incident are copied to the investigating supervisor and then tagged into evidence; if the officer does not have a recording of the incident this must be documented and explained in the officer's report.
4. If an officer is the victim and / or unable to write a report, the on duty supervisor will ensure a secondary officer is responsible for writing the report. This will not relieve the original or injured officer of their obligation to document their observations.
5. Supervisors shall conduct an administrative investigation on-scene in accordance with 2-52-8: Follow-up Investigation Procedures.

2-52-8 Follow-up Investigation Procedures for Non-Deadly Use of Force

[6]

- A. Supervisors shall respond to the scene of any reported use of force by an officer. The responding supervisor shall be of equal rank or higher rank than the rank of the involved officer.
- B. In addition to ensuring all after-action directives are adhered to on-scene, the responding supervisor shall conduct an on-scene investigation of the use of force incident.



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Not every application of empty-hand techniques to effect the arrest of a resistive subject warrants a complete Administrative Review and Use of Force Reporting Form. The responding supervisor has the authority to make this determination and will detail their decision in a memo written to the Watch Commander. Responding supervisors will still review officer's videos of the incident. The Watch Commander will override the responding supervisor and direct a full Administrative Review and Use of Force Reporting Form when he/she believes it appropriate.

1. A full Administrative Review and Use of Force Reporting Form is always required under the following criteria:
  - i. The subject complains of injury as a result of the use of force.
  - ii. The subject sustains actual injury.
  - iii. Any involved officer uses tools other than empty hand techniques during the use of force (shows of force do not apply to this language).
- C. The supervisor conducting an administrative review, will document the investigation on a Use of Force Report Form and the following will be included in the documentation:
  1. Officer statements: Supervisors will personally speak to the involved or witness, officers and make an inquiry sufficient to describe the nature of the force and the officers' justification and document these in the Use of Force Report Form.
  2. Subject statements: Supervisors will make an attempt to obtain a statement from the subject detailing the event and any injuries.
  3. Witness statements: Supervisors will make an attempt to locate witnesses to the force event and obtain and document complete statements. If any information from the witness statements needs to be documented in the an incident report, the supervisor will ensure that the witness statements are documented in the appropriate report.
  4. Any physical evidence: Supervisors will ensure that the administrative review includes the collection of any physical evidence to include video, audio and photographic evidence that may assist later reviewers in understanding the event. In all situations where a supervisor determines the need for a review, a field investigator will be dispatched to the scene to collect the relevant physical evidence.
  5. Supervisors will provide a thorough analysis and critique of the event, and description of the actions taken to address issues identified by the review, as well as any recommendations.
  6. A responding supervisor will forward the Use of Force Report Form to the appropriate Area Commander through their chain of command with in 72 hours; however, an extension may be granted by the Commander.
  7. Once the Use of Force has been reviewed and a determination of the action has been made by the officer's chain of command, a copy of the investigative packet will be forwarded to Operations Review for tracking purposes.



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2-52-9 Department Response to Deadly Use of Force Incidents  
[5]

- A. The Department shall conduct both a criminal and an administrative investigation of the incident.
  1. Refer to Department SOP 2-31
  
- B. Whenever an officer is a principle participant in an incident involving serious physical injury, the officer shall be placed on administrative leave with pay for a period determined Behavioral Science Division (BSD). The administrative leave shall be documented on Form P-30-V.
  1. While officer(s) are on administrative leave, they will make themselves available to Department investigators.
  2. The officer's deputy chief or area commander must authorize returning to former duty status. Following a return-to-duty-interview with BSD, the officer will be responsible for arranging his / her return to duty. Should an extension of leave beyond three days become necessary, the officer will be responsible for having his / her chain of command sign the P- 30-V Form and conveying this form to Police Payroll/ Personnel.
  3. It will be the responsibility of the BSD to contact the officer approximately 30, 90, and 180 days after the incident to ascertain the need for further follow-up.