

UPPER MERION TOWNSHIP POLICE DEPARTMENT
POLICY AND PROCEDURES

No. 410

Supercedes: 2-91-1.3

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Dated: July 22, 2002

USE OF FORCE

- I. **PURPOSE:** The purpose of this policy is to provide police officers with guidelines on the use of force, and to provide for the proper documentation and investigation of incidents involving the use of force.
- II **POLICY:** This department recognizes and respects the value and special integrity of each human life. In vesting police officers with the lawful authority to use force to protect the public welfare, a careful balancing of all human interests is required. Therefore, it is the policy of this department that police officers shall use only that force that is reasonably necessary to effectively bring an incident under control, while protecting the lives of the officer or another.
- The Pennsylvania Crimes Code, Title 18, Chapter 5, "General Principles of Justification", describes those circumstances in which the use of force is justified. These and other statutory provisions, as well as related Pennsylvania and Federal case law establish the only legally binding restrictions regarding the use of force, including deadly force, by Upper Merion Township police officers.
- III. **CROSS-REF:** Policy # 420, "Weapons Regulations".
Policy # 610, "Post Shooting/Traumatic Incident Procedures".

IV. DEFINITIONS:

- A. *Deadly Force:* Force which, under the circumstances in which it is used, is readily capable of causing death or serious bodily injury.
- B. *Serious Bodily Injury:* Bodily injury that creates a substantial risk of death or which causes permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.
- C. *Less Lethal Force:* Force which under the circumstances in which it is used, is less likely to cause death or serious bodily injury.
- D. *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 circumstances.
- E. *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 may include such techniques as command presence, advertisements, warning, verbal persuasion and tactical repositioning.
- F. *Choke Hold:* A physical maneuver that restricts an individual's ability to breathe for the purposes of incapacitation.
- G. *Administrative Assignment:* Non-enforcement, auxiliary duties to which an officer can be assigned. This assignment will not change the officer's rank, seniority, pay, or benefits.

V. PROCEDURES:

A. GUIDELINES FOR DE-ESCALATION:

1. An officer shall use de-escalation techniques and other alternatives to higher levels of force consistent whenever possible and appropriate before resorting to force and to reduce the need for force.
2. Whenever possible and when such delay will not compromise the safety of the officer or another and will not result in the destruction of evidence, escape of a suspect, or commission of a crime, an officer shall allow an individual time and opportunity to submit to verbal commands before force is used.

- B. **GUIDELINES FOR USE OF DEADLY FORCE:** The Upper Merion Township Police Department considers firearms as defensive weapons. A peace officer shall only utilize deadly force when necessary and justified to effect lawful objectives in conformance to the provisions of the Pennsylvania Crimes Code, other Pennsylvania statutory provisions, and Pennsylvania and Federal court decisions. An officer is authorized to use deadly force when such force is objectively reasonable to him/her in order to:
- a) Protect the life of an officer or another person, or to prevent serious bodily injury when there is no other alternative.
 - b) Apprehend a violent felon who is known to be armed and dangerous, and who cannot be apprehended without risking loss of life or serious bodily injury. An officer should not automatically assume that a fleeing felon is armed and dangerous.
1. Police officers shall, when feasible, exhaust all reasonable alternatives before resorting to the use of deadly force.
 2. The use of deadly force by Upper Merion Township police officers shall be in accordance with the provisions of Pennsylvania law and applicable Pennsylvania and Federal Court provisions. The Pennsylvania Crimes Code, Title 18, Chapter 5, Section 508 (a), relating to “The Use of Force in Law Enforcement”, governs the lawful and justified use of deadly force by a police officer.
 3. A police officer may discharge a weapon under the following circumstances:
 - a. The circumstances listed in sections V, A, 1 & 2 above.
 - b. During range practice, qualifications, or competitive firearms sporting events.
 - c. To destroy an animal that represents a threat to public safety, or as a humanitarian measure where the animal is seriously injured.
 - d. In order to deliver a less lethal extended range impact projectile.
 4. Police officers shall adhere to the following restrictions when their weapons is exhibited:
 - a. Except for maintenance, during training, qualifications, or competitive firearms sporting events, police officers shall not draw or exhibit their firearm unless circumstances create reason to believe that it may be necessary to use the weapon in conformance with this policy.
 - b. Warning shots are prohibited.

- c. Police officers shall not fire their weapon at or from a moving vehicle unless circumstances dictate the clear need for such action in order to prevent imminent serious bodily injury or death.
 - d. Firearms shall not be discharged when an innocent person may be injured unless circumstances dictate the clear need for such action.
 - e. Before using a firearm police officers shall identify themselves and state their intent to shoot, where feasible.
5. In each incident, the officer(s) using deadly force shall be tested as outlined in the Upper Merion Township Drug Policy (#1350)

C. GUIDELINES FOR USE OF LESS LETHAL FORCE:

- 1. Police officers are justified in the use of force they reasonably believe is necessary to affect an arrest. They need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest.
- 2. Police officers are justified in the use of force against another when and insofar as the officer reasonably believes that such force is necessary to protect the officer or another person against the imminent use of unlawful force.
- 3. Police officers are justified in the use of force to restrain or subdue a resistant individual, or to bring an unlawful situation safely and effectively under control.
- 4. Only the amount of force reasonably necessary to affect an arrest or control a person shall be used.
- 5. Force shall not be used punitively and officers shall always discontinue the use of force when the offender stops and complies with police orders.
- 6. Officers shall not use restraint techniques that are capable of causing positional asphyxiation.
- 7. The following is an outline of the levels of force known as the Force Options. When the use of force is necessary and appropriate, officers shall, to the extent possible, use an escalating level of force. Circumstances may require that an officer skip levels of force when an immediate escalation is necessary.
 - a. *Level 1: Police Presence-* Mere police presence can resolve some situations making further escalation of force unnecessary.

- b. *Level 2: Dialogue-* Dialogue used by an officer can serve to diffuse potentially violent confrontations. The manner and form in which an officer speaks to a person can be an effective means of exerting control over the situation. The use of profanity or disrespectful or argumentative conduct on the part of the officer is unacceptable.
- c. *Level 3: Oleoresin Capsicum Chemical Spray (O/C) & Taser - O/C* spray and the Taser are intended to temporarily incapacitate a person or an animal. Officers attempting to perform an official function and meeting resistance are authorized to use O/C spray and/or the Taser. They can be used before or after empty handed control depending on the type and degree of resistance being encountered. An officer is not permitted to use O/C spray or the Taser unless qualified in their proficient use as determined by training procedures (refer to policy #420, "Weapons Regulations").
 - (1) Particular consideration should be exercised when deploying the Taser in the following circumstances:
 - (a) the severity of the crime or incident that the officer is responding to.
 - (b) on a subject who is in an elevated position or under other circumstances where a fall would cause substantial injury or death.
 - (c) on a subject operating a moving vehicle or machinery.
 - (d) on young children, the elderly, the visibly frail, and individuals with physical disabilities that impair their mobility.
 - (e) When a subject is fleeing on foot. Officers should take extra consideration as to where and how the subject will fall after Neuromuscular Incapacitation is achieved to reduce the possibility of further injury to the subject.
 - (2) The Taser shall not be deployed in the following circumstances:
 - (a) against subjects who have come into contact with flammable liquids or gases (including OC Spray), or in environments where flammable materials are obviously present, due to the Taser's ability to ignite flammable liquids and gases.
 - (b) against an obviously pregnant female, unless that female poses a threat to an officer or herself by possessing a weapon or object that could injure the officer or the female if he/she tried to intervene.

- (c) to experiment on a person or allow a person to experience the Taser, even if the person requests it, when the use of the Taser would not otherwise be allowed by department policy.
- (3) Officers shall warn the person, unless circumstances do not provide time for a warning, that a Taser will be used if the person refuses to comply with officer's orders. If practical, assisting officers should also be warned of an intended Taser deployment.
- (4) Whenever possible, the Taser should be aimed at the lower center mass for front shots.
- d. *Level 4: Empty Handed Control-* This type of force can be as little as a hand on the arm of a person or could escalate to a higher level of physical force. The object of this level of force is to gain control and compliance while minimizing the risk of injury to the officer, the person being controlled, or innocent bystanders. The use of choke holds (vascular or otherwise) or similar control techniques are prohibited unless the use of lethal force is authorized.
- e. *Level 5: K-9 Use of Force:* The use of a police K-9 by its handler in the performance of his/her duties may, depending on the circumstances, be considered an instrument of force. When K-9's are used to neutralize assaults, overcome the resistance of arrestees, capture fleeing suspects, or in the defense of an officer or other person, the use must be in a situation where higher levels of force are not necessary and lower levels of force would be inappropriate or have been ineffective. Only Upper Merion Township Police Department certified dogs and their handlers will be utilized unless the K-9 and handler are with another law enforcement agency and are assisting this department in a bona fide mutual aid situation.
- f. *Level 6: Impact Weapons-* Refer to policy #420, "Weapons Regulations", for specifications on the type of impact weapons approved for use by this department. An officer is not permitted to use impact weapons unless qualified in their proficient use as determined by training procedures.

Officers who employ an impact weapon should do so with the intent to temporarily disable an individual and not to cause permanent injury. Striking an individual with an impact weapon in the groin, any part of the body above the shoulders, or the back is permitted only in situations where deadly force would be justified.

g. *Level 7: Less Lethal Extended Range Impact Projectiles-* Refer to policy #420, "Weapons Regulations", for specifications on the less lethal weapons and ammo approved for use by this department. An officer is not permitted to use less lethal weapons unless qualified in their proficient use as determined by training procedures. Less lethal weapons may be used in an attempt to de-escalate a potentially deadly situation, when appropriate. Less lethal weapons shall be targeted to areas of the body designated during training. Officers deploying less lethal weapons shall do so in accordance with the following safety priorities:

- | | |
|--------------------|-----------------------|
| 1- Hostages | 2- Innocent Civilians |
| 3- Police Officers | 4- Suspect/Subject |

h. *Level 8: Deadly Force:* Refer to policy #420, "Weapons Regulations", for specifications on the lethal weapons approved for use by this department. An officer is not permitted to use lethal weapons unless qualified in their proficient use as determined by training procedures. Officers should be aware that, while commonly related to the use of a firearm, deadly force could be realized through a variety of measures, such as impact and less lethal weapons.

8. Officers shall provide for appropriate medical attention to any person who is injured, or who claims to be injured, as a result of an officer's use of force.

a. Persons contaminated with O/C Spray shall be exposed to fresh air and have their contaminated areas flushed with cold water as soon as possible. Evaluation by medical personnel shall be initiated without delay for any contaminated person who complains of itching, hives, difficulty swallowing, facial swelling, allergies to pepper, or for any contaminated person who shows evidence of being under the influence of drugs or high levels alcohol.

b. Any person exposed to the Taser's probes or contact points who receive an electrical charge must be offered the opportunity to be examined by medical personnel, either EMS on the scene or emergency room personnel. If an officer gains knowledge that the person contacted with the Taser has a pre-existing heart condition, that subject will be transported to the hospital via ambulance for medical clearance. Only Taser certified officers wearing protective gloves and eye protection are to attempt removal of the Taser probes. Taser probes are not to be removed by officers if the probes penetrate a sensitive area of the body such as the head, neck, groin or genitals. These individuals must be transported to a medical facility to have the probes removed.

- (1) If the probes penetrate the skin, the puncture sites are to be photographed and the photographs will become part of the case file. Probes that penetrate the skin should be treated as biohazards and disposed of in accordance with UMPD Policy #420 (Weapons Regulations), Section IV-H-5-c.

D. REPORTS AND INVESTIGATION

1. Officers shall complete a Use of Force Report (Attachment A) whenever they:
 - a. Discharge a firearm other than for training, qualification, a competitive sporting event, or to destroy a sick or injured animal. If a firearm is discharged off-duty, the officer shall notify on the on-duty shift supervisor and submit a memo to the Chief of Police.
 - b. Take action that results in, or is alleged to have resulted in, injury or death to another person.
 - c. Apply force through the use of lethal or less lethal weapons.
 - d. Use physical force, or is alleged to have used physical force, to another person.
2. Each officer to which any of the above sections apply (IV-C-1, a-d) shall complete and sign a separate Use of Force Report for their involvement in the incident. The Use of Force Report shall be completed in a reasonable amount of time and submitted to the shift supervisor, to be forwarded through the chain of command to the Chief of Police.
3. If an officer is injured during a use of force incident, the officer shall submit copies of all pertinent medical reports, which shall be attached to the Use of Force Report.
4. All Use of Force Reports shall be reviewed by the appropriate division Command Officer to determine whether:
 - a. Departmental rules, policies and procedures were followed.
 - b. The relevant policy was clearly understandable and effective to cover the situation.
 - c. Department training is currently adequate.
5. The Use of Force Report is strictly an internal management document. Use of Force Reports shall be maintained in a separate file and copies of the report shall not be attached to the regular incident or supplemental reports. Use of Force Reports shall not be released in whole or in part to

any person, organization or entity outside of the Upper Merion Township Police Department without specific permission from the Chief of Police.

6. All findings of policy violations or training inadequacies shall be reported to the Captain and Chief of Police for resolution and/or discipline.
 7. When an incident requires the completion of the Use of Force Report, the shift supervisor, if not present, shall be immediately notified to respond to the scene of the incident.
 8. In the case of an officer-involved shooting incident, or other use of force by officers resulting in death or serious bodily injury to another, the shift supervisor shall notify an on-duty or on-call Command Officer and the Chief of Police as soon as practical.
 - a. The department shall conduct an administrative investigation of the incident. If a criminal investigation is warranted it will be coordinated with the Montgomery County District Attorney's Office and any other investigative agency that may have jurisdiction.
 - b. The Upper Merion Township Police Department's Investigation Division, in conjunction with the Montgomery County District Attorney's Office, shall investigate any deadly force incident involving an outside agency within the boundaries of Upper Merion Township.
- E. DEPARTMENTAL RESPONSE TO A DEADLY FORCE INCIDENT: Refer to Policy #610, "Post Shooting/Traumatic Incident Procedures".
- F. POLICY DISCLAIMER: This policy is for internal use only and does not enlarge an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense concerning third party claims. Violations of this directive, if proven, can only form the basis of a complaint by this department and then only in a non-judicial administrative setting.

APPROVED: _____
Chief Thomas N. Nolan

DATE: _____

APPROVED: _____
Captain Jeremy Johnson

DATE: _____

TO BE REVIEWED: ANNUALLY

DISTRIBUTION: All Police Officers
Township Manager
File