

	<b>STANDARD OPERATING PROCEDURE</b> State Form 39870 ( R/ S- 06 )	Reference Number <b>LEG-002</b>
	Subject <b>Use of Force</b>	
	Special Instructions Replaces LEG-002 dated November 10, 2015	Effective Date <b>July 13, 2020</b>

## **I. PURPOSE**

Establishes procedures for the use of non-deadly and deadly force.

## **II. POLICY**

Department employees shall only use non-deadly or deadly force in compliance with law, Department procedures and proper training to further an enforcement action.

## **III. DEFINITIONS**

A. DEADLY FORCE (IC 35-31.5-2-85) – Force which creates a substantial risk of serious bodily injury.

B. DEADLY WEAPON (IC 35-31.5-2-86) –

1. A loaded or unloaded firearm;
2. A destructive device, weapon, device, Taser (as defined in IC 35-47-8-3), or electronic stun weapon (as defined in IC 35-47-8-1), equipment, chemical substance, or other material that, in the manner it is used, or could ordinarily be used, or is intended to be used, is readily capable of causing serious bodily injury; and

(Exception: A Taser, electronic stun weapon, chemical or other device designed to temporarily incapacitate a person are not considered deadly weapons, if properly used, by a properly trained, law enforcement officer in accordance with the lawful execution of official duties.)

3. An animal (as defined in IC 35-46-3-3) which is:

- a. Readily capable of causing serious bodily injury, and
- b. Used in the commission or attempted commission of a crime.

Note: A device such as a heavy metal flashlight or nightstick could be construed to be a deadly weapon if misused by an employee.

4. A biological disease, virus or organism which is capable of causing serious bodily injury.
5. Choke hold— means applying pressure to the throat or neck of another person in a manner intended to obstruct the airway of the other person.

C. INVOLVED OFFICER(s) - An officer(s) who used or allegedly used deadly force or the officer who interacted with the subject immediately prior to the serious bodily injury or death. "Involved" does not include officers who may have witnessed the actions of another officer or civilian.

D. SERIOUS BODILY INJURY (IC 35-31.5-2-292) – Bodily injury which creates a substantial risk of death or causes serious permanent disfigurement, unconsciousness, extreme pain, permanent or protracted loss, impairment of the function of a bodily member or organ or loss of a Fetus.

E. USE OF FORCE INSTRUCTORS – Department personnel who are certified as instructors in the areas of firearms, control tactics, Precision Immobilization Technique (PIT) or Conducted Electrical Weapon (CEW) use.

#### **IV. PROCEDURE**

##### **A. Employees shall not:**

1. Discharge any warning or disabling shots to apprehend a person;
2. Discharge any shots at or from a vehicle unless the offender is employing deadly force against the employee or another citizen; and
3. Use non-deadly or deadly force against a person who is merely verbally abusive.
4. Use a choke hold except in situations where deadly force is allowed by law.

##### **B. The use of deadly force against persons by employees shall be restricted to the following:**

1. The officer reasonably believes the force is necessary to prevent serious bodily injury to the officer or a third person or the commission of a forcible felony;
2. The officer reasonably believes the force is necessary to affect an arrest for a felony and the officer believes;
  - a. The crime for which the arrest is made involved conduct including the use or threatened use of deadly force or serious bodily injury, or
  - b. There is a substantial risk the person to be arrested will cause death or serious bodily injury if apprehension is delayed.
3. The officer should give a warning, if feasible, to the person against whom the deadly force is to be used.
4. An officer who has an arrested person in custody is justified in using deadly force to prevent the escape of the arrested person from custody only if the officer:

- a. Has probable cause to believe deadly force is necessary to prevent the escape from custody of a person who the officer has probable cause to believe poses a threat of serious bodily injury to the officer or a third person; and
- b. Has given a warning, if feasible, to the person against whom the deadly force is to be used.

*NOTE: Officers shall take into account the potential risk of injury to innocent persons when considering the use of deadly force.*

C. An officer lawfully arresting a misdemeanor may use all force reasonably necessary to accomplish the arrest, short of deadly force, except as qualified in paragraph B(1)-(4).

D. The use of reasonable force by employees shall be restricted to the following:

1. Police employees are justified in using reasonable force if it is reasonably believed the force is necessary to affect a lawful arrest or in the defense of themselves or others.
2. Motor Carrier Inspectors are justified in using reasonable force if it is reasonably believed the force is necessary in the defense of themselves or others.
3. Police employees making an arrest under an invalid warrant are justified in using force as if the warrant was valid, unless they know the warrant is invalid.
4. An officer who has an arrested person in custody is justified in using the same force to prevent the escape of the arrested person from custody which the officer would be justified in using if the officer was arresting the person.

E. **Duty to Intervene:**

1. Police employee(s) who observe another officer using unreasonable force shall have a duty to intervene when it is safe to do so.
2. Police employee(s) who intervene shall immediately report the incident to a supervisor or commanding officer.

F. **Each employee involved in a use of force incident shall:**

1. **Immediately report** all instances of use of force to the appropriate district;
2. **Provide appropriate medical aid**, (e.g. first aid, CPR, or activation of available EMS) after the use of lethal or less than lethal force, if needed; and

**Complete all applicable sections of the Police Action Report as outlined in ENF-012 Police Action Report and Review.**

G. When non-deadly or deadly force is employed against an offender, the offender shall be placed under custodial arrest and incarcerated in the appropriate facility; unless a licensed

physician or psychologist determines the offender must be admitted to a medical facility for extended medical or psychological treatment, testing or evaluations which would reasonably prevent incarceration.

## **V. INVESTIGATING USE OF FORCE INCIDENTS**

A. District/Division Commanders shall:

1. Ensure all incidents involving the use of force by an employee are documented; and
2. Notify the Criminal Investigations Division, through the District Investigative Commander (DIC), or the applicable Area Commander or the Area Investigative Commander (AIC) if an incident involves death, serious injury, the use of lethal force or an alleged use of lethal force.

B. The Area Investigative Commander (AIC) shall implement an investigative response, utilizing district or out of district investigative personnel, which may consist of a DIC and/or an Investigative Squad Leader (ISL) and District Detectives as needed.

If an administrative (internal or civil) investigation is required, in addition to the criminal investigation, it should be conducted as a follow up investigation.

1. Administrative reports shall not be made part of the criminal incident report without approval of the ISP Legal Office.

### **C. Officers Involved in Use of Force Incidents**

1. The involved officer(s) shall:

a. Immediately notify the applicable Regional Dispatch Center (RDC) of the incident and location;

b. Determine the physical condition of any injured person and, when appropriate, contact emergency medical aid and render first aid;

c. The involved officer(s) will be asked, by the first responding officer to provide a prompt **voluntary, "Public Safety Statement,"** regarding general information about the incident, to include, but not limited to:

- (1) Information necessary to apprehend suspects;
- (2) Any immediate hazards to other responding personnel or the public;
- (3) Identity and/or location of any witnesses;
- (4) Location of any weapons;
- (5) Identity of all scenes that must be protected; and
- (6) Any other exigent information the involved officer believes to be relevant; and

d. When required, turn over all evidence, including weapons, equipment and uniform items for examination to the detective or a supervisor upon request.

2. Unless injured, the officer(s) shall remain at the scene until directed otherwise by investigative personnel or a supervisor.

3. Officer statements on use of force incidents:

a. It is recommended the involved officer(s) not discuss the incident with anyone until the officer has provided a formal statement to the detectives or the employer or, if none was provided, until the conclusion of the investigation. Exceptions to this include:

- (1) The involved officer's spouse;
- (2) The involved officer's attorney or Department attorney;
- (3) A member of the clergy;
- (4) Health care provider;
- (5) CISM Team Member; or
- (6) Mental health care provider.

b. If requested by the involved officer(s), he/she should not be asked to provide a formal statement **less than 48 hours** after the incident occurred.

c. The involved officer(s) shall be advised, and must acknowledge, the investigation is criminal in nature and not an administrative or disciplinary inquiry; and the involved officer's cooperation is voluntary and the officer is not being compelled in any way to make a statement. The officer shall be advised of the following:

*This investigation is to determine whether any criminal laws have been violated that resulted in the death or serious bodily injury of \_\_\_\_\_. It is not an administrative or disciplinary inquiry. You are not being compelled to give any statement or answer any questions which may incriminate you and you are not required to waive your Fifth Amendment right to remain silent. Your cooperation in this investigation is voluntary.*

d. The Warning and Assurance waiver shall be used when interviewing all involved officers.

e. It is not mandatory the involved officer(s) be advised of their Miranda Rights; unless the interview is custodial in nature.

4. The investigation shall be conducted in accordance with the Law Enforcement Use of Force and Custodial Death Investigations Manual and shall be documented in accordance with the Incident Management System Manual.

D. This procedure shall be used in conjunction with all relevant Department regulations, rules, policies and procedures.