



# HARRISBURG BUREAU OF POLICE



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COMMISSIONER

Date of Issue: November 20, 2020	Effective Date: November 30, 2020	General Order #: 20-04	Expiration Date: <i>Until Amended/Rescinded</i>
Subject: <b>USE OF FORCE</b>		Distribution: All Personnel	Amends: 17-04
Reference: PLEAC 1.3.1 through <b>1.3.11, 1.8.4, 4.15.1</b> , Graham V. Conner - U.S. 490 386 (1989) and <b>G.O. 08-66 Agency Role &amp; Authority</b>			Rescinds: 17-04

## I. POLICY

Officers shall use only objectively reasonable force to successfully attain lawful objectives, or protect themselves or others. Officers shall be guided by Police Bureau directives and training, the use of force continuum, applicable statutes, the totality of circumstances of the incident and this directive. **When feasible under the circumstances, Officers will give the suspect a verbal warning before using force.** This policy shall be reviewed annually.

## II. DEFINITIONS

- A. Lethal Weapon: A weapon, firearm, device, or instrument which in the manner it is used or intended to be used, is designed, calculated, or likely to cause death or serious physical injury.
- B. Less Lethal Weapon: A weapon, device, or instrument which, by design, purpose, and intended or actual use, is neither likely to produce death nor serious physical injury.
- C. Self-Defense: Action taken, necessary to avoid harm or evil to oneself, based on a reasonably founded belief that physical injury will occur due to the existence of a clear and present danger, to halt an attack. Self-defense may be personal or instituted for the protection of another person.
- D. De-escalation Techniques: **Communication with individuals who are not compliant with orders by establishing a rapport, through appropriate voice intonation, asking questions and providing advice to defuse conflict and achieve voluntary compliance.**

- E. Serious Bodily Injury: Physical injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any physical member or organ.
- F. Forcible Felony: As used in this directive, any felony involving the confrontation of a victim by an assailant using or threatening to use deadly force.
- G. Types of Force/Resistance:
1. Reasonable Force: Reasonable force is an objective standard of force viewed from the perspective of a reasonable Officer, without the benefit of hindsight, and based on the totality of the circumstances presented at the time of the incident. See Section IV. "Determining Objectively Reasonable Force."
  2. Deadly Force: Force that, under the circumstances in which it is used, is readily capable of causing death or serious bodily injury.
  3. Unlawful Force: The use of force against an individual after their resistance has ceased, or the confinement of an individual for no lawful purpose.
  4. Reportable Force: Any intentional or attempted police contact with a subject involving the use of any weapon, substance, vehicle, equipment, tool, device or animal that inflicts pain or produces injury to another; or
    - Any physical strike to any part of the body of another;
    - Any physical contact with a person that inflicts pain or produces injury to another; or
    - Any restraint of the physical movement of another that is applied in a manner or under circumstances likely to produce injury; or
    - The pointing of a firearm or Taser; or
    - The use of controlled aggression by a K9
  5. Aggravated Actions: Actions by a subject which may cause serious bodily injury or death.
  6. Active Aggression: Physical actions against an Officer or another person utilizing less than lethal force, such as punching, or kicking.
  7. Defensive Resistance: Any action by a subject that attempts to prevent an Officer from gaining control of the subject which does not rise to the level of an assault on the officer, but is a physical act designed to prevent the Officer from gaining control of the subject.

8. **Passive Resistance:** Any type of resistance in which the subject does not attempt to defeat the Officer's attempts to touch or control him or her but does not comply with verbal or physical attempts to control them. An example of passive resistance would be protestors going limp instead of dispersing, forcing Officers to carry them.
9. **Verbal Noncompliance:** Any verbal response indicating a subject's willingness to disobey or ignore directions or commands from a law enforcement Officer. Verbal noncompliance may range from calm statements disagreeing with the officer to threatening verbal statements directed at the Officer.
10. **Psychological Intimidation:** Nonverbal cues which indicate a subject's attitude, appearance, and physical readiness to resist. These may include the clenching of fists, a blank stare, or other actions which indicate a willingness to resist.
11. **Escort Control:** Actions taken by an Officer to maintain control of a person during necessary movement from place to place.
12. **Submission Control:** Actions taken by an Officer to cause a person to cease resistance or flight and to comply with police directions.
13. **Mechanical Control:** Use of a baton or other device to assist in gaining control of a person.
14. **Neck Restraints:** Any attempt by an Officer to gain control of a subject by constricting the windpipe or blood flow to the brain by direct pressure or other physical or mechanical means.

### III. DUTIES AND RESPONSIBILITIES

#### A. Training Coordinator:

1. Ensure use of force policy and guidelines update and refresher training is included in annual in-service training.
2. Ensure trainee Officers complete the required courses, including use of force policy and guidelines, and weapons qualification and proficiency standards.
3. Ensure training records of all Officers are maintained and updated as necessary.

#### B. Commanders and Supervisors:

1. Ensure Officers under their command/supervision attend and complete scheduled Police Bureau training in the use of force and the policies described herein.
2. Ensure incidents involving the use of force are reported in accordance with Police Bureau policy.

C. Officers:

1. Complete Police Bureau training relating to the use of force and lethal and less lethal weapons.
2. Comply with State and Federal laws, and Bureau policy and procedure with regarding the use of force.
3. Use only Police Bureau-authorized weapons.
4. **When feasible under the circumstances, police Officers will give the suspect a verbal warning before using force.**
5. **When feasible, Officers will use de-escalation techniques (verbal judo, CIT, etc.) prior to utilization of force and while progressing through the use of force continuum.**
6. **Officers shall ensure their actions do not precipitate the use of deadly force by knowingly placing themselves or others in jeopardy by taking unnecessary actions.**
7. Submit written reports on all use of force incidents as required in this order.

IV. DETERMINING OBJECTIVELY REASONABLE FORCE

Under the Fourth Amendment of the United States Constitution a Police Officer may only use such force as is "objectively reasonable" under all of the circumstances. The standard that courts will use to examine whether a use of force is constitutional was first set forth in *Graham v. Connor*, 490 U.S. 386 (1989) and was expanded by subsequent court cases. The reasonableness of a particular use of force must be judged from the perspective of a reasonable Officer on the scene, rather than with 20/20 vision of hindsight. The reasonableness must account for the fact that Officers are often forced to make split-second judgments - in circumstances that are tense, uncertain, and rapidly evolving. The reasonableness inquiry in reviewing use of force is an objective one: the

question is whether the Officer's actions are objectively reasonable in light of the facts and circumstances confronting them. The Officer's perception may be a consideration, but other objective factors will be evaluated to determine the reasonableness of force. These factors may include but are not limited to:

- The severity of the crime(s) at issue;
- Whether the subject poses an immediate threat to the safety of the Officer(s) or others;
- Whether the subject is actively resisting arrest or attempting to evade arrest by flight;
- The influence of drugs/alcohol or the mental capacity of the subject;
- The time available to an Officer to make a decision;
- The availability of Officers/resources to de-escalate the situation;
- The proximity or access of weapons to the subject;
- The environmental factors and/or other exigent circumstances.

The Officer will use a level of force that is necessary and within the range of "objectively reasonable" options. When use of force is needed, Officers will assess each incident to determine, based on policy, training and experience, which use of force option will de-escalate the situation and bring it under control in a safe and prudent manner, or stop the actions of the aggressor.

#### V. DUTY TO INTERVENE

**When in a position to do so, Officers shall intervene when they know or reasonably believe that another Officer is using unreasonable force. Officers shall promptly report any use of unreasonable force and the efforts made to intervene via an Inter-Departmental Communication to a Supervisor.**

#### VI. USE OF FORCE CONTINUUM

The use of force continuum gives officers a graphic aid for considering an appropriate response to control a given situation, including the level of subject resistance used against them. The continuum progresses from the lowest level of officer control options, known officer presence, to the highest, stop action/deadly force. Subject resistance levels range from the least threatening, psychological intimidation, to the most serious, aggravated action. When responding to resistance in the performance of duty, officers shall consider the totality of circumstances, including the level of subject resistance, escalate to the objectionably reasonable force necessary to control the situation, and de-escalate the level of force used to that which is necessary to maintain control once the situation and subject are under Officer control. Officers may enter the continuum at any level, and need not exhaust all lower force options if circumstances

dictate a higher level of force is objectively reasonable. The subject(s) actions will dictate the officer's use of force, **the Officer should use the minimal amount of force necessary to reduce the immediate threat.**

## VII. DEADLY FORCE

Officers shall use deadly force in the performance of official duties in accordance with this directive, other Police Bureau directives, and existing statutes. Nothing contained in this directive shall preclude the use of deadly force in self-defense, when warranted.

- A. Deadly Force is defined as "Force that, under the circumstances in which it is used, is readily capable of causing death or serious bodily injury." (Section 501, Title 18 C.C.)
- B. Arrest: Officers may use deadly force to affect the arrest or prevent the escape of a felon, when *ALL* of the following elements are present: (Section 508, Title 18 C.C.)
  - 1. Knowledge a forcible felony was committed.
  - 2. Knowledge or reasonable belief that the suspect did, in fact, commit a forcible felony.
  - 3. Probable cause to believe the suspect poses a significant threat of causing death or serious bodily injury unless arrested without delay.
  - 4. All other reasonable means of affecting the arrest or preventing the escape have been exhausted.
- C. Protection: Officers may use deadly force to protect themselves or another person from what they reasonably believe to be an imminent threat of death or serious bodily injury.
- D. Firearms: Officers shall only discharge a weapon when the use of deadly force is justified, not shooting to kill or shooting to wound, but shooting to stop the action by causing the instant incapacitation of the subject. For maximum stopping effectiveness and to minimize the danger to innocent bystanders, Officers shall shoot at "center body mass."
- E. Risk to Uninvolved Bystanders: Officers facing the decision to use deadly force must be cognizant of any bystanders who may be present in or near the line of fire. Officers are prohibited from discharging firearms when it appears reasonably likely an uninvolved person may be injured unless failure to use deadly force would likely result in the immediate death or serious bodily injury of the officer or another person.

- F. Other Offenses: Officers shall not utilize deadly force to affect the apprehension of persons who commit violations of the law amounting to summary or misdemeanor offenses, or who committed a felony but do not present a threat of death or serious bodily injury.
- G. **Neck Restraints: Police Bureau personnel shall not utilize neck restraints except in situations where it is an action of last resort where deadly force would otherwise be authorized.**

#### VIII. LESS LETHAL WEAPONS

The use of less lethal weapons provides Officers with a means, within the use of force continuum when force is necessary, to accomplish a lawful objective, when the use of deadly force is not justified or authorized. Officers shall utilize less lethal weapons in the performance of official duties only under the following circumstances:

- A. To affect an arrest, defend themselves, or defend another person from physical injury while affecting an arrest or conducting other law enforcement actions.
- B. To protect themselves or another person from what they reasonably believe to be an immediate threat of physical injury.

#### IX. UNHOLSTERING AND HANDLING OF FIREARMS

Officers may unholster their firearm in certain situations for safety, e.g., searching buildings for suspects, serving search or felony arrest warrants, checking vehicles in high-risk situations, felony arrest situations, etc. Officers shall exercise a reasonable standard of care with the drawn weapon by pointing the muzzle in a safe direction, keeping the trigger finger outside the trigger guard and parallel to the slide. Under no circumstances shall a weapon capable of double action be cocked. All Officers are expected to maintain proficiency with regard to the safe handling and use of all Police Bureau-issued or approved firearms. Except for general maintenance, storage, or authorized training, Officers shall not draw or exhibit firearms unless circumstances create a reasonable belief it may be necessary to use the weapon in conformance with Police Bureau policy. The playful or wanton pointing of a firearm at anyone, on or off duty, or the careless or negligent use of a firearm is prohibited.

#### X. SHOOTING AT OR FROM MOVING VEHICLES

**Officers should not knowingly move into or remain in the path of a moving vehicle. Officers should be cognizant that their actions could contribute to a physically hazardous condition resulting in a deadly force situation.** Officers shall not discharge a

firearm at or from a moving vehicle with the following exceptions, and after considering:

- A. The difficulty of hitting a moving target.
- B. Ricocheting bullets strike unintended targets.
- C. Population densities.
- D. The inability to stop a vehicle's momentum even when the target actor is hit, and the damage or injury which might result from causing a vehicle to go out of control.
- E. As a last resort measure when the offender, by using the vehicle or other means, poses an imminent danger of death or serious physical injury to the Officer or another person.
- F. As a last resort to prevent the escape of a fleeing felon when the use of deadly force is otherwise justified.

XI. WARNING SHOTS

Officers are prohibited from firing warning shots under any circumstances. Warning shots are usually not aimed at a specific target and may create a danger to others; additionally, other Officers may mistake the intention and subsequently shoot without appropriate justification.

XII. RESCUE SHOTS

A rescue shot identifies a location and signals for appropriate assistance. Officers in danger of death or serious physical injury and incapacitated to the extent they cannot signal in any other manner, may fire rescue shot(s). Officers must exercise reasonable care in firing rescue shot, e.g., by shooting away from any other individuals, homes, vehicles, etc.

XIII. DESTRUCTION OF ANIMALS

Officers may use a firearm to kill a dangerous animal or to terminate the suffering of a critically injured or sick animal when other means of disposal are impractical. Officers shall seek authorization from the Shift Commander, unless the urgency for immediate destruction precludes obtaining such authorization. Whenever possible, the owner of the animal shall be contacted to obtain written permission for the destruction of the animal. In the event the owner cannot be located, the identification of any available witnesses who will attest to the need to destroy the animal shall be recorded. Whenever the shooting of an animal is necessary, precautions shall be taken to protect

any nearby persons or property. All pertinent actions shall be documented in a Miscellaneous Incident Report. A call will be entered in the Harrisburg Bureau of Police RMS (Records Management System) using the call type of animal destruction. The Duty Commander and Technical Services Commander must be notified in person or via telephone or email of the destruction of any animal by any Bureau member, to include the Animal Control Officer.

#### XIV. RENDERING MEDICAL AID

After employing any force, including lethal or less lethal weapons, Officers shall evaluate the need for and render appropriate medical aid and request further medical assistance, when necessary, for the suspect and any other injured individuals, as soon as it is safe to do so. Any aid provided shall be documented in the appropriate investigative report.

#### XV. POSITIONAL ASPHYXIA

To avoid chest compression that may precipitate positional asphyxia, Officers shall avoid maintaining control over (or transporting) a prisoner(s) by keeping them in a prone position. Once control over a prisoner(s) has been attained, Officers shall place the prisoner(s) in a seated position, or if necessary, on their side. Prisoners may not be hobbled or hog-tied.

#### XVI. NOTIFICATION AND REPORTING REQUIREMENTS FOR USE OF FORCE INCIDENTS

Officers involved in incidents where reportable force is used or alleged, or injury or alleged injury could have occurred. (Note: this section shall include the pointing of firearms or Tasers, the discharge of firearms under any circumstances), shall document all circumstances surrounding the incident, including the use of any lethal and/or less lethal weapons, etc., in the appropriate investigative report. In addition, a Use of Force interdepartmental communication, in electronic format, shall be completed by each Officer using force or alleged use of force. **Officer's witnessing what they believe to be an excessive use of force shall notify a Supervisor via an Inter-Departmental Communication.** This report shall be submitted electronically as a Word document to the reviewing Supervisor **by the end of shift.** Supervisors shall review and approve these reports, retaining a signed hard copy and converting the Word document to PDF. The hard copy will then be forwarded to the respective Division Commander, with a PDF to the Commissioner/Chief of Police, Commander of Technical Services, Internal Affairs Unit, and Training Coordinator. It is recognized Officers who have been involved in incidents where lethal force has been used may require additional time to prepare reports. The Commissioner/Chief of Police or Duty Commander will coordinate the completion of reports in these circumstances with Dauphin County CID and the Internal Affairs Unit. Officers involved in any off-duty use of force in the performance of Police

duties, to include the pointing or display of firearms, shall notify the on-duty Patrol Supervisor and/or Duty Commander as soon as practical. In addition, the following notification and reporting requirements shall be followed:

A. Firearms:

1. Incidents involving the intentional discharge of a firearm at a human, or incidents in which a person has been injured by a Police Bureau firearm:
  - a. The involved Officer(s) shall immediately notify the Patrol Supervisor.
  - b. The Patrol or senior on-scene Supervisor shall provide for the safety and security of the involved Officer(s), ensuring they are transported from the incident scene as quickly as possible, and escorted to a secure area. Officers requiring medical or other treatment shall be accompanied by a member of the Police Bureau to the treatment facility, and the escort shall remain in the vicinity of the Officer whenever possible.
  - c. The Patrol Supervisor shall ensure the Duty Commander is immediately notified.
  - d. The Duty Commander will ensure the Commissioner/Chief of Police is fully briefed, and will make the following notifications:
    - 1) Dauphin County Criminal Investigation Division
    - 2) On-call Dauphin County District Attorney
    - 3) Internal Affairs Unit
    - 4) Fraternal Order of Police
    - 5) PSP or Dauphin County Critical Incident Personnel

B. Less Lethal Weapons: In cases involving serious bodily injury, the Patrol Supervisor shall secure the scene and involved Officers, then notify the Duty Commander and advise them of the incident. The Duty Commander will, in consultation with the Commissioner/Chief of Police, determine the investigative course of action.

C. Other Use of Force Incidents: In cases involving serious bodily injury, follow the same procedures as detailed in paragraph B. Less Lethal Weapons.

XVII. INVESTIGATING USE OF FORCE INCIDENTS

A. Firearms:

1. The Patrol or senior Supervisor on the scene shall:
  - a. When practical, after the involved Officer has been assigned an escort and/or has been transported to a secure location, either take custody or assign another Supervisor the duty of taking custody of the involved firearm(s), magazines and ammunition, making sure that the firearm is not unloaded or altered in any way from its condition immediately after its alleged/actual use. Weapons must not be unloaded or altered in any way by the Supervisor. The involved Officer must be accompanied by another sworn Officer at all times while they have been relieved of their weapon and are not in a secure location.
  - b. Turn custody of the firearm(s), magazines, and ammunition over to the assigned Dauphin County CID Detective, according to proper evidence procedures.
  - c. Ensure the security of the scene is maintained, and all evidence is preserved.
  - d. Locate and secure any witnesses to the incident.
2. The Dauphin County District Attorney's Office shall investigate all use of force incidents involving the intentional discharge of a firearm(s) by an Officer(s). The assigned Dauphin County CID Detective shall:
  - a. Assume custody of the involved firearm(s) from the Patrol Supervisor.
  - b. Prepare and submit the required investigative reports.
  - c. Be responsible for determining the appropriateness of filing any criminal complaint(s).
  - d. Record the condition of the firearm, its contents and spent casings.
  - e. Forward copies of all investigative reports to the Internal Affairs unit.
3. The Internal Affairs Unit shall:
  - a. Assist the Dauphin County CID Detective in all use of force incidents involving the use of a firearm(s) by an Officer(s),
  - b. Prepare and submit an administrative investigation report regarding the

incident to the Commissioner/Chief of Police.

- c. Forward a copy of the report to the Chairman, Firearms Review Board.
4. A Firearms Review Board, composed of the Technical Services Division Commander (Chairman), Criminal Investigation Division Commander and Uniformed Patrol Division Commander, shall be formed at the direction of the Commissioner/Chief of Police to review the facts of every use of force incident involving the discharge of a firearm by a Bureau Member to determine if the action(s) of the officer(s) was in accordance with Police Bureau policy. **The Firearms Review Board will be convened within 30 days after the District Attorney and Internal Affairs investigations are complete.** The Firearms Review Board shall:
    - a. Be provided with copies of all investigative **material** related to the use of a firearm(s) by an Officer(s).
    - b. If the Board determines further information is required, schedule a hearing and summon any witness (es) necessary to complete its deliberations.
    - c. If the Board determines the action(s) of the Officer(s) was in accordance with Police Bureau policy, terminate its deliberations, and the Chairman shall notify the Commissioner/Chief of Police, in writing, of its findings.
    - d. If the Board determines the action(s) of the Officer(s) was not in accordance with Police Bureau policy, the Chairman shall notify the Commissioner/Chief of Police, in writing, of its findings, determine if there was a violation of policy or a policy failure, and conduct a disciplinary investigation or policy review as warranted.

B. Less lethal Weapons:

1. In incidents involving death, the Dauphin County District Attorney's Office shall be responsible for the investigation.
2. In incidents involving injury, the Internal Affairs Unit shall be responsible for the investigation.

C. Other Use of Force Incidents:

1. In incidents involving death, the Dauphin County District Attorney's Office shall

be responsible for the investigation.

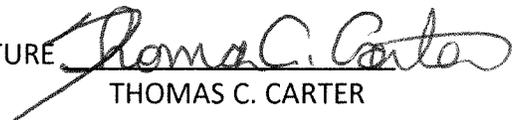
2. In incidents involving injury, the Internal Affairs Unit shall be responsible for the investigation.

XVIII. COUNSELING AND TEMPORARY REASSIGNMENT

Officers whose actions or use of force results in any death or serious physical injury, shall be temporarily removed from line duty assignment, pending the completion of an administrative review, and the conduct of a psychological evaluation by a licensed psychologist within 5 days of the incident. The psychologist shall be selected and paid for by the Police Bureau, which shall also be responsible for the expense of follow-up visits. Officers will be relieved of line duty assignments until the evaluation and/or treatment is completed, and a certification of fitness for duty is provided to the Police Bureau. The psychological evaluation is not punitive and is separate and apart from any disciplinary procedures.

Appendix A Use of Force Continuum

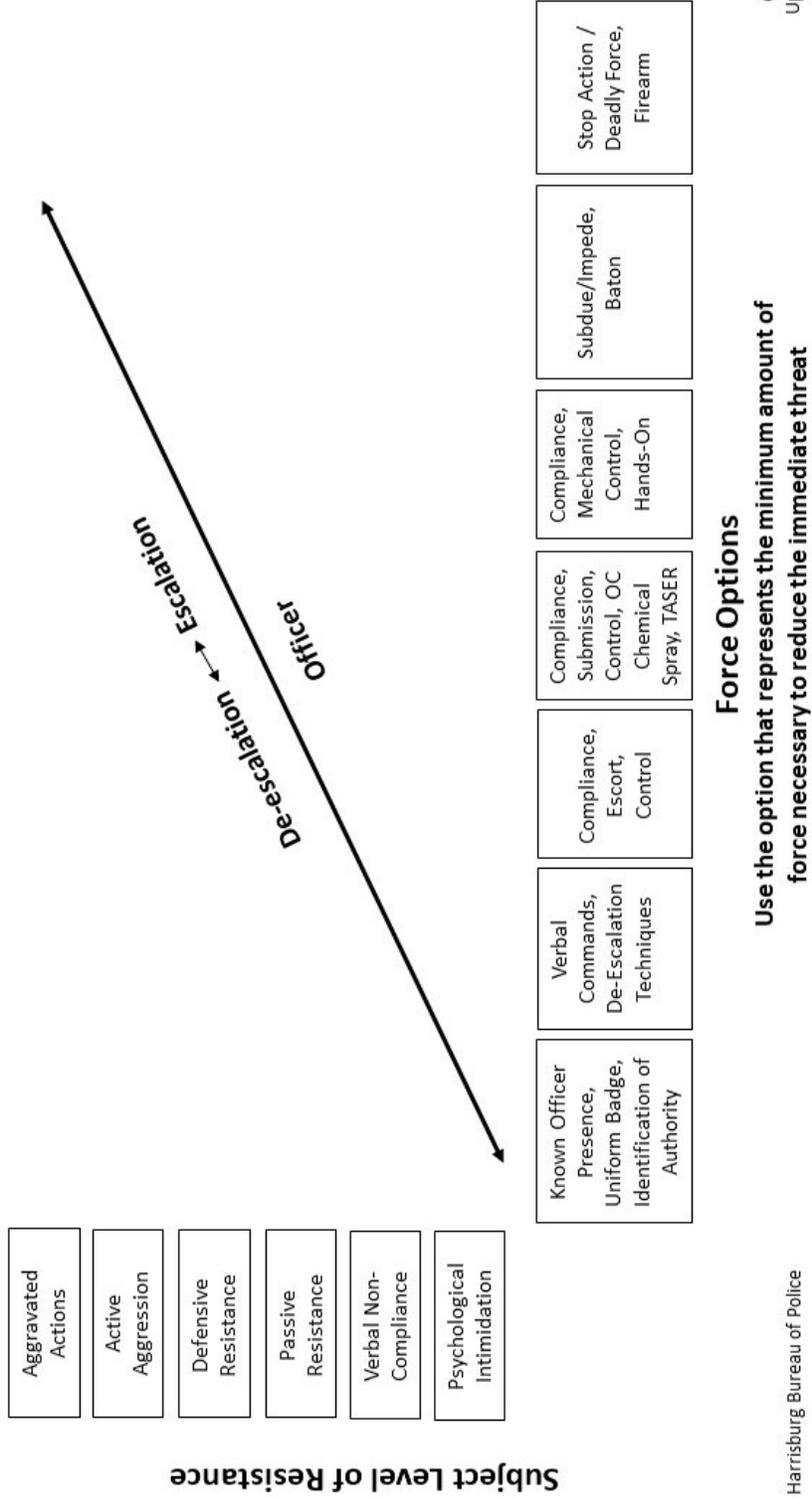
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THOMAS C. CARTER  
COMMISSIONER

Appendix A

### Use of Force Continuum Totality of Circumstances



General Order # 4  
Updated 11/3/2020

Harrisburg Bureau of Police