

 The University of Kansas Police Department 1501 Crestline Drive Suite 120 Lawrence, KS 66045-1501	Department Policy No. 401	
	Use of Force	
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Approved by: Chief Nelson L. Mosley	Distribution: All Personnel	Review Schedule: Annual

I. PURPOSE

This policy provides guidelines on use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, members of this department are expected to use these guidelines to make such decisions in a professional, impartial and reasonable manner.

II. POLICY

The use of force by a department member is a matter of critical concern, both to the public and to the law enforcement community. The University of Kansas Police Department recognizes and respects the value of all human life and dignity without prejudice to anyone.

It is the policy of this department to value and preserve human life. Officers shall use only the force that is objectively reasonable to effectively bring an incident under control, while protecting the safety of the officer and others. Officers shall use force only when no reasonably effective alternative appears to exist and shall use only the level of force that a reasonably prudent officer would use under the same or similar circumstances. ([KLEAP 6.1.1](#))

The decision to use force “requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officer or others, and whether [the suspect] is actively resisting arrest or attempting to evade arrest by flight”. In addition, “the ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight...the question is whether the officers’ actions are ‘objectively reasonable’ in the light of the facts and circumstances confronting them.” (Graham v. Connor, 490 U.S. 386 (1989).

III. STATUTORY AUTHORITY

Kansas statutes authorize a law enforcement officer to use force and make an arrest in accordance with the following:

“Use of Force; law enforcement officer making arrest. (a) A law enforcement officer, or any person whom such officer has summoned or directed to assist in making a lawful arrest, need not retreat or desist from efforts to make a lawful arrest because of

resistance or threatened resistance to the arrest. Such officer is justified in the use of any force that such officer reasonably believes to be necessary to effect the arrest and the use of any force that which such officer reasonably believes to be necessary to effect the arrest and the use of any force which the officer reasonably believes to be necessary to defend the officer's self or another from bodily harm while making the arrest. However, such officer is justified in using deadly force only when such officer reasonably believes that such force is necessary to prevent death or great bodily harm to such officer or another person, or when such officer reasonably believes that such force is necessary to prevent the arrest from being defeated by resistance or escape and such officer has probable cause to believe that the person to be arrested has committed or attempted to commit a felony involving death or great bodily harm or is attempting to escape by use of a deadly weapon, or otherwise indicates that such person will endanger human life or inflict great bodily harm unless arrested without delay.

(b) A law enforcement officer making an arrest pursuant to an invalid warrant is justified in the use of any force which such officer would be justified in using if the warrant were valid, unless such officer knows that the warrant is invalid.” (K.S.A. 21-5227)

IV. DEFINITIONS

- A. Assertive Control Techniques: Techniques used to control a subject who is physically confrontational and is actively resisting. Assertive Control Techniques include but are not limited to: Take downs, ground fighting techniques, strikes, etc.
- B. Choke Hold: A physical maneuver that restricts an individual’s ability to breathe for the purpose of incapacitation.
- C. Deadly Force: Any use of force that is likely to cause death of or great bodily harm to a person. (K.S.A. 21-5221(2))
- D. 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 the use of such techniques as command presence, advisements, warnings, verbal persuasion and tactical repositioning.
- E. Exigent Circumstances: Those circumstances that would cause a reasonably prudent officer to believe that a particular action is necessary to prevent physical harm to an individual, the destruction of relevant evidence, the escape of a suspect or some other consequence improperly frustrating legitimate law enforcement efforts.
- F. Less-Lethal Force: Any use of force other than that which is considered deadly force that involves physical effort to control, restrain or overcome the resistance of another.
- G. 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 situations.

- H. Soft Hands Techniques: Techniques used to overcome those who passively resist, but who are not physically confrontational. Examples of Soft Hand Techniques include but are not limited to: pressure point control tactics, arm bars, wrist control tactics, etc.
- I. Warning Shot: The discharge of a firearm for the purpose of compelling compliance from an individual but not intended to cause physical injury.

V. PROCEDURES

A. General Provisions

1. Use of physical force should be discontinued when resistance ceases or when the incident is under control.
2. Physical force shall not be used against individuals in restraints, except as objectively reasonable to prevent their escape or prevent imminent bodily injury to the individual, the officer or another person. In these situations, only the minimal amount of force necessary to control the situation shall be used.
3. Once the scene is safe and as soon as practical. Officers shall take reasonable steps to request and/or render medical aid, as appropriate where needed when an injury is known, suspected, or alleged. This may include providing first aid, requesting emergency medical services and/or arranging for transportation to an emergency medical facility. (KLEAP 6.1.3)
4. An officer has a duty to intervene to prevent or stop the use of excessive force by another officer when it is safe and reasonable to do so.

B. De-escalation

1. Officers shall use de-escalation techniques and other alternatives to higher levels of force consistent with their training whenever possible and appropriate before resorting to force and to reduce the need for force. (KLEAP 6.1.1)
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 to submit to verbal commands before force is used.

C. Use of Less-Lethal Force

1. When de-escalation techniques are not effective or appropriate, an officer may consider the use of less-lethal force to control a non-compliant or actively resistant individual. An officer is authorized to use department-approved, less-lethal force techniques and issued equipment to:
 - a. protect the officer or others from immediate physical harm,
 - b. restrain or subdue an individual who is actively resisting or evading arrest, or
 - c. bring an unlawful situation safely and effectively under control.
2. The following less-lethal, department issued weapons are authorized for use under these guidelines and the guidelines in other Policies by officers who have successfully completed training in their use: (KLEAP 6.3.1)
 - a. Electronic Control Weapon,
 - b. Expandable baton, and
 - c. Oleoresin Capsicum spray.

D. Use of Deadly Force (KLEAP 6.1.2)

1. An officer is authorized to use deadly force when it is objectively reasonable under the totality of the circumstances. Use of deadly force is justified when one or both of the following apply:
 - a. to protect the officer or others from what is reasonably believed to be an immediate and significant threat of death or serious bodily injury and
 - b. to prevent the escape of a fleeing subject when the officer has probable cause to believe that the person has committed, or intends to commit, a felony involving serious bodily injury or death and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to the officer or another if the subject is not immediately apprehended. (KLEAP 6.1.2.b)
2. A verbal warning to submit to the authority of the officer should be given prior to the use of deadly force, if feasible and if to do so would not increase the danger to the officer or others. (KLEAP 6.1.2.e)
3. Deadly Force Restrictions
 - a. Deadly force will not be used against persons whose actions are a threat only to themselves or property unless the individual poses an imminent danger of death or serious physical injury to the officer or others in close proximity. (KLEAP 6.1.2.g)
 - b. Warning shots are prohibited (KLEAP 6.1.2.f)
 - c. Firearms shall not be discharged at a moving vehicle unless (KLEAP 6.1.2.d)
 - (i) A person in the vehicle is threatening the officer or another person with deadly force by means other than the vehicle; or
 - (ii) The vehicle is operated in a manner deliberately intended to strike an officer or another person and all other reasonable means of defense have been exhausted (or are not present or practical), which includes moving out of the path of the vehicle.
 - d. Firearms shall not be discharged from a moving vehicle except in exigent circumstances. In these situations, an officer must have an articulable reason for this use of deadly force. (KLEAP 6.1.2.c)
 - e. The use of Chokeholds and any other technique restricting the intake of oxygen or blood flow to the brain are prohibited unless deadly force is authorized. (KLEAP 6.1.2.a)

VI. USE OF FORCE REPORTS

A. Reporting and Documentation

1. Whether directly involved with the use of force, or just witnessing it, all police officers shall document:
 - a. Use of Force that causes any visible or apparent physical injury, or which results in the subject saying he/she was injured (Note: this does not include minor scrapes, contusions, handcuff indentions, etc.); (KLEAP 6.2.1.b)
 - b. Any discharge of a firearm (excluding qualification, training, euthanization of an injured animal, or recreational purposes); (KLEAP 6.2.1.a)
 - c. Use of any object, including baton, flashlight, hand, fist, or foot to strike a blow to a subject; (KLEAP 6.2.1.c)
 - d. Uses force that in any way causes a subject to suffer a blow to the head;

- e. Bodily removes or drags a struggling subject from one place to another, utilizing an *Assertive Control Technique* beyond the *Soft Hands* technique used to overcome those who passively resist, but who are not physically confrontational; (KLEAP 6.2.1.d)
 - f. Uses OC Spray or an ECW on a subject; (KLEAP 6.2.1.c)
 - g. The *Use of Force* on a subject resulting in the subject losing consciousness.
 - 2. Each Officer using *Use of Force* on a subject, whether intentional or accidental, shall notify the Shift Supervisor at once. If no Supervisor is on shift, the most senior officer will notify the Division Captain where the employee is assigned. If a subject and/or Officer is injured, the Supervisor shall have photos taken of the injuries. In a timely manner and AT LEAST prior to the end of shift, the officer will complete a Use of Force report. The shift supervisor will review and forward the Use of Force Report to the ISS Captain who will notify remaining command staff members. A signed copy of the Use of Force Report will be placed in the Chief of Police's mailbox.
 - 3. If the Shift Supervisor is unavailable, the Use of Force Report shall be submitted to the ISS Captain who will notify remaining command staff members.
 - 4. Off-duty Officers involved in *Use of Force* situations are subject to the same reporting procedures as on-duty Officers.
 - 5. Any employee witnessing a *Use of Force* incident which requires a *Use of Force Report* shall immediately notify his/her supervisor and complete an Officer's Report detailing what they observed.
 - 6. Notwithstanding the provisions of this Section, **an Officer is not initially required to complete a *Use of Force Report* when the Officer discharges a firearm or has inflicted *great bodily harm or death* of a subject, and the Police Department or another designated *investigative body* has assumed responsibility for the investigation.** Nor shall the Officer's immediate supervisor or Captain conduct the Use of Force investigation unless requested by the Chief of Police. The Officer may be asked to complete a *Use of Force Report* at a later date.
- B. Notification
- 1. **The Chief of Police shall be notified as soon as possible whenever injuries have been inflicted by a University of Kansas Police Officer, sufficient to cause the injured party to need medical treatment.**
 - 2. The immediate Supervisor of the Officer involved shall notify his/her Captain as soon as possible, and the Captain shall notify the Command Staff. If a Captain is unavailable, the immediate Supervisor shall notify the Deputy Chief.
 - 3. If a review of the Use of Force Report reveals that there is a question of whether there is a violation of Department Policy and Procedure and/or the Law, the Chief shall be notified. The Chief of Police shall direct that a full Internal Affairs investigation be conducted. The Chief will determine if the involved officer or officers should be suspended with pay pending completion of the investigation. Such suspensions shall not be considered a disciplinary action. Nor shall it be presumed that the officer(s) are guilty of a violation of Policy and Procedure or the Law.
- C. Use of Force Reassignment

1. Any employee, whose action or use of force in an official capacity results in serious injury or death of another, shall be reassigned and/or placed on administrative leave pending an administrative review. (KLEAP 6.2.4)
- D. Review (KLEAP 6.2.2)
 1. A Use of Force Review Board will review each use of force incident.
 2. The Use of Force Review Board has a maximum of 14 days to conduct the review.
 3. The review board will consist of the Chief of Police, Deputy Chief, Captains, the reviewing Investigator(s) and a Defensive Tactics instructor or any instructor that may need to be involved in the review process based on the details of the incident.
 4. The assigned Investigator for the review board will document the board's final analysis of the incident in a summary.
 5. The Chief of Police or his designee shall take appropriate action based on the outcome of the review as befits the situation and required by law.
- E. Annual Analysis of Use of Force Reporting (KLEAP 6.2.3)
 1. The University of Kansas will conduct an annual analysis of its use of force reports which will minimally include:
 - a. Date, day of the week, and time incident occurred;
 - b. Types of incidents resulting in the use of force;
 - c. Trends or patterns related to race, age, gender, reason for contact, and location of subjects involved;
 - d. Trends or patterns of injuries to any subjects or employees involved; and
 - e. Any influence of findings on policies, procedures, training and equipment.

VII. TRAINING

- A. Before being authorized to carry any lethal or less-lethal weapons, officers will be instructed on the contents of the Use of Force Policy. (KLEAP 6.3.1)
 1. Officers shall be instructed in the use of department less-lethal weapons and shall demonstrate proficiency prior to carrying them on duty. (KLEAP 6.3.3.a)
 2. Training in the use of the electronic control weapon shall be conducted annually and at least biennially for the use of Oleoresin Capsicum spray, the expandable baton and weaponless control tactics. (KLEAP 6.3.3.c)
 3. No department less-lethal weapons shall be carried while off duty other than to transport the items to and from approved training or while traveling directly to and from work.
 4. The department training coordinator must maintain documentation of the training, and knowledge of test results.
 5. A certified less-lethal weapons instructor shall inspect and approve the less-lethal weapons and oversee the proficiency training/testing. (KLEAP 6.3.3)
- B. All police officers shall receive annual training on this use of force policy and related legal updates. In addition, training shall be provided on a regular and periodic basis and designed to:
 1. Provide techniques for the use of and reinforce the importance of de-escalation;
 2. Simulate actual shooting situations and conditions; and

3. Enhance officers' discretion, decision making and judgment in using less-lethal and deadly force in accordance with this policy.
- C. All use of force training and proficiencies shall be documented via a Training Report and shall be stored in the officer's training files.

VIII. Non-Sworn Personnel

- A. Security officers are assigned Oleoresin Capsicum (OC) spray for duty. Prior to being able to carry OC spray, security officers must go through a practical exercise with inert OC Spray and receive training on the Use of Force Policy. Training will be documented on a Training Report and stored in the officer's training file. ([KLEAP 6.3.1](#))