

1.3.4 Less Than Lethal

I. POLICY

It is the policy of the Johnstown Police Department that all personnel comply with the provisions of this general order. All personnel shall be trained yearly on this general order

II. PURPOSE

The purpose of this general order is to provide guidelines to personnel in regard to the use of force and weapon safety. This general order outlines Chapter 5 of the Pennsylvania Crimes Code, weapon proficiency and qualification of personnel, medical aid after the use of force and reporting procedures for the use of force.

III. DEFINITIONS

1. Reasonable belief – the fact or circumstances the officer knows, or should know, that are such as to cause an ordinary and prudent person to act or think in a similar way under similar circumstances.
2. Serious bodily injury – bodily injury which 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.
3. Forcible felony – the crimes of murder, voluntary manslaughter, rape, robbery, kidnapping, involuntary deviate sexual intercourse, arson, endangering persons and aggravated assault causing serious bodily injury.
4. Deadly force – force which, under the circumstances in which it is used, is readily capable of causing death or serious bodily injury.

IV. PROCEDURES

Persons, regardless of their involvement in a situation, shall be treated with humanity, courtesy and the dignity due any human being to the extent that such treatment is allowed by the subject's actions. Johnstown Police Officers and civilian employees shall maintain a professional bearing at all times. They shall not be argumentative or engage in acts that might incite a subject to become physically aggressive. Personnel shall never use a greater degree of force than that which is lawful, reasonable and necessary for the specific situation. Such reasonable and necessary force may be used to effect an arrest, to overcome unlawful resistance, to prevent an escape from custody to

1.3.4 continued

neutralize an unlawful resistance, or to neutralize an unlawfully assault upon an officer or another person. The use of physical force will end immediately when resistance ceases or when the arrest has been accomplished. Emphasis shall always be on obtaining control over the situation rather than forcing submission. Personnel shall not mentally or physically abuse any person that they contact or take into custody or control.

Justification for the use of force is limited to what reasonably appears to be the facts known or perceived by the officer at the time he/she decides to use such force. Facts unknown to the officer no matter how compelling cannot be considered in determining whether the action was justified.

Officers using force must be able to articulate the need and justification for the use of force and the reasons[s] why the level of force utilized was selected.

Full disclosure of the circumstances requiring the use of force, and the type and the extent of force, shall be thoroughly documented in the departmentally required "Suspect Resistance Report," and in an incident report.

A. Oleoresin Capsicum [O.C.]

All officers of the Johnstown Police Department will be trained in the use of Oleoresin Capsicum before being issued the agent. Officers assigned to the Detective Bureau will carry on their person, the OC spray while working the 1600-2400 hour shift and it is recommended that they carry the OC during the 0800-1600 hour shift.

1. Officers will carry department approved and issued OC agents. Department members are responsible for the OC equipment issued to them and are not permitted to loan or give this equipment to any person[s] outside the department or to untrained personnel within the department.
2. Expired, malfunctions or empty OC agent containers shall be turned in immediately to the officer's supervisor for disposal. Officers shall not dispose of their equipment except in this manner. Replacement equipment will be issued upon receipt of the old equipment.

1.3.4 continued

3. Authorized uses of the Oleoresin Capsicum
 - a. OC may be used on individuals to effect an arrest in accordance with the established use of force continuum.
 - b. OC may be used on a crowd in order to disperse unlawful groups or others gathering, who are unruly, or persons gathering without authority or permission after being ordered to cease, desist and/or depart the area.
 - c. Prior to introducing oleoresin capsicum into a disorderly group/crowd situation, the officer[s] shall withdraw to a point of safety from where sufficient information can be obtained to properly evaluate the effectiveness of chemical agents in dispersing the crowd.
 - d. The shift supervisor shall be requested to respond to all such situations where oleoresin capsicum may be utilized to control group/crowd behavior, prior to its introduction.
 - e. The shift supervisor, or other commanding officer on the scene responsible for police operations, shall authorize the utilization of oleoresin capsicum only after a through review of the potential effectiveness of chemical agents in neutralizing or resolving the disorderly behavior of the crowd.
 - i. When it is not reasonable to withdraw as previously indicated, or the safety of the police officer or civilians is jeopardized and subjected to actual or potential bodily injury, the immediate introduction of oleoresin capsicum is authorized.
 - f. OC may be used to protect officers or others from animals that present a threat of bodily injury.
 - g. OC may be used to aid in the search of buildings that may contain subjects suspected of criminal activity who have hidden themselves in locations difficult or dangerous to search by routine search procedures.
4. Tactical Deployment of Oleoresin Capsicum
 - a. When deploying oleoresin capsicum at an individual or animal, it should be directed from the canister into the facial area, i.e., eyes, nose and mouth of the subject intended to be neutralized.
 - b. When the OC is deployed in an outside environment, officers should be cognizant of the wind direction and avoid spraying up-wind, when the potential exists for residual contamination of police officers involved in the neutralization action.

1.3.4 continued

B. Expandable Baton; “Asp”

The department authorizes the carrying and use of the ASP when the officers are trained and certified in its use. The Asp Baton is standard issue for all uniformed personnel and shall be carried when on duty and in uniform. Any other striking baton will be departmentally approved before the certified uniformed officer can carry it.

1. The baton shall be used in a manner consistent with the use of force continuum, as instituted by this department.
2. The baton provides the officers with an edge when fending off and subduing an unarmed assailant.
 - a. Officers should not rely on the baton to overcome an armed attack; it is not intended for such use.
3. The baton shall be used only when necessary. It shall not be used to strike a vital area unless the officer has justification to use deadly force. Vital Areas are:
 - a. The head, solar plexus, groin, kidney, neck, spine or tailbone as provided in training.

C. 12 Gauge Bean Bag Round – Drag Stabilized “Tear Drop”

The department authorizes trained officers to use the impact munitions projectiles to quell physical confrontations, where higher levels of force are not yet necessary and lower levels of force would be inappropriate or have been ineffective. The beanbag rounds are designed to deliver non-penetrating contact energy from a safer distance than a police baton.

1. The beanbag round shall be used in the manner consistent with the use of force continuum, as instituted by this department.
2. The beanbag round shall be used when appropriate in an attempt to de-escalate a potentially deadly situation with a reduced potential for death or serious injury to all persons involved.
 - a. The beanbag round should be delivered to areas that include the arms from elbow to hand, hands, lower abdomen, buttocks, legs or feet.

1.3.4 continued

3. Officers are authorized to consider target areas in the yellow and red areas of the Monadnock PR-24 training chart if the use of deadly force is justified or efforts to subdue a subject using the areas listed above are ineffective or inappropriate based on the circumstances.
4. Intentional beanbag shots to the “red area” on the Monadnock PR-24 training chart should be avoided unless deadly force is justified.
5. Any officer who is to deploy the 12-gauge beanbag less lethal rounds should, where appropriate ensure that he/she has deadly force cover prior to the beanbags being deployed.
6. The 12-gauge beanbag shotgun shall be clearly marked and easily recognized to avoid a potentially deadly mistake.

D. K-9

When the K-9 is deployed as a locating tool, using his extraordinary olfactory skills, use of force at the time the suspect is located may, or may not, be necessary or mandated. The dog is the only law enforcement tool that can be recalled after deployment. The dog is the only law enforcement tool which, if taken away from the handler by the suspect, it cannot be used against that officer.

1. The K-9 shall be used in the manner consistent with the use of force continuum, as instituted by this department.
2. Personnel of the Johnstown Police Department who are certified handlers assigned to the K-9 unit shall be authorized to deploy their certified canine to apprehend fleeing or hiding criminals in compliance to the K-9 general order.

E. Advanced Taser

The advanced taser is an additional law enforcement tool and is not intended to replace firearms, other intermediate weapons or empty hand techniques. The advanced taser is a conducted energy device and may be used to control dangerous or violent subjects when higher levels of force are not yet necessary and lower levels of force would be inappropriate or have been ineffective; or there is reasonable

1.3.4 continued

expectation that it will be unsafe for officers to approach with in contact range of the subject. The Taser shall be used in the manner consistent with the use of force continuum, as instituted by this department.

1. Definitions

- a. Advanced Taser: Less lethal conductive energy device that uses propelled wires to conduct energy to a remote target, controlling and effecting the central nervous system of the body.
 - b. Activation: Any time the trigger on the Advanced Taser is depressed, including applications, demonstrations and deployment.
 - c. Application: The Advanced Taser current has been discharged as a standard stun device from the Advanced Taser with or without the cartridge and applied to a subject.
 - d. Deployed: The probes of the Advanced Taser are discharged from the cartridge.
 - e. EMD [Electro-muscular disruption]- System over-rides the central nervous system and takes direct control over skeletal muscles. System effects the motor nervous system causing direct physical incapacitation.
 - f. Advanced Taser Officer: An officer who has completed the Advanced Taser certification program.
 - g. Advanced Taser Control Officer: The officer assigned to maintain, regulate the advanced Taser and equipment.
2. The Advanced Taser shall only be deployed and used by members of the department currently possessing certification or recertification for the use of the Advanced Taser.
- a. Certification shall conform to the manufactures specifications and conducted by a certified instructor in the use of the Advanced Taser.
 - b. Re-certification shall be conducted annually in the use of deployment of the Advanced Taser.
 - c. Every officer shall provide a copy of their certificate/re-certification or letter of successful completion to the chief of police or his designee.
3. Shift Supervisors responsibilities

1.3.4 continued

- a. Ensuring the deploying officer is certified in the use of the Advanced Taser.
 - b. Shall ensure that an incident involving any activation or application of an advanced Taser in a use of force incident is reviewed and the incident is properly documented.
 - c. The Advanced Taser control officer is notified and a copy of the incident report, suspect resistance report and Advanced Taser report is forwarded to the Captain of Police and Advanced Taser control officer by the next workday.
4. Advanced Taser Control Officers Responsibilities
- a. Receive, inspect and ensure the maintenance and replacement of advanced Taser devices assigned to patrol.
 - b. Return defective or damaged advanced Taser and cartridges to the supplier.
 - c. Obtain service and/or replacement for defective or damaged Advanced Taser components.
 - d. Monitor the use of Advanced Taser and related tactics.
 - e. Review and maintain records of all Advanced Taser usage incidents.
 - f. Forward a copy of advanced Taser use reports to Air Taser International.
 - g. Be responsible for periodic inspections of Advanced Taser and Advanced Taser logs.
 - h. Act as a liaison between Advanced Taser International and the Johnstown Police Department.
 - i. Be responsible for training updates.
 - j. The Advanced Taser control officer or supervisor has the authority to temporarily remove the Advanced Taser from the Advanced Taser officer if the Advanced Taser is abused or misused in a manner not prescribed by training and policy. The Chief of Police or his designee shall make a review of the incident and permanent decision on the temporary or permanent removal of the Advanced Taser from the Advanced Taser officer.
 - k. The officer shall be certified in the Advanced Taser.
5. Advanced Taser Officers
- a. Be responsible for the safety and security of the Advanced Taser. At no time shall an Advanced Taser be unnecessarily

1.3.4 continued

- exhibited or brandished as an intimidation device unless the officer is trying to prevent further escalation of violence.
 - b. Be responsible for checking the working order, battery indicator, and notification of any malfunctions or defects to an Advanced Taser control officer.
 - c. Respond to Advanced Taser request as expeditiously and safely as possible.
 - d. Upon entering a situation, which may require the Advanced Taser deployment, request the response of a backup unit, supervisor and EMS if time element allows.
 - e. The advanced Taser officer, prior to deployment shall give a verbal warning of “Code Zebra” if possible to alert others in the area.
 - f. Any time an Advanced Taser is deployed, applied or demonstrated in a force incident or accidental discharge, the Advanced Taser officer shall contact a supervisor and inform the shift supervisor of the incident.
 - g. Upon taking the subject into custody and securing them, the Advanced Taser operator will note the approximate time of deployment.
 - h. Maintain a log of all Advanced Taser activation’s, including the serial number and officer’s name, badge number, and initials.
 - i. Be responsible for completion of the Advanced Taser Use Report and Suspect Resistance Report.
 - j. Be responsible for maintaining current certification.
 - k. Ensure the probes are removed and/or medical treatment is received for the suspect.
6. Officers not deployed with Advanced Tasers
- a. Upon encountering a situation in which it is determined that an Advanced Taser may be required, broadcast an Advanced Taser request to their location.
 - b. Officers not deployed with Advanced Tasers will provide backup to the Advanced Taser officer upon their arrival.
 - c. If the field situation changes and the Advanced Taser officer is no longer needed, a cancellation of the Advanced Taser request shall be broadcast.
7. Advanced Taser Deployment Justification

1.3.4 continued

- a. Less lethal weapons, including the Advanced Taser, may be considered whenever the use would facilitate the arrest of combative, non-compliant or violent subjects.
 - b. Circumstances that may justify the use of Advanced Taser shall include, but not be limited to the following:
 - 1) Barricaded suspects and/or hostage, situations.
 - 2) High risk warrant service
 - 3) Circumstances wherein a violent, mentally deranged person or one under the influence of alcohol/controlled substance is resisting arrest.
 - 4) Situations wherein the authorizing person deems the use is necessary to safely resolve the incident.
 - 5) Officers using force have the burden of articulating that justification for the use of force was present and suspect's resistance to lawful authority must exist prior to the Advance Taser deployment.
 - c. The Advanced Taser should not be used in the following circumstances.
 - 1) Where flammable substances have contaminated clothing.
 - 2) Be used in Meth Labs or other flammable/combustible environments.
 - 3) The Advanced Taser should not be used on females who are known to be pregnant.
8. Injuries
- a. The following procedures will be adhered to regarding injured persons subjected to the Advanced Taser: Officers must be aware that one overlooked aspect of secondary injury is falling from a standing position.
 - 1) EMS will be notified of injuries and will determine the need for transport to an approved medical facility for medical examination and treatment.
 - 2) If the suspect is transported to the medical facility, a medical clearance will be obtained.
9. Probe Removal Procedures
- a. If the probes penetrate the skin, the removal of the probes will be at the discretion of the Advanced Taser Officer and removed according to the Advanced Taser certification training. The officer or EMS/Medical personnel will remove probes.

1.3.4 continued

- b. Only emergency room staff may remove the probes if the probes penetrate soft body tissue such as the breast of a female subject or the face, neck or groin of any subject. The subject will be transported to a medical facility.
 - c. Probes that have penetrated the body will be treated as contaminated needles.
 - d. Probes shall be carefully inserted back into the cartridge wire pockets, needle first and secured with evidence tape.
 - e. The contaminated probes and cartridge will be placed in an evidence bag, sealed and affixed with a "Biohazard" label.
 - f. The cartridge will be submitted as evidence according to the evidence general order.
 - g. Photographs when circumstances permit will be taken of the subject and submitted as evidence.
10. Reporting Procedure
- a. Advanced Taser Officers will complete a supplemental to the original offense report detailing the deployment time, circumstances and medical treatment. If the officer is the primary officer, the incident will be documented on the original report.
 - b. The officer will complete a Suspect Resistance Report prior to the end of their shift.
 - c. The officer will log the deployment or activation in their Advanced Taser Use Report.
11. Department Issue Advanced Taser
- a. All certified Advanced Taser Officers shall carry the department issued M26 Advanced Taser when available while on duty.
 - i. When departmentally approved the Advanced Taser Officer may carry the X26 Advanced Taser.

1.3.4 continued

Effective:

Date: June 14, 2006

By Order Of:

Craig Foust
Chief Of Police