

Derby Police Department Policy Manual	Approved by: Chief Robert Lee	Page 1 of 15
Regulation 4 Use of Force	CALEA Reference: 4.1.1, 4.1.2, 4.1.3, 4.1.4, 4.1.5, 4.2.1, 4.2.2, 4.2.4	Maintained by Chief of Police
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## **PURPOSE**

4.000 The purpose of this regulation is to provide members with guidelines and expectations when the use of force is required in an enforcement action.

## **DEFINITIONS** (4.1.2)

4.001 Deadly Force: The application of any physical force which is likely to cause death or great bodily harm to a person. Any threat to cause death or great bodily harm, including, but not limited to, by the display or production of a weapon, shall not constitute use of deadly force, so long as the member's purpose is limited to creating an apprehension that the member will, if necessary, use deadly force in defense of such member or another or to affect a lawful arrest.

Less Lethal Force Philosophy: A concept of planning and force application designed to meet an operational objective, while significantly reducing the potential for death or serious bodily injury when compared to lethal force tactics and means.

Impact Munitions Weapon (Less Lethal Shotgun): Any device that is capable of launching or shooting impact munitions that is designed to impact others.

Impact Munitions: Any munition, once fired or thrown by any means designed to have its kinetic energy transferred from the munition itself to someone or something else. These munitions are designed to cause pain compliance without causing penetration.

Lethal Cover Officer: An Officer who provides lethal cover for the Officer with the impact munitions weapon. These Officers (lethal and less lethal) need to work in tandem to ensure they use only the amount of force needed to overcome resistance for the accomplishment of legitimate law enforcement objectives.

Reasonable Belief: that which an ordinary officer with similar training and experience would believe given the same facts known at the time.

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Serious Physical Injury/Great Bodily Harm: Bodily injury that creates a substantial risk of death, causes serious, permanent disfigurement; or results in a long-term loss or impairment of the function of any bodily member or organ.

Use of Force: Any or all of the following, when directed at or upon another person or thing:

- A. Words or actions that reasonably convey the threat of force, including threats to cause death or great bodily harm to a person;
- B. The presentation or display of the means of force; or
- C. The application of physical force, including by a weapon or through the actions of another.

**REGULATION 4.1 – USE OF FORCE, USE OF DEADLY FORCE**

4.100 It is the policy of this Department that its members shall use only that force reasonably believed to be necessary, based on the totality of the circumstances, to effectively accomplish a law enforcement objective or to protect the life of the member or another. (4.1.1)

The use of force, including deadly force, is authorized under Kansas law in a variety of situations. In general, Kansas law authorizes use of that force reasonably necessary to protect or defend persons or property. Law enforcement officers are specifically authorized to use force in other situations, such as to effect an arrest, but the principle is the same: only such force – including deadly force in certain circumstances – as is reasonably necessary to accomplish a lawful objective is authorized.

When confronted with a threat, resistance or noncompliance, a Department member's first action should be to determine whether his or her objective can be accomplished without use of force. In deciding whether to use force, including deadly force, a Department member must consider:

- A. The reason for use of force, such as protecting persons or to make an arrest;
- B. The magnitude and immediacy of the threat; and
- C. The level of force necessary to alleviate the threat, overcome resistance, or accomplish the objective.

For the purposes of this regulation, "Department member" or "member" means a commissioned law enforcement officer employed by the Derby Police Department.

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AUTHORITY FOR AND LIMITATIONS ON USE OF FORCE

- 4.102 A Member shall use only such force as is objectively reasonable, based on the totality of the circumstances available to the officer at the time force is used, to effectively bring an incident under control, make a lawful arrest or accomplish a law enforcement objective while protecting the life of the member or the life of another person. Except as a last resort, Department members will use only the tactics taught by the Department. (4.1.1)
- C A. Use of unnecessary force is prohibited.
- E B. Use of excessive force is strictly prohibited
- 4.103 None The Department provides members with equipment and weapons appropriate for law enforcement activities and trains them in the use of such equipment and weapons as well as in techniques used to gain control of persons or situations. Such training and equipment does not, however, preclude use of any other equipment, weapons or techniques available to the member when he or she reasonably believes their use to be necessary to protect the member or others or to accomplish any lawful objective. Nothing in this regulation shall be construed to limit the right of a member to use any lawful force by any available means.
- 4.104 D Physical force shall not be used on any person who is restrained and compliant.

DRAWING OR DISPLAYING A FIREARM

- 4.105 D Firearms may be drawn or displayed only:
- A. When a member, in the exercise of sound judgment, has reason to fear for his or her personal safety or for the safety of others;
- B. For inspection purposes; or
- C. During department approved training.

USE OF DEADLY FORCE BY DISCHARGE OF FIREARM

- 4.106 D Use of deadly force by means of discharging a firearm is authorized:
- A. When the officer reasonably believes such force is necessary to prevent death or great bodily harm to such officer or another person, or when such officer reasonable believes that such force is necessary to prevent an 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

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felony involving death or great bodily harm or is attempt 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 (ref K.S.A 21-5227).

A verbal command for the suspect to submit to arrest shall be given prior to the use of deadly force unless such a warning would increase the danger to the member or others, or would otherwise be impractical;

- B. When the officer reasonably believes that such use of force is necessary to defend the officer or a third person against an aggressor's imminent use of unlawful force (ref K.S.A. 21-5222); (4.1.2)
- C. To kill an animal to prevent injury to the officer or another person. When possible, the fatal wound should be inflicted in such a manner as to not damage the animal's head; or
- D. To humanely kill a large or dangerous animal that is severely injured.

4.107 D A member is not authorized to discharge a firearm:

- A. When use of force, other than deadly force, would safely accomplish the objective;
- B. Solely to effect apprehending a person suspected only of committing a misdemeanor (ref K.S.A. 21-5227); or
- C. As a warning shot; (4.1.3)

4.108 None While not prohibited, caution should always be used when discharging a firearm from or at a moving vehicle.

USE OF FORCE OTHER THAN DEADLY FORCE (4.1.4)

4.109 D When deadly force is not authorized, members should assess the situation to determine what other use of force technique or equipment is appropriate to bring the incident under control in a safe manner.

4.110 D Members may draw and display aerosol weapons, batons and Tasers when:

- A. The member reasonably fears for his or her personal safety or for the safety of others;

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- B. Using a Taser in an arcing technique, to de-escalate a potentially violent situation, and only when safe and reasonable;
- C. For inspection purposes; or
- D. During departmentally approved training.

AEROSOL WEAPONS

- 4.112 C Members are authorized to use an aerosol weapon as an escalation of force when verbal control techniques have been ineffective in de-escalating a potentially violent incident and the member reasonably believes that such force is necessary:
- A. In defense of his/her own safety or the safety of another person, or
  - B. To restrain a person who physically resists arrest. (4.1.4)

BATONS

- 4.116 C A member is authorized to use a baton when he or she: (4.1.4)
- A. Perceives an imminent threat; or
  - B. Reasonably believes that the person posing the threat has the ability and opportunity to cause bodily injury to the member or another.
- 4.117 C Consistent with departmental training, members using a baton should direct defensive blows towards strategic areas of the body.
- Use of a baton to affect a choke-hold is prohibited as a containment or takedown procedure but is authorized as a defensive measure when necessary to prevent death or great bodily harm to the member or another person.
- Except as a last resort striking the head and neck area of an individual with the baton is prohibited but is authorized as a defensive measure when necessary to prevent death or great bodily harm to the member or another person.

ELECTRONIC CONTROL DEVICES (TASERS)

- 4.120 None When practical, a verbal warning should be given before the Taser is deployed.
- 4.123 C Use of a Taser is authorized when a member reasonably believes it to be necessary: (4.1.4)

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- A. In defense of his or her own safety or to prevent individuals from harming themselves or others;
- B. To control or restrain a person who physically resists arrest;
- C. As an escalation of force after verbal control techniques have been ineffective and the officer reasonably believes that the subject may use physical force to resist the arrest or detention;
- D. To control or incapacitate an animal, when necessary for the safety of the member or the public.

4.124 C A member is not authorized to use a Taser:

- A. When a subject is running, unless the member has reasonable suspicion to stop or probable cause to arrest the subject, and use of force is otherwise authorized pursuant to this regulation;
- B. Against a subject who is in physical control of any vehicle or equipment that is in motion or engaged for motion;
- C. To punish a subject or act in a malicious manner;
- D. When the subject is handcuffed and/or shackled; or
- E. Solely because a subject flees from a member.

4.125 NONE-A Because of the risk of secondary injury, caution should always be used when deploying the Taser when:

- A. The subject is known to be pregnant;
- B. The subject is known to have a heart problem or other debilitating illness;
- C. Near flammable materials or liquids;
- D. The subject is on an elevated position (on rooftops, stairwells, etc.), in water, or other in a position where a fall may cause drowning, substantial injury or death;
- E. The subject is a young child or an elderly person;

4.127 B Evidence Procedures

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- A. Taser probes that have blood and or body fluid on them should be treated as if they are contaminated with an infectious disease, as set out in evidence submission guidelines.
- B. All injuries associated with a Taser deployment will be photographed and placed into evidence.
- C. The evidentiary value of Taser cartridges, wires and probes, will be determined based on the facts of each case, including but not limited to the nature of the crime(s) and the severity of injuries.

4.129 NONE The Taser system has a data port function that provides complete and accurate documentation of each firing. The designated Taser instructor shall audit and track deployment patterns of each Taser unit assigned on a monthly basis. The results of these audits will be forwarded to and stored by the Deputy Chief of Police.

IMPACT MUNITIONS WEAPON (LESS LETHAL SHOTGUN)

4.129 None Members who use impact munitions weapons shall be cognizant of the fact that impact munitions are known to have caused serious physical injury and even death, and that any application of this force option shall be made with consideration for this potential.

- A. When circumstances exist that meet the guidelines for deployment of impact munitions, Officers shall request via Dispatch; an impact munitions equipped Officer to respond to the scene.
  - 1. A Member who is equipped will respond to the scene, if possible.
  - 2. The weapon may be retrieved from the station by a properly trained Officer if not available in the field.
- B. When possible, a Supervisor will be on scene to assist in the overall scene management.
- C. Derby Police Department Members are authorized to use impact munitions on a person when: (4.1.4)
  - 1. The Officer has successfully completed the Departmentally approved course and is authorized to use impact munitions weapons and munitions;

**AND**

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2. He or she reasonably believes that such force is necessary for the following situations;
  - a. To defend their self or another; *or*
  - b. To prevent an arrest from being defeated by violent resistance; *or*
  - c. To prevent an attempt to evade arrest by flight by a person whom the officer has probable cause to believe has committed an aggravated person felony; *or*
  - d. Where a person is threatening to harm themselves, an Officer or other(s) with a sharp-edged instrument, blunt object, instrument or substance with potential to cause serious harm;

**AND**

3. Verbal commands have failed to achieve compliance;

**AND**

4. Hand techniques and other use of force options such as the ASP baton, Taser or aerosol weapons are not prudent or have not been effective;

**AND**

5. The person is within the safe range of the respective impact munitions weapon's accuracy and effectiveness.

- D. Derby Police Department Members are authorized to use impact munitions on animals, when necessary for the safety of the Member or public.
- E. Members shall not subject themselves or others to undue risk while waiting for the arrival of personnel equipped with impact munitions. The situation must be continually assessed, and other appropriate action must be taken if the risk to self or others demands immediate attention.
- F. To protect others from the harm of a misdirected impact munitions round, Members shall use the equivalent standard precautions as used with all firearms.
- G. When practical, a second Officer shall be present to provide lethal cover for the Officer deploying impact munitions.

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- H. Members may fire impact munition rounds as necessary. However, after each impact munition round deployment, an assessment will be made. In the event the impact munition rounds prove to be ineffective, Members shall exercise other options.
- I. When possible, Members deploying impact munitions should aim for the abdomen, buttocks, thigh or calf.
1. While shoulders and arms are a viable target zone, careful consideration should be given before aiming for the shoulders or arms. Due to the mobility of the shoulders and arms there is greater potential to miss and unintentionally strike another zone.
  2. Due to the potential for impact munitions to cause serious injury or death, the Member should take reasonable efforts to avoid the following unless lethal force is necessary:
    - a. Shooting the weapon within 20 feet of the target
    - b. Hitting the body's upper center mass, head, neck, spine and groin
- J. The optimal range for the effective deployment of the 12-gauge beanbag round is 20 to 50 feet.
1. At less than 20 feet, the risk of serious injury or death is greatly increased.
  2. At over 50 feet, the effectiveness and accuracy of the 12-gauge beanbag round is diminished to the point that this option may not achieve its purpose.
- K. While not prohibited, Members shall exercise reasonable caution when deploying impact munitions on the following:
1. Persons who are obviously pregnant;
  2. Persons who have a physical condition that the Officer reasonably perceives would prevent a person from physically withstanding an impact munition deployment.
  3. Persons who are on an elevated position (on rooftops, stairwells, etc.), in water or other circumstance where a fall may cause drowning, substantial injury or death;
  4. Juveniles and elderly persons;

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5. Persons who are handcuffed and/or shackled, unless they are displaying an active aggression which presents an imminent risk of serious physical harm to themselves or others.

In these instances, Members may consider aiming at thighs and extremities, if practical in their judgement, and to the extent that it does not compromise the safety of the Officer or innocent bystanders.

4.111 B Evidence Procedures

Any impact munition rounds that have blood and/or body-fluid on them should be treated as if they are contaminated with an infectious disease.

Any body impact areas, except for the groin area, associated with an impact munition deployment will be photographed. If the groin area is struck, the Member shall photograph the subject overall and notate the area struck in their report.

The impact munition rounds shall be collected and submitted into evidence. The packaging shall be labeled as a biohazard.

**REGULATION 4.2 RENDERING AID (4.1.5)**

- 4.200 A-C In any circumstance where an officer uses force, the officer is responsible for obtaining medical attention for the subject, if necessary, as soon as reasonably possible.

Officers with proper training may provide medical attention for minor injuries, but should ensure medical attention for more serious injuries is provided by a suitable medical care provider. When practical, Officers will take lifesaving steps, such as CPR and attempting to stop uncontrolled bleeding, until someone with more training arrives.

Medical care may be provided at the scene, or the injured party may be removed to a location where treatment is more practical.

- 4.201 B After spraying a person, proper decontamination shall be implemented as soon as reasonably practicable. Decontamination can be achieved by providing cold or cool water to flush the area affected. A member shall monitor a suspect for symptoms of a medical problem or extreme reaction. Upon detecting any such problem or reaction, the member shall summon medical assistance immediately.

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- 4.202 B After a Taser has been deployed and the subject is in custody, procedures for removal of the probes shall begin.
- A. Non-Sensitive Areas – Removal of probes in a non-sensitive area of the body may be done by members according to probe-removal training guidelines, which include the wearing of bio-protective gloves. A member should inspect the probes after removal to see that the entire probe and probe barb has been removed.
  - B. In the event a probe, or probe barb, has broken off and it is still embedded in a subject’s skin, the subject shall be provided appropriate medical attention to accomplish removal of the probe.
  - C. Sensitive Areas – If a probe is embedded in a sensitive area of the body (i.e. neck, throat, eye, face, female breasts or groin), the wire will be cut approximately six inches from the probe and the probe will left in place, to be removed by medical personnel.
- 4.202 None Following Taser deployment, a Department member should monitor the subject and summon medical assistance immediately if it appears, based on the member’s training in or previous use of a Taser, the subject is experiencing a medical problem or an extreme reaction.
- A member shall summon medical assistance or transport the subject to a medical facility when the subject:
- A. Loses consciousness, even for a brief period;
  - B. Experiences a seizure when Taser is NOT being discharged;
  - C. Suffers apparent injury, other than minor injury, from a fall or take-down;
  - D. Reports that he or she is having chest pain or trouble breathing;
  - E. Displays persistent confusion or altered mental status more than one minute after deployment of the Taser;
  - F. Requests emergency medical assistance;
  - G. Is under 18 years of age; or
  - H. Is pregnant.

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- 4.203 None Following the utilization of the impact munitions weapon, Members on the scene shall summon Emergency Medical Services to respond and transport persons struck by an impact munition round to the hospital for medical evaluation.

When booking in a prisoner that was struck by an impact munition round, Members shall ensure that the Sedgwick County Adult Detention Facility personnel are advised that the prisoner was struck with an impact munition round. The same notification shall be made when transporting or transferring the prisoner to any other entity outside the Derby Police Department.

**REGULATION 4.3 USE OF FORCE REPORTING GUIDELINES** (4.2.1 (a-d))

- 4.300 B Members shall include an explanation of all uses of force in their reports, including specifically a description of the circumstances and events leading to the member's decision to use force and a description of all injuries to a subject, member or other person. In situations where the suspect's ability and opportunity to pose the threat, and the jeopardy that was present. The Watch Commander shall be notified immediately in the event a subject, member or other person is injured during an incident. Anytime physical contact is made during a use of force incident, a photograph of the suspect and the impact area or areas shall be taken and submitted with the Use of Force report. (4.2.1(b))

The Watch Commander shall complete a Force Control Form for each person on whom force is used by any police officer during their watch. The Watch Commander shall include a narrative of the use of force and a narrative from each Member who uses or witnesses force.

A member who discharges a firearm in connection with a use of force shall complete an incident report and submit it to his or her Division Commander, who shall conduct an investigation pursuant to Policy 901.

EXCEPTION: Members who are formally interviewed by Investigations Division personnel or outside law enforcement agency personnel about his or her use of force or discharge of a firearm are not required to complete a use of force report. When formally interviewed by Investigations' personnel, the member's taped statement, or a transcript of the statement, and the investigators' notes and reports shall be sufficient documentation of the incident.

- 4.301 B All uses of force by a member, including escalation of the level of resistance by an individual and control techniques used by a member, shall be reported to the Watch Commander as soon as the incident is under control, and documented by an incident report. In addition to the Incident Report, the Watch Commander shall complete a Force Control Form. The Watch Commander shall complete a Force Control Form for the following situations:

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- A. When a police weapon, including an aerosol weapon, baton, Taser, handcuffs, handgun, shotgun, or rifle, is displayed as a means to gain compliance, each member who displays a weapon will report the incident as soon as the incident is under control to the Watch Commander.
- B. When a police weapon is used or discharged to accomplish a law enforcement objective, including but not limited to spraying an individual with an aerosol weapon, striking a person with a baton, tasing a suspect, or discharging a duty handgun, shotgun, or rifle. Each member who engages in the activity will report the incident as soon as the incident is under control to the Watch Commander. (4.2.1(a,c))
- C. When a member uses physical force such as “soft empty hand” or “hard empty hand” techniques, each member who engages in the activity will report the incident as soon as the incident is under control to the Watch Commander. (4.2.1(d))
- D. When a member handcuffs a person for “officer safety” reasons only, each member who engages in the activity will report the incident as soon as the incident is under control to the Watch Commander. Members may handcuff individuals when the member reasonably believes it is necessary to prevent injury to himself, herself or others.
- E. Whenever directed by a division commander.
- F. When a Patrol rifle is deployed on a call whether or not it is actually utilized.

4.302 None Watch Commanders are not required to fill out a Force Control Form:

- A. When a person is handcuffed incident to an arrest and no other force is used;
- B. When a member only observes use of force and is not actively engaged;
- C. When patting suspect down during a frisk situation.
- D. When displaying a police weapon other than as a means of gaining compliance, such as when serving a search warrant or conducting a building search in accordance with current departmental training.

4.303 B REQUIREMENTS FOR SUPERVISORS

Any time a member uses force, the Watch Commander shall respond to the scene of the incident and conduct an inquiry into the circumstances leading to the use of

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force. Any time a member discharges a firearm, the Watch Commander shall notify the Duty Commander.

EXCEPTION: Notification of the Duty Commander is not required if a member is using a department issued shotgun to dispatch a captured nuisance animal at the police department firearms range. The member shall notify and receive the authorization of the Watch Commander prior to any such action.

4.303 The Chief of Police, or his designee, may grant administrative leave to an Officer involved in a use of force incident.

4.303 REVIEWING USE OF FORCE REPORTS (4.2.2)

Each time a member uses force requiring a report per this regulation, the incident will be reviewed by:

- A. The member's supervisor: The supervisor will complete the appropriate paperwork and collect the necessary photos and documentation for the Use of Force Report. The report and documentation will be forwarded to the member's Commander.
- B. A Commander: The Commander in the member's chain of command will review the report and documentation and forward the report with any additional notes and comments to the Deputy Chief. The Commander will complete the Administrative Review Form. If the Commander finds any issues within the report, the Commander will follow up to clear up any questions or issues prior to forwarding the report.
- C. The Deputy Chief: The Deputy Chief will review the reports and findings from the Commander, clear up in questions if found and then forward to the Chief of Police.
- D. Chief of Police: The Chief will review each use of force report. Once the Chief has signed the Use of Force Report documenting his review, the report will be returned to the Deputy Chief for tracking and storage.

4.204 USE OF FORCE ANALYSIS (4.2.4)

The Deputy Chief will conduct an annual analysis of the department's Use of Force activities, policies and practices for trends or problems in the department's use of force. The Deputy Chief will present the findings in a written report to the Chief of Police. Collection of the data for analysis will begin on January 1, 2017 through December 31<sup>st</sup>, 2017. This will continue on an annual basis. A report on

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the results of the analysis will be turned into the Chief of Police no later than June 30<sup>th</sup>, 2018. This report will be due annually starting in 2018.

The analysis should identify:

- A. Date and time of incidents; (4.2.4(a))
- B. Types of encounters resulting in the use of force; (4.2.4(b))
- C. Trends or patterns related to race, age and gender of subjects involved; (4.2.4(c))
- D. Trends or patterns resulting in injury to any person including employees; and (4.2.4(d))
- E. Impact of findings on policies, practices, equipment and training. (4.2.4(e))