

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

4400 BROAD RIVER ROAD
COLUMBIA, SOUTH CAROLINA 29210



11.1 USE OF FORCE

POLICY: 11.1	DATE: JANUARY 1, 1992	REVISION DATE: SEPTEMBER 30, 2020
TITLE: USE OF FORCE		PAGE 1 OF 10

RESPONSIBLE AUTHORITY: CHIEF

RELATED STANDARDS/STATUTES/REFERENCES: CALEA 1.2.2, 4.1.1, 4.1.2, 4.1.3, 4.1.4, 4.1.5, 4.2.1, 4.2.2, 4.2.3, 4.3.1, 4.3.2, 4.3.3, 4.3.4, 4.2.4, 33.1.5, 41.3.4. SLED POLICIES 3.43, 11.1.2

THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

GENERAL PURPOSE: The purpose of this policy is to provide sworn members with guidelines on the use of deadly and less lethal force.

POLICY: The Division recognizes and respects the value and special integrity of each human life. In vesting sworn members with the lawful authority to use force to protect the public welfare, a careful balancing of all human interests is required. Therefore, it is the policy of this Division that sworn personnel shall use only that force which is reasonably necessary to effectively bring an incident under control, while protecting the lives of the officer and all others. (CALEA 4.1.1)

DEFINITIONS:

- Deadly Force: Any use of force that is likely to cause death or serious bodily harm.
- Less Lethal Force: Any use of force other than that which is considered lethal force. (CALEA 4.1.4)
- Physical Force: Any force required to overcome an assault or active resistance to arrest, or to control or restrain the movement of another, and which results in (or has the potential to result in) death or injury. Physical Force may be either lethal or less lethal. (CALEA 4.2.1 d.)

- Serious Physical Injury: Any bodily injury which involves a substantial risk of death.
- Reasonable Belief: The Agent believes that a given fact or combination of facts exists, and that the circumstances which the agent knows, or should know, are such as to cause a reasonable person so to believe.
- Agent: As used herein, any sworn member of the South Carolina Law Enforcement Division (SLED).
- Vehicle: Any motorized vehicle operated by a person.
- Overt Action: Any action taken by a person that makes it clear and apparent to the Agent that the person intends to inflict death or Serious Physical Injury on the Agent or on a third party.
- Training Administrative Duty: An Agent who is relieved from any active enforcement duties and prohibited from carrying a weapon or taking enforcement action as a result of a training related issue until reinstatement.
- Administrative Duty: An Agent who is removed from active enforcement duties and operational assignments pending completion of an administrative review. During this time the agent should not perform any enforcement duties, including making arrests, serving search warrants, making traffic stops, responding to emergency calls, or conducting field interviews.
- Remedial Training: Training to correct a deficiency in a specific area that requires improvement to increase knowledge, proficiency, safety, or reinforcement of job related skills.

SPECIFIC PROCEDURES:A. Parameters for use of Deadly Force: **(CALEA 4.1.2)**

1. Agents are authorized to fire their weapons and use deadly force in order to: **(CALEA 4.1.2)**
 - a. Protect the Agent or others from what is reasonably believed to be an imminent threat of death or serious bodily harm; or
 - b. Prevent the escape of a fleeing felon whom the Agent has probable cause to believe will pose a significant threat to human life should escape occur. Such action requires supporting facts such as a previously demonstrated threat to, or wanton disregard for, human life or commission of a crime involving the infliction or threatened infliction of serious bodily harm.
2. Before using a firearm, Agents shall identify themselves and state their intent to shoot, where feasible.
3. An Agent may also discharge a weapon under the following circumstances:
 - a. During range practice, competitive sporting events, or recreational purposes.

- b. To destroy an animal that represents a threat to public safety, or as a humanitarian measure where the animal is seriously injured.
4. Agents shall adhere to the following restrictions when their weapon is exhibited:
 - a. Except for maintenance or during training, Agents shall not draw or exhibit their firearm unless circumstances create reasonable cause to believe that it may be necessary to use the weapon in conformance with this policy.
 - b. Warning shots are prohibited. (CALEA 4.1.3)
 - c. Firearms shall not be discharged when it appears likely that an innocent person may be injured.
 - d. Firearms shall not be utilized as impact weapons.
- B. Parameters for the use of Deadly Force related to vehicles:
1. Agents shall avoid intentionally placing themselves directly in front of or directly behind a vehicle in a manner that would create a situation increasing the danger to the Agent or another person.
 2. Firing at vehicles should be avoided, unless a person in that vehicle commits an Overt Action that constitutes Deadly Force, either with a weapon or while using the vehicle as a weapon, that endangers the life of the Agent or another person.
 3. Agents may only use Deadly Force on a person fleeing in a vehicle, provided the Agent has probable cause to believe that the person is a felon and will pose a significant threat to human life should escape occur. Such action requires supporting facts such as a previously demonstrated threat to, or wanton disregard for human life or the commission of a crime involving the infliction or threatened infliction of Serious Physical Injury.
- C. Parameters for use of Less Lethal Force: (CALEA 4.1.1, 4.1.4)
1. Where Deadly Force is not warranted, Agents should assess the incident in order to determine which less lethal technique or weapon will best de-escalate the incident and bring it under control in a safe manner.
 2. Agents are authorized to use Division approved Less Lethal Force techniques and equipment for resolution of incidents, as follows:
 - a. To protect themselves or another from physical harm;
 - b. To restrain or subdue a resistant individual; and/or
 - c. To bring an unlawful situation safely and effectively under control.
- D. Medical Aid:
1. In all instances where the use of force has caused or has the potential to have caused injury appropriate medical aid will be provided. Emergency medical services for serious injuries will be requested

immediately or as soon as it is safe to do so. Special attention should be paid to the potential for non-visible injuries that could result from impact with the ground, strikes to the head or heart, and/or the application of a neck restraint. **(CALEA 4.1.5)**

E. Training and qualifications:

1. Lethal weapons:

- a. The official handgun for use by Agents is the Glock semi-auto pistol in a .40 S & W caliber. While on duty, all Agents will carry as their primary weapon, the Glock semi-auto pistol in a .40 S & W caliber (both issue and/or personal), and ammunition issued by the Division. **(CALEA 1.2.2, 4.3.1 a., b., 41.3.4)**
- b. While working in an undercover capacity, while off duty, or while on duty carrying a back-up or secondary gun, Agents are allowed to carry authorized weapons other than a Glock semi-auto pistol in a .40 S & W caliber (both issued and personal) and ammunition issued or authorized by and registered with the Division. **(CALEA 1.2.2, 4.3.1 a., b., 41.3.4)**
- c. Selected Agents may be issued a shotgun. The standard issue shotgun for use by Agents is the Remington 870 12 gauge shotgun. Agents will only utilize shotguns or ammunition issued by the Division. **(CALEA 4.3.1 a.)**
- d. Selected Agents may be issued "Patrol Rifles", in .223/5.56 caliber; manufactured by Christensen, HK, and/or Colt. Agents will only utilize ammunition issued by the Division. Only SWAT Team members and instructors are authorized to be issued or to use fully automatic weapons. **(CALEA 4.3.1 a.)**
- e. Authorized weapons are those with which the Agent has qualified and received Division training on proper and safe usage, and that are registered and comply with Division specifications. The Captain of Training, a certified firearms instructor, shall review, inspect, and approve all weapons intended for use by each Agent and Criminalist in the performance of duty, prior to carrying. **(CALEA 4.3.3 a)** Any Firearms Instructor shall remove unsafe weapons. **(CALEA 1.2.2, 4.3.1 c., d.)** The Training Unit will maintain a record to include the model and serial number of each weapon carried by Agents and Criminalists. (See Appendix for a listing of approved weapons and ammunition.) **(CALEA 4.3.1 a., b., e., 41.3.4)**
- f. In the event a weapon is found to be unsafe the procedure for removal, repair and re-issue shall be: **(CALEA 4.3.1 d.)**
 1. Once the weapon is determined to be unsafe or unserviceable, the weapon will be turned over to an instructor/armorer for inspection.
 2. If the problem can be resolved at the armorer level with the available parts it will be repaired, test fired and returned to the Agent.
 3. If the problem cannot be resolved at the armorer level, the weapon will be replaced and the Agent will complete a qualification session

with the new weapon. The defective weapon will be repaired or returned to the manufacturer for repair or replacement.

4. Upon return to the Division, the repaired weapon will be test fired and re-issued to the original Agent if he/she so desires, or placed back into inventory.

- g. The Training Unit shall schedule regular training and qualification sessions for duty, off-duty, and specialized weapons, which will be graded on a pass/fail basis. Each Agent shall qualify at least once per year with any firearm that the Agent is authorized to use. **(CALEA 4.3.2, 4.3.3)**
 - h. If a qualifying score is not obtained during the first attempt, Agents will receive two additional attempts to qualify prior to being placed on Training Administrative Duty for failing to achieve a passing score. Agents who fail to receive a passing score with any issued weapon shall be immediately relieved from any active enforcement duties and prohibited from carrying a weapon until successful completion of remedial training. **(CALEA 4.3.3 c., 33.1.5)**
 - 1. The Captain of Training, a member of the Training Unit, or a firearms instructor will take possession of the Agent's Division issued firearms upon failing to receive a passing score as outlined in Section (E.1.i.), until remedial training is completed and a passing score has been achieved.
 - 2. The Captain of Training, sworn members of the Training Unit, and all firearms instructors are responsible for safe firearms handling and safety during training. Unsafe firearms handling and carelessness by an Agent during training may result in an Agent being placed on Training Administrative Duty until remedial training or other appropriate discipline is taken as outlined in Policy 3.20 Employee Discipline.
 - 3. Remedial training shall be completed as soon as practical within seven days unless prevented by other unforeseen circumstances. **(CALEA 33.1.5 b.)** Remedial training will be documented and filed with the Training Unit upon completion. **(CALEA 33.1.5 a.)**
 - i. An Agent shall not be permitted to carry any personally owned or Division issued weapon with which he/she has not been able to qualify during the most recent qualification period. All Agents must be issued a copy of and be instructed in this policy before being authorized to carry a firearm. **(CALEA 4.3.2, 4.3.3, 4.3.4, 33.1.5)**
 - j. An Agent who has taken extended leave or suffered an illness or injury that could affect his/her use of firearms ability will be required to re-qualify before returning to enforcement duties. **(CALEA 4.3.2)**
2. Less Lethal Force weapons and methods: **(CALEA 4.1.4)**
- a. An Agent is not permitted to use a less lethal weapon unless qualified in its proficient use as determined by training procedures. **(CALEA 4.3.2)** In-service training for less lethal weapons and weaponless/physical control techniques shall occur at least biennially. Training for all electronically controlled weapons (i.e. X-26 Taser) will occur annually. **(CALEA 4.3.3)** All Agents must be

issued a copy of and instructed in this policy before being authorized to carry a less lethal weapon. **(CALEA 1.3.12)**

- b. The following less lethal weapons and munitions are authorized:
(CALEA 4.3.1 a.)

ALL AGENTS

- o Division approved OC spray
- o Straight/Expandable baton; Flashlight
- o X-26 Taser; X-26P (available to trained Agents)
- o Remote Activated Custody Control (R.A.C.C.) Belt

SWAT

- o OC spray
- o Chemical Munitions
 - CS
 - CN
- o Distraction Devices
- o H&K Gas and Def Tech Launchers - 40MM Cal.
- o Specialty Impact Munitions
 - 12 ga. "Bean Bag" Impact Rounds
 - 40mm "Sponge" Impact Rounds
 - "Pepperball" Impact/PAVA Round

3. Guidelines for use of individually issued OC spray (OC): The purpose of this policy is to inform Agents of the circumstances where the use of OC is appropriate and authorized. OC must be used with discretion and only in cases where the use of force is justified.

- a. Due to the lower potential for injury, OC may be deployed when the Agent determines that it is the best method of Less Lethal Force to resolve or de-escalate the situation. It may be deployed to:

- o Protect the Agent, another law enforcement officer, or citizens from physical harm;
- o Restrain or subdue a resistant individual with the least amount of force; and/or
- o Bring an unlawful situation safely and effectively under control.

- b. OC may be deployed prior to or after physical contact when verbal commands have failed, the subject is non-compliant or combative, and arrest of the subject is imminent.

- c. **Probable cause for arrest must exist prior to the exposure of an individual to OC.**

- d. Once the subject has been exposed to OC and is no longer a threat, the subject should be handcuffed in compliance with Policy 9.13, B. (Prisoner Transport).
 - o The subject should then be advised of the OC Administrative Warning.
 - o The Agent should then begin OC clean-up procedures when practical.
 - o The subject should then be transported to the appropriate detention facility. The facility's officers will be advised that the subject has been exposed to OC.
 - e. The Agent deploying OC shall maintain constant visual observation of the exposed subject for a period of no less than 45 minutes after exposure unless relieved and replaced by an on scene SLED supervisor who will then accept responsibility for continued observation.
 - f. During the observation period, if the subject displays or advises of any of the following, the Agent should summon medical attention:
 - o Loss of consciousness;
 - o Difficulty breathing for extended period of time;
 - o Difficulty in swallowing or facial swelling;
 - o Takes an abnormal length of time to recover; and/or
 - o Anyone who reports that they are allergic to pepper.
4. Guidelines for the application of Weaponless (Physical) Control Techniques: (CALEA 4.1.1, 4.1.6)

The purpose of this policy is to provide Agents with the guidelines for the application of physical force and appropriate techniques that may be applied to control a resistant individual without the utilization of electronic control devices, impact weapons or chemical agents.

- a. Agents may use only the amount of Physical Force that is reasonable and necessary to overcome resistance or bring a volatile and dangerous situation under control. The Physical Force used should be only for the period of time required to gain compliance of the resisting individual or to gain control of the situation.
- b. Agents may only utilize Weaponless (Physical) Control Techniques that are Pressure Point Control Tactics (PPCT)/SC Criminal Justice Academy approved and instructed by PPCT/SCCJA certified instructors, and/or approved by the Captain of the Training Unit; unless the resistance escalates during the application of an approved technique.
- c. It is Division policy that chokeholds and neck restraints are prohibited and may only be applied when the use of Deadly Force is justified given the existing circumstances. (CALEA 4.1.7)
- d. When restraining individuals on the ground, agents should position the subject in a manner that will assist breathing, such as placement on their side, and avoid pressure to the chest, neck, or head as soon as

is possible after Agents gain control of the individual. Minimal force should be used against persons in handcuffs or otherwise restrained, except as objectively reasonable to prevent imminent bodily harm to the individual; the officer; any other person or persons present; or, as objectively reasonable, where physical removal is necessary to overcome passive resistance.

- e. This policy will in no way limit an Agent's response should the resistance escalate to a level that would justify a higher level of force, to include the use of Deadly Force. In limited circumstances when a confrontation escalates suddenly or violently, an Agent may use any means or device at hand to defend themselves, as long as the level of force used is objectively reasonable given the existing circumstances.

F. Guidelines for the use of force during crowd control events:

1. The purpose of this policy is to provide Agents with the guidelines for the use of force during events where SLED Agents are tasked with managing or controlling crowds, whether during demonstrations, protests, or other similar events.
2. SLED Agents should take reasonable steps to protect individual rights related to peaceful assembly and free speech; to effectively manage crowds to prevent loss of life, injury, or property damage; and to minimize disruption to persons who are not involved in the demonstration, protest, or other similar event. (Refer to SLED Policy 3.43 - Intervening and Reporting Wrongdoing)
3. Due to the lower potential for injury, less lethal weapons and munitions may be deployed when the Agent determines that it is the best method of Less Lethal Force to resolve or de-escalate the situation. It may be deployed to:
 - a. Protect the Agent, another law enforcement officer, or citizens from physical harm;
 - b. Restrain or subdue a resistant individual with the least amount of force; and/or
 - c. Bring an unlawful situation safely and effectively under control.
4. Approved specialty impact munitions shall not be fired indiscriminately into crowds. A verbal warning should be given prior to the use of impact projectiles, when reasonably possible.
5. Tasers and OC spray shall not be fired indiscriminately into crowds. Tasers and OC spray shall be used in accordance with Division policy when an individual can be accurately targeted. (Refer above or to SLED Policy 11.1.2 - Conducted Electrical Weapons)
6. Chemical munitions shall be used with caution. Chemical munitions may be deployed when lesser force options are either not available or would likely be ineffective and when avenues of egress are available to the crowd. Such munitions should be deployed at the direction of an appropriate SLED supervisor or a designated incident command supervisor

on scene. When reasonably possible, their use shall be announced to the crowd in advance.

7. An approved baton or similar device can be used defensively; as a means of overcoming resistance (e.g., used in the two-hand horizontal thrust on a police line); to stop, control, or neutralize perceived threatening resistance; as a show of force; or as a means to contain or disperse a crowd.
8. All uses of force during crowd control events shall be reported and administratively reviewed.

G. Reporting uses of force:

1. A written report prepared according to Division procedures will be required in the following situations:
 - a. When a firearm is discharged outside of the firing range, except when discharged as part of a competitive sporting event or other recreational purposes; **(CALEA 4.2.1 a.)**
 - b. When applied Physical Force results in (or has the potential to have resulted in) death or injury; **(CALEA 4.2.1 b., 4.2.1 d)** and
 - c. When a lethal or less lethal weapon is used on a person or during a crowd control event. **(CALEA 4.2.1 c.)**
2. The Agent's closest supervisor will be immediately notified, summoned to the scene, if necessary, and will comply with investigative procedures as required by the Division when use of force results in death, injury, or property damage.
3. The appropriate jurisdiction will also be notified immediately when a use of force results in (or has the potential to have resulted in) death or life-threatening injuries. Primary responsibility for investigations involving such serious incidents will be referred to another agency at the Division's request.
4. Each SLED Agent involved in the use of force in any of these situations will be required to document his or her individual actions during the incident.

H. Division response:

1. Use of force incident
 - a. Where an Agent's actions or use of force causes death or Serious Physical Injury (not limited to shootings and may include incidents such as fatal motor vehicle collisions), the Agent shall be placed on Administrative Duty pending the completion of an administrative review. The Chief or highest ranking supervisor at the scene may authorize Administrative Duty. **(CALEA 4.2.3)**
 - b. The Division shall insure that a criminal investigation is conducted, if appropriate.

- c. A post critical incident debriefing will be conducted and all Agents involved in the incident will be required to attend.
2. Administrative review of applied force: **(CALEA 4.2.2)**
- a. All reported uses of force will be reviewed by the appropriate Division authority which includes the employee's Supervisor/Captain and Major, the Captain of Training, General Counsel, the Assistant Chief and the Chief to ensure that:
 - o Division rules, policy, and procedures were adhered to;
 - o The relevant policy was clearly understandable and effective to cover the situation; and
 - o Division training is currently adequate.
 - b. All findings from such review shall be reported to the Chief and other appropriate authority.
 - c. All use of force reports shall be retained as required by approved record retention schedules.
 - d. There will be a documented annual analysis of all use of force reports by the training component to reveal patterns or trends that could indicate training or policy needs, if any. **(CALEA 4.2.4)**
- I. Safe and Proper Storage of Division Authorized Firearms **(CALEA 4.3.1 f.)**
- 1. It shall be the Agent's responsibility to ensure the security of the Division approved firearms.
 - a. When not under the direct control of the Agent:
 - o The firearm(s) shall be secured in the locked trunk or "lock box" of the Division vehicle, or
 - o When in the home, the firearm(s) shall be securely stored, so as to be inaccessible to children or other unauthorized persons.
 - 2. Firearms locking devices are available in LEO Asset Management/Supply, upon request.

BY ORDER OF:



Mark A. Keel
CHIEF OF SLED