



STATE OF DELAWARE  
DEPARTMENT OF SAFETY AND HOMELAND SECURITY  
DIVISION OF ALCOHOL AND TOBACCO ENFORCEMENT

**POLICY AND PROCEDURE DIRECTIVE**

**DIRECTIVE 3 - Response to Resistance Policy**

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**I. PURPOSE:**

To specify when police officers of the Division of Alcohol and Tobacco Enforcement are authorized to use force in the performance of their duties. To ensure that officers employ only the amount of force necessary and reasonable to prevent escape, overcome resistance, and affect arrests in the performance of their duties. To implement measures that will enhance the integrity of Division operations and contribute to the safety of officers.

**II. POLICY:**

It is the policy of the Division of Alcohol and Tobacco Enforcement that a police officer need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to arrest. Divisional objectives require officers to be continually cognizant of the fact that their primary responsibility is saving lives whenever possible.

Situations are acknowledged to exist when retreat is authorized, or when escalation of force to the level of deadly force is not justifiable. That is, no arrest mandates the use of force, especially the use of deadly force. Only that amount of force necessary to affect the arrest and to minimally overcome resistance is authorized. **DPAC 1.3.1**

**III. DEFINITIONS:**

A. *Force* – Any action taken by a police officer to control, restrain, overcome, or stop an individual's unlawful resistance. Force would also include those actions taken by an individual to overcome or escape an arrest or detention. As defined in the Delaware Code, force also includes confinement.

B. *Physical force* – Force used upon or directed toward the body of another person.

C. *Physical injury* - Impairment of the physical condition or substantial pain.

D. *Serious physical injury* - Physical injury which creates a substantial risk of death, or which causes serious and prolonged disfigurement, prolonged impairment of health or prolonged

loss or impairment of the function of any bodily organ, or which causes the unlawful termination of a pregnancy without the consent of the pregnant female.

- E. *Objectively reasonable* – In attempting to determine the necessity for the use and appropriate level of force, an employee must evaluate each situation in light of the circumstances known to him/her, to include such factors as the seriousness of the offense, the physical threat towards themselves or others involved, the active resistance offered by the offender or the attempt to evade the arrest by flight. This legal standard was created by the United States Supreme Court as the standard by which the reasonableness of the use of force employed by the employee should be measured.
- F. *Deadly force* – As defined in 11 Del.C. § 471, deadly force means force which an individual uses for the purpose of causing, or which the individual knows to create substantial risk of, death or serious injury. Purposely firing a firearm in the direction of another person or at a vehicle in which another person is believed to be riding constitutes deadly force. In addition, intentionally driving a motor vehicle into another vehicle may constitute deadly force. Deadly Force is not limited to firearms, and may include the impact weapon and other strikes or kicks, or other use of force when intentionally used in a manner that is likely to cause serious bodily harm or death.
- G. *Unreasonable force* – Force that is unnecessary or excessive given the circumstances present at the time the force is employed will be deemed to be unreasonable and will potentially subject the employee to administrative and/or legal sanctions.
- H. *Passive Resistance* - Passive resistance occurs when a subject refuses to comply with a directive from an officer but does not attempt to engage in physical action likely to cause bodily harm to the officer or to another person.
- I. *Active Resistance* - Active resistance occurs when an officer encounters behavior which physically counteracts his or her attempt to control and/or which creates risk of bodily harm to the officer, subject, and/or other persons.
- J. *Communication* - An officer can use verbal and non-verbal communication to control and/or resolve the situation.
- K. *Physical Control* - The model identifies two levels of physical control: soft and hard. In general, physical control means any physical techniques used to control the subject that does not involve the use of a weapon. *Soft* techniques are control oriented and have a lower probability of causing injury. They may include restraining techniques, joint locks and non-resistant handcuffing. *Hard* techniques are intended to stop a subject's behavior or to allow application of a control technique and have a higher probability of causing injury. They may include empty hand strikes such as punches and kicks.
- L. *Intermediate Weapons* - This use of force option involves the use of a less-lethal weapon. Less-lethal weapons are those whose use is not intended to cause serious injury or death. Impact weapons and aerosols fall under this heading.
- M. *Lethal Force* - This use of force option involves the use of any weapons or techniques that are intended to, or are reasonably likely to cause serious physical injury or death.

#### IV. USE OF FORCE OPTIONS AND CONTINUUM: DPAC 1.2.1b DPAC 1.3.1 DPAC 1.3.9

DISCUSSION: The selection of a level of force must be appropriate to the resistance, the threat level or potential, and the purpose of the arrest. This force continuum should be confined to the escalating levels of force listed below, although it may not always be feasible to apply each level in turn. It is not a mandated progression that the officers must follow when using force options. Officers can move to any level of force within the continuum at any time as circumstances of the incident dictate. Moreover, there will be occasions when an officer should elect not to escalate the application of force at all, even to the point of abandoning the effort to affect the arrest.

- A. *Presence and verbal commands* – At times the simple presence of a police officer can affect both the subject and the situation. Visible signs of authority such as uniforms and marked police cars can change a subject's behavior. An officer, while assuming a position of advantage, will use plain, straightforward language to instruct and command individuals with whom the officer has contact. If time and circumstances permit, the officer will attempt to explain the lawful reason for the contact and command.
- B. *Control techniques* – When objectively reasonable, an officer may use control techniques to gain compliance from those individuals who fail to follow the lawful verbal directions of the employee.
- C. *Striking techniques* – An officer may use strikes and kicks to gain compliance and affect the arrest of a combative individual. Unless lawfully justified, strikes and kicks should be restricted to non-vital areas.
- D. *OC/chemical agents* – Each officer has been equipped with and trained in the use of oleoresin capsicum (OC) aerosol spray. An officer may use OC spray to gain compliance and effect the arrest of a combative or aggressive individual, or where the officer believes the use of a lesser level of force would increase the risk of injury to the employee or the individual.
- E. *Conducted Electrical Weapon (CEW)* – A Conducted Electrical Weapon (CEW) such as the Taser Model X-26P is designed to affect the sensory and motor nervous systems of the body. A CEW may be used to overcome active resistance or its threat – beyond passive resistance for the purpose of affecting an arrest or to prevent the person from harming themselves or others. Any employee who has been trained in the use of a CEW may employ the tool. The CEW shall fall on the same level as OC spray. DPAC 1.3.4
- F. *Less Than Lethal Impact Munitions* – A non-lethal impact munition is a weapon and/or munition, such as a bean bag round fired from a Division issued shotgun, designed to inflict non-serious physical injury and gain compliance through the use of pain. These weapons or munitions may be used where reasonably necessary to gain compliance and affect the arrest of a combative or aggressive individual. Any employee who has been trained in the use of the weapon or munition system may employ the weapon or munition.
- G. *Impact Weapons* – An officer may use an impact weapon, such as the expandable baton, to gain compliance and affect the arrest of aggressive or combative individual who poses a

threat to the officer or another person. When properly employed, impact weapons are not deadly weapons and are intended to gain compliance through the application of pain and immobilization of large muscle groups. Only those impact weapons with which the officer has been trained may be used. Unless legally justified, strikes with the impact weapon should be restricted to non-vital areas of the body.

H. *Firearms* –When legally justified, an officer may use a Division-issued firearm if the following criteria are satisfied:

1. To protect the officer or another person from serious physical injury or death; or
2. If an individual poses an immediate and a substantial risk of serious physical injury or death to another person if an arrest is not made or escape not prevented, to prevent the escape or effect the arrest of an individual who has committed a felony involving serious physical injury or the threat thereof.
3. To dispatch an injured animal, an animal that poses a danger to an employee or another person or exhibits signs of rabies infection.
4. For target practice or competition on an approved range.

## V. USE OF DEADLY FORCE:

A. Use of Deadly Force in self-defense: **DPAC 1.3.2**

1. Use of deadly force is authorized when there is a clear and present danger and it is necessary to protect a police officer or another person from serious physical injury or death. 11 Del. C. § 467 allows a police officer to use deadly force in self-defense
2. That which a police officer is authorized to do in self-defense; the officer is authorized to do to prevent serious physical injury or death to another person.

B. Moving Vehicles:

1. Moving vehicles present unique circumstances in connection with the discharge of a firearm including a limited ability of the weapon to disable the vehicle, the possibility of injuring innocent occupants or bystanders, and the amount of time necessary to deploy and accurately discharge a firearm in the direction of a moving vehicle.
2. An officer should minimize placing himself/herself in a position of vulnerability when confronting a suspect or defendant in a vehicle. When confronted by deadly force either emanating from or by a moving vehicle, where possible, as a first course of action, an officer should attempt to remove himself/herself from the path of the moving vehicle or deadly force before considering to employ deadly force.
3. Deadly force shall not be directed at a moving motor vehicle merely to disable a vehicle.

4. An officer may discharge a firearm in the direction of a moving vehicle to counter an imminent threat of serious physical injury or death directed at the officer or another person.

C. Use of Deadly Force to Apprehend an individual:

1. Deadly force is permissible to affect an arrest or prevent the escape of a suspect/defendant only after all of the following conditions have been met:
  - a) All other reasonable means of apprehension have been exhausted; and
  - b) The arrest is for a felony involving serious physical injury or the threat thereof; and
  - c) The deadly force will not endanger innocent persons; and
  - d) Should deadly force not be used, there is an immediate and substantial risk that the person to be arrested will cause serious physical injury or death if the apprehension is delayed.
2. When possible, a verbal warning should be given. However, the warning should not be given if it would increase the risk of injury to the employee or any other person.

D. Use of Deadly Force to Prevent the Commission of a Crime:

1. Deadly force is permissible to prevent the commission of a crime only after all of the following conditions have been met:
  - a) All other reasonable means of preventing the commission of the crime have been exhausted; and
  - b) The deadly force will not endanger innocent persons; and
  - c) There is a substantial risk that serious physical injury or death will be caused to another person if the crime is not prevented by deadly force.

**VI. GENERAL GUIDELINES REGARDING THE USE OF FORCE: DPAC 2.5.5**

A. No police officer of the Division shall discharge a firearm or use deadly force under the following circumstances:

1. To affect the arrest or prevent the escape of a person who has committed a misdemeanor or a minor violation.

2. Where the crime intended to be prevented will not result in serious physical injury or death.
  3. To affect the arrest or prevent the escape of a felon no longer presenting an immediate threat to human life.
  4. To affect the arrest or prevent the escape of a felon who has committed a felony which does not involve an actual or threatened attack which the officer has reasonable cause to believe could result in death or serious bodily injury.
  5. At a motor vehicle unless the occupant(s) of the vehicle uses deadly force against the officer or another person.
  6. From a moving vehicle.
  7. As a warning **DPAC 1.3.3**
- B. There are understandable occasions in the normal course of any police action, which may demand an officer's lawful application of that force necessary to execute his legal authority. Officers are confronted with situations in which control must be exercised to affect an arrest. Control may be achieved through advice, warning, persuasion, or by physical force. All care will be exercised by officers to avoid the use of physical force or the threat of physical force if reasonable alternatives are available.
- C. An officer may use force to prevent the escape of an arrested person from custody. An officer may use only that amount of force which would be reasonable or objectively reasonable to effect the arrest for which the detainee is in custody.
- D. Use of force to prevent a crime upon or toward another is reasonable or objectively reasonable when an officer believes that such force is immediately necessary for the purpose of protecting the officer or another person against the use of unlawful force by another person on the present occasion .
- E. Under Delaware law, 11 Del. C. § 467, a police officer is allowed to use the amount of force which would be reasonable or objectively reasonable upon another person when the officer is making an arrest and believes such force is immediately necessary to affect the arrest. Use of force to affect an arrest is justified when: **DPAC 1.3.1**
1. An officer makes the purpose of the arrest known or believes it is otherwise known or cannot reasonably be made known to the person arrested; or
  2. The arrest is made under a warrant, and the warrant is valid or believed by the officer to be valid; or
  3. The arrest is made without a warrant, and the officer believes the arrest to be lawful.
- F. A police officer obtains the right to use force, including deadly force, in certain situations from;

1. 11 Del. C. § 467 “Justification - Use of force in law enforcement”
  2. 11 Del. C. § 464 “Use of Force in self-protection”
  3. 11 Del. C. §465 “Use of force for the protection of other persons”
- G. The Division of Alcohol and Tobacco Enforcement recognizes the legal standards set forth by the Delaware Legislature regarding the use of force up to and including deadly force. In situations which may require the use of force, officers must not consider the legality of the act, but moreover, the absolute necessity of their actions.  
DPAC 1.2.1b DPAC 1.3.2 DPAC 1.3.4
- H. Officers may use reasonable force to perform their sworn duty. Deadly force may only be applied by an officer when all other reasonable means of apprehension or defense have been eliminated or exhausted, and then only in compliance with Part V of this policy.  
DPAC 1.3.2 DPAC 1.3.4
- I. It is most important to understand that the only difference between the application of lethal or severely injuring force and non-lethal or non- destructive force is the resulting death or injury. For example, the use of a baton may result in the application of a minimum amount of force, such as being used as a "come-along". The same baton may, in defense of life, be made to inflict a lethal blow. Any application of force may result in injury, complaint of injury, or complaint that unnecessary or excessive force was used. Reasonable alternatives should be exhausted or be determined clearly inappropriate prior to the application of force. The decision to resort to force and the degree of force to be used must be based only on facts, or what reasonably appears to be fact known to the officer at the time the action is taken. The degree of force an officer uses may escalate according to the necessity to overcome increasing amounts of resistance or increasingly unreasonable threats to safety. DPAC 1.3.2 DPAC 1.3.4
- J. Police officers will use only that amount of force necessary to affect lawful objectives.  
DPAC 1.3.1 DPAC 1.3.4
1. Those objectives should be:
    - a) To control the situation,
    - b) To restrain or subdue an individual, and
    - c) To protect oneself or another from physical harm.
- I. No police officer of the Division shall use excessive or unreasonable force in the performance of his/her duties
- J. Whenever an officer utilizes lethal, less than lethal weaponry, or other means of force and an injury is known, suspected, or alleged, and it is safe to do so, the officer shall provide, or have provided, first aid for the person(s) to whom force and/or weaponry was or alleged to have been used upon. When necessary the officer will acquire advanced medical treatment by medical professionals. DPAC 1.3.5

- K. Only equipment designed for force situations, which is authorized and issued by the Division, and in which the officer has been trained shall be carried or used by an officer when on scheduled and/or assigned tours of duty.
- L. Officers are issued the following items of equipment to assist in making a lawful arrest, or detention, when resistance is encountered, to prevent an escape or for the purpose of protecting oneself or a third party from bodily harm. These items shall be carried, or readily accessible, by on-duty officers at all times: **DPAC 1.3.4**
  - 1. Chemical Spray (O.C.) **DPAC 1.3.8a**
  - 2. CEW (Taser) **DPAC 1.3.8a**
  - 3. Expandable Baton **DPAC 1.3.8a**
  - 4. Handcuffs
  - 5. Handgun
  - 6. Rifle

## **VII. CHEMICAL SPRAY – OLEORESIN CAPSICUM (OC):**

- A. Only Division issued Oleoresin Capsicum (OC), shall be carried and used by officers. **DPAC 1.3.8a**
- B. Officers are reminded that OC varies individually in its effectiveness. They shall be continually alert to the possibility that other means may be necessary to subdue an assailant and shall consequently avoid placing themselves or innocent persons in danger due to the use of OC.
- C. OC will be used only after reasonable efforts to control a violent subject have failed, or when such effort would clearly be futile.
- D. OC may be used at an officer's discretion under the following circumstances: **DPAC 1.3.4**
  - 1. When necessary to defend himself or others.
  - 2. To affect an arrest, or when subduing a combative, aggressive, or resisting person.
  - 3. To prevent the commission of a criminal offense.
  - 4. When lower levels of force are deemed inappropriate or ineffective.
- E. No tactical advantage is realized by the indiscriminate use of OC against non-combative persons or persons restrained by means of handcuffs, leg irons, and plastic restraints. It shall not be used against those engaging in passive resistance or as a "come along".
- F. The improper use of OC will not be tolerated. Unauthorized use of OC will subject the officer to the same disciplinary action, as would the use of any unauthorized or unnecessary force.
- G. The duration of application of OC shall be limited to that required to effectively control the subject.

- H. As soon as feasible after the individual on whom OC has been used is subdued to an extent that he/she can be controlled without possible injury to himself/herself or others, officers shall administer first aid by providing an opportunity for the individual to eliminate the effects of the OC by flushing the contaminated areas with water. **DPAC 1.3.5**
- I. Individuals in police custody on whom OC has been used who complain of continued effects after first aid has been administered shall be evaluated by trained medical professionals. **DPAC 1.3.5**
- J. All unintentional discharges or use of OC shall be reported to the supervisor on duty immediately.
- K. Only officers who have been trained and certified on the use of OC shall be authorized to carry OC.
- L. All OC dispensers shall be carried in an issued or approved carrying case attached to the duty belt at all times, unless otherwise authorized by a supervisor. **DPAC 1.3.4**
- M. Officers should avoid leaving their OC dispenser their vehicle, since OC may leak from its dispenser if left in the sun or in a heated vehicle.
- N. Any damage to or loss of an OC dispenser or carrying case shall be reported to a supervisor within 24 hours of the loss.

## **VIII. EXPANDABLE BATON:**

- A. The expandable baton is an intermediate defense weapon issued to police officers for use in situations where other defensive issued equipment would not be effective or its use would be impractical.
- B. The expandable baton shall be carried on the person of all uniformed officers with rank of lieutenant and below while in uniform and on duty. **DPAC 1.3.8a**
- C. The expandable baton is to be used by officers in the following manner for defense from and to counterattack a violent, aggressive, or unruly person: **DPAC 1.3.4**
  - 1. Blocking blows and kicks of an aggressor.
  - 2. Striking blows to places on the aggressor's body where bone is close to the skin, excluding the head and face. Short swing and back swing blows can also be directed to the thick muscle groups of the buttocks, thigh, and calf.
  - 3. For use as a move-along, come-along, elbows locking, handcuff and other legitimately recognized uses for the baton.
- D. The following uses of the expandable baton should be avoided:
  - 1. Blows to the aggressor's head and face. Such application could be considered a use of deadly force. The subject could be killed instead of merely being brought under

control. Blows delivered to the head place the expandable baton in a position, which is vulnerable to counterattack, or a disarming movement.

2. Blows to the spinal cord, sternum, and groin.

3. Use as a strangling device, or to administer chokeholds is prohibited.

E. The expandable baton will not be used to strike a handcuffed individual who is properly secured.

F. No officers shall be authorized to carry an expandable baton unless he/she is certified in the use of same by a certified instructor.

#### **IX. Conducted Electrical Weapons (CEW) - Taser:**

A. Tasers are issued to police officers after they have received training in the proper use of the device. Directive 4 – *Conducted Electrical Weapons (Taser) Policy*, outlines the proper use of an assigned Taser by an officer. **DPAC 1.3.4**

#### **X. Reporting Requirements:**

A. A Response to Resistance Report is required whenever a police officer employs less than lethal or lethal force. This shall include any use of force that results in, or is alleged to have resulted in, injury or death of another person. **DPAC 1.3.6**

B. A Response to Resistance Report shall be prepared by any officer who:

1. Discharges a firearm, other than for routine training or recreational purposes;  
**DPAC 1.3.6a**

2. Takes any action that results in, or is alleged to have resulted in, any injury to another person; **DPAC 1.3.6b**

3. Uses physical force, or is alleged to have used physical force, against another person.  
**DPAC 1.3.6c**

C. If physically able, the Response to Resistance Report, along with any other associated reports, will be submitted by the officer to their supervisor, prior to the end of their shift. If the Response to Resistance Report cannot be completed by the end of the shift it shall be completed at the beginning of the officer's next shift.

D. If the use of force incident involves multiple officers, every officer that uses any type of physical force as defined in this policy shall be required to complete a Response to Resistance Report. **DPAC 1.3.6**

E. If the use of force incident involves police officers from other agencies, the arresting officer shall obtain a copy of the report from the officers involved. **DPAC 1.3.6**

F. A Response to Resistance Report will not be required when an officer draws their firearm and maintains their firearm in a low ready position, or points their firearm at a subject.

G. Supervisor notification

1. Whenever an officer uses force (lethal or non-lethal), they shall immediately contact their supervisor, or in their absence, the acting shift commander.
2. The supervisor, or in their absence, the acting shift commander will immediately respond to the scene.
3. In a deadly force situation, the supervisor, or in their absence, the acting shift commander will immediately notify the police jurisdiction where the deadly force incident occurred.
4. In less than lethal use of force situations, the local police jurisdiction where the incident occurred need not be notified.
5. The Chief of Police shall be notified in all deadly force situations or in use of force situations that result in serious physical injury to a police officer or a subject.
6. The identity of all witnesses will be documented.
7. Medical attention will be provided if warranted to all involved parties.
8. Statements will be taken from the all parties involved in the incident (officers, subjects, witnesses etc.)
9. Photographs will be taken of the scene and all injuries, or alleged injuries.

H. Any officer who uses force or has knowledge that force has been used by any other officers of the Division in any jurisdiction, either on or off-duty, shall:

1. Report same immediately to their supervisor.
2. If on duty, submit a Response to Resistance Report to their supervisor as soon as possible, but not later than the end of the shift.
3. If off-duty and the incident occurred off-duty, submit a report as directed by their supervisor.
4. If the incident occurs in another jurisdiction, notify the local law enforcement agency, the officer's supervisor; and record these notifications in his/her report.
5. The submitted Response to Resistance Report will be passed on for administrative review by the Deputy Chief. The report will be forwarded to the Deputy Chief who will maintain a copy of the Response to Resistance Report which will be retained for five years. The original copy will remain in the investigative officer's case file. **DPAC 1.3.6**

6. When any employee of the Division uses or has knowledge that another employee has used a privately owned firearm in any jurisdiction against any person; or when any employee uses or has knowledge that another employee has used a privately owned firearm and such use constitutes a violation of any ordinance or law in the jurisdiction where the firearm was used, he shall notify a member of the Division's command staff as soon as possible.

## **XI. Other Equipment**

A. Handcuffs - Are to be used to restrain and secure persons in police custody. The decision to use handcuffs is in many cases left to the discretion of the arresting officer, and officers are expected to exercise good judgment. Generally, handcuffs should be used any time an officer makes an arrest and deems it necessary to protect himself, the public, and the prisoner. It is not necessary that the prisoner exhibit some form of aggressive behavior to justify the use of handcuffs. The mere belief in the arresting officer's mind that the prisoner may need restraint is sufficient justification for their use. Officers should realize that even though a prisoner is cooperative at the time of arrest, there is no guarantee that he will not attempt to escape or assault any police officer should the opportunity present itself. If the arresting officer believes either of these situations may occur, the prisoner shall be handcuffed.

1. While it is not practical to try to specify all the various arrest situations in which handcuffs shall be used, certain incidents are considered serious enough to require their use each time. Therefore, in the following situations, officers shall use handcuffs, regardless of the prisoner's gender, unless the age or infirmity of the prisoner dictates otherwise:
  - a) When a prisoner is charged with a felony or crime of violence.
  - b) Regardless of the offense for which he has been arrested, when a prisoner is resistive, belligerent, violent, or exhibits other irrational behavior; or when the arresting officer has reason to believe the prisoner will attempt to escape or cause harm to themselves others.
  - c) When a prisoner has or is suspected of having a weapon or evidence concealed on his/her person.
  - d) When a prisoner is being transported from one location / facility to another, except when within a prisoner holding facility.
2. When handcuffs are used on an individual prisoner, the arresting officer shall:
  - a) Restrain the prisoner's arms by handcuffing them behind his/her back. The only exception to this would be if the prisoner is suffering from a deformity or other disability.
  - b) Apply the handcuffs with the prisoner's palms facing outward.
  - c) Double lock the handcuffs and check the handcuffs after they have been applied.

- d) Do not remove the handcuffs until the prisoner is within a secure area.
3. Prisoners shall be handcuffed before they are searched, unless the situation dictates otherwise.
  4. Officers shall be held responsible if an escape occurs due to the lack of the use of handcuffs.
  5. The following practices are to be avoided when using handcuffs:
    - a) Except when inside a police station, correctional facility, or court building containing a secure room for prisoner detention, or having permanent fixtures to which handcuffs can be attached, do not handcuff a prisoner to a fixed object (steering wheel, telephone pole, fence post).
    - b) Handcuff a prisoner's hands in front, unless he/she is suffering from a deformity or other disability.
    - c) Handcuffing yourself to a prisoner.
    - d) Use of handcuffs as a "come-along".
    - e) Tightening handcuffs in such a manner that they pinch the skin, restrict circulation, or intentionally cause the prisoner unreasonable discomfort.
    - f) Handcuffs shall not be used as a defensive weapon except under the most extreme circumstances.
- B. Knives - Are not issued by the Division. However, officers may carry a folding blade pocket knife or buck knife with a blade no more than three inches in length. Knives may be carried on the duty belt in a plain black leather case.
1. A knife is not to be carried for the specific purpose of being used as a defensive weapon. Officers are authorized to carry a knife for use in situations that may arise while performing their duties requiring a cutting edge.
  2. The Division recognizes that certain extreme and exceptional circumstances may arise that require an officer to employ the equipment authorized in this section as a deadly weapon, and its use may, in fact, result in serious physical injury or death. These circumstances would be restricted to those requiring the use of deadly force and where it would not be practical or possible for the officer to use his Division issued firearm.
- C. Flashlights - The primary application of the flashlight is as a source of illumination, it is not a weapon. However, if a situation arises during which the flashlight has to be used as a defensive weapon, it shall be used in the same manner and under the same rules as those for the expandable baton, as described in this policy.

## **XII. Prohibited Weapons and Techniques:**

- A. The following defensive weapons are strictly prohibited:
  - 1. Sap gloves.
  - 2. Brass knuckles.
  - 3. Slapjacks and blackjacks.
  - 4. Mechanical claws and other non-issued "come-long" devices.
- B. Neck restraints or similar control "choke" methods are prohibited. **DPAC 1.3.10d**

## **XIII. Response to Resistance Investigations:**

- A. It is essential that an immediate investigation be conducted of all cases in which an officer injures, or is alleged to have injured, any person as a result of using force, either deadly or non-deadly, regardless of the circumstances.
- B. In incidents of deadly force or non-deadly force where serious injuries have occurred, the Deputy Chief will be in charge of the overall investigation, and be responsible for its completion. A final investigative report will be submitted to the Chief of Police for his review and action, pending review by the Department of Justice, where applicable. Therefore, when any such use of force incident occurs:
  - 1. The officer receiving the information shall immediately notify the supervisor.
  - 2. The supervisor shall immediately proceed to the scene; evaluate the incident; request additional assistance as warranted; and notify the Deputy Chief of his/her preliminary findings.
  - 3. The supervisor at the scene will assign at least one officer when available to do the following:
    - a) Secure and protect the incident scene.
    - b) Detain all involved persons at the scene until they are released by the investigating officer.
    - c) Prevent all unauthorized persons from entering the scene.
    - d) Remain with the deceased or injured person until the arrival of medical personnel.
    - e) Protect any physical evidence present, particularly any ejected cartridge casings, for subsequent recovery by evidence technicians.

- f) Remain with the involved officer to ensure his/her personal safety and well-being until he/she can be removed from the scene.
4. Only the supervisor on scene will initiate any discussion of the incident with the involved officer, and shall ensure that the officer is afforded all Constitutional guarantees, and that all provisions of 11 Del. C. Chapter. 92 are adhered to.
5. It will be the responsibility of the supervisor at the scene to secure the firearm in the exact condition as it was immediately following the discharge, if the weapon is still in the possession of the involved officer. He shall note and later document the condition in which the weapon was received and the number of rounds found in the chamber and/or magazine, so that the investigator conducting the crime/incident scene examination can be alert for the total number of empty casings that must be located or accounted for.
6. If it is a handgun, recycle the slide or eject the magazine and remove the magazine. Take whatever appropriate action is necessary to render all other weapons "safe". Document all action taken regarding the weapon.
7. If it is a patrol rifle, do not operate the action. However, the safety may be set when it is necessary to handle the weapon, as opposed to leaving it in place as part of the incident scene. Document all action taken regarding the weapon.
8. All information concerning the incident shall emanate directly from the Chief of Police or his/her designee. Specifically, no member of the Division other than the Chief or his designee shall be authorized to issue press releases or give interviews to representatives of the news media. Any employee who violates this provision will be considered to have committed a most serious breach of conduct.

C. Duty Status of Involved Officer: **DPAC 1.3.7**

1. When an officer's actions results in serious physical injury or death, the officer shall:
  - a) Be immediately placed on administrative leave with pay until the completion of the investigation.
  - b) If the investigation is expected to be lengthy, the Chief may elect to place the officer on administrative duty until such time as the investigation is completed.
  - c) Be required to keep the Division apprised of where they may be contacted at all times.
  - d) The officer involved shall be encouraged to utilize the state's EAP (Employee Assistance Program) benefit.