

IDAHO STATE POLICE PROCEDURE

06.15 USE OF FORCE

I. GENERAL

- A. Idaho State Police (ISP) troopers use only the amount of force that is reasonable and necessary to protect life, affect a lawful arrest and/or gain control of any unlawful circumstance. Arrests are authorized in Idaho Code [Title 19 Chapter 6](#). All use of force actions, regardless of the disposition, are entered into the Early Intervention System database in accordance with ISP procedure [03.19 Early Intervention System](#).
- B. The use of force by members of law enforcement is a matter of critical concern both to the public and to the law enforcement community. It is recognized that some individuals will not comply with the law or submit to control unless compelled to do so by the use of force; therefore, troopers are sometimes called upon to use force in the performance of their duties. ISP also recognizes that troopers derive their authority from the public and therefore must be ever mindful that they are not only the guardians but also the servants of the public.
- C. The Idaho State Police's guiding principle when using force shall be reverence for human life. Troopers shall attempt to control an incident by using time, distance, communication, and available resources in an effort to de-escalate the situation, whenever it is safe, feasible, and reasonable to do so. As stated below, when warranted, troopers may use objectively reasonable force to carry out their duties. Troopers may use deadly force only when they reasonably believe, based on the totality of circumstances, that such force is necessary in defense of human life. Troopers who use unreasonable force degrade the confidence of the community we serve, expose fellow troopers to physical hazards, violate the law and rights of individuals upon whom unreasonable force or unnecessary deadly force is used, and subject ISP and themselves to potential civil and criminal liability. Conversely, troopers who fail to use force when warranted may endanger themselves, the community, and fellow troopers.

II. DEFINITIONS

- A. "Aerosol Weapons" are less-lethal airborne chemicals, such as Oleoresin Capsicum (OC) spray or Orthochlorobenzalmalonitrile (CS), designed to temporarily incapacitate or render a subject unable to resist lawful police control.
- B. "Arrest Techniques" are basic skills or procedures used by troopers to physically control a subject's actions during an arrest. Armbar takedowns, armlocks, wristlocks, joint manipulation, and pressure points are some examples of Arrest Techniques.
- C. "Combative" means a subject uses physical force or violence against the trooper or other law enforcement officer.

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- D. “Compliant” means a subject cooperates with the trooper’s requests.
- E. “Deadly Force” is any use of force that creates a substantial risk of causing death or serious bodily injury, including but not limited to, the discharge of a firearm. The use of deadly force is authorized in and must be consistent with Idaho Code sections [19-610](#) and [18-4011](#).
- F. “De-escalation” means taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary. De-escalation may include the use of such techniques as command presence, advisements, warnings, verbal persuasion, and tactical repositioning.
- G. “Excessive Force” is force which its application is without reasonable and lawful necessity.
- H. “Exigent Circumstances” are those circumstances that would cause a reasonable person to believe that a particular action is necessary to prevent physical harm to an individual, the destruction of relevant evidence, the escape of a suspect, or some other consequence improperly frustrating legitimate law enforcement efforts.
- I. “Feasible” means reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the trooper or another person.
- J. “Firearm” is any deadly weapon capable of ejecting or propelling one or more projectiles by the action of any explosive or combustible propellant.
- K. “Force” means physical control measures used to compel compliance by an unwilling subject. These measures include, but are not limited to aerosol weapons, arrest techniques, impact weapons, and deadly force.
- L. “Imminent” serious bodily injury is "imminent" when, based on the totality of the circumstances, a reasonable trooper in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the trooper or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed.
- M. “Less-lethal weapons and ammunition” are devices, such as a Conducted Energy Device, 12 gauge shotgun and 40mm launcher deploying non-penetrating impact projectiles.
- N. “Necessary” is determined by looking at:

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1. the totality of the circumstances from the perspective of a reasonable trooper with similar training and experience;
 2. the factors used to evaluate whether force is objectively reasonable;
 3. an evaluation of whether the trooper exhausted the available and feasible alternatives to deadly force; and
 4. whether a warning was feasible and/or given.
- O. “Non-Compliant” means a subject does not cooperate with the trooper’s requests but shows no aggression toward the trooper.
- P. “Objectively Reasonable” means the legal standard used to determine the lawfulness of a use of force and is based on the Fourth Amendment to the United States Constitution. ([See *Graham v. Connor*, 490 U.S. 386 \(1989\)](#)). *Graham* states, in part, the reasonableness of a particular use of force “must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight...The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain and rapidly evolving – about the amount of force that is necessary in a particular situation...The test of reasonableness is not capable of precise definition or mechanical application.” The force must be reasonable under the circumstances known to or reasonably believed by the trooper at the time the force was used. Therefore, the Idaho State Police examines all uses of force from an objective standard rather than a subjective standard.
- Q. “Physical Intervention” is nonviolent touching and/or handling by the trooper, which includes controlling and/or escort holds.
- R. “Resistive” means a subject physically resists the trooper or shows signs of aggression toward the trooper.
- S. “Serious Bodily Injury” includes but is not limited to:
1. loss of consciousness;
 2. concussion;
 3. bone fracture;
 4. protracted loss or impairment of function of any bodily member or organ;
 5. a wound requiring extensive suturing; or
 6. serious disfigurement.
- T. “Totality of the Circumstances” is all facts known to or reasonably perceived by the trooper at the time, including the conduct of the trooper and the subject leading up to the use of force.
- U. “Verbal Commands” are lawful orders and/or directives given by the trooper.
- V. “Warning Shots” are the intentional discharge of a firearm off target not intended to hit a person, to warn others that deadly force is imminent.

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III. ALLOWABLE USE OF FORCE.

- A. The objective of any use of force is to overcome a subject's resistance to a trooper's lawful purpose. During all applications of force, troopers:
 - 1. employ only that amount of force reasonably necessary to accomplish a legal purpose;
 - 2. resort to more severe methods of force only to overcome either increasing resistance or an increasingly dangerous threat to the trooper and/or the public; and
 - 3. employ techniques and authorized weapons in accordance with department training.
- B. Troopers may also use any other reasonable force necessary to gain control of a situation provided authorized techniques are not available or practical.
- C, Use of De-Escalation Techniques. Whenever feasible, troopers shall use techniques and tools consistent with ISP de-escalation training to reduce the intensity of any encounter with a suspect and enable a trooper to have additional options to mitigate the need to use a higher level of force while maintaining control of the situation.
- D. Verbal Warnings. Prior to the use of any force and when feasible, a trooper shall make reasonable efforts to identify themselves as the Police and to warn that force may be used, unless the trooper has objectively reasonable grounds to believe that the person is aware of those facts.
- E. Proportionality. Troopers may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance.
- F. Fair and Unbiased Policing. Troopers shall carry out their duties, including use of force, in a manner that is fair and unbiased. Discriminatory conduct on the basis of actual or perceived race, color, religion, national origin, sex, gender identity, sexual orientation, age, or disability while performing any law enforcement activity is prohibited.
- G. Use of Force - Non-Deadly. Troopers may use only that force which is objectively reasonable to:
 - 1. defend themselves;
 - 2. defend others;
 - 3. effect an arrest or detention;
 - 4. prevent escape; or
 - 5. overcome resistance.
- H. Determining Objective Reasonableness. Pursuant to the opinion issued by the United States Supreme Court in *Graham v. Connor*, ISP examines the reasonableness of any particular force used:

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- a. from the perspective of a reasonable trooper with similar training and experience, in the same situation; and
 - b. based on the facts and circumstances of each particular case.
 - c. Factors used to determine reasonableness include, but are not limited to:
 - i. the feasibility of using de-escalation tactics, crisis intervention or other alternatives to force;
 - ii. the seriousness of the crime or suspected offense;
 - iii. the level of threat or resistance presented by the subject;
 - iv. whether the subject was posing an imminent threat to troopers or a danger to the community;
 - v. the potential for injury to citizens, troopers, or subjects;
 - vi. the risk or apparent attempt by the subject to escape;
 - vii. the conduct of the subject being confronted as reasonably perceived by the trooper at the time;
 - viii. the amount of time and any changing circumstances during which the trooper had to determine the type and amount of force that appeared to be reasonable;
 - ix. the availability of other resources;
 - x. the training and experience of the trooper;
 - xi. the proximity or access of weapons to the subject;
 - xii. trooper versus subject factors such as age, size, relative strength, skill level, injury/exhaustion and number of troopers versus subjects; and,
 - xiii. the environmental factors and/or other exigent circumstances.
 - d. When it is objectively reasonable that a subject is fully in law enforcement's control, force must terminate.
- I. Drawing or Exhibiting Firearms. Unnecessarily or prematurely drawing or exhibiting a firearm limits a trooper's alternatives in controlling a situation, creates unnecessary anxiety on the part of citizens, and may result in an unwarranted or accidental discharge of the firearm. Troopers shall not draw or exhibit a firearm unless the circumstances surrounding the incident create a reasonable belief that it may be necessary to use the firearm. When a trooper has determined that the use of deadly force is not necessary, the trooper shall, as soon as practicable, secure or holster the firearm. Any drawing and exhibiting of a firearm shall be in accordance with ISP Procedure [06.16 Weapons](#).
- J. Use of Neck or Choke Holds. ISP prohibits the use of neck or choke holds, except where deadly force is authorized.
- K. Use of Force - Deadly.
- 1. Troopers shall use deadly force upon another person only when the trooper reasonably believes, based on the totality of circumstances, that such force is necessary for either of the following reasons:

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- a. to protect the trooper or others for what is reasonably believed to be an immediate threat of death or serious bodily injury; or
 - b. to apprehend a fleeing subject when the trooper has probable cause to believe that the person has committed or intends to commit a felony involving serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to the trooper or another if the subject is not immediately apprehended.
2. Troopers may use deadly force when necessary:
 - a. to defend themselves and others when the trooper reasonably believes imminent danger of death or serious physical injury exists;
 - b. to affect the capture or prevent the escape of a suspect whose freedom is reasonably believed to represent an imminent danger of death or serious physical injury to the trooper or others.
3. When the use of deadly force is required, for maximum stopping effectiveness and minimum danger to others, troopers will, under most circumstances, shoot at the “center of visible body mass.”
4. Troopers fire their weapons to stop an assailant from completing a potentially deadly act rather than to kill.
5. Where feasible, troopers should identify themselves and state their intent to shoot before using a firearm. Troopers do not compromise their personal safety or the safety of others to provide notification.
6. In determining whether deadly force is necessary, troopers shall evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible. Before discharging a firearm, troopers shall consider their surroundings and potential risks to bystanders to the extent reasonable under the circumstances.
7. Because the application of deadly force is limited to the above scenarios, a trooper shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable trooper would believe the person does not pose an imminent threat of death or serious bodily injury to the trooper or another person.
8. Idaho State Police's Evaluation of Deadly Force. ISP will analyze a trooper's use of deadly force by evaluating the totality of the circumstances of each case consistent with Idaho Code as well as the factors articulated in *Graham v. Connor*.

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- L. Rendering Aid. After any use of force and when feasible, troopers shall promptly provide basic and emergency medical assistance to all members of the community, including victims, witnesses, subjects, suspects, persons in custody, subjects of a use of force and fellow troopers:
 - 1. to the extent of the trooper's training and experience in first aid/CPR/AED; and
 - 2. to the level of equipment available to a trooper at the time assistance is needed;
- M. Restrained Persons:
 - 1. are not to be positioned facedown as it may cause positional asphyxia, and placing restrained persons on their back may lead to radial nerve damage to the wrists and forearms; and
 - 2. are to be placed in a seated position or on their sides.
- N. Warning Shots. Warning Shots are prohibited.
- O. Shooting At or From Moving Vehicles.
 - 1. Firearms shall not be discharged at a moving vehicle unless a person in the vehicle is imminently threatening the trooper or another person with deadly force. The moving vehicle itself shall not presumptively constitute a threat that justifies a trooper's use of deadly force. A trooper threatened by an oncoming vehicle should move out of its path instead of discharging a firearm at it or any of its occupants. Firearms shall not be discharged from a moving vehicle, except in exigent circumstances and consistent with this procedure regarding the use of Deadly Force.
 - 2. The procedure regarding discharging a firearm at or from a moving vehicle may not cover every situation that may arise. In all situations, troopers are expected to act with intelligence and exercise sound judgment, attending to the spirit of this procedure. Any deviations from the provisions of this procedure shall be examined rigorously on a case by case basis. The involved trooper must be able to clearly articulate the reasons for the use of deadly force. Factors that may be considered include whether the trooper's life or the lives of others were in imminent peril and there was no reasonable or apparent means of escape.

IV. EXCESSIVE FORCE.

- A. ISP troopers acting without reasonable and lawful necessity can be held criminally and civilly responsible as an individual, for their actions.
- B. Requirement to Report Potential Excessive Force. A trooper who is present and observes another trooper/officer using force that the present and observing trooper believes to be beyond that which is necessary, as determined by an objectively reasonable trooper under the circumstances based upon the totality of information actually known to the trooper, shall report such force to a supervisor.

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- C. Requirement to Intervene When Excessive Force is Observed. A trooper with a reasonable opportunity to do so shall intervene when present and observing another law enforcement officer using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, taking into account the possibility that other officers may have additional information regarding the threat posed by a subject.

V. USE OF FIREARMS.

- A. A trooper discharges a firearm pursuant to Idaho Code § [18-4011](#), under the following circumstances:
 - 1. in obedience to any judgment of a competent court;
 - 2. when the trooper has probable cause to believe that the resistance poses a threat of death or serious physical injury to the trooper or to another person; or
 - 3. to prevent the escape of a fleeing felon whom the trooper has probable cause to believe will pose a significant and imminent threat to human life, should escape occur.
- B. Additionally, a trooper may discharge an ISP issued or approved secondary firearm during:
 - 1. range practice, agency sanctioned sporting events, or test firing; or
 - 2. the killing of an animal as follows:
 - a. for self-defense;
 - b. to prevent harm to the trooper or others; or
 - c. to stop the suffering of a badly-injured animal. In the case of livestock, the trooper may take the necessary action if the owner cannot be contacted within a reasonable time.

V. USE OF FORCE INCIDENT REPORTING AND REVIEW.

- A. The appropriateness of a trooper's actions is determined by the totality of circumstances and by the reasonableness of the trooper's perceptions and responses at the time of the incident.
- B. An [EHF 06 15-01 Use of Force Report](#) must be completed by the involved trooper's supervisor for every use of force action listed and forwarded to the appropriate Major.
- C. All [EHF 06 15-01 Use of Force Report](#) information, regardless of the disposition, is entered into the Early Intervention System database.
- D. The use of force is reviewed at the district level as described in ISP procedure [03.01 Incident Review and Administrative Investigation](#).

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- E. The following are reported immediately by the trooper to a supervisor and through the ARS/RMS system:
 - 1. discharge of a firearm resulting in property damage/injury;
 - 2. non-training discharge of a firearm; or
 - 3. use of force that results in property damage/injury.
- F. The supervisor completes an [EHF 06 15-01 Use of Force Report](#) which is processed in accordance with ISP procedure [03.01 Incident Review and Administrative Investigation](#).
- G. In an instance where non-ISP owned property is damaged, the supervisor provides the owner of the damaged property with the green "Citizen's Claim Procedure" notification form.

VI. ADMINISTRATIVE LEAVE RESULTING FROM A USE OF FORCE INCIDENT.

- A. When a trooper's use of force causes death or serious physical injury, the trooper may be placed on administrative leave with pay.
- B. ISP provides mandatory mental health counseling which consists of at least one (1) visit and an assessment to determine the trooper's fitness for duty.
- C. Any mental health counseling is conducted as a doctor-client relationship with all appropriate legal safeguards.
- D. A trooper may also be placed on administrative leave with pay pending the outcome of the OPS investigation into any other reportable use of force.