

**SCOTTISH POLICE**  
**AUTHORITY**



**POLICE**  
**SCOTLAND**

**Use of Force**

**(Police Officers and Authority/Police Staff)**

**Standard Operating Procedure**

**Notice:**

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<b>Owning Department:</b>	People and Development
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## **NOT PROTECTIVELY MARKED**

### **Compliance Record**

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### **Version Control Table**

<b>Version</b>	<b>History of Amendments</b>	<b>Date</b>
1.00	Initial Version	23/04/2013
1.01	Change to owning department name in document properties.	23/07/2013
1.02	Minor amendment approved by Ch Supt Policy Support. Additional guidance inserted to assist officers when dealing with persons with hearing impairments, or Aspergers/Autism.	26/07/2013
1.03	Addition made to Appendix C, P Division including a hyperlink to a Contamination Prevention Hoods	26/08/2013
2.00	SOP Completely Revised	09/11/2016

#### **Please Note:**

**Version 2.00 of the Use of Force Standard Operating Procedure (this version) contains changes so significant from that published as Version 1.03, that it should be regarded as having been:**

### **Completely Revised**

**Consequently, changes from previous versions are not highlighted in yellow. Readers should therefore take care to read all sections when referring to this SOP.**

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## **1. Purpose**

- 1.1 This Standard Operating Procedure (SOP) supports the Training, Leadership and Development Policy and establishes the Scottish Police Authority (SPA)/Police Service of Scotland (hereafter referred to as Police Scotland), criteria for the Use of Force relative to Police Officers and Authority Police Staff for the purpose of conducting their duties.

## **2. Application**

- 2.1 This SOP applies to all Police Officers, Special Constables and designated Authority/Police Staff.
- 2.2 The term individual will be used to refer to Police Officers, Special Constables and Authority/Police Staff from this point forward.
- 2.3 Where a provision applies to Police Officers, Special Constables or Authority/Police Staff only, this will be clearly identified.

## **3. Human Rights Implications**

- 3.1 Any use of force by an individual should be the minimum amount necessary to accomplish the lawful objective concerned and must be:
- proportionate;
  - legal;
  - accountable;
  - necessary; and
  - ethical in the circumstances.
- 3.2 The Human Rights Act 1998 confers a number of rights. The main articles which will affect an individual, who may require using some degree of force in the execution of their duty, are:

- **Article 2 – Right to life**

Article 2 imposes on EU states an obligation to safeguard life. This consists of the following main duties:

- an obligation to protect the right to life;
- prohibition on the taking of life;
- procedural obligation to investigate deaths resulting from the state's use of force or from the state's failure to protect the right to life.

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Deaths resulting from state's use of force.

Article 2 imposes a requirement of strict proportionality between:

- the objective;
- the force used to achieve it.

Deprivation of life shall not be regarded as inflicted in contravention of Article 2 when it results from the use of force which is no more than absolutely necessary to achieve one of the following permitted objectives:

- in defence of any person from unlawful violence;
- in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- in action lawfully taken for the purpose of quelling a riot or insurrection.

### **• Article 3 – Prohibition of Torture**

Article 3 prohibits:

- torture – deliberate inhuman treatment causing very serious and cruel suffering;
- inhuman treatment – treatment that causes intense physical and mental suffering;
- degrading treatment – treatment that arouses in the victim a feeling of fear, anguish and inferiority capable of humiliating and debasing the victim and possibly breaking their physical or moral resistance;
- punishment.

Firearms, less lethal weapons and arrest and restraint procedures must not be used by Police Officers with the sole intention of inflicting severe pain or suffering on another in the performance of official duties. Any such action may result in criminal charges.

### **• Article 5 – Right to Liberty and Security**

Everyone has the right to liberty and security of person.

No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

- (c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority of reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;
- (e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts, or vagrants;

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- (f) the lawful arrest or detention of a person to prevent his effecting an unauthorized entry into the country or of a person against whom action is being taken with a view to deportation or extradition.

Where Article 5 is interfered with, the SPA/Police Scotland must have acted reasonably and with no more force than is absolutely necessary.

- **Article 8**

Article 8 states:

- everyone has the right to respect for his private and family life, his home and his correspondence;
- there shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Paragraph 232 of the Joint Committee on Human Rights (2004) Deaths in Custody, Third Report states:

**Article 8, which protects the right to physical integrity, requires that action that interferes with physical integrity should be in accordance with established law and guidelines, that it should be for a legitimate purpose, and that it should be necessary for and proportionate to that purpose. For a physical intervention to be considered proportionate, it must be the least intrusive measure possible in the circumstances.**

Proportionality, therefore, requires both any form of restraint should be a last resort only; and where there must be recourse to restraint it is the minimum necessary, and applied for the shortest time necessary, to ensure safety.

## 4 Definition

- 4.1 Use of force is defined as: 'strength, power, energy, and includes influence and anything that tends to produce an effect on the mind or will'.
- 4.2 Any use of force by an individual must be the minimum amount necessary to accomplish the lawful objective concerned.
- 4.3 The overriding principle is that any force used by an individual must never be excessive. Any force used must be reasonable based on the individual person's perception of the threat that they are immediately facing.

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- 4.4 For force to be reasonable it must be proportionate, legal, accountable, necessary and ethical in the circumstances.

### **5. Use of Force Considerations**

#### **5.1 Arrest / Detention**

- 5.1.1 All persons who are the subject of lawful arrest or detention **must be \*under proper control** (\*if proportionate, the physical holding of a person, or if not proportionate, the appropriate tactical position and awareness as to prevent the person from carrying out any action which may be harmful to themselves or others) **at all times**.
- 5.1.2 For the purposes of this SOP, the above definition extends to persons who have been lawfully detained for the purposes of a search under the relevant legislation.

### **6. Use of Force Recording**

- 6.1 Use of Force, for the purpose of recording, is defined as: 'any physical use of force, except non-resistant handcuffing and "come along hold" and includes:
- empty hand techniques;
  - batons;
  - irritant sprays (including draws);
  - leg restraints;
  - spit hoods;
  - Personal Protective Equipment (PPE) shields.
- 6.2 Police Officers should record details of all use of force in their notebooks including the reasons why force was necessary. **Additionally, all staff must complete the electronic Use of Force Form on SCoPE, prior to the end of their shift.**
- 6.3 Completed Use of Force forms are automatically forwarded to the National Operational Safety Training Unit where they are reviewed. Forms may be returned to the submitting individual for clarification.
- 6.4 On every occasion where Irritant Spray is discharged operationally, or in the case of an accidental discharge, there is a legal requirement to record the incident and report it to the Police Investigations and Review Commissioner (PIRC) within 24 hours.
- 6.5 CS-PAVA Spray Discharge Report (Form 064-001) must be completed by the individual as soon as possible but no later than the end of their duty. If the individual is unavailable then a supervisor must arrange its completion.

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- 6.6 Completed forms should be sent via email to the Officer Safety Training CS Spray Discharge mailbox where it will be sent to PIRC for investigation.
- 6.7 Records generated as a result of the Use of Force will be kept in accordance with SPA/Police Scotland's Record Retention SOP.

### **7. Reporting Accidents/Injuries**

- 7.1 Where incidents involving the use of force result in personal injury or a near miss to individuals such incidents MUST be reported and recorded via the submission of an Accident, Incident, Dangerous Occurrence, Third Party Report (Form 076-003) and a Use of Force Form on SCoPE.

### **8. Operational Safety Training (OST)**

- 8.1 Individuals will receive OST to a level as determined by threat and risk assessment of their respective roles.
- 8.2 Following initial training, re-certification training will be undertaken on an annual basis. All operational Police Officers up to and including the rank of Inspector and designated authority/police staff will be required to undertake both an annual 8 hour officer safety re-certification programme and complete a Scottish Police Emergency Life Saving (SPELS) training package. Officers of Chief Inspector rank or above can elect to undertake an abbreviated senior officer's assessment course; they should also complete the SPELS package. All individuals must re-certify in these skills within a 12 month period.
- 8.3 Any individual who has not been trained in operational safety techniques or has not received the required re-certification training will be removed from operational duties until training is provided.
- 8.4 For all OST methods and documents refer to the Operational Safety Training Intranet page.

#### **8.5 Training Administration**

- 8.5.1 Individuals will receive a SCoPE notification 12 weeks prior to their OST expiry date.
- 8.5.2 Individuals should complete the SPELS training package prior to their attendance for re-certification.
- 8.5.3 Once SPELS has been completed individuals must attend for OST re-certification within three months of completing SPELS. Individuals failing to do this must re-sit their SPELS prior to attending for OST re-certification.

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- 8.5.4 No individual who is; on Court Standby, on light / protected duties or under the care of Health, Safety and Wellbeing will be permitted to attend for OST. Only individuals who are undertaking full operational duties may attend for training.
- 8.5.5 If for any reason, individuals require to cancel their attendance for training, this request must be authorised by a supervisor prior to it being forwarded to the relevant training administration unit. This request, when forwarded to the relevant training administration unit, must include the details of the supervisor who authorised the cancellation request.
- 8.5.6 Any cancellation request which does not include the details of the authorising supervisor, will not be granted, and will be returned to the requesting officer for suitable supervisory authorisation.
- 8.5.7 Following successful completion of OST re-certification, authorised individuals will be issued with an Irritant Spray authorisation card and will have their SCoPE training record updated with an expiry date of 12 months.

**List of Associated Legislation**

- Human Rights Act 1998

**List of Associated Reference Documents**

**Policy**

- Training, Leadership and Development Policy

**Standard Operating Procedures**

- Record Retention SOP

**Guidance**

- Code of Ethics for Policing in Scotland
- Joint Committee on Human Rights (2004) Deaths in Custody, Third Report

**List of Associated Forms**

- [Accident, Incident, Dangerous Occurrence Third Party Report \(076-003\)](#)
- [CS –PAVA Discharge Report \(064-001\)](#)