



STATE OF DELAWARE
THE JUSTICE OF THE PEACE COURT

5 E. PINE STREET
GEORGETOWN, DELAWARE 19947
TELEPHONE: (302) 856-5871
FAX: (302) 856-5919

2 PENNS WAY
SUITE 100 B
NEW CASTLE, DELAWARE 19720
TELEPHONE: (302) 323-4530

ALAN G. DAVIS
CHIEF MAGISTRATE

POLICY DIRECTIVE 18-260

TO: ALL UNIFORMED SERVICES EMPLOYEES

FROM: ALAN G. DAVIS *AGD*
CHIEF MAGISTRATE

RE: USE OF PHYSICAL FORCE SYSTEMS AND TRAINING

DATE: SEPTEMBER 26, 2018

Scope:

This Policy Directive sets forth the policies for officers in the Uniformed Services Division relating to use of physical force other than Defensive Tactics, Firearms and Conducted Electrical Weapons (CEW). It includes policies on handcuffing, expandable batons as well as manual techniques and the training systems used by the Court. The Justice of the Peace Court recognizes that continual training for staff is essential to its goal of maintaining the highest level of professionalism and competence in the performance of duties and maintaining a safe environment for staff and the public that we serve.

Related Policies, Procedures and Memoranda: This policy supersedes any contrary language in any Delaware Justice of the Peace Court State Constable and Court Security Officer handbook dated prior to August, 2018.

Effective Date:

This policy shall take effect October 1, 2018 and shall continue until further notice.

Definitions:

Agency – State of Delaware, Justice of the Peace Court.

Alternate Duty - A temporary assignment to job duties that are different or modified from the duties usually performed.

Armorer - The Chief of Uniformed Services, a Chief of Court Security, Constable II, Court Security Supervisor, Court Security Officer II, Trainer/Educator II, or any other Uniform Services title or position designated by the Chief Magistrate or his or her designee, of the Uniformed Services Division who has been trained and certified to maintain, inspect, service, and repair Agency-issued firearms.

COPT – The Delaware Council on Police Training.

COPT Equivalent – Any training that meets standards equivalent to COPT firearms training.

Duty-Load Condition – Condition when authorized firearms are loaded to full capacity (one round chambered and magazine is filled to maximum capacity) and capable of firing when trigger is pulled.

Firearms Coordinator - The Chief of Uniformed Services, a Chief of Court Security, Constable II, Court Security Supervisor, Court Security Officer II, Trainer/Educator II, or any other Uniform Services title or position designated by the Chief Magistrate or his or her designee of the Uniformed Services Division who has been certified to provide firearms training and who is responsible for overseeing training of Officers in the Uniformed Services Division.

Firearms Instructor - The Chief of Uniformed Services, a Chief of Court Security, Constable II, Court Security Supervisor, Court Security Officer II, Trainer/Educator II, or any other Uniform Services title or position designated by the Chief Magistrate or his or her designee of the Uniformed Services Division who has been certified to provide firearms training to Officers in the Uniformed Services Division.

Firearms Training – Firearms training conducted at a firearms training facility by an instructor certified to teach a firearms training curriculum that is equivalent to the standards of the COPT basic firearms and requalification training.

Locked Container – A safe, commercial lock box, locking drawer or closet, or any other box or area secured by a lock.

Officer – An employee of the Justice of the Peace Court, including full-time, part-time, contract¹ and casual seasonal employees, assigned to the Uniformed Services Division, including but not limited to the Chief of Uniformed Services, Trainer/Educator II, Chiefs of Court Security, Court Security Supervisor, Constables, and Court Security Officers.

On-duty - Performing work at the direction of the agency during compensable work hours, which includes traveling to and from work for the purposes of carrying a service weapon while in uniform.

Quartermaster - The Chief of Uniformed Services, a Court Security Supervisor, Chief of Court Security, Trainer/Educator II, or any other Uniform Services title or position designated by the

¹ Contract employees are governed by the applicable contractual obligations rather than this policy.

Chief Magistrate or his or her designee who is responsible, in part, for maintaining an accurate inventory of all service weapons and ammunition, including duty and training ammunition. Uniformed services division employees may provide assistance to the quartermaster at his or her discretion.

Range Safety Officers - An Officer selected to ensure all range users follow all instructions and range regulations in order to reduce the risk of injury or property damage. Range safety Officers, unless they are a Certified Firearms Instructor, are not to offer instruction or advice to Officers in training, but to ensure that Officers are acting in a safe manner.

Remedial Firearms Training - Training prescribed by the Chief of Uniformed Services on the recommendation of the Trainer/Educator II or Firearms Instructor for an Officer to enhance or improve proficiency with firearms.

Safe Condition – The state of the firearm being unloaded and ammunition being maintained in a separate location from the firearm; the firearm and ammunition are not readily accessible to minors or unauthorized persons.

Service Weapon – An Agency owned or controlled firearm that is issued to an Officer to carry while on-duty as authorized or to any other Agency individual authorized by the Chief Magistrate to carry.

Successfully complete or Qualify – To complete an approved firearms qualification shooting course with a score of 80% or better and to demonstrate sound judgement and safe handling techniques as determined by the Firearms Instructor.

Supervisor - The Officer's supervisor and during Firearms Training, the Firearms Instructor, who will have directive authority over every Officer in attendance during the Firearms Training regardless of organizational position or title.

Training Ammunition - Ammunition provided by the agency for purposes of training that is authorized by the training facility for training purposes.

Uniform - The full uniform approved by the Justice of the Peace Court for members of the Uniformed Services Division, which also includes the approved training uniform.

Uniformed Services Division - the agency's security unit which includes Constables, Court Security Officers, Court Security Supervisors, Court Security Chiefs, the agency's Security Trainer (Trainer/Educator II), and the Chief of Uniformed Services, in addition to any other job classification assigned to a security duty.

Policy:

It is the policy of the Justice of the Peace Court that Officers in the Uniformed Services Division maintain the highest level of professionalism, competence and safety for the protection of all staff and the public. It is further the policy of the Justice of the Peace Court that all Officers in the

Uniformed Services Division are trained properly to be proficient, safe and competent in the application of physical force.

A. Requirement for Continuous Qualification

All Officers of the Uniformed Services Division must be able to carry a baton, handcuffs and employ the agency approved Use of Physical Force System(s) in order to execute the essential functions of their position.

Officers shall be issued an expandable baton and authorized full use of agency issued handcuffs upon successful completion of the agency approved use of physical force system training course. Officers shall be required to successfully complete a re-certification of the current agency system(s) annually or as required.

Officers shall report to their supervisor any condition or prohibition that renders them unable to employ a use of physical force system or any associated equipment as soon as practical. This includes any physical or mental condition, whether temporary or permanent, and/or any legal impediment that prohibits the Officer from lawfully utilizing physical force. The inability to maintain use of physical force system qualification(s) may result in an assignment of alternate duty, remedial training, or the dismissal of the Officer from employment.

An Officer shall not carry his or her handcuffs or baton while off-duty² under any circumstances unless authorized by the Chief Magistrate or his or her designee.

B. Personal Equipment Prohibited

An Officer shall not carry or possess personally owned batons, handcuffs or any other use of force equipment while on-duty under any circumstances.

C. Carry, Storage and Safety

Officers shall carry their baton and handcuffs while on regular uniformed duty. These items shall be stored inside the agency issued pouches attached to the full Duty Belt when not in use.

When the Duty Belt is not in the immediate possession or control of an Officer, including while at his or her residence, Officers shall ensure it is stored in such a way that it is inaccessible to unauthorized person(s).

D. Display of Baton Prohibited

An Officer shall not display or un-holster his or her baton except under any of the following circumstances:

1. When the Officer has a reasonable belief that it may be necessary for the Officer to use the baton in accordance with the agency's defined Use of Force policy, and

² An Officer is considered off-duty during non-working hours and while not in uniform.

- i. To conduct a non-contact display of the baton for the purpose of convincing the subject to comply with a lawful order and avoid the use of physical force; or
 - ii. If removing the baton from its pouch will give the Officer a reasonably necessary tactical advantage prior to its deployment.
2. During authorized training.
3. At the direction of a Uniformed Services Supervisor or any other Justice of the Peace Court employee designated by the Chief Magistrate or his or her designee to give such direction.

Officers must notify their supervisor and submit a written report as soon as practicable anytime their baton is displayed, other than during authorized training or upon direction.

E. Intoxicants, Illicit or Prescribed Drugs

Officers shall not consume or be under the influence of intoxicants while on duty.

Officers shall refrain from taking any substance, including medication or prescription drugs, that diminishes the Officer's ability to remain alert and in control of their surroundings. It is the duty of each Officer to report to their supervisor any drug they may have consumed that may impair their ability to remain alert and in control of their surroundings.

F. Damage, Inspection and Maintenance

An Officer shall make an oral or written notification to his or her supervisor and the Quartermaster as soon as practicable whenever his or her handcuffs and/or baton is damaged or not functioning properly. A written report from the Officer detailing the circumstances leading to the damage may be required at the discretion of the Quartermaster. The handcuffs and/or baton will be repaired or replaced so that the Officer may be returned to full duty as soon as possible.

At minimum, each Officer will have their handcuffs, baton and associated equipment inspected annually by his or her supervisor.

G. Records

The Quartermaster shall maintain an accurate written record of all service equipment including the name of the Officer assigned the equipment, quantity and type distributed, and any other information relevant to maintaining a current and accurate inventory.

The Trainer/Educator II will shall maintain an accurate written record of all training conducted including the name of the Officer, date and course type taken, and any other information relevant to maintaining current system(s) certification.

H. Use of Physical Force System Training

All Officers of the Uniformed Services Division of the Justice of the Peace Court shall successfully complete a use of physical force certification course as directed by the Chief of Uniformed Services and approved by the Chief Magistrate.

All use of physical force system training shall be conducted by only Instructors certified on that system. Officers shall comply with all rules and regulations of the training course.

Any Officer who is aware that they will not be able to physically complete the use of physical force system training course as prescribed by the agency safely is required to notify their supervisor and/or the Instructor of the inability. If an Instructor becomes aware that an Officer is not able to physically complete the course safely, they may relieve the Officer from the training program. Any Officer who is, physically unable to complete any portion of the qualification course safely, is required to provide a note from his or her doctor to Human Resources. The note shall identify any physical limitations that may prevent the Officer from performing any portion of the course in a safe manner. Follow up steps will be taken by the Officer's supervisor with assistance from Human Resources to determine next steps for the Officer and their qualification(s).

I. Failure to Qualify

Failure of an Officer to successfully complete either their initial Use of Physical Force System training course or any recertification course(s) required by that system, may result in alternate duty assignment and/or assignment to remedial training or in dismissal from employment.

Any Officer who fails to qualify shall notify his or her supervisor as soon as practicable. In addition, the Instructor shall notify the Officer's supervisor of any Officer's failure to qualify.

An Officer who fails to qualify during their initial use of physical force system training shall receive remedial training as defined within the given specifications of that system or when undefined at the discretion of the Chief of Uniformed Services; however, any Officer failing to initially qualify on an agency required use of physical force system shall be dismissed from employment when qualification is deemed to be a prerequisite of continued employment.

An Officer who fails to successfully complete any required recertification(s), may be placed in an alternate duty assignment at the discretion of the Agency and may be assigned to remedial training. There is no right to be placed on alternate duty. As soon as possible or after receiving remedial instruction, the Officer who is placed in an alternate assignment will be scheduled to retake the applicable training. Failure to successfully complete their recertification after two (2) attempts may result in the Officer's termination from employment.

In an effort to enhance individual proficiency, any Officer may be assigned remedial training at the discretion of the Trainer/Educator II.

J. Practice

1. Non-contact baton drills (e.g. opening, closing, holstering) and handcuffing practice outside of the public view are encouraged.
2. All other training and/or contact baton practice is prohibited unless specifically authorized by the Chief Magistrate or his or her designee. Prohibited use may result in disciplinary action, up to and including dismissal.

cc: All Justice of the Peace Court Employees
Honorable Leo E. Strine, Jr
Honorable Andre Bouchard
Honorable Jan Jurden
Honorable Alex J. Smalls
Honorable Michael K. Newell
Amy Quinlan, State Court Administrator
Marianne Kennedy
Jody Huber, Esquire
Mark Hitch
Jill Malloy
Law Libraries: New Castle County, Kent County, Sussex County,
Widener University School of Law