



Use of Force

.01 Policy

The use of force by law enforcement is a matter of critical concern to the public and the law enforcement community. Officers are involved on a daily basis in numerous and varied encounters with people, and when warranted to do so, may use force in carrying out their duties.

It is the policy of the Department that each incident involving the application of any degree of physical force upon the person of another must be evaluated based on the facts known to the officer at the time of the incident. The totality of the circumstances will be considered when reviewing use of force incidents.

Under no circumstances may the use of physical force be more than that which is necessary to achieve a lawful purpose. Officers are permitted to use only the amount of force that is objectively reasonable and necessary to protect themselves or others from what is reasonably believed to be a threat of death or bodily harm, to effectuate an arrest, or gain compliance with a lawful order. The use of verbal orders should be used to gain compliance. Whether the use of force is objectively reasonable shall be judged from the perspective of an officer at the time of the incident, based upon facts known or reasonably available to him or her.

Every member of the Police Department shall refrain from using force unnecessarily and shall prevent similar conduct by others. The use of excessive force will subject officers to discipline, possible criminal prosecution, or civil liability. The use of choke holds and similar carotid holds by members of the Department is prohibited. The use of reasonable physical force by officers is authorized in situations that cannot be otherwise controlled.

Any time an officer uses force, he or she shall ensure that appropriate medical treatment or first aid is provided to the subject of the force without unnecessary delay.

.02 Terms

Force: Any physical coercion used to effect, influence, or persuade a subject to comply with an order from an officer. The term shall include the use of chemical irritants and the deployment of canine, but shall not include ordinary unresisted handcuffing.

Active Aggression: A threat or overt act of an assault (through physical or verbal means), coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to a person appears imminent.

Actively Resisting: Evasive physical movements to defeat an officer's attempt to control, including bracing, tensing, pushing, linking arms or verbally signaling an intention to avoid or prevent being taken into or retained in custody.

Passive Resistance: Actions that do not prevent the officer's attempt to control a subject. For example, a subject who remains in a sitting, standing, limp or prone position with no physical contact (e.g., locked arms) with other individuals. A subject in handcuffs meets the definition of passive resistance if: (a) the subject is in a sitting, standing or prone position as directed by the officer and is not engaged in any motion reasonably likely to injure, resist or remove the handcuffs; or (b) the subject is walking accompanied by and following the directions of an officer.

Critical Firearm Discharge: Any discharge of a firearm by a Bladensburg Police Officer with the exception of range and training firings and discharges at animals for the purpose of humanely destroying them.

Hard Personal Weapons: Strike applied and intended to overcome a physical assault or active threat of assault upon the officer or another (a strike with a closed fist or a kick).

Less Lethal Force: Any force that is neither likely nor intended to cause death or serious physical injury.

Lethal Force: Any force likely to cause death or serious physical injury, including, but not limited to, the use of a firearm.

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Personal Weapon: Any use of hands, elbows, knees, or feet to deliver strikes for the purpose of stunning or distracting a suspect to overcome resistance.

Reasonable Belief: Facts or circumstances that an officer knows or should know that cause a reasonable and prudent officer to act or think in a similar way under similar circumstances.

Serious Physical Injury: Bodily injury that creates a substantial risk of death, causes serious permanent disfigurement, or results in long-term impairment of the functioning of the body.

Serious Use of Force: Is an incident in which an officer's action resulted in:

- Death, or the likelihood of death;
- Hospitalization;
- A broken bone;
- Loss of consciousness;
- Serious disfigurement;
- Disability;
- All incidents where a person receives a bite from a police canine;
- Firearms discharge directed at a person; or
- All Critical Firearm Discharges.

Soft Personal Weapons: Strike applied to a nerve motor point as a stunning or distraction technique to cause a motor dysfunction and balance displacement in order to control a resistant subject (an open hand strike or knee strike to a nerve motor point)

.03 Governing Legislation and Reference

Governing Legislation:

Graham vs. Connor (490 U.S. 386, 109 S. Ct, 1865).

Tennessee v. Garner (471 U.S. 1 S. Ct, 1985).

Forms:

Use of Force Report (Form 624).

ECD Use of Force Report (Form 6738).

Reference:

General Order 301, Weapons.

General Order 350, Electronic Control Device.

.04 Procedure

A. General

Officers may use force to:

- Effect an arrest;
- Prevent escape;
- Overcome resistance to a lawful order or action; or
- Protect others or themselves from bodily harm.

B. Use of Force Continuum Overview

The use of force continuum is designed to provide an overview and visual representation of the force options available to officers. It is a fluid instrument, which attempts to depict the dynamics of a confrontation. The continuum is only a guide and cannot take into consideration every possible situation that an officer may face.

Certain factors, when considered collectively, may influence an officer's determination of how much force to use to overcome a subject's resistance. Examples of factors include, but are not limited to:

- Officer/subject factors such as age, size, strength, injury, exhaustion, and number of officers versus number of subjects;
- Whether the subject is under the influence of drugs or alcohol;
- Proximity to weapons;
- Availability of other options;
- Seriousness of the offense; or
- Exigent circumstances.

It is important to note that an officer does not need to use the lowest level of force on the continuum when the officer can articulate that a higher level of force was reasonable. This continuum should be viewed as a sliding scale, not a ladder. An officer may use force at any level on the continuum, provided that the force selected is objectively reasonable.

C. Tactical Options

Engagement

Communication skills to attempt to control situations. Verbal communication is essential throughout the arrest process to de-escalate the situation. Distance gives an officer more time to evaluate and react appropriately to a

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threat. An officer should continually reassess his or her options throughout an incident and take into account that high risk incidents are fluid and continually changing. An officer should look for indicators of imminent assault. An officer should consider using cover and concealment when it is available and movement (dynamic cover) when it is not. Whenever possible, subjects should be allowed to submit to arrest before force is used.

Disengagement

Apprehension is not always necessary or appropriate. Frequently, such action reduces an officer's range of available options. Methods of tactical disengagement include, but are not limited to:

- Area containment;
- Surveillance;
- Waiting out a subject;
- Summoning reinforcements; or
- Requesting specialized units.

D. Use of Force Continuum

Subject's Actions

Conduct observed or intentions reasonably perceived by the officer.

- Cooperative or Compliant: Complies with verbal commands or other directions.
- Passive or Non-responsive.
- Uncooperative when taken into custody or fails to respond to verbal commands or other directions.
- Active Resistance: Physically evasive movements to defeat the officer's attempt at control, to include bracing, tensing, pushing, or verbally signaling an intention not to be taken into or retained in custody, provided that the intent to resist has been clearly manifested.
- Aggression: Physical assault, or active threat of assault, upon the officer or another.
- Life Threatening Assault: An attack or threat to attack wherein an officer reasonably believes that the assault will result in serious physical injury or death.

Officer's Actions

Conduct designed to overcome resistance through force that is objectively reasonable and necessary to achieve a lawful objective. When possible, the subject should be allowed to submit to arrest before force is used.

- No Force Necessary : (Uniformed Officer or Identifiable Off-Duty or Plain Clothes Officer) Command Presence including the display of authority as a peace officer, and non verbal communication such as body language and manner of approach; verbal direction includes statements and commands given to the subject.
- Low Level Control (Escort Techniques): Low Level Control includes escort techniques used to remove a uncooperative subject; for example, open hand escort to direct movement.
- Intermediate Level of Control (Electronic Control Device, Chemical agents, Pressure Points, Joint Manipulation and Control Holds): Includes the use of Departmentally issued electronic control devices, chemical agents, the Hobble strap, joint control holds, and take-downs; it may also include soft personal weapons strikes used to stun or distract prior to applying control holds; the use of soft personal weapons in this instance is not a means intended to defeat resistance, but rather to gain control; for example, an open hand strike to the upper torso or a knee strike to nerve motor point in the leg for the purpose of stunning and distracting a subject in order to apply a control hold.
- High Level of Control: Includes the use of hard personal weapon strikes, Departmentally issued tactical baton and Canine; the use of hard personal weapons strikes in this instance is intended to overcome a subject's aggressive resistance when necessary to gain control; for example, a closed fist strike or kick delivered to neutralize an active assault on an officer.
- Lethal Force: Includes the use of a firearm or any force which has a reasonable likelihood of causing death or serious

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physical injury. Officers may only use lethal force when they have an objectively reasonable belief the suspect poses an imminent threat of death or serious physical injury to the officer or another person.

E. Lethal Force

Officers may only use lethal force when they have an objectively reasonable belief that the suspect poses an imminent threat of death or serious physical injury to the officer or to another person.

A decision to use lethal force can only be justified by facts known to the officer at the time the decision is made. Facts unknown to the officer, no matter how compelling, cannot be considered in subsequent investigations, reviews, or hearings.

Any firearm discharge directed toward a human or animal is lethal force. Firearms shall not be discharged when less than lethal force would suffice.

A verbal warning shall be given before the use of lethal force whenever possible. Except as noted in this section, firearms may only be discharged in defense of self or others when:

- The officer reasonably believes that the subject poses an imminent threat of himself or herself or to another person; or
- No reasonable alternative for apprehending a fleeing subject exists and the officer has probable cause to believe that the person has committed a felony involving the infliction or threatened infliction of serious injury or death and escape of the person would pose an imminent threat of death or serious injury to the officer or to another person.

Firearms may be discharged at a vehicle when:

- The occupants of the vehicle are threatening or using deadly force by a means other than the vehicle and innocent persons would not be unduly jeopardized by the officer's action; or
- The vehicle is operated in a manner which may cause serious injury or death to another person or to an officer and there is no cover available (Officers should avoid placing themselves in situations where vehicles may strike them).

Firearms may be used to destroy seriously injured animals or those posing an imminent threat to human safety.

Drawing or Display of Firearms

Officers shall not draw or display their firearm, unless there is justification for its use to accomplish a proper police purpose. An officer may draw and display his or her firearm to effect an arrest or investigate a situation that he or she has reasonable cause to believe may develop into danger to life or serious bodily injury to the officer or others.

F. Use of Force Report

Any officer who uses force, including the discharge of OC Spray, shall immediately notify a supervisor. Officers shall also notify a supervisor upon receipt of an allegation of excessive force.

All officers who use force must complete each applicable portion of the Use of Force Report prior to the end of their tour of duty and forward the original to their supervisor.

If incapacitated, the officer's supervisor shall complete the report providing as much detail as possible.

F. Use of Force Review

The use of force review is an administrative procedure intended to assess:

- Whether or not officers are properly trained in use of force techniques;
- Whether or not the techniques, if properly executed, were effective; and
- If the use of force was within Departmental guidelines.

Use of force reviews are not investigations, and in no way diminish the rights established by the Law Enforcement Officers' Bill of Rights.

Supervisor's Responsibilities

A supervisor shall respond to the scene of every use of force and ensure that:

- The situation has been stabilized and all parties are safe;
- The involved officers and subject are examined for injuries;
- The subject is interviewed for complaints of pain;

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- An attempt is made to get a statement from the subject;
- Medical attention is provided to those in need;
- Transport from the scene is arranged for any arrestees;
- Each officer using force completes a Use of Force Report; and
- The officer handling the incident completes a Case Report.

For those incidents that involve the discharge of OC Spray, the supervisor shall additionally ensure that the officer:

- Documents the basis for the discharge;
- Documents the justification provided for the level of force used;
- Includes the duration of the discharge; and
- Includes an estimate of the distance at which the discharge occurred.

If the use of force is serious, or OC is discharged at a restrained individual, the supervisor shall notify CID. CID shall be responsible for investigating these incidents.

The supervisor shall document the incident on an Case Report. The supervisor shall indicate in the narrative that CID will be conducting the use of force review and or investigation of the incident.

Supervisors shall conduct a review of each use of force incident when:

- An officer under their supervision takes action resulting in or alleged to have resulted in injury of a person whether intentional or accidental;
- An officer strikes a person;
- An officer employs approved pressure points, joint control holds, or take-downs; or
- An officer uses a firearm, tactical baton, or chemical agent.

A use of force review is not required when:

- A full custody arrest is made without the use of force and transport occurs, but the subject is released without being charged, i.e. handcuffed and released;
- An individual is handcuffed for officer

safety and released;

- An officer points a weapon at an individual; or
- An officer employs an escort technique.

Handcuff and release incidents shall be documented on a Case Report that details the circumstances of the incident.

Documenting the Use of Force

Supervisors will review, evaluate, and document each use of force incident, and will prepare a Use of Force Memorandum. The Use of Force Memorandum will include a precise description of the facts and circumstances that either justify or fail to justify the officer's conduct.

As part of this review, the supervisor will evaluate the basis for the use of force, and determine whether or not the officer's actions were within policy.

Any supervisor who witnesses or approves the involved officer's use of force is prohibited from conducting the use of force review. Under these circumstances, a supervisor of equal rank or above will be responsible for completing the review.

Supervisors involved in use of force incidents shall not sign and approve their own use of force reports. The officer that conducts the use of force review shall, approve these reports.

The review shall be completed within 7 days of the incident and shall include:

- Statements obtained from all civilian witnesses, when feasible;
- Statements obtained from all Departmental employees who witnessed the incident;
- The identity of all officers who were involved in the incident or were on the scene when it occurred;
- All reports which indicate whether an injury occurred, whether medical care was provided, and whether the subject refused medical treatment;
- Photographs or videotapes taken of the incident or of injuries, before and after cleaning and treatment;
- The original use of force reports submitted by each officer who used force; and

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- Any other relevant documents or observations.

If an officer working secondary employment is involved in a use of force incident, the on duty supervisor shall respond and ensure that the steps detailed in this section are completed prior to end of the supervisor's tour of duty. These documents shall be forwarded to the involved officer's supervisor, who shall be responsible for completing the review.

While conducting the use of force review, the supervisor shall critically evaluate all information obtained. If the supervisor becomes aware of facts that he or she believes indicate the need for an internal investigation, the supervisor shall stop his or her review and contact the Lieutenant.

If the Operations Commander concludes that an investigation is appropriate, all documents obtained by the supervisor shall be turned over to the assigned investigator.

If the Operations Commander decides that an investigation is not appropriate, the supervisor shall complete the review, noting the Lieutenant's decision in the Use of Force.

Based on the review, the supervisor shall conclude whether or not the use of force was justified and within Departmental policy.

This conclusion shall be based on the totality of the circumstances, Departmental policy, and training.

Command Review - Concurrence or Non-Concurrence

Upon completion of the review, the Use of Force, all Use of Force Reports, the Case Report, witness statements, and any other relevant documents shall be forwarded to the Lieutenant for command review. At any point during the command review, questions that clarify the officer's actions may be directed to the supervisor responsible for conducting the review.

Any reviewing member within the chain of command may attach comments, direct that additional evidence be gathered, or recommend that a formal investigation be conducted.

If the reviewing command officer concurs with the supervisor's finding, he or she shall indicate so and sign the Commander's Use of Force Review in the appropriate place.

Additional comments may be added to the back of the Commander's Use of Force Review or a Continuation Report, but no further action is required.

If the reviewing command officer does not concur with the supervisor's finding, he or she shall indicate so and sign the Commander's Use of Force Review in the appropriate place. The command officer must document the specific facts or circumstances that form the basis for his or her decision on the Commander's Use of Force Review or a Continuation Report. The law, directive, or other governing policy either violated or not violated must be cited, and the actions at issue described.

Chief of Police Review

The Chief of Police may extend the 7-day time limit for supervisor's to complete their review due to extenuating circumstances.

The Chief of Police shall conduct the final review within 14 days of the incident. During his or her review, the Chief shall evaluate the use of force reviews conducted by the supervisor, identifying any deficiencies in the review. Any discrepancies noted shall be documented in writing. Supervisors shall be responsible for correcting any deficiencies.

Supervisors shall be held accountable for the quality of their reviews. He or she shall ensure that appropriate disciplinary or corrective action is taken when a supervisor fails to:

- Conduct a timely and thorough review;
- Recommend appropriate corrective action; or
- Implement appropriate corrective action.

Responsibilities of the Chief of Police

After considering the findings and recommendations of the Supervisor and Lieutenant, the Chief of Police shall render a final decision regarding closure of the incident.

Confidentiality of Files

Internal Affairs shall retain a copy of the findings for five years. Access to these files is limited to the Office of the Chief of Police.

- G. Re-assignment after Force Resulting in Death or Injury

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When an officer has used force or whose actions has resulted in a death or serious injury, or when the discharge of his or her firearm has resulted in any injury, the officer will be immediately placed on administrative leave, with pay. This assignment shall remain in effect pending a review of the circumstances surrounding the incident. Administrative leave shall not be considered punishment or any indication of wrongdoing.

During this time of administrative re-assignment, post-incident debriefing and counseling for those involved will be administered.

When the officer involved is required to turn the weapon in for examination, the supervisor receiving the weapon shall ensure that the transfer is done out of the public eye and that the officer is not seen in uniform without a weapon. When circumstances permit and under the direction of a supervisor, the officer's sidearm shall be replaced with a re-issued sidearm.

H. Animals

Where an officer discharges a firearm for the purpose of humanely destroying an injured animal, no use of force review shall be conducted. The involved officer shall complete a Case Report and a Use of Force Report including the Discharge of Firearms portion.

If an officer destroys an animal for any other purpose, a use of force review shall be conducted. The involved officer shall complete a Use of Force Report including the Discharge of Firearms portion.

HISTORY: Adopted July 1, 2012. Revised November 3, 2015.

This General Order supersedes all other orders and memoranda in conflict therewith.

Authority:



Charles L. Owens
Chief of Police