

# TAKOMA PARK POLICE DEPARTMENT - GENERAL ORDERS



TITLE: <b>Use of Force</b>	NUMBER: <b>617</b>
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New    X Amends    Rescinds	General Order 617, dated June 15, 2010
AUTHORITY: <b>Alan M. Goldberg, Chief of Police</b>	CALEA STANDARDS: <b>1.3.1 - 1.3.13, 41.3.4</b>
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**01 Purpose:** To establish policy, procedures and guidelines relating to the use of force by department personnel.

**02 Policy:**

**A.** The need to use force, whether deadly or non-deadly, is one of the most demanding and critical decisions that a law enforcement officer must make. There are situations when an officer is forced to make the irreversible decision of whether or not to use deadly or non-deadly force. Such a decision can have a profound and possibly harmful effect on the officer, the department, and the community.

**B.** Officers may only use force, which is objectively reasonable to make an arrest, an investigatory stop/detention or other seizure, or in the performance of their lawful duties to protect themselves or others from personal attack, physical resistance, harm, or death. The decision to exercise force must be based upon the circumstances that the officer reasonably believes to exist. In determining the appropriate level of force to be used by an officer, the nature of the threat or resistance faced or perceived by the officer vis-a-vis the force employed should be considered. Factors to be considered in assessing the level of force to be used include, but are not limited to, the following:

1. the severity of the crime at issue;
2. whether the subject poses an imminent threat to the safety of the officer(s) or others; and
3. whether the subject is actively resisting arrest, or is attempting to evade arrest by flight.

**C.** All officers have a number of force options available to use in those situations wherein force is objectively reasonable. Examples of when force may be reasonable include, but are not limited to:

1. Subduing or arresting a physically assaultive person.
2. Instances that reasonably threaten the safety of an officer or other person.
3. Stopping a person who is attempting to flee or escape a lawful detention or arrest.
4. When directing, controlling, or escorting resistive or physically uncooperative persons.
5. Other situations where persons who are being placed into custody are non-compliant or resistant to lawful orders.

**03 Definitions:**

**A. Deadly Force:** Any use of force, which is intended or likely to cause a substantial risk of death or serious physical injury.

- B. Medical Treatment:** A minimum of an on-scene response by MCFRS.
- C. Non-Deadly Force:** Any use of force other than that which is considered deadly force.
- D. Less-lethal:** The term describes a degree of force or category of weapons that are not intended or likely to cause serious physical harm or deadly injury, but it is recognized that the use of such force or weapons could have deadly or lethal consequences.
- E. Objectively Reasonable Force:** That level of force, which is appropriate when analyzed from the perspective of a reasonable officer possessing the same information and faced with the same circumstances as the officer who actually used the force.
- F. Passive Resistance:** A refusal by an unarmed person to comply with an officer's verbal command or physical control techniques in such a way that the subject does not use physical force or resistance of any kind.
- G. Probable Cause:** Facts and circumstances that would lead a reasonable person to believe that a crime has been committed and a particular individual has committed that crime.
- H. Secondary Weapons:** Less-lethal implements authorized by the department that are intended to protect the officer or others or to facilitate an arrest, investigative stop/detention, or seizure. These include, but are not limited to, the expandable baton, electronic control devices, OC Aerosol, flashlight, FN303 Launcher, and/or a police K-9.
- I. Scene:** The location(s) where force was utilized during an event.
- J. Serious Physical Injury:** Bodily injury that creates a substantial risk of death, causes a serious, permanent disfigurement, or results in long-term loss or impairment of any bodily member or organ.

#### **04 Force Options:**

An officer may encounter situations that require not only the officer's presence, but also some form of verbal or non-verbal communication. Such communication may take the form of providing information, giving commands, physical gestures or directions, asking or answering questions, conducting interviews, etc. It may also take the form of issuing specific instructions to individuals or groups, dealing with arguments, verbal assaults or threats, handling disputes, disagreements, etc. The department recognizes that some situations require the application of force.

A person need not strike or attempt to strike an officer to be considered a physical threat as long as the officer has an objectively reasonable belief (verbal threats, verbal defiance, physical stance, etc.) that the person is physically threatening and has the present ability to harm the officer or another. Examples of actions or observations that may lead an officer to believe that a person is a threat include, but are not limited to, clenched fists, displayed hostility or anger, verbal threats, aggressive stance, non-compliance, and furtive movements, among other things. Under the law, officers are not obligated to retreat when confronted with a threat. The department relies on the officer's judgment and discretion to employ objectively reasonable force under each unique circumstance.

**A. Authorized Use of Non-Deadly Force:**

1. Non-deadly force, as defined herein, may be used to effect arrests, to safely make or maintain an investigative detention or seizure, or to protect officers or others from personal attack, physical resistance, or injury, provided the force applied is reasonable based upon the immediate circumstances confronting the officer at the time.
2. Non-deadly force may involve the use of defensive tactics (hands/body) and/or secondary weapons.
3. Although the department issues authorized secondary weapons, in exigent circumstances officers are not prohibited from using another object or instrument to protect themselves or others, as long as the object/instrument is used in accordance with the limitations on force contained in this policy directive.

**B. Authorized Use of Deadly Force:**

Officers may use deadly force to defend themselves or another person from what they reasonably believe is an imminent threat of death or serious physical injury. The U.S. Supreme Court has ruled that any use of deadly force must be objectively reasonable. This standard will be applied to all uses of deadly force regardless of whether or not a suspect is fleeing when an officer employs deadly force.

**C. Destruction of Animals:**

**1. Humane Destruction of Injured Animals:**

Officers may discharge their firearms to destroy injured animals when no other reasonable alternative exists. Factors taken into account must include backstop, location, etc. When an animal is destroyed, officers must complete TPPD Form #600-038, "Use of Force Report." An incident report will be completed for the destruction of injured domestic animals (cats, dogs, cattle, horses, etc.). An incident report is not required for the humane destruction of non-domestic animals (deer, raccoons, and other wildlife). Officers will attempt to locate and inform the owner of a destroyed domestic animal.

**2. Destruction of Dangerous or Vicious Animals:**

If an officer destroys a dangerous or vicious animal (domestic or non-domestic) that presents a threat to the safety of the officer or another, an incident report documenting the event shall be completed in addition to the TPPD Form #600-038. This includes attempted destruction by firearm. Officers who are confronted by dangerous animals are encouraged to consider the use of non-firearm alternatives, to include an ECD. The TPPD Form #600-038 is required in cases where an officer uses a secondary weapon against a dangerous or vicious domestic animal.

**05 Firearms:**

**A. Drawing a Firearm:**

Firearms may be drawn whenever officers reasonably fear for their safety or the safety of others, and/or such action would be tactically acceptable.

**B. Consideration of Backstop:**

When discharging a firearm for any reason, officers must exercise reasonable caution in order to avoid unnecessarily endangering the lives of bystanders. When possible, officers should give consideration to background, bystanders, and location.

**C. Prohibitions:**

1. Warning shots are prohibited.
2. Officers are prohibited from intentionally placing themselves in the path of a moving vehicle where an officer's use of deadly force would be the probable outcome. When confronted by an oncoming vehicle, officers will move out of its path, if possible, rather than fire at the vehicle.
3. Officers are prohibited from shooting at or from moving vehicles unless the circumstances would authorize the use of deadly force.

**06 Electronic Control Devices:**

**A. General:** An Electronic Control Device (ECD) is a less-lethal weapon and, as such, is to be used to help control persons who are actively resisting or acting aggressively. An ECD is not an all-purpose weapon that takes the place of de-escalation techniques and other options. Officers are reminded that an ECD, as a less-lethal weapon, has some potential to result in a fatal outcome even when used in accordance with policy and training. Each application of an ECD must be independently justified, and risks should be weighed against other force options.

**1. Definition:**

The department-issued ECD, currently the TASER, is a secondary weapon, which utilizes neuromuscular incapacitation technology to temporarily incapacitate an individual in order to enable officers to gain control and/or custody of that person.

**2. Authorized Users:**

Only officers that have successfully completed the department's approved training and certification requirements will be permitted to carry and/or utilize an ECD.

**3. Carrying the ECD:**

Only department-issued or authorized ECDs will be carried by members of the department. Officers will only carry the ECD in a department-issued holster on their side opposite their handgun.

**4. Verbal Notifications:**

When practical, the ECD operator will:

- a. Give verbal warnings to a subject that the ECD is about to be deployed.
- b. Verbally announce "TASER" to other officers before the ECD is discharged. This will let the officers involved know that the ECD is being deployed.

**B. Appropriate Use of the ECD:**

1. As a de-escalation technique, sparking the ECD from a safe distance without a cartridge as well as pointing the ECD's laser at the subject is permitted in order to gain compliance prior to deploying the ECD.

- 2.** ECDs should be used only against subjects who are exhibiting active aggression or who are actively resisting in a manner that, in the officer's judgment, is likely to result in injuries to themselves or others. The ECD may be used to incapacitate a person who is actively assaulting or physically resisting an officer, and to prevent an assault upon and/or an injury to officers, other persons, and/or the subject.
- 3.** The ECD may be used to incapacitate a subject who is fleeing when the officer has reasonable suspicion to believe the subject is involved in criminal activity. However, fleeing should not be the sole justification for using an ECD against a subject. Personnel should consider the severity of the offense, the subject's threat level to himself/herself or others, and the risk of serious injury to the subject before deciding to use an ECD on a fleeing subject.
- 4.** Personnel should use an ECD for one standard cycle (five seconds) and then evaluate the situation to determine if subsequent cycles are necessary. In determining the need for additional energy cycles, officers should be aware that an energized subject may not be able to respond to commands either during or immediately following an ECD exposure. Assisting officers must secure the subject as soon as possible and, if practical, handcuff the subject when the ECD is cycling.
- 5.** The ECD may be used during department authorized training programs and/or demonstrations.

**C. Prohibited ECD Uses:**

Officers are prohibited from using the ECD under the following circumstances:

- 1.** In a punitive or malicious manner.
- 2.** In drive stun mode as a prod or escort device.
- 3.** To rouse unconscious, impaired, or intoxicated individuals.
- 4.** On those who passively resist as defined in this directive.
- 5.** On handcuffed subjects, unless the subject poses an imminent threat to the officer, the subject, or others and other techniques have been or would likely be ineffective (specific articulation of exigent circumstances is required).
- 6.** To experiment on a person or allow a person to experience the ECD device even if the person requests it, when the ECD's use would not otherwise be allowed by this directive. This prohibition does not apply to voluntary ECD exposures of sworn officers during training or demonstrations that are authorized by the department. Voluntary ECD exposures to non-sworn personnel must be approved by the Training Officer or designee prior to the training or demonstration.
- 7.** In a known flammable or explosive environment (e.g., a meth lab, where gasoline is stored, where alcohol-based OC spray was used, etc.) unless the officer's only other option would be deadly force.
- 8.** Intentionally aimed or discharged at the eye, face, head, throat, neck, or groin unless such use occurs when deadly force is authorized. (Note: Officers should aim for the preferred target zone according to their training whenever possible.)

**D. Elevated Risk Factors:**

The department strongly discourages ECD usage under the following conditions due to the increased risk of harm to a subject or others. However, officers may face circumstances that dictate the necessity to utilize the ECD when elevated risk factors are present. Officers must specifically articulate the circumstances justifying the use of the ECD when:

1. Immediate surroundings create an obvious and undue hazard (e.g., the subject could fall from a significant height, fall into water, etc...).
2. The subject has control of a moving motor vehicle or machinery.
3. The subject is obviously pregnant, elderly and frail, or a small child.
4. When there have been repeated ECD applications (more than three 5-second cycles or drive stuns).
5. When more than one ECD device is used on a subject simultaneously (this includes situations wherein officers use the ECD in conjunction with officers from another agency).
6. Personnel should consider that exposure to the ECD for longer than 15 seconds (whether due to multiple applications or continuous cycling) may increase the risk of death or serious injury. All applications should be independently justifiable, and the risks should be weighed against other force options.

**E. ECD Limitations:**

1. Continued ECD applications administered to a subject that is highly resistant to pain may not change the subject's behavior. If the desired behavior is not achieved after deployment, officers should consider alternative methods.
2. ECD applications will be administered in a manner and duration consistent with training provided by the department.

**F. Accidental ECD Cartridge Discharge:**

In the event of an accidental ECD discharge, the officer will promptly notify his/her supervisor, who will ensure an incident report is completed documenting the incident.

**G. ECD Probe Removal:**

1. Officers will take photos of:
  - a. all visible signs of injury;
  - b. ECD probes in skin or clothing prior to removal, if possible; and
  - c. all marks produced by ECD probe or drive stun.
2. Officers may remove probes from non-sensitive areas in accordance with probe removal training guidelines. Officers are responsible for providing first aid after probe removal by applying alcohol wipes and Band-Aids, if needed. Probes are to be treated as biohazard sharps and handled accordingly.
3. Medical personnel shall remove probes located in sensitive areas (eye, face, breasts, throat, or groin) or deeply embedded in a body part.

## **07 Custody and Transport Responsibilities:**

### **A. Important Considerations:**

Officers must be mindful of certain indicators and/or conditions when detaining or arresting a person. The following conditions and/or indicators may potentially contribute to sudden unexpected death following extreme physical exertion and/or restraint:

1. Excited Delirium: A state of extreme mental and physiological excitement, characterized by extreme agitation, hyperthermia, epiphora, hostility, exceptional strength, and endurance without fatigue.
2. Alcohol or drug use/abuse
3. Obesity
4. Display of erratic/psychotic behavior
5. Incoherent speech
6. State of agitation
7. Subject intentionally injuring himself/herself
8. Subject disrobing or naked

Officers must recognize these factors and closely monitor a subject in custody in the aftermath of a struggle when one or more of the above indicators are present and the scene is secure.

**B.** Officers must take appropriate measures to ensure the individual being transported is able to breathe without restriction and, if possible, should lay the subject on his/her side or seated in an upright position. Officers should avoid transporting subjects in a facedown position whenever possible. Additionally, officers should avoid transporting a person in any position, which puts pressure on the ECD probes.

### **C. Medical Emergencies:**

Officers must immediately summon emergency medical assistance if the subject exhibits or complains of trouble breathing, becomes unresponsive, exhibits reduced levels of consciousness or, if in the officer's opinion, the subject requires evaluation or medical treatment.

### **D. Medical Treatment:**

Officers and supervisors will obtain medical treatment as soon as practical for individuals:

1. who show signs of injury as a result of any use of force.
2. who complain of injury as a result of any use of force and requests medical attention.
3. when the officer or supervisor reasonably believes an individual is in need of medical attention as a result of any use of force.
4. who show obvious signs that chemical restraint may be necessary. In such cases, officers must specifically request an Advanced Life Support (ALS) unit. ALS units carry medication, such as Haldol or Ketamine, which can assist in treating individuals suffering from excited or agitated delirium.
5. who have been exposed to an ECD. (MCFRS ambulance medical unit is an appropriate level of care; no hospital/emergency medical center visit is required.)

**E.** Medical treatment will not be refused for any individual who requests it.

**F.** If safety circumstances reasonably dictate moving the subject to another location, officers may have emergency medical personnel meet the officers at a nearby location to assess the subject and render aid.

**08 Use of Force Incidents and Reporting:**

**A. Officer Responsibilities:**

When in the performance of his/her duties an officer uses any level of force above a hand control and routine handcuffing technique, or makes a clear threat to use force above that level, or points a weapon (firearm, ECD/Taser, or FN303) in the clear direction of an individual and targets that individual, the officer will:

1. Summon medical assistance as necessary;
2. Notify the working patrol shift supervisor as soon as possible (or the Duty Commander if the involved officer is the working patrol shift supervisor);
3. Not reload or tamper with his/her weapon unless such action is reasonably necessary due to the specific tactical situation;
4. Identify potential witnesses if possible; and
5. Before the end of the officer's current shift, shall complete any required event reports, including documentation of the use of force.

**B. Supervisor Responsibilities:**

Upon notification by the involved officer, the supervisor shall:

1. Promptly respond to the scene and notify the Duty Commander therefrom.
2. Offer assistance to the officer, keeping in mind that a use of force incident may have serious psychological ramifications. The supervisor should be cognizant that comments from the public or other officers may be inappropriate for the mental well-being of the involved officer, and should guard against this, to the extent possible, by restricting access to the involved officer.
3. Investigate the use of force incident. In the event any of the following circumstances are determined or alleged, the supervisor shall submit a Use of Force Report (Form # 600-038) to the Patrol Operations Commander before the end of the supervisor's current shift:
  - a. non-deadly force without a weapon that results in apparent physical injury or a purported claim of physical injury;
  - b. a secondary weapon or any physical strike technique;
  - c. deadly force;
  - d. any intentional or unintentional discharge of a firearm, ECD/Taser or FN303 Launcher, other than in the course of approved training that is in the general direction of an individual;
  - e. a department canine inflicts injury on any individual in conjunction with a search, arrest, or attempted apprehension.



**f.** there is a material difference between the description of the force reportedly used by the officer and the description of the force reported by the subject upon whom the force was used.

**g.** an officer is assaulted or ambushed.

**4.** In all other use of force scenarios reported to the supervisor, he/she will still have the discretion to submit a Use of Force Report if, in his/her opinion, the use needs further investigation, counseling of the involved officer is required, or a policy or training issue is identified that needs to be brought to the attention of the Department for correction. If, on the other hand, the supervisor finds that there are no problems or issues with the use of force, he/she will then submit a memorandum to the Patrol Operations Commander advising of such a finding.

**5.** Whenever multiple officers use force in the same incident a separate Use of Force Report Form shall be submitted for each officer.

**6.** The investigation should include at least a visual inspection of the officer, a visual inspection and interview of the person upon whom force was used, inspection of any secondary weapon employed, and identification and interview of all known witnesses. The report should clearly and separately detail the accounts provided by each party to the incident, i.e., officer(s), victim(s), and witness(es), as to what occurred. No conclusions should be drawn or inferred in this report

**7.** In the event it is a use of deadly force (including an accidental discharge of a firearm in the direction of a person), immediately notify the Duty Commander, and either CIS (who will respond and initiate an investigation), or if it is a use of deadly force incident occurring outside the City Limits, the appropriate jurisdiction to initiate an investigation.

**8.** In a firearms related use of force incident, take physical custody of the involved officer(s) firearm. The weapon should be turned over in an "as is" condition to the CIS investigator handling the investigation involving an injury. If there was no injury involved, the weapon should be inspected and conditions noted by the supervisor, who will be responsible for maintaining custody of the weapon until it is turned over to appropriate departmental firearms staff.

**9.** If an officer and/or prisoner is injured as a result of an arrest or transport, photos will be taken whenever they can adequately identify the injury.

**10.** An injured prisoner will receive medical treatment within a reasonable length of time, depending on the seriousness of the injury.

**11.** In the event the supervisor determines that a discharge of a firearm, ECD/Taser, or Less Lethal Launcher was accidental and not in the direction of any person, this will be reported via memorandum, prior to the end of the shift, to the Patrol Operations Commander for review.

**12.** Any and all ECD/Taser discharges require prompt notification to the Chief of Police.

**09 Administrative Leave and Counseling:**

An officer who discharges a firearm, uses a secondary weapon, or otherwise uses force, which results in the death or serious injury of another person will:

**A.** Be placed on administrative leave with pay, pending an investigation. However, the Chief of Police or designee may temporarily reassign that officer to administrative duties in lieu of administrative leave. While on administrative leave, or performing administrative duties, an officer will not conduct police duties other than court appearances. He/she may take action only in emergency situations.

**B.** Routinely undergo counseling with a psychologist selected by the Chief of Police or designee.

**10 Administrative Review:**

**A.** The Patrol Operations Commander will review all use of force incidents to determine if Department procedures were followed.

**B.** He/she will make a determination as to whether use of force was justified. He/she will forward those findings, along with any recommendation, to the Chief of Police within 15 days. Simultaneously, a copy will be forwarded to the Professional Standards Manager.

**C.** Within 15 days of receipt of the Patrol Operations Commander's recommendations, the Chief will determine if further investigation is required or if review of the incident will be discontinued. If further investigation is required, the case will be assigned for an internal investigation, and notification to the officer will be conducted by the assigned investigator, in accordance with General Order 635 - Complaints/ Internal Affairs. If review of the incident is to be discontinued, then notification to the officer will be made within five days by the Patrol Operations Commander, at the direction of the Chief.

**D.** The Patrol Operations Commander will conduct an annual analysis of use of force incidents, so as to identify any patterns or trends, as well as the need for policy modification and/or training.

**E.** Use of Force reports will be maintained separate from any internal affairs records or employee personnel records. Use of Force Reports shall be kept for a minimum period of five years.

**11. External Review:** In the case of death that results from a use of force, the investigation and/or administrative review may be referred to the State's Attorney's Office by the Chief of Police or designee for review.

**12 Applicability to Mutual Aid Requests:** All required notifications under this general order shall also apply in the event that an officer of another jurisdiction uses force of any level while operating under mutual aid to this agency, whether formally requested or not.