

TAKOMA PARK POLICE DEPARTMENT - GENERAL ORDERS



TITLE: Use of Force	GENERAL ORDER NUMBER: 617
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I. Purpose

To establish policy, procedures and guidelines relating to the use of force by department personnel

II. Definitions

- A. Choke Hold: A physical maneuver that restricts an individual's ability to breathe for the purposes of incapacitation.
- B. Control Techniques: Firm grip and physical control holds (i.e., arm bars)
- C. Empty-Hand Techniques: Strikes with fist, elbow, knee, or foot executed consistent with the Officer's entry-level police defensive tactics training and the annual defensive tactics in-service training.
- D. Lethal Force: Any use of force, which is intended or likely to cause a substantial risk of death or serious physical injury.
- E. Less-lethal Force: Any use of force, other than that which is considered lethal force, that involves physical effort to control, restrain, or overcome the resistance of another during an arrest or physical assault. "Less lethal weapons" are those weapons that are expected to create less risk of causing serious injury or death, such as an ECD or OC spray.
- F. Medical Treatment: A minimum of an on-scene response by MCFRS.
- G. **Necessary and Proportional:**
 - 1. Force that is
 - a) necessary because there is no reasonable alternative to using force which would safely and effectively achieve the same legitimate ends;
 - b) the amount of force which is necessary corresponds to and is appropriate in light of the objective the Officer aims to achieve; and
 - c) the harm likely to result from the use of force is not too severe in relation to the value of the interest that the Officer seeks to protect

- H. Objectively Reasonable Force: The determination that the necessity for using force and the level of force used is based upon the Officer's evaluation of the situation considering the totality of the circumstances known to the Officer at the time the force is used and upon what a reasonably prudent Officer would use under the same or similar situations. **This is no longer the applicable standard under Maryland law, as Maryland has codified the standard of "necessary and proportional." The objectively reasonable Officer standard may still be applicable to seizures under the 4th Amendment to the U.S. Constitution.**
- I. 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.
- J. Probable Cause: Facts and circumstances that would lead a reasonable person to believe that a crime has been committed and a particular person has committed that crime.
- K. Protective Instrument/Less-lethal Weapons: Any less than lethal device used 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, or FN303 Launcher.
- L. Scene: The location(s) where force was utilized during an event.
- M. 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.
- N. **Show of Force: A display of force readiness demonstrated by the unholstering of a firearm or the pointing of a firearm or other weapon capable of firing a projectile at a potential threat. A show of force includes the unholstering and expansion of an expandable baton (Excludes animal euthanasia.)**

III. Policy

It is the policy of the Takoma Park Police Department to value and preserve each human life. An Officer may only use force when, under the totality of the circumstances, the force is **necessary and proportional** to prevent imminent threat of physical injury to a person or to effectuate a legitimate law enforcement objective.

A. Use of Force

- 1. A police Officer may only use force when, under the totality of the circumstances, the force is necessary and proportional to:
 - a) prevent an imminent threat of physical injury to a person;

- b) effectuate a legitimate law enforcement objective.

2. A police Officer must cease the use of force against a person as soon as:

- a) the person is under the police Officer's control; or
- b) no longer poses a threat of physical injury or death to the police Officer or to another person; or
- c) the Officer determines that force will no longer accomplish a legitimate law enforcement objective.

B. De-escalation

When time, circumstances, and safety permit, Officers shall take steps to gain compliance and control a situation without using physical force. **De-escalation techniques must be used unless it is not possible to do so.**

C. Duty to Intervene

A police Officer, who possesses a reasonable opportunity to intervene, is required to intervene to prevent or terminate the Use of Force by another police Officer beyond what is authorized under Maryland Code, Public Safety Statute §3-524.

D. Duty to Render Aid

When time, circumstances, and safety allow, a police Officer shall render basic first aid to a person injured as a result of a police action and promptly request appropriate medical assistance.

E. Use of Force Documentation

Each police Officer that is involved in or observes a Use of Force or Show of Force incident is required to complete a full documentation of the incident or provide a statement of facts for the Officer or supervisor completing the report.

F. Supervisor Responsibility

1. A police supervisor is required to respond to the scene of any incident during which a police Officer used physical force and caused serious physical injury and shall:

- a) Gather and review all known video recordings of a Use of Force incident
- b) Gather witness observations from all appropriate Officers who are present.

2. Upon awareness of an incident which could potentially require a use of force, a supervisor will immediately respond to the scene. (If the on-duty supervisor does not initially inform the Communications Section that they are en-route, the dispatcher will ensure the supervisor is aware of the incident).
 3. Supervisors or designee will complete the Use of Force report in Blue Team by the end of the shift. Supervisors will be required to review any body-worn camera and in-car video footage of the incident; notation of the same will be included in the Use of Force Blue Team report.
 4. Supervisors or designee will ensure the Chief of Police and Deputy Chief or designee receives notification via the Use of Force reporting system (Blue Team Software).
- G. Administrative Reviews and Investigations of Serious Bodily Injury and Deadly Force Incidents by the Office of the Attorney General and the Department**
1. The Office of the Attorney General's Independent Investigations Division (IDD), has primary jurisdiction into the Use of Force incidents which result in serious bodily injury or death.
 2. The Department will defer to and cooperate with the Office of the Attorney General in any investigation conducted by them in the use of force which causes a loss of life or serious bodily injury.
 3. To the extent not pre-empted by the Office of the Attorney General's investigation, the Department will conduct both an internal and criminal investigation of the incident. All uses of force will be documented and investigated pursuant to all relevant General Orders. The Department will conduct an administrative investigation of the incident after the Office of Attorney General's IDD completes its criminal investigation.
 4. Where an Officer's use of force causes death or serious physical injury, the Officer will be placed on administrative leave after completing all internal investigative requirements, pending administrative review, and until the designated mental health professional determines the Officer is ready to return to full duty.
 5. If the incident occurs outside the State of Maryland, the appropriate police jurisdiction will conduct the criminal investigation.

IV. Procedures

A. Use of Force that is Necessary and Proportional

1. **Officers will only use force that is necessary when there is no reasonable alternative to using force that, under the totality of the circumstances, would safely and effectively achieve the same legitimate ends. As a practical matter, this will sometimes require, when circumstances allow, that Officers employ non-force alternatives, such as de-escalation techniques, before resorting to any use of force.**
2. **Even when the use of some force is necessary, the degree and amount of force used must be “proportional,” that is, it must correspond to, and be appropriate in light of, the severity of the threat or resistance confronting the Officer or the objective that the Officer aims to achieve. Put another way, an Officer may use no more force than is reasonably required under the circumstances to prevent an imminent threat of physical injury to a person or to effectuate another legitimate law enforcement objective.**
3. **The proportionality requirement further prohibits an Officer from using force if the harm that is likely to result from that degree and amount of force is too severe in relation to the value of the interest that the Officer seeks to protect. For example, even if deadly force is the only feasible way to prevent the mere destruction of a piece of property, an Officer may not use such force, because the harm likely to result is not proportional to the Officer’s legitimate interest in protecting property. Instead, an Officer may use lethal force only in response to an apparent imminent threat of death or serious bodily injury to a person. This does not preclude an officer from using deadly force to prevent serious injury to themselves or others if no alternatives exist for the officer to retreat, seek cover, or use less lethal force.**

B. De-Escalation

1. **When time, circumstances, and safety allow, the Officer must take steps to gain compliance and de-escalate conflict without using physical force. De-escalation techniques must be used unless it is not possible to do so.**
2. **De-escalation strategies include advisements, warnings, and persuasion; attempts to slow down or stabilize the situation so that more time, options, and resources are available; Officers should consider whether a subject’s lack of compliance is a deliberate attempt to resist or is caused by an inability to comply.**
3. **As time and safety permit, Officers will “slow-down” an incident with the goal of de-escalating the matter. When possible create distance or utilize a barrier between you and the subject to afford a greater reactionary gap for the purposes of Officer safety and as a means to**

minimize a perceived threat. Special care should be taken to avoid creating a situation where force would be necessary. Examples would include closing the gap on an armed suicidal subject who is not posing an immediate threat to Officers of community members; placing oneself in front of a suspect vehicle on a felony stop; or failing to use an available interpreter for a distraught subject who does not speak English.

- 4. When possible, time and distance should be exercised to allow for needed resources to be brought to the scene such a Crisis Intervention Team member, a trusted family member of a subject with an intellectual or developmental disability; or a trained third-party non-governmental expert.**
- 5. A degree of force which may have been justified earlier in an encounter does not remain justified indefinitely. Officers must immediately reduce the level of force as the threat or resistance decreases or ends.**
- 6. Strategies and techniques for de-escalation include:**
 - a) Having only one Officer speaking to the individual rather than multiple Officers issuing multiple commands.**
 - b) Speaking to a person with a tone of voice and language that is not aggressive or confrontational.**
 - c) Using verbal persuasion and calming gestures.**
 - d) Sharing the Officer's first name, asking the person his/her name and exhibiting a genuine willingness to listen. Allowing the subject, the opportunity to make statements or ask questions.**
 - e) Explaining the Officer's actions and responding the subject's questions.**
 - f) Waiting the subject(s) out when circumstances permit.**
 - g) Permitting the subject to move about when safe.**

C. Assessing the Threat Response

- 1. A person need not strike or attempt to strike an Officer to be considered a physical threat as long as the Officer has an articulable and 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 observations, actions, or combinations**

of actions 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. While Officers are not legally obligated to retreat when confronted with a threat, the department relies on the Officer's judgment and discretion to employ the **necessary and proportional force** under each unique circumstance.

- a) If the Officer has no alternative to using force, the member must use only the amount of force that is **necessary and proportional** to respond to the threat or resistance and must immediately reduce the level of force as the threat or resistance lessens or stops.
- b) In determining the appropriate level of force, Officers should consider objective factors regarding a subject's mental capacity; intellectual, developmental, or physical disability; drug/alcohol intoxication; and language barriers.
- c) Officers will not use force on any individual who is not engaged in or suspected of criminal conduct unless;
 - (1) That individual is being lawfully taken into custody pursuant to an Emergency Evaluation Petition, and
 - (2) Force is necessary and proportional to affect such custody.
 - (3) Officers will not use force, other than control techniques, on a subject who is handcuffed unless that subject poses an imminent danger to the Officer or others.
- d) Consideration of an Officer's back drop and danger to innocent persons must be factored into the decision-making process.

2. Cessation of Use of Force

An Officer is required to cease the use of force as soon as the person on whom the force is used is under the Officer's control, the person no longer poses an imminent threat of physical injury or death to the Officer or another person, or the Officer determines the force will no longer accomplish a legitimate law enforcement objective.

D. Duty to Render First Aid

- 1. After any use of force incident, Officers must render basic first aid to a person injured as a result of police action and promptly request appropriate medical assistance.
 - a) Once the scene is safe, and as soon as practical, an Officer will

provide appropriate medical care consistent with his or her training to any individual who has visible injuries, complains of being injured, has difficulty breathing, or requests medical attention.

- b) This may include providing first aid, requesting emergency medical services, and/or arranging for transportation to an emergency medical facility.
 - c) Officers will request Advanced Life Support (ALS) for subjects who displayed excited or agitated delirium and against whom physical force and restraint was used. ALS units carry medication, such as Haldol or Ketamine, which can assist in treating individuals suffering from excited or agitated delirium
- 2. Officers must immediately summon emergency medical assistance
 - a) if the subject exhibits or complains of trouble breathing,
 - b) becomes unresponsive,
 - c) exhibits reduced levels of consciousness,
 - d) or if in the Officer's opinion the subject requires evaluation or medical treatment.
- 3. Medical treatment will not be refused for any individual who requests it.
- 4. Officers will monitor subject(s) against whom a use of force was applied and who does not appear to be in medical distress for signs of worsening conditions. Officers will immediately summon emergency medical services when
 - a) the subject has difficulty breathing,
 - b) medical distress **is or becomes** apparent, or
 - c) the individual **is or becomes** unconscious.
- 5. In situations where the subject is forced into a face-down position, Officers should not take any action which could impair or inhibit the subject's ability to breathe. If physical force is required to subdue a subject that is under arrest, Officers must release pressure/weight from the subject as soon as it is safe to do so. Officers are charged with monitoring the subject for any respiratory or breathing problems; and as soon as possible, the Officer must position the subject on their side in the recovery position or sit them up as circumstances allow, so as not to reduce airflow or diaphragm function.

6. 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.
7. For individuals who have been exposed to an ECD, the MCFRS ambulance medical unit is an appropriate level of care. A hospital or emergency medical center visit is not required unless there are mitigating circumstances.

E. Officer Transport of Civilians

1. In instances where Officers transport a civilian to a medical facility for non-emergency treatment, they must take the safest and most direct route to the medical facility if feasible.
2. Officers must notify Takoma Park Police Communications of their starting and ending mileage.

F. Duty to Intervene

1. Officers are required to intervene verbally and/or physically to interrupt any act if they witness another Officer using unreasonable, unnecessary, excessive, or disproportionate use of force.
 - a) The use of excessive, unnecessary, or disproportionate force will subject Officers to discipline **that may include termination, possible criminal prosecution, and potential** civil liability.
 - b) Officers must recognize and act upon the affirmative duty to intervene and prevent or stop an Officer from engaging in an event which is unethical, illegal, or contrary to the Department's General Orders.
 - c) **Officers who are complicit may also be subject to disciplinary action up to and including termination, potential criminal prosecution, and civil liability.**
2. Events which include an affirmative obligation to intervene, include, but are not limited to events where an Officer:
 - a) uses excessive force;
 - b) intentionally escalates the encounter absent a lawful, necessary purpose;
 - c) makes an unlawful stop, search, or arrest;
 - d) is involved in discriminatory policing;

- e) retaliates against an individual exercising their 1st Amendment rights;
 - f) involved in a theft, fraud, or waste;
 - g) uses discourteous language to one or more members of the public;
 - h) is involved in sexual misconduct;
 - i) participates in harassment;
 - j) falsifies documents or records;
3. When safe to do so, Officers will stop or attempt to prevent another sworn employee from inappropriately using force or continuing an application of force when it is no longer required.

G. Transport and Custody Considerations

1. 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:
- a) Excited Delirium: State of extreme mental and physiological excitement - characterized by extreme agitation, hyperthermia, epiphora, hostility, exceptional strength, and/or endurance without fatigue.
 - (1) Officers who respond to calls for service or witness subjects exhibiting these behaviors/characteristics will summons emergency medical assistance to minimize their response times.
 - (2) The medical personnel will be requested to stage in a safe location outside of the scene until Officers have safety secured the subject in distress.
 - b) Alcohol or drug use/abuse;
 - c) Obesity;
 - d) Display of erratic/psychotic behavior;
 - e) Incoherent speech;
 - f) State of agitation;

- g) Subject intentionally injuring themselves;
- h) Or subject disrobing or naked.

2. 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.
3. Officers must take appropriate measures so that the individual being transported is able to breathe without restriction and if possible, should lay the subject on their side or seated in an upright position. Officers must avoid transporting subjects in a face-down position.

H. 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 necessary and proportional 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 protective instruments.

I. Animal Euthanasia

1. Officers may discharge their firearms to euthanize injured animals when no other reasonable alternative exists. Factors considered must include backstop, location, etc. When an animal is euthanized, Officers must complete a Use of Force Report.
2. Domestic animals – For euthanasia of domesticated animal (i.e. dogs, cats, etc.) an incident report will be completed in addition to the Use of Force report. Officers will attempt to locate and inform the owner of a destroyed domestic animal.
3. Wildlife – An incident report is not required for the humane destruction of non-domestic animals (deer, raccoons, and other wildlife). However, a Use of Force report through the Blue Team software is still required.
4. 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 **Use of Force report**. 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 Use of Force report is required in cases where an Officer uses a secondary weapon against a dangerous or vicious domestic animal.

J. Prohibited Firearms Actions

1. Warning shots are prohibited.
2. Shots fired from or at moving vehicles are prohibited unless the circumstances would authorize the use of deadly force.
 - a) Officers will not intentionally place themselves in a position in front of an oncoming vehicle where use of deadly force would likely be the probable outcome.
 - b) When confronted by an oncoming vehicle, Officers will move out of its path if possible, rather than fire at the vehicle.
3. A firearm will not be discharged when it is likely that an innocent person may be injured.

K. Exigent Circumstances and Use of Force

1. Although the department authorizes the use of issued protective equipment, 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.
2. Officers will not use protective instruments on any subject who, at the time of contact, is only a danger to themselves and does not pose an immediate threat to the Officers or the public.

L. Firearms

1. Firearms may be drawn whenever Officers have a reasonable and articulable fear for their safety or the safety of others, and/or such action would be tactically acceptable.
2. When pointing or discharging a firearm at a target for any reason, Officers must exercise due care to avoid endangering the lives of bystanders. Officers should adhere to the rules of firearm safety by being sure of the intended target and what is beyond the target.
3. **A Show of Force with a firearm will be reported and documented by the involved Officer.**

V. 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 techniques, or makes a clear threat to use force above that level by pointing a weapon

(firearm, ECD/Taser, **or weapon capable of discharging a projectile**) 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. Do 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.
6. **Whenever multiple Officers use force in the same incident a separate Use of Force Report Form shall be submitted for each Officer.**

B. Supervisor Responsibilities

1. Respond to the scene of any incident during which a police Officer used physical force and caused serious physical injury
2. Notify the Duty Commander.
3. Provide assistance to the involved 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.
4. 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 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 any less lethal weapon capable of firing a projectile, (except in the course of an approved training**

scenario);

- e) a department canine inflicts injury on any individual in conjunction with **law enforcement duties to include, but not limited to**, 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.

5. 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
6. In the event it is a use of deadly force (including an accidental discharge of a firearm), 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.
7. 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.
8. **When taking evidentiary custody of an issued firearm from an Officer involved in the shooting, a replacement firearm will be issued without delay.**
9. If an Officer and/or prisoner is injured as a result of an arrest or transport, photos will be taken of all visible injuries and include complete person photo to capture clothing or uniform condition. Officers should not attempt to adjust or tidy up their uniform or clothing prior to any photos being taken.
10. An injured prisoner will receive medical treatment within a reasonable length of time, depending on the seriousness of the injury.

C. **All ECD/Taser or firearm discharges (except for animal euthanasia) require**

prompt notification through the chain of command to the Chief of Police.

VI. Additional Considerations

A. 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:

1. 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.
2. Routinely undergo counseling with a psychologist selected by the Chief of Police or designee.

B. Administrative Review:

1. The Operations Commander will review all use of force incidents to determine if Department procedures were followed.
2. He/she will decide as to whether use of force was justified and 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.
3. Within 15 days of receipt of the Professional Standards Manager'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.

C. The 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.

D. Use of Force reports shall be kept for a minimum period of five years.

VII. 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 Department, whether formally requested or not.

VIII. Agency Use of Force Reporting

A. By March 01 of each year, the agency must submit a report to the Governor's

Office of Crime Control and Prevention on each use of force.

B. Any incident involving a police officer employed by the agency that resulted in a monetary settlement or judgment in the prior calendar year.

C. The report must include the following information;

1. The age, gender, ethnicity, and race of each individual involved in the use of force incident,
2. The age, gender, ethnicity, and race of the police officer involved in the use of force incident,
3. A brief description of the circumstances surrounding the use of force incident,
4. The date, time and location of the use of force incident,
5. The date on which any civil action was filed on a use of force incident,
6. The date on which and civil action was resolved on any use of force incident, and
7. The amount of the settlement or judgment awarded to the plaintiff on any use of force incident.

End of General Order