



## USE OF FORCE

### Directive: 8 - 100

Date of Issue: March 2016 Amends: 8-100 & 8-101, May 2015

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#### I. PURPOSE

The purpose of this Directive is to establish policy on the use of force by Police Officers.

#### II. POLICY

The preservation of life, protection of property and apprehension of criminal offenders are the primary responsibilities of Police Officers. The most important of these is the preservation of life.

The use of force by a Police Officer is a serious action and must be justified based on the facts and circumstances particular to the situation in which the force is utilized.

It is the policy of the Maryland Capitol Police (MCP) that Police Officers will not use any more force than is necessary to affect an arrest, overcome any resistance that is offered and maintain custody and control of a prisoner. When defending themselves or others in danger, Police Officers will only use that degree of force that is reasonable and necessary to repel the attacker.

#### III. DEFINITIONS

- A. Deadly Force: That level of force which is intended to cause death or grave injury or creates some specified degree of risk that a reasonable and prudent person would consider likely to cause death or grave injury.
- B. Grave injury: Bodily injury that creates a substantial risk of death, causes serious, permanent disfigurement, or results in long-term loss or impairment of the functioning on any body part.
- C. Non-deadly Force: Any use of force other than that which is considered deadly force. This includes any physical effort used to control or restrain another, or to overcome the resistance of another.

#### IV. PROCEDURES

##### A. USE OF FORCE GENERALLY

1. While Officers are authorized to meet force with that degree of force necessary and reasonable to repel an attack or terminate unlawful resistance, each situation is different and the officer

must evaluate the circumstances and actions of an aggressor before selecting the appropriate response.

2. When time, circumstances and safety permit, officers should take steps to gain compliance and de-escalate conflict without resorting to physical force.
4. If possible, attempts should be made to slow down or stabilize the situation so that more time, options and resources are available.
5. Officers should consider whether a subject's lack of compliance is a deliberate attempt to resist or is caused by an inability to comply due to some physical or mental condition; or as a result of some communications barrier.
6. When an officer uses any degree of force that results in injury to someone, medical assistance will be provided as soon as possible. Medical assistance will be provided to the injured person regardless of how minor or slight the injury.
7. The use of excessive force, regardless of the provocation or action of the offender, will result in administrative sanctions and disciplinary action and may result in criminal prosecution.

#### B. USE OF FORCE CONTINUUM (**Appendix A**)

1. The officer may but is not required to progress through an escalation of force in response to a threat but must select the appropriate response for the threat presented.
2. The use of force continuum allows an officer to continuously assess the situation and select the most reasonable and justifiable option relative to the circumstances perceived at that point in time. This acknowledges the fact that the officer may move from one part of the continuum to another in a matter of seconds as circumstances change.
3. Use of force options within the continuum are as follows:
  - a. Officer Presence — No force is used and the mere presence of a law enforcement officer works to deter crime or diffuse a situation.
  - b. Communication — Force is not-physical. The officer issues calm, nonthreatening commands, giving the subject clear directions. The Officer may increase their volume and shorten commands in an attempt to gain compliance. Short commands might include "Stop," or "Don't move."
  - c. Soft Control — The Officer uses open hand techniques to gain control of a situation, such as holds and joint locks to restrain an individual.
  - d. Chemical Controls – The Officer may use chemical sprays or projectiles embedded with chemicals to restrain an individual (e.g., O.C. pepper spray).
  - e. Electronic Control Device (ECD) – The Officer may use ECDs to immobilize an individual.

- f. Hard Controls — The Officer uses punches or other striking techniques to restrain an individual.
- g. Intermediate Weapons — The Officer uses less-lethal technologies. Impact weapons such as the police baton may be used to immobilize a combative person.
- h. Lethal or Deadly Force — The Officer uses lethal weapons such as their department issues firearm to gain control of a situation. This is only authorized as a last resort and under the conditions outlined below.

## B. DEADLY FORCE

1. Deadly Force may consist of the use of a firearm, or the utilization of some other piece of equipment that is designed, intended and routinely used for other legitimate purposes, such as flashlights, asp batons, vehicles, etc. The deliberate use of any such item, instrument, article or equipment in a potentially lethal manner is prohibited except in cases where the use of deadly force is authorized in this policy.
2. The degree of force used in a confrontation must be consistent with both the severity of the incident and the urgency of its disposition. Police Officers may employ deadly force in the performance of their duties under the following circumstances:
  - a. Self-Defense of Defense of Another - deadly force is permissible in self-defense, or to defend another person who is being unlawfully attacked, from death or grave injury.
    - (1) There is no requirement that an actual specific injury be inflicted. It is, however, required the potential for such an injury must be present and the threat must be imminent.
    - (2) Officers may continue to use deadly force as long as the suspect attempts to inflict serious injury and indicates a willingness to do so.
  - b. Fleeing Felon - To effect the arrest or prevent the escape of a violent or potentially violent felon only when all of the following conditions exist:
    - (1) Every other reasonable means of effecting the arrest or maintaining custody of the felon have been exhausted;
    - (2) The perpetrator is a known felon or the officer has probable cause to believe the perpetrator committed a felony;
    - (3) The perpetrator used or threatened to use deadly force in the commission of a felony;
    - (4) The officer has reason to believe the felon poses an imminent, significant threat of using deadly force or inflicting grave injury to the Officer or others if not immediately apprehended;

- (5) Every reasonable consideration has been given to prevent inadvertent injury to innocent bystanders; and
- (6) When feasible, a Police Officer has given notice of intent to use deadly force and the felon refuses to surrender.

*NOTE: There maybe situations where the issuance of a verbal warning prior to using deadly force would be detrimental to the safety of the Officer or others. In such a case, an Officer need not give warning if to do so would increase the risk of death or grave injury to the Officer or others.*

#### C. UNAUTHORIZED DEADLY FORCE

1. Deadly force must never be used on mere suspicion that a crime, no matter how serious, was committed or the person being pursued committed the crime. Police Officers should either have witnessed the crime or should have sufficient probable cause to believe the suspect had committed, is committing or is about to commit an offense for which the use of deadly force is permissible.
2. Under no circumstances will an Officer use deadly force to stop a suspect who is fleeing in order to avoid being arrested for a misdemeanor and the use of deadly force is not otherwise authorized by this order or by law.
3. If there is substantial risk of injury to innocent people from an officer's use of deadly force, the Officer may not use deadly force, unless no other reasonable alternative is available.

#### D. NON-DEADLY FORCE

1. An officer may use various forms of less-lethal force within the scope of his MCP training and only after he has received:
  - a. initial training and demonstrated proficiency with the weapon or technique;
  - b. a copy of the policy that addresses the use of the weapon or technique; and
2. Non-deadly force weapons and techniques which an officer is permitted to use within the scope of his training are:
  - a. open-hand or soft control techniques;
  - b. closed-hand or hard control techniques;
  - c. expandable baton;
  - d. oleoresin capsicum (OC) spray; and
  - e. electronic control device.

#### E. REPORTING PROCEDURES FOR USE OF FORCE

### 1. Officer Responsibilities:

- a. Whenever the level of force used during an arrest, or while a suspect is in custody, is greater than normally required to handcuff a suspect, the officer using force will notify the On Duty Supervisor as soon as it is safely possible to do so.
- b. The primary or arresting officer will complete and submit an Incident Report. The individual against which force is used will be listed as a contact in the report and the "Force Used" tab will be completed detailing the type of force utilized.
- c. All other officers involved in a use of force incident will complete a supplemental report detailing their involvement in the incident and any force used.
- d. The Incident Report and any supplemental reports will be submitted before the end of the tour of duty during which the incident occurred, unless an extension is approved by the Detachment Commander.
- e. If the use of force results in an injury to the arrestee, in addition to the Incident Report, photographs of the injury will be taken and uploaded as an attachment to the report.

### 2. Supervisor Responsibilities:

- a. The on duty supervisor will ensure that the Incident Report and all supporting documentation are submitted by the end of the involved officers' tour of duty.
- b. The Incident Report, Use of Force Report, any supplemental reports and supporting documentation will be submitted by the approving Supervisor within 24 hours to the Detachment Commander.

### 3. Commander's Responsibilities:

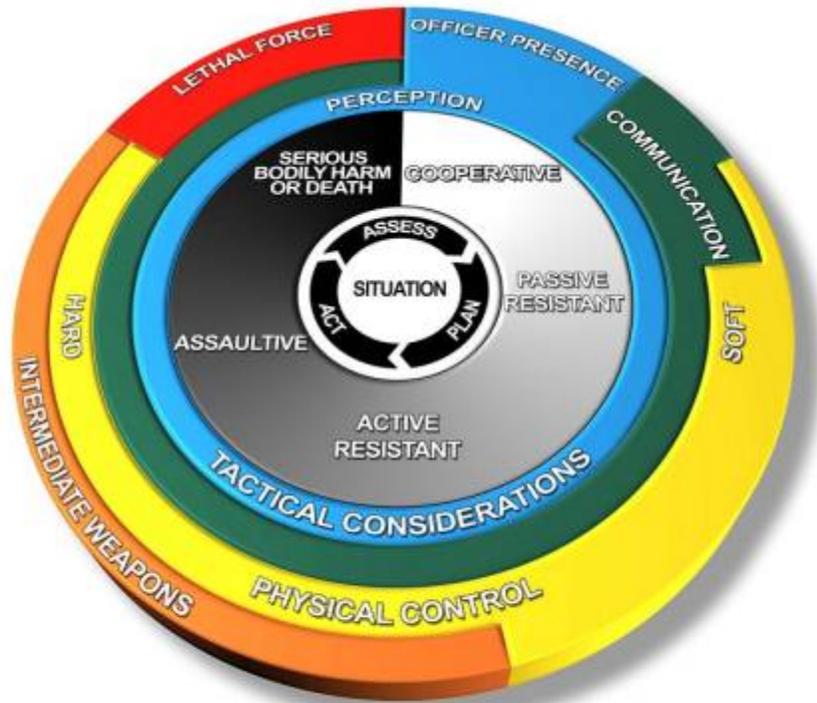
- a. The Detachment Commander will review the use of force incident, complete an endorsement and forward all information to the Operations Commander. The endorsement will state whether the incident conformed or did not conform to department policy and procedures.
- b. If, in the Commander's opinion, the incident did not conform to Department policy and procedures they will consult with the Operations Commander to determine if an administrative investigation should be initiated.

## F. FORCE RESULTING IN LIFE THREATENING INJURY OR DEATH

1. In the event force is used and results in a life threatening injury or death, or a firearm is discharged in the line of duty, jurisdiction and/or the decision of the Chief of Police or his designee will determine who will investigate the incident:

- a. When an incident occurs at a location within the jurisdiction of the MCP, the Chief of Police or his designee will determine whether MCP will conduct the investigation or the Maryland State Police will be requested to investigate the incident.
  - b. In areas outside the jurisdiction of the MCP and the Maryland State Police, the local police will conduct the criminal investigation and MCP, CIS will conduct the administrative investigation.
2. A police officer involved in an incident where force is used which results in a life threatening injury or death, or a firearm is discharged in the line of duty will:
  - a. notify the On-Duty Supervisor as soon as possible;
  - b. secure the scene to the best of his ability;
  - c. render aid within his level of training and request emergency medical services if a person is injured; and
  - d. refrain from discussing the incident with anyone other than their Commander, the investigators assigned to conduct the criminal and administrative investigations of the incident, or their selected counsel, until authorized to do so by the Chief of Police or his designee.
3. The On-Duty Supervisor will:
  - a. ensure that emergency medical services are notified, if requested by the officer;
  - b. immediately notify the Detachment Commander.
  - c. respond to the scene and begin to gather the facts surrounding the incident;
  - d. if the officer's firearm was involved, secure the firearm for further investigation (the officer's firearm will not be taken in the presence of the suspect, a witness or the media); and
  - e. ensure that the condition of the officer's firearm is documented to include the number of rounds of ammunition in each magazine;
  - f. ensure evidence is identified and secured.
4. The Detachment Commander will:
  - a. notify the Operations Commander and the CIS Supervisor;
  - b. respond to the scene;
  - c. have the officer escorted or transported home at the conclusion of the initial investigation;

- d. place the officer in an off-duty status without charge to leave until a duty status determination is made by the State Medical Director;
  - e. ensure the officer is scheduled for an appointment with the State Medical Director as soon as possible following the incident;
  - f. if applicable, arrange for the Quartermaster to issue a replacement firearm to the involved officer; and
  - g. have the officer scheduled for an after-action training session with the Training Unit.
5. Officers involved in a use of force incident that results in grave injury or death will be afforded their rights provided by law. Personnel involved in such an incident will be allowed legal representation, should it be desired.



The officer continuously assesses the situation and selects the most reasonable option relative to those circumstances as perceived at that point in time.