



USE OF FORCE

Directive: 8 - 100

Date of Issue: June 2017 Amends: 8-100 March 2016

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 shall use only the force that is objectively reasonable to affect an arrest, overcome any resistance that is offered and maintain custody and control of a prisoner, while protecting the safety of the officers and others.

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. Serious Bodily Injury: Injury that involves 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. Less-Lethal Force: Any use of force other than that which is considered deadly force that involves physical effort to control, restrain, or overcome the resistance of another.
- D. Objectively Reasonable: The determination that the necessity for using force and the level of force used is based upon the officer's evaluation of the situation in light of 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 circumstances.
- E. De-Escalation: Taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the

immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary.

- F. Exigent Circumstances: Those circumstances that would cause a reasonable person to believe that a particular action is necessary to prevent physical harm to an individual, the destruction of relevant evidence, the escape of a suspect, or some other consequences improperly frustrating legitimate law enforcement efforts.¹
- G. Choke Hold: A physical maneuver that restricts an individual's ability to breathe for the purposes of incapacitation. This does not include vascular neck restraints.
- H. Warning Shot: Discharge of a firearm for the purpose compelling compliance from an individual, but not intended to cause physical injury.

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. Once the scene is safe and as soon as practical, an officer shall provide appropriate medical care consistent with his or her training to any individual who has visible injuries, complains of being injured, or requests medical attention. Medical assistance will be provided to the injured person regardless of how minor or slight the injury.
7. An officer has a duty to intervene to prevent or stop the use of excessive force by another officer when it is safe and reasonable to do so.
8. All uses of force shall be documented and investigated pursuant to this agency's policies.

¹ Based on the definition from *United States v. McConney*, 728 F.2d 1195 (9th Cir.), cert. denied, 469 U.S. 824 (1984).

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 issued 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 is authorized to use deadly force in the performance of their duties when it is objectively reasonable under the totality of the circumstances. Use of deadly force is justified when one or both of the following apply:
 - 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 serious bodily 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 serious bodily 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 shall identify himself or herself as a law enforcement officer and warn of his or her intent to use deadly force.²

NOTE: *There maybe situations where the issuance of a verbal*

² *Tennessee v. Garner*, 471 U.S. 1 (1985).

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. Deadly force should not be used against persons whose actions are a threat only to themselves or property.
4. 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.
5. Choke holds are prohibited unless deadly force is authorized.

D. DE-ESCALATION

1. An officer shall use de-escalation techniques and other alternatives to higher levels of force consistent with his or her training whenever possible and appropriate before resorting to force and to reduce the need for force.
2. Whenever possible and when such delay will not compromise the safety of the officer or another and will result in the destruction of evidence, escape of a suspect, or commission of a crime, and officer shall allow an individual time and opportunity to submit to verbal commands before force is used.

E. LESS-LETHAL FORCE

1. An officer may use various forms of less-lethal force within the scope of his MCP training; to protect the officer or others from immediate physical harm, to restrain or subdue an individual who is actively resisting or evading arrest, or to bring an unlawful situation safely and effectively under control, and only after he or she 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. Less-Lethal force weapons and techniques which an officer is permitted to use within the scope of his or her 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.

F. 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.

G. FORCE RESULTING IN LIFE THREATENING INJURY OR DEATH

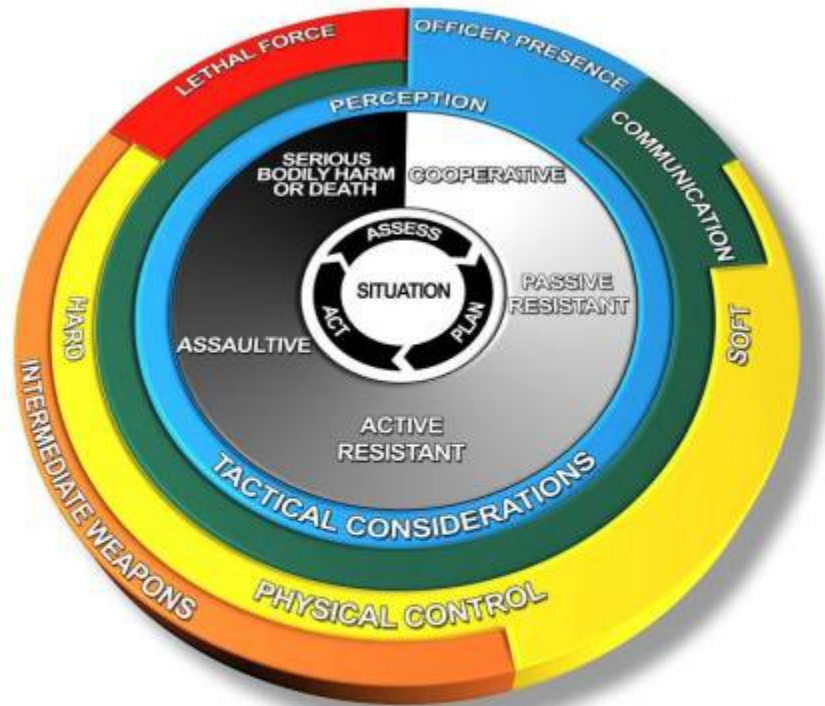
1. In the event force is used and results in a life threatening injury or death, or a firearm is discharged in the line of duty, jurisdiction and/or the decision of the Chief of Police or his designee will determine who will investigate the incident:
 - a. When an incident occurs at a location within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

H. TRAINING

1. All officer shall receive training, at least annually, on this agency's use of force policy and related legal updates.
2. In addition, training shall be provided on a regular and periodic basis and designed to:
 - a. Provide techniques for the use of and reinforce the importance of de-escalation;
 - b. Simulate actual shooting situations and conditions; and

- c. Enhance officer's discretion and judgement in using less-lethal and deadly force in accordance with this directive.
- 3. All use of force training shall be documented.



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