

# Use of Force

**Index Code: 401**

**Effective Date: 10/01/02 (Revised 6/16/2020)**

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## **I. Purpose**

The purpose of this directive is to provide deputies employed by the Office of the Sheriff in Queen Anne's County with guidelines on the use of deadly and non-deadly force.

## **II. Policy**

It is the policy of the Office of the Sheriff that deputies only use reasonable force when force is used to accomplish lawful objectives only to effectively bring an incident under control, while protecting the lives and safety of all persons involved.

Agency personnel authorized to carry lethal and less lethal weapons will be issued copies of and be instructed in all policies concerning the use of force, approved uses of lethal and less lethal weapons, and procedures for the provision of appropriate medical aid after such use. Such issuance and instruction will be documented. All sworn personnel shall receive annual training on this policy and be able to demonstrate their knowledge and understanding of its content.

## **III. Definitions**

For the purpose of this directive, the following terms have the definitions indicated:

**Deadly Force** – Force that is deadly or lethal in nature and likely to cause death or serious injury. Just a few examples of forms of deadly force are: choke holds or other techniques used that would not allow blood or air supply to a vital organ and striking someone in the head with an object likely to cause death or serious injury.

**Excessive Force** – A degree of force whose application is inappropriate to the circumstances, and is not reasonably believed to be necessary to affect an arrest or to defend a person from bodily harm. No single definition of excessive force can be offered; each situation must be evaluated according to its particular circumstances. Excessive use of any weapon or physical control technique may constitute excessive force.

**Less Lethal Force** – Force which is generally not deadly or lethal in nature and is not intended to cause death or serious injury.

**Less Lethal Weapon** – An authorized device, other than a firearm, used to apply force to another individual. Examples of less lethal weapons include batons, chemical sprays, specialty impact munitions, and the Taser.

**Lethal Weapon** – A weapon, if utilized, that can cause death or serious injury. The only lethal weapons authorized for use by deputies are firearms approved by the Sheriff.

**Resistance** – The force used against a deputy by a subject whom the deputy is attempting to control or restrain.

**Reasonable Belief** – A belief based on known facts or circumstances which would lead an ordinary and prudent person to act or think in a similar way under similar circumstances.

**Serious Physical Injury** – An injury which creates a substantial risk of death or which is likely to cause serious permanent disfigurement, loss, or extended impairment of the function of any body-member or organ.

**Weapon of Opportunity** – Any object, not generally considered a weapon, which a deputy uses to apply force to another individual. Examples of weapons of opportunity include handcuffs, portable radios, and flashlights.

#### **IV. Deadly Force**

A. A deputy may use deadly force only when the deputy reasonably believes it necessary to defend human life, including the deputy's own life, or in defense of any person who is in imminent danger of serious physical injury.

B. A deputy may use deadly force to prevent the escape of a suspect fleeing from a felony involving violence, when the deputy has probable cause to believe that the escape will pose an imminent and serious threat to human life.

C. Whenever deadly force is used by a deputy, while either on duty or off duty, regardless if death or injury was inflicted, a Deadly Force Review Board will be convened (See Index Code 407).

#### **V. Firearms Regulations**

A. Before discharging a firearm for law enforcement purposes, deputies will identify themselves and state their intent to shoot whenever feasible.

B. Deputies are prohibited from firing warning shots.

C. Firearms may not be discharged from moving vehicles.

D. Firearms may not be discharged at moving vehicles, unless necessary to defend human life, and as a last resort when no other viable means are available. Deputies must attempt to move out of the path of a moving vehicle if at all possible instead of maintaining their ground and discharging a firearm at the vehicle or the vehicle's operator. Deputies shall not discharge their firearms in an attempt to disable a vehicle unless exigent circumstances exist.

E. Deputies may not carry firearms when consuming alcoholic beverages, on duty or off duty, unless participating in a covert investigation and authorized by a supervisor the rank of Major or above.

F. Deputies may not carry firearms, while on or off duty, when under the influence of alcohol, drugs, or any medication that may hinder judgment or motor coordination.

G. Deputies may not discharge a firearm when it appears likely that an innocent person may be injured.

H. Deputies may discharge a firearm to destroy an animal that represents a threat to public safety or as a humanitarian gesture when an animal is suffering due to serious injury.

I. Deputies may discharge a firearm during practice or when qualifying at an approved firing range.

#### **VI. Less Lethal Force**

A. Deputies are authorized to use departmentally approved less lethal force techniques and approved weapons to:

1. Protect themselves or others from physical harm.

2. Restrain or subdue an individual who is resisting arrest.

3. Bring an unlawful situation safely and effectively under control.

B. Deputies may only utilize those techniques and weapons for which they have received approved training. Personnel will use reasonable force when force is used to accomplish lawful objectives only to effectively bring the incident under control.

#### **VII. Force Continuum**

A. When involved in an incident where the application of force becomes necessary, deputies will assess the situation to determine which technique or weapon will best de-escalate the situation and bring it under control in a safe and effective manner. When assessing the situation deputies must consider the nature and severity of the incident, potential harm, ages, and physical and mental condition of those

involved. All deputies involved in a situation have the duty to assess and share the responsibility for determining the appropriate level of force utilized. Thus, if a deputy believes that an inappropriate level of force is being utilized, he/she must make every attempt to stop any inappropriate use of force. In addition, any personnel witnessing excessive force must report their observations and any actions taken immediately to their supervisor. This shall be reported verbally and in writing.

B. At all times the least amount of force necessary will be utilized, moving to the next available level of force when resistance is met which makes the current level ineffective. As each situation may be unique in nature, the initial level of force utilized is contingent upon the individual situation, and may begin at any point within the force continuum. The force continuum, starting with the least amount of force, is as follows:

1. Uniformed presence
2. Verbal requests/commands
3. Empty hands
4. O.C. Spray
5. Electronic Control Devices
6. Police baton
7. Specialty Impact Munitions
8. Firearms

C. In addition to the above force continuum, deputies may use weapons of opportunity when other options have failed and/or extenuating circumstances dictate their use. Weapons of opportunity include, but are not limited to, handcuffs, flashlights, and any other object at the deputy's disposal that may help control the situation and protect human life. As a last resort and only to save one's life, improvised techniques, whether they have or have not been taught as a part of the use of force continuum, may be utilized that will limit the blood or air supply to any vital organ. If this occurs, the use of that weapon of opportunity or technique shall be considered deadly force at the same level as the use of a firearm.

D. The display of any type of less than lethal or lethal weapons to gain compliance is a use of force that needs to be documented by the employee who displayed the item.

E. Whenever feasible, the de-escalation of a potentially volatile situation and/or the de-escalation of any force that is being used must occur. When practical, reasonable and safe, deputies should use their physical presence, verbal warnings and persuasion as alternatives to using force in efforts to diffuse tense situations. Deputies should recognize that, whenever safe and practical, they should attempt to reposition themselves to a position that is tactically more secure or allows them greater distance to quell the situation without force as long as no one's safety is jeopardized by this action. At the earliest time safely possible, deputies shall de-escalate the amount of force being used when the perpetrator is secured/controlled. Use of force shall be discontinued when resistance ceases and/or the incident is under control.

F. Physical force shall not be used against individuals in restraints except as objectively reasonable to prevent that individual's escape, or to prevent imminent bodily injury to the individual, the deputy, another person or to prevent property damage. In these situations, only the minimal amount of force shall be used necessary to control the situation and de-escalation must immediately occur when the situation is under control.

### **VIII. Medical Aid**

Deputies are responsible for providing and/or obtaining medical assistance for individuals who allege or show signs of injury as a result of any use of force. Emergency medical personnel will be utilized if a person possibly requires transportation to a medical facility for further treatment.

### **IX. Weapons and Ammunition**

Deputies carrying out law enforcement responsibilities, both on and off duty, may use only weapons, ammunition, and related equipment, that meet approved specifications and for which they have been trained to utilize. A list of all such weapons and ammunition appears in Index Code 403.

**X. Reporting Use of Force**

**A. Incidents Requiring a Written Report** A Use of Force Report is required whenever any of the following conditions exists:

1. A deputy discharges a firearm for any reason other than training or recreational purposes (i.e., hunting, target practice, etc.).
2. A deputy takes an action that results in, or is alleged to have resulted in, an injury or death of another person.
3. A deputy applies force through the use of lethal or less lethal weapons.
4. A deputy applies physical force, to meet resistance, by utilizing the hands or other means such as control or restraint techniques, even if no injury occurs or is evident.
5. A canine owned or utilized by the Office bites or inflicts injury to an individual.
6. A deputy displays any type of less lethal or lethal weapon to gain compliance. The unholstering of a weapon for readiness does not require a Use of Force Report.
7. If appropriate, one Use of Force report completed by the ranking member can be utilized for the general actions of a SWAT team on deployment. If any members of the team take independent actions that result in individual uses of force, each is required to complete their own Use of Force reports.

A Use of Force Report is not required when a firearm is used to destroy a seriously injured animal. However, normal incident reporting is required to document the event.

**B. Deputy's Responsibilities**

1. Deputies will immediately report to their immediate supervisor any use of force or firearm discharge that meets the reporting requirements listed in this directive as well as any excessive force that is witnessed by other agency or police personnel.
2. Deputies will complete or provide information for the completion of the following documents:
  - a. Incident Report or supplement
  - b. Use of Force Report
  - c. Charging documents if required
3. Off-duty deputies who are involved in reportable use of force incidents will immediately report the event to an on-duty supervisor and fulfill all of the reporting requirements in this directive.

**C. Supervisor's Responsibilities**

The deputy's immediate supervisor, or an on-duty supervisor if the deputy is off-duty, will be responsible for the following actions:

1. Ensure that the deputy involved in a reportable use of force incident fulfills the requirements of this directive, and completes the required reports if the deputy is unable to do so.
2. Review all reports and charging documents for accuracy and completeness, before submitting them via the chain of command.
3. Notify a Division Commander and initiate a complaint form if the use of force appears to be excessive or in violation of this directive. If personnel from another agency appeared to have used excessive force, the Division Commander shall determine the appropriate method of reporting the allegation to that agency's commander or internal affairs unit. That report shall be made in writing with a receipt confirmation requested.
4. If the deputy is injured, complete and forward to a Division Commander a First Report of Injury and Supervisor's Report.
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**XI. Use of Deadly Force**

**A. Initial Response and Investigation**

1. If deadly force is utilized resulting in death or critical injury, the affected deputy's immediate on-duty supervisor and Division Commander or his designee will respond and secure the scene, pending the arrival of an investigator from a Criminal Investigations Team. As soon as practical they will ensure without delay that appropriate first aid and medical attention has been provided to the citizen/suspect involved and will render assistance to the affected deputy, secure all weapons used in the incident, notify a Criminal Investigations Team, place the deputy on Administrative Leave, schedule the deputy for traumatic counseling, and submit a written report (in addition to the supervisor's completion of the Use of Force Report for that incident on behalf of the deputy) of their activities.

2. A Criminal Investigations Team will conduct an investigation of every use of deadly force by a deputy that results in death or serious injury. A report of the investigation will be submitted to the State's Attorney's Office within thirty days (30) of the incident. (Extensions of this time limit may be granted by the Chief Deputy or his designee if necessary.) The State's Attorney will decide whether the deputy's actions were lawful or unlawful, and whether to initiate criminal action against the deputy if the incident is deemed unlawful.

3. When a deputy's use of force causes death or serious injury, an internal affairs administrative investigation will be conducted to determine whether the deputy's actions were in compliance with agency policies and procedures. Any portion of this internal investigation may be delayed until after the possible filing of criminal charges or the conclusion of a possible criminal trial at the discretion of the State's Attorney or agency legal counsel.

4. When a deputy's use of force causes death or serious injury, the deputy will be placed on Administrative Leave by a Division Commander pending completion of all investigative and reporting requirements, and until:

- a. An authorized mental health professional determines that the deputy is ready to return to duty, and
- b. A Division Commander, or Chief Deputy, reviews the incident and grants permission.

**XII. Administrative Review**

A. An administrative review will be conducted of every incident where a deputy employs the use of force, or where a deputy discharges a firearm other than for training, recreational purposes, or the destruction of an animal. The Use of Force Report, in conjunction with any applicable incident report and associated documents, will be utilized for the administrative review. The review will include, at a minimum, the following:

- 1. The circumstances surrounding the incident.
- 2. Whether existing policies, directives, and procedures were understandable and effective to cover the incident.
- 3. A conclusion as to whether the deputy's actions appear in violation of any current policy, directive, or procedure.

B. The administrative review will be conducted via the chain of command, beginning with the affected deputy's on-duty supervisor, and ending with the Sheriff or his designee. Each member in the chain of command will review the report and indicate any violation of policy or procedure observed.

C. If the administrative review determines that the use of force was excessive or the deputy displayed gross negligence, the case will be referred to the Criminal Investigations Unit. The Criminal Investigations Unit will then conduct an investigation of the incident and submit a report to the Sheriff within thirty (30) days. A report of the investigation will also be submitted to the State's Attorney's Office. The State's Attorney will decide whether the deputy's actions were lawful or unlawful, and whether to initiate criminal action against the deputy, if the actions were deemed unlawful. The State's Attorney's Office investigation and the agency administrative internal investigation will run concurrently until

any possible criminal process is adjudicated. No disciplinary sanctions will be imposed until the conclusion of the State's Attorney's investigation or the conclusion of any possible criminal proceeding. The interview/interrogation of the involved deputy may not occur until the criminal proceeding is complete unless specifically approved by the State's Attorney's Office.

D. The Undersheriff, or his designee, will maintain a file of all Use of Force Reports and prepare a documented annual analysis of reportable uses of force by members of the Office of the Sheriff. The annual analysis will indicate any patterns or trends revealed that could indicate training needs, equipment upgrades, and/or recommended policy modifications.

**XIII. Disclaimer**

The Sheriff's policy on administrative review of the use of force is for internal use only, and does not apply in criminal or civil proceedings. In addition, the policy will not be construed as the establishment of a higher legal standard of safety or care with respect to third parties.

**XIV. CALEA References:** 1.3.1, 1.3.2, 1.3.3, 1.3.4, 1.3.5, 1.3.6, 1.3.7, 1.3.8, 1.3.10, 1.3.12 & 1.3.13.

**XV. Proponent Unit:** Administrative Services

**XVI. Cancellation:** This directive cancels Index Code 401 dated 12/14/17.

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Sheriff Gary Hofmann