

Use of Force

Index Code: 401

Effective Date: 10/01/02 (Revised 8/23/2022)

I. Purpose

The purpose of this directive is to provide sworn personnel 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 sworn officers 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. A sworn officer may not use force against a person unless, under the totality of circumstances, the force is necessary and proportional to: 1) prevent an imminent threat of physical injury to a person, or 2) effectuate a legitimate law enforcement objective.

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:

Necessary – Use of force is not necessary unless there is no reasonable alternative to using force that, under the totality of circumstances, would safely and effectively achieve the same legitimate ends.

Proportional – The force used must correspond to and be appropriate in light of the severity of the threat or resistance confronting the sworn officer or the objective that the sworn officer aims to achieve.

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:

A chokehold which is any technique restricting the intake of oxygen for the purpose of gaining control of a subject unless deadly force would be considered reasonable.

A vascular neck restraint which is any use of force application intended to gain control of a subject by restricting blood flow to the brain for the purpose of incapacitation.

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, Bola wrap and the Taser.

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

Resistance – The force used against a sworn officer by a subject whom the sworn officer 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 sworn officer uses to apply force to another individual. Examples of weapons of opportunity include handcuffs, portable radios, and flashlights.

IV. Deadly Force

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

B. A sworn officer may use deadly force to prevent the escape of a suspect fleeing from a felony involving violence, when the sworn officer 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 sworn officer, 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, sworn personnel will identify themselves and state their intent to shoot whenever feasible.

B. Sworn personnel 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. Sworn personnel 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. Sworn personnel shall not discharge their firearms in an attempt to disable a vehicle unless exigent circumstances exist.

E. Sworn personnel 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. Sworn personnel 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. Sworn personnel may not discharge a firearm when it appears likely that an innocent person may be injured.

H. Sworn personnel 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. Sworn personnel may discharge a firearm during practice or when qualifying at an approved firing range.

VI. Less Lethal Force

A. Sworn personnel 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. Sworn personnel may only utilize those techniques and weapons for which they have received approved training. Personnel will use necessary and proportional 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, sworn personnel 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, sworn personnel must consider the nature and severity of the incident, potential harm, ages, and physical and mental condition of those involved. All sworn personnel involved in a situation have the duty to assess and share the responsibility for determining the appropriate level of force utilized. Thus, if a sworn officer 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, or, if unavailable, an on-duty supervisor. This shall be reported verbally and in writing.

B. At all times the least amount of force necessary and proportional 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. Bola wrap device
6. Electronic Control Devices
7. Police baton
8. Specialty Impact Munitions
9. Firearms

C. In addition to the above use of force continuum, sworn personnel may use weapons of opportunity when they may help control the situation and 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 sworn officer's disposal that might resolve 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. The use of a chokehold or vascular neck restraint are prohibited unless deadly force would be considered necessary and proportional. 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, sworn personnel should use their physical presence, verbal warnings and persuasion as alternatives to using force in efforts to diffuse tense situations. Sworn personnel 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, sworn personnel 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 necessary and proportional to prevent that individual's escape, or to prevent imminent bodily injury to the individual, the sworn officer, 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.

G. Whenever feasible, a sworn officer shall provide a verbal forewarning that a type of force is about to be used on the subject unless the subject complies with the sworn officer's lawful requests.

VIII. Medical Aid

Sworn personnel 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

Sworn personnel 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 sworn officer discharges a firearm for any reason other than training or recreational purposes (i.e., hunting, target practice, etc.).
2. A sworn officer takes an action that results in, or is alleged to have resulted in, an injury or death of another person.
3. A sworn officer applies force through the use of lethal or less lethal weapons.
4. A sworn officer 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 sworn officer 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. Sworn officer's Responsibilities

1. Sworn personnel will immediately report to their immediate supervisor, or, if unavailable, an on-duty 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 as well as any violation of law or ordinance by an employee of the agency or another agency, and violation of agency policy by an agency employee.
2. Sworn personnel 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 sworn personnel 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 sworn officer's immediate supervisor, or an on-duty/on-scene supervisor, will be responsible for the following actions:

1. Ensure that the sworn officer involved in a reportable use of force incident fulfills the requirements of this directive and completes the required reports if the sworn officer is unable to do so.
2. Review all reports and charging documents for accuracy and completeness, before submitting them via the sworn officer's chain of command. The Command Staff may designate a supervisor to complete these tasks which shall include the review of body worn camera evidence.
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 sworn officer is injured, complete and forward to a Division Commander a First Report of Injury and Supervisor's Report.
5. *Immediately* notify his/her Division Commander or, if unavailable, Operations Commander upon learning of a *sworn officer-involved death or potential death* including a departmental shooting, other use of force resulting in death or potential death, in-custody death and/or pursuit ending in a death or potential death. The Sheriff or his designee shall be notified without delay. The Maryland Office of Attorney General's Independent Investigations Division (IID) shall also be notified via the Maryland State Police (MSP) headquarters duty officer at 410 653 4200 without delay. For cases involving a sworn officer-involved death or potential death, the IID and MSP will lead the investigation as mandated by the MD Annotated Code, State Government Article MD Annotated Code, State Government Article §6-106.2. Refer to "Notification Protocols for the Independent Investigations Division" in PowerDMS for complete details regarding the above notification procedure, media response procedures and evidence collection, storage and analysis protocols related to sworn officer-involved death or potential death incidents. For incidents where the IID/MSP unit is investigating a sworn officer-involved death, the IID will notify next-of-kin. The IID may request that QAC agency personnel accompany them.

XI. Use of Deadly Force

A. Initial Response and Investigation

1. If deadly force is utilized resulting in death or critical injury, the affected sworn officer's immediate or on-duty supervisor and Division Commander or his designee or Major 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 sworn officer, secure all weapons used in the incident, (unless there is no immediate need to secure the sworn officer's weapon and count rounds. If there is no immediate need, agency supervisors and commanders should wait for the IID team to secure the weapons used and to perform necessary round counts.) notify a Criminal Investigations Team, place the sworn officer on Administrative Leave, schedule the sworn officer 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 sworn officer) of their activities.
2. A Criminal Investigations Team will conduct an investigation of every use of deadly force by a sworn officer that results in death or serious injury. The Criminal Investigation Team for cases involving a sworn officer-involved death or potential death (shooting, use of force event, in-custody death, pursuit ending in death or potential death) will be the MD Attorney General's IID and the MSP. 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 sworn officer's actions were lawful or unlawful, and whether to initiate criminal action against the sworn officer if the incident is deemed unlawful. (The 30 day mandate does not apply to investigations conducted by an outside agency.)

3. When a sworn officer's use of force causes death or serious injury, an internal affairs administrative investigation will be conducted to determine whether the sworn officer'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 sworn officer's use of force causes death or serious injury, the sworn officer will be placed on Administrative Leave by a Division Commander pending completion of all investigative and reporting requirements that must be completed prior to the sworn officer's return to full duty, AND:
 - a. An authorized mental health professional determines that the sworn officer is ready to return to duty, and
 - b. A Division Commander, Operations Major, Chief Deputy or Sheriff, reviews the incident and grants permission.

XII. Administrative Review

- A. An administrative review will be conducted of every incident where a sworn officer employs the use of force, or where a sworn officer 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 sworn officer'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 sworn officer's on-duty supervisor, and ending with the Chief Deputy or his designee. Each member in the chain of command will review the report and indicate any violation of policy or procedure observed including the administrative section review by the Chief Deputy.
- C. If the administrative review determines that the use of force was excessive or the sworn officer 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, if one has not been initiated by the MD Attorney General's IID and MSP, 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 sworn officer's actions were lawful or unlawful, and whether to initiate criminal action against the sworn officer, 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 sworn officer may not occur until the criminal proceeding is complete unless specifically approved by the State's Attorney's Office.
- D. The Chief Deputy, 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. Identified Use of Force Training Concepts and Best Practices

The following subject areas are to be included in each firearms training curriculum.

- 1) Drawing a firearm. All police officers are required to undergo training on when one may or may not draw a firearm or point a firearm at a person.
- 2) Other enforcement options. All police officers are required to undergo training that includes enforcement options that are less likely to cause death or serious physical injury. Such training must include scenario-based training, de-escalation tactics and techniques, and reasonable alternatives intended to decrease physical injury. The training should focus on communication skills, crisis intervention techniques, minimizing force, and tactical repositioning. The training should also include techniques to demonstrate how an officer's actions may attempt to slow an incident down and think through a high-risk situation. Recognizing signs of individuals experiencing a mental health crisis should be included in the training.
- 3) Use of Force. All police officers are required to undergo and complete training on the Maryland Use of

Force statute. Training discussions shall cover Public Safety Article § 3-524 Use of Force standards, explaining “under the totality of the circumstances the force is necessary and proportional”. Officers must act within the scope of their duties as law enforcement officers. The purpose of any Use of Force is to gain control of a non-compliant, resistant or assaultive subject. Use of Force training topics must include:

- De-escalation tactics and techniques;
- When to draw/point a firearm at a person;
- Enforcement options that are less likely to cause death or serious physical injury;
- Reasonable alternatives to decrease physical injury; and
- Include judgment/decision making scenario-based training.

4) Training completion document. All police officers are required to sign a training completion document stating that the officer understands and shall comply with the Maryland Use of Force Statute.

5) Deadly Force. Defined as any force that is likely to cause death or serious physical injury. An officer may use deadly force to stop an imminent threat of death or serious physical injury to the officer or another person. Serious physical injury is an injury that creates a substantial risk of death or an injury that is a permanent or protracted impairment or disfigurement.

6) Less Lethal Force. Officers may be issued less lethal weapons that may assist them in controlling resistant or assaultive behavior. “Less lethal weapons” are those weapons that are expected to create less risk of causing serious injury or death, such as, ECD, OC Spray. Officers issued less lethal weapons must be trained on those issued weapons.

7) Duty to intervene. Officers who have an opportunity to intervene in another officer’s excessive Use of Force must do so or risk potential liability, including criminal charges and civil rights violation based upon their failure to intervene. Agencies may likewise be liable where there is a custom or failure in training, supervision or discipline that leads to the constitutional violation.

8) Policy and legal review updates including criminal and constitutional standards. Training should consist of reviewing policy, criminal law and constitutional law surrounding the application and Use of Force, limitations and legal implications. It is crucial that our agency has clear and concise policies relative to Use of Force by their officers. It is equally important that officers be made familiar with Use of Force policies and standards through refresher courses and scenario-based training.

9) Shooting at or from moving vehicles. Our policy regarding shooting at vehicles establishes the requirements for this training component. Training should emphasize the inherent obstacles associated with shooting at or from a moving vehicle.

XIV. 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.

XV. 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.

XVI. Proponent Unit: Administrative Services

XVI. Cancellation: This directive cancels Index Code 401 dated 3/15/2022

Sheriff Gary Hofmann