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## SPECIAL ORDER #931

**DATE:** July 4, 2020

**TO:** All Police Personnel

**FROM:** Amal E. Awad   
Chief of Police

**SUBJECT:** Use of Force Special Order

**EFFECTIVE:** Tuesday, July 7, 2020 at 0001 hours

**INTRODUCTION:** This Special Order replaces the Use of Force section contained in the City of Hyattsville Police Department's *General Order 617 - Weapons / Use of Force* policy until the final Use of Force policy draft has been completed.

### PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this Department is expected to use these guidelines to make such decisions in a professional, impartial and reasonable manner to resolve these incidents as safely as possible.

It is the policy of this Department to value and preserve human life. When time, circumstances and safety permit, officers should take steps to gain compliance and de-escalate conflict without using physical force. Officers shall use only the force that is objectively reasonable to effectively bring an incident under control, while protecting the safety of the officer and others. Officers shall use force only when no reasonably effective alternative appears to exist and shall use only the level of force which a reasonable officer would use under the same or similar circumstances.



The decision to use force “requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officer or others, and whether he or she is actively resisting arrest or attempting to evade arrest by flight.”

Any use of force should meet the test of proportionality. Proportionality considers whether a particular use of force is proportional to the threat, and whether there is another, less injurious option available that will safely and effectively achieve the same objective.

In addition, “the ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight...the question is whether the officers’ actions are ‘objectively reasonable’ in light of the facts and circumstances confronting them.”

### **DEFINITIONS**

Definitions related to this policy include:

**CHOKEHOLD** - A physical maneuver that restricts an individual’s ability to breathe for the purposes of incapacitation. Chokeholds are prohibited unless circumstances exist where deadly force is authorized.

**DEADLY FORCE** - Any use of force that creates a substantial risk of causing death or serious bodily injury.

**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. De-escalation may include the use of such techniques as command presence, advisements, warnings, verbal persuasion, and tactical repositioning.

**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, or the escape of a suspect.

**FORCE** - The application of physical techniques or tactics, chemical agents or weapons to another person. It is not considered a use of force when a person allows him/herself to be searched, escorted, handcuffed or restrained.

**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.



**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 situations.

**SANCTITY OF HUMAN LIFE** - Recognition of, and respect for the dignity of all persons valuing the preservation of human life.

**SERIOUS BODILY INJURY** - Injury that involves a substantial risk of death, protracted and obvious disfigurement, or extended loss or impairment of the function of a body part or organ.

**WARNING SHOT** - The discharge of a firearm for the purpose of compelling compliance from an individual, but not intended to cause physical injury. Warning shots are prohibited.

### **POLICY**

The use of force by law enforcement personnel is a matter of critical concern, both to the community and law enforcement. Officers are involved, on a daily basis, in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

Officers must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties.

The City of Hyattsville Police Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests.

### **USE OF FORCE**

Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.



Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

- Use of physical force should be discontinued when resistance ceases or when the incident is under control.
- Physical force shall not be used against individuals in restraints, except as objectively reasonable to prevent their escape or prevent imminent bodily injury to the individual, the officer, or another person. In these situations, only the minimal amount of force necessary to control the situation shall be used.
- Once the scene is safe, and as soon as practical, an officer shall promptly 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. This may include providing first aid, requesting emergency medical services, and/or arranging for transportation to an emergency medical facility.

### **DE-ESCALATION**

- An officer shall use de-escalation techniques and other alternatives to various levels of force consistent with his or her training whenever possible and appropriate before resorting to force and to reduce the need for force. Officers should attempt to slow down or stabilize the situation so that more time, options, and resources are available.
- Whenever possible and when such delay will not compromise the safety of the officer or another and will not result in the destruction of evidence, escape of a suspect, or commission of a crime, an officer shall allow an individual time and opportunity to submit to verbal commands before force is used. Officers should consider whether a subject's lack of compliance is a deliberate attempt to resist or is caused by an inability to comply.

### **USE OF LESS-LETHAL FORCE**

When de-escalation techniques are not effective or appropriate, an officer may consider the use of less-lethal force to control a non-compliant or actively resistant individual. An officer is authorized to use agency-approved, less-lethal force techniques and issued equipment:

- 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.

### **USE OF DEADLY FORCE**

Use of deadly force is justified in the following circumstances:

- An officer is authorized to use deadly force 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:
  - To protect the officer or others from what is reasonably believed to be an immediate threat of death or serious bodily injury.
  - To prevent the escape of a fleeing subject when the officer has probable cause to believe that the person has committed, or intends to commit a felony involving serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to the officer or another if the subject is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if an officer reasonably believes any of the following:

- The individual has a weapon or is attempting to access one and it is reasonable to believe the individual intends to use it against the officer or another.
- The individual is capable of causing serious bodily injury or death without a weapon and it is reasonable to believe the individual intends to do so.

### **DEADLY FORCE APPLICATIONS**

Where feasible, the officer shall identify himself or herself as a law enforcement officer and warn of his or her intent to use deadly force.

### **DEADLY FORCE RESTRICTIONS**

- Deadly force should not be used against persons whose actions are a threat only to themselves or property.



- Warning shots are inherently dangerous; therefore, they are prohibited.
- Firearms shall not be discharged at a moving vehicle unless:
  - A person in the vehicle is threatening the officer or another person with deadly force by means other than the vehicle; or the vehicle is operated in a manner deliberately intended to strike an officer or another person, and all other reasonable means of defense have been exhausted (or are not present or practical), which includes moving out of the path of the vehicle.
  - Firearms shall not be discharged from a moving vehicle except in exigent circumstances.
  - In these situations, an officer must have an articulable reason for this use of deadly force.
- Chokeholds are prohibited unless circumstances exist where deadly force is authorized.

**FACTORS USED TO DETERMINE REASONABLENESS OF FORCE**

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include, but are not limited to:

- Immediacy and severity of the threat to officers or others
- The conduct of the individual being confronted, as reasonably perceived by the officer at the time
- Officer/subject factors (i.e., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects)
- The effects of drugs or alcohol
- Individual's mental state or capacity
- Proximity of weapons or dangerous improvised devices



- The degree to which the individual has been effectively restrained and his/her ability to resist despite being restrained
- The availability of other options and their possible effectiveness
- Seriousness of the suspected offense or reason for contact with the individual
- Training and experience of the officer
- Potential for injury to officers, suspects and others
- Whether the individual appears to be resisting, attempting to evade arrest by flight or is attacking the officer
- The risk and reasonably foreseeable consequences of escape
- The apparent need for immediate control of the individual or a prompt resolution of the situation
- Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others
- Prior contacts with the individual or awareness of any propensity for violence
- Any other exigent circumstances

### **DUTY TO INTERVENE**

Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intervene to prevent the use of unreasonable force. An officer who observes another employee use force that exceeds the degree of force permitted by law should promptly report these observations to a supervisor.

### **TRAINING**

- All officers shall receive training, at least annually, on this agency's Use of Force policy and related legal updates.
- In addition, training shall be provided on a regular and periodic basis and designed to:



- Provide techniques for the use of and reinforce the importance of de-escalation;
  - Simulate actual scenario-based situations and conditions; and
  - Enhance officers' discretion and judgment in using less-lethal and deadly force in accordance with this policy.
- All Use of Force training shall be documented.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

### **PAIN COMPLIANCE TECHNIQUES**

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Officers may only apply those pain compliance techniques for which they have successfully completed department-approved training. Officers utilizing any pain compliance technique should consider:

- The degree to which the application of the technique may be controlled given the level of resistance
- Whether the individual can comply with the direction or orders of the officer
- Whether the individual has been given sufficient opportunity to comply
- Training and experience of the officer

The application of any pain compliance technique shall be discontinued once the officer determines that compliance has been achieved.

### **USE OF FORCE TO SEIZE EVIDENCE**

In general, officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, officers are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, officers shall not intentionally use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted.



### **CAROTID CONTROL HOLD**

The proper application of the carotid control hold may be effective in restraining a violent or combative individual. However, due to the potential for injury, the use of the carotid control hold is prohibited unless circumstances exist where deadly force is authorized.

### **SHOOTING AT OR FROM MOVING VEHICLES**

- Discharging a firearm at or from a moving vehicle is rarely effective. Officers shall move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. An officer should only discharge a firearm at a moving vehicle, or its occupants, when the officer reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others.

Officers should not discharge their firearms at any part of a vehicle in an attempt to disable the vehicle.

### **REPORTING THE USE OF FORCE**

Any use of force by a member of this Department shall be documented promptly, completely and accurately on a Use of Force Report. An officer shall articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances. To collect data for purposes of training, resource allocation, analysis and related purposes, the Department may require the completion of additional report forms, as specified in Department policy, procedure or law.

- **Note:** A Use of Force Report is required anytime an officer draws and points a firearm, less-lethal launcher, or Electro-Muscular Disruption weapon (EMD) at a person.

### **REPORTING DEADLINE**

Any use of force by a member of this Department shall be documented and submitted at the conclusion of his/her shift unless the officer is disabled, as required in the Report Preparation Policy. (Md. Code PS § 3-514)

### **NOTIFICATIONS TO SUPERVISORS**

Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances:

- The application caused a visible injury



- The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort
- The individual subjected to the force complained of injury or continuing pain
- The individual indicates intent to pursue litigation
- Any application of the EMD or control device
- Any application of a restraint device other than handcuffs or leg restraints
- The individual subjected to the force was rendered unconscious
- An individual was struck or kicked
- An individual alleges any of the above has occurred
- Anytime an officer draws and points a firearm, less-lethal launcher, or EMD at a person.

### **MEDICAL CONSIDERATIONS**

Prior to booking or release, medical assistance shall be obtained for any person who exhibits signs of physical distress, who has sustained visible injury, expresses a complaint of injury or continuing pain or who was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed.

Based upon the officer's initial assessment of the nature and extent of the individual's injuries, medical assistance may consist of examination by an emergency medical services provider or medical personnel at a hospital or jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

The on-scene supervisor, or if the on-scene supervisor is not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation or impaired respiration).



Individuals who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called “excited delirium”), or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage nearby.

### **SUPERVISOR RESPONSIBILITIES**

A supervisor shall respond to an incident in which there has been a reported application of force. The supervisor shall:

- Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties
- Ensure that any injured parties are examined and treated
- When possible, separately obtain a recorded interview with the individual upon whom force was applied. If this interview is conducted without the individual having voluntarily waived his/her Miranda rights, the following shall apply:
  - The content of the interview should not be summarized or included in any related criminal charges
  - The fact that a recorded interview was conducted should be documented in a case record
  - The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired
- Once any initial medical assessment has been completed, or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury, or complaint of pain, as well as overall photographs of uninjured areas
  - These photographs should be retained until all potential for civil litigation has expired
- Identify and collect statements from any witnesses not already included in related reports



- Review all in-car camera and body-worn camera video
- Review and approve all related reports
- Determine if there is any indication that the individual may pursue civil litigation
  - If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels
- Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance, or if for any reason further investigation may be appropriate

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the Patrol Services Division Commander shall respond and assume the supervisor's responsibilities. The supervisor is still expected to complete as many of the above items as circumstances permit.

### **COMMAND OFFICER RESPONSIBILITIES**

The Patrol Services Division Commander, Special Services Division Commander, or Administrative Services Commander shall review each use of force by any personnel within his/her respective command to ensure compliance with this policy and to address any performance or training issues. Should any Commander determine an officer's actions were not in compliance with Departmental policy, he/she shall immediately notify the Deputy Chief of Police.

### **COMMAND REVIEW**

Commanders shall complete the Commander's Comment Section on the Use of Force Report. Should any Commander not concur with a use of force, he/she shall indicate so on the Use of Force Report and immediately notify the Deputy Chief of Police. The Deputy Chief of Police shall notify the Chief of Police and convene an Executive Review Panel. Should the Executive Review Panel determine an investigation is warranted, the Office of Professional Standards shall immediately open an internal investigation.

### **TRAINING**

Officers will receive annual training on this policy and any accompanying legal updates and demonstrate their knowledge and understanding.



### **USE OF FORCE ANALYSIS**

The Deputy Chief of Police shall prepare an annual analysis report on use of force incidents. The report should be submitted to the Chief of Police. The report should not contain the names of officers, suspects or case numbers, and should include:

- The total number of incidents within the calendar year
- The type of force used
- The race, sex, age of the officer and suspect and the location of the incident
- The identification of any trends in the use of force by members
- Training needs recommendations
- Equipment needs recommendations
- Policy revision recommendations

**\*\*\*\*\* END OF SPECIAL ORDER \*\*\*\*\***

