



FROSTBURG CITY POLICE DEPARTMENT

37 BROADWAY, FROSTBURG, MD 21532 • 301-689-3000 (P) 301-687-0642 (F)

Kevin G. Grove
Commissioner of Public Safety

Nicholas J. Costello
Chief of Police

Use of Force Policy

I. PURPOSE

The purpose of this Policy is to provide officers of the City of Frostburg Police Department with guidelines on the use of non-deadly and Deadly Force.

II. DEFINITIONS

- A. “CEW” means conducted electrical weapon, e.g. a taser.
- B. “Chokehold” means a physical maneuver that restricts an individual’s ability to breathe for the purposes of incapacitation.
- C. “Deadly Force” means the use of force which is intended to or likely to cause death or Serious Physical Injury. For the purposes of this policy, Deadly Force includes but is not limited to:
 - (i) Firing of a firearm in the direction of the person to be arrested.
 - (ii) Firing of a firearm at a vehicle in which the person to be arrested is riding.
 - (iii) Intentional striking of a subject’s head or neck with an impact weapon.
 - (iv) Striking a person with a motor vehicle.
- D. “Department” means the City of Frostburg Police Department.
- E. “Officer” means a sworn law enforcement officer employed by the Department.
- F. “Policy” means this Use of Force Policy.
- G. “Serious Physical Injury” means bodily harm which causes death, substantial and permanent injury or disfigurement, or the long-term impairment of any organ, limb, or bodily function.



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III. DEPARTMENT POLICY

- A. **Sanctity of Human Life.** The Department's highest priority is the sanctity of human life. In all aspects of their conduct, Officers will act with the foremost regard for the preservation of human life and the safety of all persons involved.

- B. **Public Cooperation.** A strong partnership with the public is essential for effective law enforcement. Inappropriate or excessive uses of force damage that partnership and diminish the public trust that is a cornerstone of policing in a free society. Department members will act: (i) with a high degree of ethics, professionalism, and respect for the public and (ii) in a manner that promotes trust between the Department and the community it serves.

- C. **Core Principle.** It is the policy of the Department that its Officers endeavor to gain the voluntary compliance of suspects and, when consistent with personal safety, to eliminate the need to use force or reduce the force that is needed in responding to incidents.

IV. USE OF FORCE GENERALLY

When to use force. An Officer acting within the scope of his/her employment shall be justified in the use of force under the following circumstances:

1. To defend himself/herself from what is reasonably believed to be an imminent threat of Serious Physical Injury or death, under the circumstances as they appear at the time.

2. To defend another person from what is reasonably believed to be an imminent threat of Serious Physical Injury or death, under the circumstances as they appear at the time.

3. To prevent the escape of a suspect if there is a substantial risk that a person to be arrested will cause Serious Physical Injury or death if his/her apprehension is delayed.

4. Less than lethal force is the use of tools and tactics other than Deadly Force. Less than lethal force and tactics are used to gain control of a person or situation which are not intended to cause Serious Physical Injury or death.



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5. An Officer may use Deadly Force in self-defense or the defense of others when an Officer is confronted by what he/she reasonably believes is an imminent threat of Serious Physical Injury or death.
 6. The use of Deadly Force falls at the very top of the use of force continuum and is only to be used as the last option.
- B. Least amount of force policy.** It is the policy of the Department that its Officers use the least amount of force that is reasonably necessary in responding to an incident requiring law enforcement intervention. The degree of force used by Officers should be progressive along a continuum that spans from mere Officer presence to the uses of Deadly Force.
- C. Reasonableness requirement.** The use of force, whether non-lethal or deadly, must be objectively reasonable in light of the totality of the circumstances faced by the Officer on the scene. Reasonableness is not capable of precise definition or mechanical application. Officers are often forced to make split-second decisions in circumstances which are tense, uncertain and rapidly evolving. As circumstances allow, the factors to be considered by the Officer include, but are not limited to:
- (i) the severity of the crime,
 - (ii) the risk of harm or level of threat the suspect poses to the Officer or others,
 - (iii) the immediacy of the said risk of harm or level of threat,
 - (iv) whether the suspect is actively resisting arrest or attempting to evade arrest by flight, and
 - (v) the suspect's proximity to weapons.
- D. Proportionality.** Officers will use only the force that is proportional to the threat, actions, and level of resistance offered by a suspect, and only that force objectively reasonably necessary to control the scene, make the arrest, take the suspect into custody, or to prevent physical harm or death to the Officer or others is permitted. This may include using greater force or a different type of force than that used by the subject. The greater the threat and the more likely that the threat



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will result in death or Serious Physical Injury, the greater the level of force that may be necessary to overcome it. However, if during the course of an incident, the subject offers less resistance, presents a lesser threat or becomes more complicit, the Officer will decrease the amount or type of force accordingly; provided the Officer's safety is not jeopardized in doing so.

E. Miscellaneous.

1. Officers will not base use of force decisions on race, color, religion, sex, age, ancestry or national origin, marital status, sexual orientation, gender identity or disability.
2. An Officer will not use force for the sole purpose of inflicting pain, torture, or for the extraction of information.
3. An officer will never intentionally escalate a situation or encourage unlawful behavior.

V. DEGREE OF FORCE CONTINUUM

Subject to the other terms of this Policy, to the extent reasonably feasible, the least severe response should be implemented. The progressive levels of responses are set forth below.

A. De-escalation. Officers will use de-escalation techniques to prevent or reduce the need for force when it is safe and feasible to do so based on the totality of the circumstances at the time. This includes continually assessing the situation and modifying the use of force as circumstances change and in ways that are consistent with Officer safety, including, but not limited to, stopping the use of force when it is no longer necessary. Officers should attempt to assess whether non-compliance is willful or whether the suspect does not understand or is unable to comply due to language barriers, physical disabilities, or communications problems. Examples of de-escalation techniques include but are not limited to:

- (i) Providing a warning and exercising persuasion, explanation and advice before using force.



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- (ii) Endeavoring to stabilize the situation through the use of time, distance or positioning to isolate and contain a suspect.
- (iii) requesting additional personnel to respond or make use of specialized units or equipment including crisis-intervention-team-trained Officers or other professionals, as necessary, appropriate and practicable.

B. Non-Deadly Force. The use of non-Deadly Force shall be proportionate in accordance with Section IV.D of this Policy. Officers' use of non-Deadly Force may be reasonable in (i) protecting themselves or others from physical harm, (ii) restraining or subduing resistant individuals, and (iii) bringing an unlawful situation safely and effectively under control.

C. Deadly Force. Deadly Force may only be used if an Officer reasonably believes that the subject of the force poses an imminent threat of death or Serious Physical Injury to the Officer or others. Where feasible, some warning should be given prior to the use of Deadly Force.

1. **Definition of imminent threat.** A threat is imminent when it is objectively reasonable to believe that:
 - (i) the suspect's actions are immediately likely to cause death or Serious Physical Injury to the Officer or others unless action is taken;
 - (ii) the suspect has the means or instruments to cause death or Serious Physical Injury; and
 - (iii) the suspect has the opportunity and ability to cause death or Serious Physical Injury.
2. **Last Resort.** The use of Deadly Force is a last resort that is permissible only when necessary to protect against an imminent threat to life or to prevent Serious Physical Injury to the Officer or another person. Consistent with this requirement, an Officer may use Deadly Force only when such force is necessary to prevent:
 - (i) Death or Serious Physical Injury from an imminent threat posed to the Officer or another person.



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- (ii) An arrest from being defeated by resistance or escape, where the person to be arrested poses an imminent threat of death or Serious Physical Injury to the Officer or another person unless arrested without delay.

3. Prohibitions. Deadly Force may not be used:

- a. On a fleeing person unless the subject poses an imminent threat, as defined above; or
- b. Against a person who is a threat only to himself, herself, or property.

VI. WARNING SHOTS PROHIBITED.

The use of warning shots from deadly or less-than-lethal weapons is forbidden.

VII. CHOKEHOLDS PROHIBITED.

Chokeholds are prohibited except in situations where the use of Deadly Force is authorized.

VIII. USE OF FORCE TOOLS & TACTICS.

A. Generally.

- 1. Officers are authorized to use the tools and tactics for restraint and defense that have been approved by the Chief of the Department.
- 2. Officers assigned to patrol functions will be required to carry their issued handguns, ASP batons, oleoresin capicum pepper spray (“OC Spray”) and, in most instances, a CEW.
- 3. Officers will only be authorized to use the tools and tactics for restraint and defense that they have been properly trained to use.



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4. Officers may need to utilize improvised weapons, tools and tactics that are outside the officers' training in emergency situations. Such use shall be consistent with the terms of this Policy
5. Officers shall not make an agency weapons available to unauthorized persons unless approved in writing by the Chief of the Department.
6. When feasible, Officers shall give warnings before utilizing use of force tools.

B. Specific weapon and tactic issues.

1. ASP baton.

- a. Officers are only allowed to carry ASP batons issued by the Department.
- b. ASP batons will only be used in accordance with this Policy.
- c. Striking the subject's head, sternum, groin or neck areas must be avoided. Intentionally striking such areas is only authorized if the Officer is justified in using Deadly Force.

2. OC Spray.

Officers are only allowed to carry OC Spray issued by the Department.

OC Spray will only be used in accordance with this Policy.

OC Spray may not be used in response to passive resistance.

- d. It will be the responsibility of each Officer to monitor his/her issued container's expiration date to ensure that the OC Spray has not expired.
- e. OC Spray will not be used against a suspect located within a vehicle in motion.
- f. If the use of OC Spray within a structure may endanger the health or safety of others, cause the closure of an emergency facility, or induce widespread panic, other use of force options must be explored.



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- g.** After a suspect against whom OC Spray has been deployed is in custody, searched and secured, Officers shall:

 - (i)** Monitor the suspect and others remaining on the scene for medical problems such as respiratory difficulty and treat him/her appropriately within the scope of the Officers' training.
 - (ii)** Begin decontamination procedures.
 - (iii)** After OC Spray has been used, the Officer shall request a replacement and safely dispose of the old one.

- 3. CEWs.**

 - a.** Officers are only allowed to carry CEWs issued by the Department.
 - b.** CEWs will only be used in accordance with this Policy.
 - c.** CEWs may not be used in response to passive resistance. They may not be used against elderly, frail or pregnant individuals except in extraordinary circumstances.
 - d.** CEWs may be used when:

 - (i)** A suspect is punching or kicking, threatening to punch or kick, or is otherwise actively aggressive.
 - (ii)** Lesser force options are ineffective or are likely to be ineffective.
 - (iii)** A suspect is a threat from a distance and the Officer is at risk of injury if he/she attempts to close the gap.
 - (iv)** A suspect is an imminent threat to the Officer or others.
 - (v)** The suspect is actively resisting arrest.
 - (vi)** The suspect is attempting to evade apprehension by fight or flight.



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- e. The most frequently utilized mode of a CEW is the probe discharge since this method is designed for incapacitation of an individual from a distance and may negate a need for an officer to use physical tactics. The drive stun mode is the option employed when an Officer is in physical contact with a combative suspect as a pain compliance mechanism similar to the pressure point and arm bar techniques for securing the compliance of suspects.
 - f. Where practical, no more than one CEW should actively deliver an electrical charge against an individual at one time.
 - g. Officers shall not, under any circumstances, intentionally aim a CEW at the eyes or face of the subject.
 - h. Officers shall not fire the CEWs near flammable liquids or fumes. CEWs can ignite gasoline and other flammables.
 - i. An Officer shall not deploy a CEW while a police canine is engaged in the apprehension of a suspect or is attempting to take hold of a fleeing suspect except in the “drive-stun” mode in coordination with the canine handler.
4. **Canines.**
- a. **Suspect apprehension.**
 - (i) If practical, canine handlers will confer with other Officers on the scene and have an arrest plan prior to using the canine.
 - (ii) When a canine team locates a person they wish to apprehend, they are to give verbal warnings ordering the subject to surrender.
 - (iii) If the person does not comply, the canine handlers shall announce their intention to use the dog to apprehend the suspect.
 - (iv) When a canine engages a suspect, the handler will immediately order the canine to disengage upon the suspect compliance.



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- (v) Back-up Officers should accompany canine teams conducting apprehensions. They shall be positioned at the discretion of the handler.
- (vi) Excessive use of canines in apprehending suspects will not be tolerated.
- (vii) Aggressive canine teams will only be used to support executions of arrest and search warrants for felony violations.

C. Training and qualification. It is the policy of the Department to train and qualify sworn personnel in the use of any firearm and other tool used to apply force.

IX. DUTY TO INTERVENE.

If an Officer witnesses another Officer use force that is clearly objectively unreasonable and excessive, the witnessing Officer shall intervene if it is safe to do so. Intervention may be physical or verbal, depending on the circumstances and effectiveness. An Officer who witnesses an objectively unreasonable and excessive use of force or who intervenes as a result thereof shall immediately report the matter to a supervisor.

X. MEDICAL AID.

Any time a person is injured or claims to be injured as a result of an Officer's use of force, the Officer shall:

- (i) Render any appropriate medical aid as soon as practical and within the limits of his/her training.
- (ii) Request that the Allegany County Department of Emergency Services respond to administer medical aid and treat as appropriate.
- (iii) Notify the supervisor on-duty of any apparent or alleged injuries caused by a police action.
- (iv) Ensure that all injuries are photographed and documented on all related reports.
- (v) If the person is under arrest but requires medical treatment at a hospital, the supervisor on-duty will determine whether the suspect can be released for treatment.



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and charges filed later or whether Officers must go to the hospital and maintain custody of the person while treatment is rendered, taking into account the nature of the crime, the risk to the public, the likelihood of later apprehension, the requests of medical staff, law enforcement staffing and the needs of the public.

XI. USE OF FORCE REPORTING.

If an Officer uses force, he/she must report the use of force to the supervisor-on-duty as soon as reasonably possible and the supervisor-on-duty shall respond to the scene as circumstances require. Prior to the completion of the Officer's shift, the Officer shall complete an incident report thoroughly describing the use of force and shall complete any additional reporting requirements established by the Chief of the Department.