

# Bowie Police Department - General Orders



TITLE: USE OF FORCE	NUMBER: 405
EFFECTIVE DATE: 2/3/17	REVIEW DATE:
<input type="checkbox"/> NEW <input checked="" type="checkbox"/> AMENDS <input type="checkbox"/> RESCINDS	DATE: 6/6/16, 1/30/17

AUTHORITY <b>Chief John K. Nesky</b>	ACCREDITATIONS STANDARDS CALEA STANDARDS: 1.3.1 1.3.2 1.3.3 1.3.5 1.3.6 1.3.7 1.3.8 1.3.12 1.3.13	TOTAL PAGES 14
---	--	-------------------

## I. PURPOSE

The use of force by law enforcement is a matter of critical concern to the public and the law enforcement community. Officers are involved on a daily basis in numerous and varied encounters with people, and when warranted to do so, may use force in carrying out their duties.

This department recognizes and respects the value of human life and dignity. Vesting Officers with the authority to use force to protect the public welfare requires a careful balancing of all human interests.

This policy is not intended to create doubt in the mind of an Officer at a moment when action is critical and there is little time for reflection. It provides basic guidelines governing the use of force so that Officers can be confident in exercising judgment, as to the use of all levels of force, ranging from verbal to lethal force. Procedures regarding the use of departmentally approved and issued weapons are also provided.

## II. POLICY

It is the policy of the Bowie Police Department that each incident involving the application of any degree of physical force upon the person of another must be evaluated based on the facts known to the Officer at the time of the incident. The totality of the circumstances will be considered when reviewing use of force incidents.

Under no circumstances may the use of physical force be more than that which is necessary to achieve a lawful purpose. Officers are permitted to use the amount of force that is objectively reasonable and necessary to protect themselves or others from what is reasonably believed to be a threat of bodily harm, or death to effectuate an arrest, or gain compliance. Whether the use of force is objectively reasonable shall be judged from the perspective of an Officer at the time the force is used, based upon facts known or reasonably available to him or her at the time of the incident.

The use of a firearm is, in all probability, the most serious act in which a law enforcement Officer will engage. It is, therefore, imperative not only that the Officers act within the boundaries of legal guidelines, ethics, good judgment and accepted practices, but also that the Officer be prepared by training, leadership and direction, to act wisely wherever using a firearm in the course of duty.

Officers shall refrain from using force unnecessarily and shall prevent similar conduct by others. The use of excessive force will subject Officers to discipline, possible criminal prosecution, and/or civil liability. The use of chokeholds and similar carotid holds by Officer in non-lethal situations is **prohibited except when deadly force would be authorized.**

### III. DEFINITIONS

**A. Active Aggression:** Any physical action(s) against a police officer(s) and/or another person, with less than deadly force.

**B. Active Resistance:** Any action by a subject(s) that attempts to prevent a police officer(s) from gaining control of the subject(s).

**C. Administrative Review:** A documented review of the known facts of an incident or occurrence indicating whether policy, training, equipment, or disciplinary issues should be addressed.

**D. Deadly Force:** Force that a reasonable and prudent person would consider likely to cause death or serious personal injury. (CALEA 1.3.2)

**E. Excited Delirium:** The combined physiological and psychological state of excitement characterized by exceptional agitation, hyperactivity, overheating, excessive tearing of the eyes, hostility, superhuman strength, aggression, acute paranoia and endurance without apparent fatigue brought about by psychosis, drug and/or alcohol intoxication or a combination of factors.

**F. Empty Hand Control:** Techniques that cover a number of subject control methods with the officer utilizing his hands and not yet employing any weapon(s).

**G. Less-Lethal Force:** Force which is not intended or reasonably likely to result in death or serious physical injury. (CALEA 1.3.2)

**H. Officer Presence:** The officer is clearly identified as an officer and uses his/her presence to take control of the situation. In the event that the presence of the officer does not curb or decrease the amount of resistance, or stop the violation of law, the officer must be prepared to escalate using force.

**I. Passive Resistance:** Any type of resistance where the subject(s) does not attempt to defeat the police officer(s) attempt to touch or control the subject(s) but the subject(s) will not voluntarily comply with verbal and/or physical attempts of control.

**J. Physical Force:** Force other than deadly force or force through the use of less-lethal weapons to establish or maintain physical control over a person. (CALEA 1.3.2)

**K. Psychological Intimidation:** Non-verbal cues indicating the subject(s) potential for physical resistance. The cues may include but are not limited to: subject(s) attitude; appearance; and, physical readiness.

**L. Serious Physical Injury:** Injury which is potentially life threatening. (CALEA 1.3.2)

**M. Verbal Direction:** Communication directed toward controlling the actions of a subject, including direction or commands. If resistance continues after using proper verbal and non-verbal skills, the officer must be prepared to further escalate the use of force.

**N. Verbal Noncompliance:** Any verbal response indicating the subject(s) unwillingness to obey a lawful command from a police officer. These commands include, but are not limited to: commands of detainment; arrest or to stop an unlawful act; and/or, dangerous behavior.

**O. Reasonable Belief:** A set of facts or circumstances known to the officer are such as to cause an ordinary and prudent police officer to act and think in a similar way under similar circumstances. (CALEA 1.3.2)

**P. Probable Cause:** Regarding deadly force, means facts and circumstances known to the Officer which would warrant a prudent and cautious person with the knowledge, training, and experience of the Officer to believe that a suspect has committed a crime involving the infliction or threatened infliction of serious physical harm.

#### **IV. DISTRIBUTION OF ORDER**

The policies of the Department regarding the use of physical force, less-lethal weapons and equipment, deadly force, and discharging firearms will be set forth in this Order and Manual. Each sworn officer will be issued a copy of this Order and Manual, instructed in these policies and demonstrate proficiency before employing any of the weapons or tactics as trained. Only Departmentally issued or approved weapons, equipment and chemical agents will be authorized. (CALEA 1.3.12)

#### **V. INJURY OR ALLEGED INJURY**

Any time there is an injury or an alleged injury as a result of a level of force used by an officer, the officer will do the following: (CALEA 1.3.5)

A. Examine the injury and render first aid, if necessary.

B. Request that the Prince George's County Fire Department (PGFD) or other appropriate jurisdiction respond to the scene to evaluate the individual. Cause the transportation of the individual to a hospital, if necessary.

C. Immediately notify the on-duty Shift Supervisor, who shall respond to the scene and photograph the injury or alleged injury.

D. Charge the individual on a statement of charges or obtain a warrant if circumstances dictate, not a citation in lieu of arrest. Any exceptions must be approved by the on-duty Shift Supervisor.

E. Prepare a detailed incident report and submit it prior to the end of the officer's tour of duty, if physically capable. If the officer is not physically capable, the on-duty Shift Supervisor shall cause an incident report to be written.

F. In the event a member is injured the on duty supervisor shall complete the appropriate injury paperwork and make notification to their division commander by the end of the tour of duty. Supervisors shall also begin the process for a Use of Force Review.

## **VI. PROGRESSION OF FORCE**

Officers will consider and, if possible, employ a progression of force. The progression of force may not be possible under all circumstances, however, officers will use a reasonable level of force when force is used to obtain a lawful objective.

## **VII. FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE**

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

- A. The conduct of the individual being confronted (as reasonably perceived by the officer at the time).
- B. Officer/subject factors (age, size, relative strength, skill level, injury/exhaustion and number of officers vs. subjects).
- C. Influence of drugs/alcohol (mental capacity).
- D. Proximity of weapons.
- E. Availability of other options (what resources are reasonably available to the officer under the circumstances).
- F. Seriousness of the suspected offense or reason for contact with the individual.
- G. Training and experience of the officer.
- H. Potential for injury to citizens, officer and suspects.
- I. Special knowledge the officer has about the subject.
- J. Risk of escape.

K. Type of crime and/or call for service.

L. Other exigent circumstances.

NOTE: It is recognized that officers are expected to make split-second decisions and that the amount of time an officer has available to evaluate and respond to changing circumstances may impact his/her decision.

### **VIII. CONTROL OPTIONS**

A. Suspect Actions: In the course of their duties, officers may find it necessary to use force to overcome resistance, protect property and defend themselves or others. When applying control options, the totality of the circumstance, as well as other factors involved must be considered. Levels of resistance may include:

1. Psychological Intimidation.
2. Verbal Noncompliance.
3. Passive Resistance.
4. Active Resistance.
5. Active Aggression.
6. Deadly Force.

B. Officer Actions: Based on the totality of circumstances an officer has the following control options available for suspect control:

1. Officer Presence.
2. Verbal Direction.
3. Empty Hand Control.
4. Less-Lethal Weapons.
5. Deadly Weapons.

### **IX. EXCITED DELIRIUM (Acute Behavioral Disturbance)**

A. This mental status normally manifests itself in the violent behavior of an individual, who is likely to act in a bizarre and manic way. It can be caused by psychiatric illness, drugs (in particular cocaine), alcohol and a combination of these.

B. The following is a list of the possible signs exhibited by such person:

1. Aggressive and or bizarre behavior;
2. Impaired thinking and disorientation;
3. Hallucinations;
4. Acute onset of paranoia;
5. Diminished sense of pain;
6. Unexpected physical strength;
7. Sweating and fever; and/or,
8. Sudden tranquility after very frenzied activity.

C. A suspect who is or may be suffering from this condition is highly vulnerable to the risk of dying suddenly in circumstances which incorporate a violent struggle.

D. Consideration, must, if possible, be given to an alternative means of restraining, while still affording an appropriate measure of protection to the public and officer(s) present. The individual should be given as much freedom of movement as reasonably possible.

E. A struggle with a suspect, whether handcuffed or not, may lead to the point of exhaustion and sudden death. Excited delirium is a medical emergency and shall be treated as such.

## **X. USE OF FORCE REPORT**

The Department will incorporate a use of Force Report to document all reportable incidents involving the use of force by officers. Each officer utilizing a level of force, as outlined by this policy, shall complete a Use of Force Report as soon as possible, but no later than the end of the officer's tour of duty, unless incapacitated.

A. A Use of Force Report will be submitted in the following circumstances:

1. A firearm is discharged, for other than training or recreational purposes. Training and recreational purposes are defined as the following: (CALEA 1.3.6.a)

- a. Departmentally authorized training;
- b. Legal target practice; and,
- c. Competitive shooting.

2. An officer takes an action that results in, or is alleged to have resulted in, injury or death of another person; (CALEA 1.3.6.b)

3. An officer applies force through the use of lethal or less-lethal weapons; or, (CALEA 1.3.6.c)

4. An officer applies weaponless physical force at a level as defined in Section VIII of this Order. (CALEA 1.3.6.d)

B. Each individual officer shall provide justification on the narrative portion of the Use of Force Report and fill out all blocks. The narrative will annotate who, what, when, where, how and why.

1. In addition to the Use of Force Report, the primary reporting officer will complete a detailed incident report.

2. The incident report and any related supplemental paperwork will be submitted for review by the shift supervisor. A Shift Supervisor will review the reports, complete a Supervisor Action Report and will attach all appropriate paperwork, a copy of the incident report, hospital release and submit it for review via the Administrative Sergeant. The original Incident will be placed in the "report in" box.

### C. USE OF FORCE REPORT ADMINISTRATIVE REVIEW: (CALEA 1.3.7)

1. The Shift Supervisor shall respond to the scene of all reportable use of force incidents and conduct an investigation.
2. The investigation shall include, but is not limited to, interviewing and obtaining statements from witnesses and the suspect(s).
3. Upon review of the Use of Force Report, the Shift Supervisor shall determine whether Department policies were followed or if there were any other notable issues such as training or equipment failures.
4. If the Shift Supervisor finds no violations of policy he/she will forward it to the Administrative Sergeant.
5. The appropriate Division Commander shall review the Use of Force Report and any other comments forwarded by the Shift Supervisor. If the Commander agrees that no policies were violated, the report will be forwarded to the Captain for review via the chain of command.
6. The Captain shall review all Use of Force Reports and Shift Supervisor and/or Division Commander comments. If the Captain concurs with the Use of Force, he/she will sign the report and the original report shall be filed with the Operations Services Supervisor.
7. At any stage in the Administrative Review process, the Shift Supervisor, the Division Commander or his/her designee or Chief of Police or his/her designee may initiate an investigation if Department policies were not followed.
8. Endorsement of the reports with a signature shall reflect that the reviewing Shift Supervisor or Division Commander is in agreement that Department policy was adhered to. Should the Shift Supervisor or Division Commander not be in agreement a memorandum shall be attached to the Use of Force Report and forwarded through the chain-of command. The Chief of Police or his/her designee shall determine who shall investigate the possible breach of policy.
9. Reviewers should keep in mind whether training, policy, weapons/equipment or discipline issues need to be addressed.
10. If training, policy, weapons or equipment issues are noted, the Chief of Police shall notify the Operations Services Division Commander and Administrative Sergeant to ensure appropriate action is taken.

### **XI. NON-REPORTABLE USE OF FORCE LEVELS**

Neither Department policy nor CALEA standards require the reporting of the use of weaponless, hand-to-hand control techniques that do not produce injuries when gaining control of non-compliant individuals who are not actively resisting. These techniques include, but

are not limited to; physical touching, gripping or holding, frisking, pain compliance measures, pressure point application, come-alongs or handcuffing. Any other uses of force or those listed in this section where injury occurs or is alleged shall be reported on a Use of Force Report. (CALEA 1.3.6.d)

## **XII. USE OF CHOKE HOLDS AND LATERAL VASCULAR NECK RESTRAINTS**

The use of choke holds and Lateral Vascular Neck Restraints are prohibited except when deadly force would be authorized.

## **XIII. DEADLY FORCE**

A. Police Vehicles. Officers will not attempt to deliberately collide with other vehicles or to use the police vehicle to force any vehicle off the roadway, unless deadly force would be authorized.

B. Use of Firearms: The Department's policy concerning the use of deadly force and discharging firearms is as follows:

1. Officer will not unnecessarily draw or display any firearms, or carelessly handle a firearm.

2. Warning shots are prohibited, as it exposes officers and citizens to unnecessary dangers. The discharge of a gun to summon aid, when other means are not available, is permitted. (CALEA 1.3.3)

3. Deadly force may be used in self defense or in the defense of others, when an officer is confronted by what he/she reasonable believes is an imminent threat of death or serious physical injury. It is important to note: (CALEA 1.3.2)

a. When possible, a warning should be given prior to the use of deadly force;

b. The officer must reasonably believe that all other means of effecting the arrest are futile; and,

c. The decision on whether the suspect poses an imminent threat, if not apprehended, must be based on information known to the officer at the time.

4. Firearms will not be used under circumstances in which a substantial and unjustifiable risk of injury or death to bystanders exists.

5. Officers will not discharge firearms at or from moving vehicles, or suspects fleeing in vehicles, unless the officer's life or the life of another person is in eminent danger of serious physical injury or death and no escape route is available.

6. Deadly force should not be used when less force would be sufficient to affect an arrest or repel an assault.



7. Firing into buildings, doors, windows, or other openings is prohibited when the person lawfully fired upon is not clearly visible to the Officer.

8. Officers will not discharge a firearm at or from a moving vehicle except as a necessary measure of self-defense or defense of another when a suspect is using lethal force.

9. Firearms shall not be discharged when it appears likely that an innocent person may be injured.

10. Officers shall not discharge a weapon outside the City of Bowie to destroy an injured animal.

11. The discharge of firearms to destroy animals is permitted to prevent substantial harm to the officer or another person, or when an animal is so badly injured that humanity requires its relief from further suffering.

12. Officers who discharge(including accidental discharge) any firearm will notify the Shift Supervisor as soon as possible and submit the appropriate paperwork as outlined in this Order as soon as practical. (Firearms training and lawful target practice are exempt from this paragraph).

13. The officer's Division Commander, or his/her designee, in his her absence, will be notified of the weapon discharge incident.

#### **XIV. DE-ESCALATION OF DEADLY FORCE**

In situations where the officer must overcome an attack that the officer reasonable believes would produce serious injury or death to the officer or another person, the officer may use any methods necessary to overcome the attack. However, once the situation has stabilized and the threat of serious injury or death is past, the officer must once again immediately resort to approved less-lethal force tactics and weapons.

NOTE: As a last option in order to save his/her own life or the life of another, an officer may use any action necessary, even ones prohibited by this Order.

#### **XV. DEPARTMENTAL INVESTIGATIVE PROCESS IN USE OF DEADLY FORCE**

##### Departmental Investigative Process

The following procedures will be used to investigate every incident of firearms discharge by a Department member except for target practice, ballistics examinations, authorized training, and incidents involving the humane destroying of animals.

##### **A. Involved Officer(s) Responsibility:**

Whenever an Officer discharges his or her firearm accidentally or officially, he or she will immediately:

- Determine the physical condition of any injured person and render first aid when appropriate.
- Request necessary emergency medical aid.
- Notify Communications of the incident and location; remain at the scene until the arrival of supervisor or investigators (when appropriate).
- Do not discuss the case with anyone except supervisory and investigative personnel, or the Officer(s) private attorney.
- Protect their weapon for examination and surrender said weapon to the appropriate investigator.
- The Officer(s) will prepare a Use of Force report of the incident prior to the end of the involved Officer(s) shift if the Officer(s) are physically and emotionally able to do so.
- If the involved Officer(s) are unable to complete the Use of Force report, a supervisor or command Officer will prepare the report using the best information available.

Discharge in City with Personal Injury

Immediate notification of:  
 Police Communications  
 On duty Supervisor  
 Commander, Patrol et al  
 Supervisor, Investigations Unit  
 Captain  
 Deputy Chief of Police  
 Chief of Police

Discharge in City without Injury

Immediate notification of:  
 Police Communications  
 On duty Supervisor  
 Commander, Patrol et al  
 Captain  
 Deputy Chief of Police  
 Chief of Police

Discharge Outside of City with Personal Injury:

Police Communications for the appropriate jurisdiction  
 On duty Supervisor  
 Commander, Operations  
 Supervisor, Investigations Unit  
 Captain  
 Deputy Chief of Police  
 Chief of Police

Discharge Outside of City without Injury:

Immediate notification of the On Duty Sergeant who will respond to the scene, if within driving distance to the City of Bowie and will confirm the notification of the discharge to the appropriate jurisdictional police agency and coordinate interagency communications.

**B. Responding Officers' Responsibility:**

Responding Officers who arrive at scenes of other Officer(s) uses of force resulting in death or injury will, if appropriate:

- Render or ensure first aid is provided to injured Officer(s) or others after triage examinations.
- Alert Communications to situation and request medical assistance and additional personnel as deemed necessary.
- Secure any suspect(s), injured or otherwise, according to directives.
- Secure and protect the scene from a contamination of evidence.
- Identify and/or detain any witnesses present and
- Remain at scene until supervisory personnel arrive unless there are hazardous conditions that require evacuation of the immediate area for safety purposes.

**C. Shift Supervisors' Responsibility:**

Supervisor(s) shall immediately respond to the scene of all use of force incidents where an injury is claimed or sustained. Supervisors shall ensure:

- At least one Officer will remain with the bodies or injured person(s). In cases where persons are taken to the hospital, assigned Officers will remain with the persons, preserving any physical evidence, until relieved by investigators.
- Officers will be directed to secure the incident scene.
- At least one Officer will be directed to remain with the involved Officer(s) to ensure their safety, well being, and that no unnecessary questioning concerning the incident is initiated.
- One Officer will be sent to the medical facility to act as a liaison between medical and agency personnel if an Officer is injured and taken to an emergency facility.
- As safety permits, involved Officer(s) weapons must be secured. Firearms, shell casings, and magazines are to be left undisturbed for evidentiary purposes. Involved Officer(s) will be issued replacement firearms if suspensions are not involved.
- Ensure that all personnel at incident scenes will submit detailed supplementary reports of their activities.

Supervisors on scene are to contact Prince George's County SIRT. Supervisors shall complete a confidential Unusual Report and submit it to the Chief of Police. This reporting is in addition to any other reports that are required to be completed regarding the incident or situation.

**D. Commander of Patrol Responsibility:**

In the event of an injury or when requested, the Commander of Patrol will report immediately to the scene and complete the following:

- Secure the scene

- Conduct a preliminary field investigation
- Render command assistance to the assigned supervisors
- Verbally brief the Chief of Police as soon as reasonably possible
- Assist the involved Officer(s)
- Act as the department spokesperson in all inquiries until the PIO arrives
- Submit a written report to the Chief of Police according to policy
- The chief of Police or a designee will make notification arrangements to the next of kin if Officer(s) are critically injured. The Chief will ensure that follow up support is provided to families of involved Officer(s).
- If Officer(s) use deadly force or cause serious physical injuries, the Chief of Police or designee will determine if Officer(s) should be removed from line-duty assignments, pending administrative reviews to determine if the Officer(s) are to be placed on suspension, paid administrative leave, in non contact assignments, or returned to full duty status.
- If the incident occurs outside the City of Bowie, the Commander of Patrol will respond to the scene. In all cases, the Commander of Patrol will be responsible for collecting and forwarding copies of reports made by other agencies.

**E. The Deputy Chief of Police or designee will ensure:**

- Follow up medical support is provided to involved Officer(s); and
- Arrangements are made for Officer(s) who use lethal force or cause serious physical injuries as the result of agency activities to receive post-incident debriefing and/or counseling as soon as practical after the incident

**F. Investigation Unit Responsibility:**

- Conduct a thorough investigation of every shooting by a Police Officer that result in injury or death
- Proceed to scene immediately upon notification
- Secure the scene
- Examine and seize weapon(s) that have been fired
- Separate, secure and interview all scene witnesses
- Photograph and diagram the scene
- Secure all physical evidence
- Obtain all other necessary reports
- Prepare a detailed report where required and submit same to Chief of Police
- When appropriate, notify Prince George's County State's Attorney's Office

When not investigated by the City of Bowie Police Department, the appropriate Prince George's County Police Department Investigative Unit will be notified.

**G. Responsibility:**

- The Administrative Sergeant will respond to scenes when Officer(s) use lethal force or when there are serious physical injuries resulting from agency activities.
- Investigations into the uses of force as described in the General Order will be conducted by the Administrative Sergeant.

- The Administrative Sergeant may request the assistance of Investigations Unit personnel during investigations.
- The Administrative Sergeant will submit a detailed Investigatory Report to the Chief of Police. The report will contain relevant facts and circumstances surrounding incidents and determinations if:
  - Activities of Officers were in accordance with Maryland law and department directives.
  - Activities of Officers were in apparent violation of Maryland law and should be referred to the Chief of Police who will confer with the State's Attorney's Office.
  - Activities of Officers were justifiable under Maryland law but violated departmental directives.
  - Disciplinary action is necessary; or
  - Changes should be made regarding:
    - Training
    - Supervision and accountability procedures
    - Psychiatric or psychological counseling
    - Hiring and promotion criteria
    - Deployment and dispatch techniques; or
    - Operational policies and practices

**H. Administrative Leave/Duty:**

Any Officer directly involved in a deadly force incident or any action resulting in a death or serious physical injury will be placed on Administrative Leave pending an administrative review of the incident. The leave will be without loss of pay or benefits, pending results of the investigation. This leave will not be interpreted to imply or indicate that the Officer has acted improperly or inappropriately.

While on Administrative Leave, the Officer(s) will remain available at all times for official interviews and statements regarding the incident.

Upon return to duty, the Officer may be assigned to Administrative Duty for a period of time as deemed appropriate by the Officer, their psychologist and the Chief of Police.

**I. Psychological Services for the Involved Officer:**

In all cases where a firearm has been discharged, with or without injury, by a Police Officer, the involved Officer will be required to undergo an emotional debriefing with the departmentally furnished psychologist within five (5) days of the incident and prior to returning to full duty. This requirement shall not apply to Officers who discharge their weapons to destroy an injured animal.

The debriefing session will remain protected by the privileged professional psychologist code of ethics.

**J. Re-qualification Procedures:**

Prior to being restored to full duty, Officers are required to attend weapon re-qualification with a department firearms instructor.

**K. Civil Rights Investigation:**

The Bowie Police Department will respect the rights of the Federal Government to conduct an independent investigation to identify any civil rights violations that may have occurred.

The Bowie Police Department will not order or request any of its Officers who may be the subject of an investigation to confer with Federal Investigators without the advice of counsel.

**L. Annual Review:**

The Deputy Chief of Police will conduct an annual review of all Use of Force Reports. The review will be directed at revealing any patterns or trends that could indicate training and/or policy modifications.