

**I. PURPOSE**

The purpose of this policy is to provide guidelines concerning the use of force by Fairfax County Sheriff's Deputies.

**II. PREAMBLE TO THE USE OF FORCE POLICY**

The Fairfax County Sheriff's Office is committed to the sanctity and preservation of life, human rights, and the dignity of each individual that we encounter. A reverence and respect for the dignity of all persons and the sanctity of human life shall guide all training, leadership, and procedures, as well as guide deputies in the use of force. Deputies are sometimes required to use force in self-defense, defense of others, and during the execution of lawful duties. In all situations, deputies are required to conduct themselves within the law and in accordance with constitutional standards.

All deputies shall view their duties in the context of safety for themselves and others, with an emphasis on respect, professionalism, and reverence for human life, even when force is required. In some situations, Deputies may be faced with situations where the actions and decisions of other persons will require a prioritization of the lives of all persons involved to bring the situation to a successful conclusion. The safety of hostages, victims, innocent persons and deputies typically takes priority over the safety of individuals engaged in criminal or suicidal behavior.

For planned tactical operations, such as service of warrants, execution of court orders, tactical cell extractions, and prolonged passive resistance, deputies shall develop a tactical plan based on minimizing traumatic force whenever possible.

**DUTY TO INTERVENE**

Any deputy present and observing another deputy using force that is clearly beyond that which is objectively reasonable under the circumstances shall safely intercede to prevent the use of such excessive force. Deputies shall promptly report these observations to a supervisor.

**FORCE PREVENTION / DE-ESCALATION**

When possible, deputies shall seek to utilize de-escalation strategies to prevent situations from deteriorating to the point where they would need to use force. Deputies should attempt to gain voluntary compliance and reduce the level of force required in a situation through verbal communication efforts. When force is applied, deputies shall use only the level of force necessary to overcome an individual's resistance and to gain control.

**AUTHORIZED USE OF FORCE**

Deputies are authorized to use only that amount of force that is objectively reasonable to perform their duties. "Objectively reasonable" means that deputies shall evaluate each situation requiring the use of force in light of the known circumstances, including, but not limited to, the severity of the crime at issue, the reason for detaining an individual (criminal offense or civil commitment), whether the suspect poses an immediate threat to the safety of the deputy(s) or others, and whether the suspect is actively resisting, in determining the necessity for force and the appropriate level of force. Deputies maintain the right to self-defense and have a duty to protect the lives of others.

### UNREASONABLE FORCE

Unreasonable force is that force that is unnecessary, excessive, or "shocks the conscience" given the totality of the circumstances presented to deputies at the time the force is applied.

Unreasonable force is prohibited. The use of unreasonable force shall subject deputies to discipline and/or prosecution.

NOTE: The basis in determining whether force is "unreasonable" shall be consistent with the Supreme Court decision of *Graham v. Connor*, 490 U.S. 386 (1989).

The basis in determining whether force passes the "shocks the conscience test" shall be consistent with *Johnson v. Glick*, 481 F.2d 1028 (2nd Cir. 1973), cert denied, 414 U.S. 1033, 94 S.Ct. 462, 38 L.Ed.2d 324 (1973)

### SUPERVISORY REVIEW

The Fairfax County Sheriff's Office is committed to upholding lawful, professional, and ethical standards before, during, and after force incidents. This includes de-escalation efforts, effective tactics, objective review, and analysis of every incident.

Supervisors and commanders shall closely review Use of Force Incidents in order to:

- A. Determine if the appropriate amount of force was used in each unique situation.
- B. Determine possible deficiencies in policies and procedures or related training needs.
- C. Ensure the reports have been completed in accordance with guidelines established in [SOP 032a – Use of Force Documentation, Investigation and Notification](#).

## **III. POLICY**

It is the policy of the Fairfax County Sheriff's Office that force is used:

- A. Only to the extent reasonably necessary to defend oneself or another.
- B. To control a person during a detention.
- C. To effect an arrest.
- D. To protect property.
- E. To prevent escapes.

In all situations that involves using force, medical assistance shall be offered and/or provided to the person who is the recipient of said force. Personnel shall be trained and demonstrate proficiency in the use of any instruments of force before being allowed to deploy them. In no event is force to be used as punishment.

## **IV. DEFINITIONS**

**Use of Force** – Any physical contact above the level of a "guiding" or "escort" hold between a deputy and another person, or the use of lethal, less-lethal, or personal weapons which further

the deputy's intent to establish or maintain control of custody or to defend themselves or another person.

**Reasonable Use of Force** – The use of any force, deadly or not, that is reasonable in light of the facts and circumstances confronting the deputy, without regard to the deputy's underlying intent or motivations.

**Serious Injurious Force** - Force above directive force such as the use of traditional tools of compliance, kinetic impact weapons, significant pain joint manipulation, and pain application used on any subject.

**Deadly Force** – Any level of force that is likely to cause death or serious injury.

**Less-Lethal Force** - Any force other than that which is considered deadly force. Less-Lethal force is distinguishable from deadly force in that it is not intended or reasonably likely to result in death or serious injury in most cases. Less-Lethal devices include OC spray, ECWs, PepperBall Launcher, bean bag shotgun, and the baton.

**Excessive Force** – Any force which is determined not reasonably necessary.

**Objectively Reasonable Force** – Is that level of force that is appropriate when analyzed from the perspective of a reasonable officer possessing the same information and faced with the same circumstances. Objective reasonableness is not analyzed with hindsight, but will take into account, where appropriate, the fact that deputies must make rapid decisions regarding the amount of force to use in tense, uncertain, and rapidly evolving situations.

Reference U.S. Supreme Court 1989 case of Graham v. Conner.

**Serious Injury** - A bodily injury that may cause a substantial risk of death, serious permanent disfigurement, or a long term loss or impairment of a function of any bodily member or organ.

**Medical Treatment** – Any action taken by trained and certified medical personnel to physically treat an injury resulting from the use of force or accidental injury.

**Active Countermeasures** - Undoubtedly, situations arise where the use of an impact weapon is either impractical or unavailable to a deputy. The use of one's hands and feet (personal weapons) as a defensive weapon, and/or to gain control of a resistant subject, is permitted and shall be consistent with training.

## V. PROCEDURE

### A. Use of Force Model

1. [SOP 032 Attachment 1 – Use of Force Model](#), provides a visual paradigm representing a guide for deputy force options.

### B. Deadly Force

1. Deadly force shall not be used unless it is objectively reasonable. Any use of deadly force which is not objectively reasonable in view of circumstances confronting the deputy is prohibited, and deputies using deadly force which is not objectively reasonable will be subject to discipline, criminal prosecution, and/or

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civil liability.

2. The use of deadly force shall be based on the totality of circumstances known to the deputy at the time indicating that an imminent threat of death or serious injury to any person exists and that all other methods of force to control the subject(s) would be or have already proven to be ineffective. An imminent threat refers to an impending violent act or resistance that a deputy reasonably believes will occur.
3. Deadly force shall not be employed to apprehend a fleeing misdemeanor.
4. Deadly force may be used to apprehend a fleeing felon or suspected felon if all of the below conditions have been met:
  - a. All other means to effect an arrest have been exhausted or under the circumstances known to the deputy would not be effective or feasible,  
**and;**
  - b. Efforts to deescalate have been exhausted or under the circumstances known to the deputy would not be effective or feasible,  
**and;**
  - c. Based on all of the circumstances known to the deputy at the time there is probable cause to believe the felon or suspected felon poses a significant threat of death or serious physical injury to the deputy or others.

The U.S. Supreme Court in the 1985 case of *Tennessee v. Garner* defined the deadly use of force to prevent escape of a fleeing felon.

5. Choke holds will not be used to subdue any subject. Specifically, neither hands, arms, feet, knees, legs, nor any object will be applied to a subject's throat or neck area in any fashion which will restrict the flow of blood or oxygen. The only exception to this policy involves a single deputy, lawfully executing his/her duties and a subject who is resisting to the point where the deputy fears for his/her life
6. In any situation, where a deputy is involved in a deadly force incident, if physically capable and circumstances permit, the deputy shall secure and manage the crime scene pending the arrival of additional Law Enforcement personnel.
7. Subsequent to the deployment of deadly force, the involved deputy shall be removed as soon as practical from the crime scene and placed on Administrative Leave pending an investigation of the critical incident.
8. The involved deputy shall be required to complete a critical event debriefing and evaluation as soon as practical after the incident, and prior to returning to full duty.

**C. Firearms**

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1. Deputies shall not fire warning shots.
2. Deputies shall not discharge their firearms at or from a moving vehicle unless deadly physical force is being used against the deputy or another person present.
3. Except in emergency situations or as allowed in [SOP 516 – Escape and Attempted Escape](#), and [SOP 523 – SERT/CDU](#), firearms are not permitted in areas where inmates have access.
4. If feasible, when using a firearm for the purpose of deadly force, deputies shall give the verbal warning, "Sheriff's Office, don't move!" prior to using deadly force.

**D. Less-Lethal Use of Force**

1. When possible, only that level of less-lethal force objectively and reasonably necessary (e.g., physical control techniques, striking with a baton or other instrument, discharging OC, ECW, PepperBall System, etc.) to establish control and gain compliance shall be used in response to opposing force.
2. Instances where the use of less-lethal force may be effective would include, but not be limited to:
  - a. Effecting an investigative stop or arrest.
    - 1) Deputies may use the force that is objectively reasonable (e.g., moderate pressure to stop, turn, or guide a subject) to conduct an investigative stop without converting the stop into an arrest. Increased levels of force may be used if it is reasonable under the circumstances.
    - 2) Voluntary field contacts may be utilized by a deputy who wants to speak to someone or obtain a person's identification. Deputies may not use any force to conduct a voluntary field contact.
  - b. Preventing escape from lawful custody.
  - c. Defending oneself or another person from injury or assault.
    - 1) Only the level of less-lethal force that is objectively reasonable to establish control and gain compliance shall be used in response to opposing force. Deputies shall escalate or de-escalate their use of force in direct response to the opposing person's actions.
  - d. Restoring institutional integrity in a detention facility.
3. Officers who use less-lethal force on persons exhibiting symptoms of mental health crisis or drug intoxication shall give particular consideration that these persons may be experiencing or are at an increased risk of developing excited delirium.
  - a. Excited delirium shall be strongly suspected in subjects who exhibit

extreme paranoia, physical symptoms (profuse sweating, foaming at the mouth, seizures, shaking, inability to breathe, etc.), violent resistance to arrest, little or no reaction to pain, unusual strength, and/or extreme aggression toward objects. Excited delirium is a potentially fatal acute medical condition. Subjects who are exhibiting signs or symptoms of excited delirium shall be immediately evaluated by trained medical personnel.

4. Handcuffed persons resisting arrest or assaulting deputies present a unique use-of-force decision. Deputies may use only that amount of force reasonably necessary to ensure safe custody or to overcome the person's resistance to a lawful arrest. Striking instruments, OC spray, and the ECW shall not be used on a handcuffed person unless the person continues to pose a threat to the deputy, to others, to the person himself/herself and/or other force alternatives have been ineffective or deemed unacceptable for the situation.
5. Less-lethal strategies may also be used against an animal that is attacking or threatening to attack a person or another animal. Instruments of less-lethal force (e.g. striking instruments, chemical agents, or ECW) are intended to reduce the likelihood of serious injury or death to the animal and to provide a more humane and less traumatic conclusion to the incident.
6. Batons
  - a. Only deputies who have completed all training in the use of the baton shall be permitted to carry and use it. The Baton can be used as a defensive or preemptive weapon used to gain the advantage when an attack or strike is believed to be imminent.
  - b. The baton should normally be applied against those non vital body areas specified during baton training (e.g., torso, legs, and arms). In certain circumstances the intentional striking of vital areas can be an appropriate action and may constitute deadly force based on the totality of circumstances.
  - c. Except in emergency situations or as allowed in [SOP 516 – Escape and Attempted Escape](#), and [SOP 523 – SERT/CDU](#), batons are not permitted in areas where inmates have access.
7. Chemical Agents/Oleoresin Capsicum (OC)
  - a. When objectively reasonable, OC may only be used by trained and qualified personnel to reduce the likelihood of injury to staff or others in cases where control of a person must be gained.
  - b. When possible, a verbal warning/command shall be given prior to deploying OC. OC shall be directed at the subject's face and ideally not at the eyes when closer than three feet due to the potential risk of injury from the pressure of the propellant.
  - c. Deputies shall consider the totality of the circumstances when using OC on persons who are at risk for adverse reactions to OC to include but not

be limited to:

- 1) Persons who appear to be morbidly obese.
  - 2) Those who are known to have respiratory ailments.
  - 3) Individuals who are in an enclosed area without ventilation.
  - 4) An individual's location in relation to others.
  - 5) Individuals wearing contact lenses.
- d. Deputies shall ensure that subjects who have been exposed to OC are decontaminated. Deputies shall request Medical/EMS personnel to assist with the decontamination.
  - e. Only fully trained and certified SERT personnel are authorized to use other types of chemical agents. Their use must be approved by a SERT Commander or his/her designee.

8. Use of Kinetic Energy

- a. Kinetic energy impact projectiles are designed to provide a less-lethal alternative when the use of deadly force is not immediately necessary. However, the use of kinetic energy impact projectiles may not always be appropriate and shall not be considered if not already available and a delay in action would be detrimental to the situation.
- b. The subject shall be provided medical attention after having been impacted with a kinetic energy impact projectile.
- c. Reference [SOP 523 - SERT-CDU](#), for more information regarding less-lethal munitions for SERT related events.

F. Non-Domesticated and Domesticated Animals.

1. If time and circumstances permit, advise the Department of Public Safety Communications Center (DPSC) of the nature of the situation and request the assistance of an Animal Protection Officer.
2. If the animal is a domestic pet or farm animal, attempt to ascertain ownership and notify the owner of the situation.
3. If killing the animal is necessary, clear the area of spectators and use the utmost caution.
4. When possible, force shall be used appropriately by deputies to protect themselves or a third party from an attacking animal. Alternatives to deadly force may include striking instruments, Oleoresin Capsicum, Electronic Control Weapons, physical barriers, or catch poles.

G. Equipment

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1. Firearms
  - a. On-duty – Only Sheriff's Office authorized firearms loaded with issued ammunition are approved for on-duty use.
  - b. Off-duty – Personnel should refer to [SOP 031 – Firearms Training & Qualification](#), to determine which weapons are authorized.
  - c. Deputies shall exercise caution when handling firearms. All issued and approved firearms shall be secured on and off duty.
2. Chemical Agents/Oleoresin Capsicum (OC)
  - a. Chemical Agents/OC shall only be carried by and/or utilized by personnel that have successfully completed all associated training.
  - b. OC is authorized to be carried anywhere in the Sheriff's Office.
  - c. Only OC issued by the Material Management Section of the Office of the Sheriff is authorized for use while on duty.
3. Batons
  - a. Expandable Batons
    - 1) The "Monadnock or ASP" brand, in friction lock and positive lock; standard or air weight models; 16", 21", or 26" expandable batons are the only approved expandable baton lengths.
    - 2) The baton shall only be used by staff that have successfully completed all associated training.
    - 3) The baton shall be carried in the appropriate scabbard.
    - 4) Deputies shall give a verbal warning when feasible before application.
    - 5) Only expandable batons are permitted to be carried off-duty.
  - b. Straight Baton
    - 1) A plastic, wood, aluminum or similarly constructed, straight baton shall be carried on-duty only.
    - 2) The length shall be a minimum of twenty-one inches and a maximum of twenty-seven inches.
    - 3) The weight shall be a minimum of sixteen ounces and a maximum of twenty-four ounces.
    - 4) The shape must be cylindrical and rounded at both ends.



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4. Electronic Control Weapons (ECW)
    - a. Reference [SOP 032b - Use of ECW](#), for information regarding authorized equipment for ECW's.
  5. Kinetic Energy Impact Projectile (Less-Lethal Force)
    - a. Use of kinetic energy impact projectiles shall be used with due regard to safety and in accordance with manufacturer recommendations and consistent with training.
    - b. It shall be the responsibility of the operator to visually and physically inspect the shotgun or other instrument and munitions to ensure that only the appropriate projectiles are used for deployment. Whenever practical, a second deputy shall inspect a shotgun to ensure the weapon is unloaded of shotgun ammunition prior to loading the kinetic energy impact projectiles.
    - c. Only kinetic energy impact projectiles issued by the Fairfax County Sheriff's Office shall be used by deputies.
- H. Training
1. Personnel shall review policies for the use of force, lethal and less lethal weapons annually.
  2. Personnel shall be trained and demonstrate proficiency in the use of any instruments of force before being permitted to utilize them.
  3. To remain proficient, all personnel shall recertify as required with any instruments of force that they have been certified with and continue to utilize.

**07/23/01  
DATE APPROVED**

**06/30/2020  
EFFECTIVE DATE**



**STACEY A. KINCAID  
SHERIFF**

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