



**Baltimore County Sheriff's Office
Towson, Maryland**

**Sheriff
R. Jay Fisher**

General Order

**Subject:
Use of Force/ Reporting
Discharge of Firearms**

**Effective Date
3/15/11**

**Number
B-1**

Purpose:

The purpose of this policy is to set forth guidelines for the proper use of force and the reporting of firearms discharges.

Contents:

- I. Definitions**
- II. Policy**
- III. Procedures**
- IV. Appendix**

I. Definitions

- A. Deadly Force:** Any use of reasonable and necessary force, which is likely to cause death or serious physical injury. While the use of deadly force is most commonly associated with firearms, it is not limited to such weapons, but could include defensive weapons instruments, or any other means *including* hands, used by a member.
- B. Non-Lethal Force:** Force that is not intended, nor reasonably likely to, result in death or serious physical injury.
- C. Defensive Weapons:** Any device, authorized by the Office, and utilized by a member to apply force to another individual, e.g. O.C. Spray, expandable baton, conducted energy device, etc.
- D. Reasonable Belief:** Facts or circumstances a member knows, or should know, which would cause an ordinary and prudent person to act or think in a similar way under similar circumstances.
- E. Serious Physical Injury:** A bodily injury that creates a substantial risk of death; causes serious, permanent disfigurement; or results in long-term loss or impairment of the functioning of any bodily member or organ.
- F. Imminent:** Near at hand, at the point of happening, threatening; such an appearance of threatened and impending injury as would put a reasonable person on instant defense.

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II. Policy

It is the policy of this Office that members are permitted to use only that force which is reasonable and necessary to affect a lawful arrest, maintain custody of a prisoner or to protect themselves or others from personal attack, physical resistance, harm or death. The decision to use force at any level must be based upon the circumstances that the member reasonably believes to exist. Additionally, it is the policy of the Baltimore County Sheriff's Office to thoroughly investigate and accurately document all facts and information whenever a sworn member discharges a firearm, whether intentional or unintentional and whenever force is utilized by a member.

III. Procedures

A. Use of Force

While it is intended that members use the lowest level of force possible, options are not predicated on strict hierarchical sequence, nor must a member always elect to start at the lowest level. Members must evaluate the immediate circumstances and select the appropriate level of force for those circumstances. Differences between the member and subject in age, gender, size and fitness level, special training, as well as injury to the member are examples of applicable circumstances. While consideration of the crime committed may play a role, it should not be the sole determining factor. Rather, it is the level of force being used against the member and imminent potential for death or serious physical injury to the member, other law enforcement personnel, bystanders or victims, upon which a member should base the decision to use force of any level.

The Sheriff's Office recognizes a Use of Force Continuum containing the five levels of force that may be applied by members in the execution of their duties. These are:

1. Communication/Verbal Control/Presence:

In the daily performance of their duties, a member's presence represents a recognizable government authority. Situations that members encounter may require not only their presence, but frequently some form of verbal or non-verbal communication. This communication may take the form of providing information, giving commands, asking or answering questions, physical gestures, conducting interviews, etc. It may also take the form of issuing specific instructions to individuals or groups, dealing with arguments, verbal assaults, threats, handling disputes, disagreements, etc. If presence, communication or verbal control is not sufficient to protect, control or arrest, then a member is justified to use reasonable and necessary force from the appropriate higher level options.

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2. Physical Force:

A situation between a member and an individual or individuals may escalate to physical force. Physical force between members and citizens may range from the slightest touching to the infliction of severe injury. Physical force entails the use of any and/or all body parts, such as head, shoulders, arms, hands, knees, feet, etc. Physical force, which has the potential for inflicting death or serious physical injury must be used in accordance with the procedures described in Section B., Permissible Use of Deadly Force or Section, A. 4, Non-Lethal Force, of this directive. In the event that physical force is not sufficient to protect, control or arrest, then a member is justified to use reasonable and necessary force from the appropriate higher level options.

3. Defensive Weapons:

The use of verbal communication or physical force to control a situation may escalate to the use of a defensive weapon by the member, in accordance with established procedures and predicated upon Section B., Permissible Use of Deadly Force and Section, A. 4, Non-Lethal Force. In the event that physical force is not sufficient to protect, control or arrest, then a member is justified to use other appropriate reasonable and necessary force.

4. Non-Lethal Force:

Non-Lethal Force, as defined herein, may be used to affect arrests, maintain custody of a prisoner or to protect members or others from personal attack, physical resistance or harm, provided the force chosen is not excessive based upon the immediate circumstances of the confrontation. Non-Lethal Force may involve the use of defensive weapons or defensive tactics (hands/body). Use of any force, which is likely to cause death or serious physical injury, is governed by the use of deadly force requirements. In an emergency situation the selection of the defensive weapon option does not preclude members from using an object or instrument to protect themselves or others that was not designed for such use or one which the member was not trained or certified with, as long as the object is used in accordance with the limitations on force contained in this policy.

5. Deadly Force:

This is the use of firearms, defensive weapons, or other force options, which is likely to cause death or serious physical injury. Deadly force may only be used in accordance with the procedures described in this section.

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B. Permissible Use of Deadly Force

Sworn members may carry or wear a firearm anywhere within State of Maryland, whether on or off duty provided they do so in compliance with Maryland law, local laws, and Office regulations. In the State of Maryland, the use of deadly force is permissible in the following circumstances:

1. **Defense of Self or Another:** Members may use deadly force to defend themselves, or another person from what they have a reasonable belief to perceive as an imminent threat of death or serious bodily injury.
2. **Fleeing Felon:** Members may use deadly force to apprehend a fleeing felon only if
 - a. There is probable cause to believe the crime committed was a felony of a violent type, which involved the infliction or threatened infliction of serious physical harm or death, and
 - b. There is probable cause to believe the person fleeing committed the crime or the person fleeing escaped while being held in legal custody as a suspect in a felony of a violent type, and
 - c. Failure to immediately apprehend the person places the member, another law enforcement officer, or the public in imminent danger of death or serious physical injury.

Members are prohibited from utilizing deadly force to affect an arrest based on mere suspicion.

C. Dangerous/Injured Animals

The killing of an animal is justified in the following circumstances:

1. For self-defense.
2. To prevent physical harm to the member or another person.
3. When the animal is so badly injured that humanity requires its relief from further suffering. A supervisor's approval is required before exercising this authority. Additionally, the member must weigh the risk of personal injury and/or property damage with the need to kill an injured animal.
4. Make reasonable attempts to locate the animal's owner prior to taking action. If the owner of the animal is not present, members must request that Emergency Communications Center (911) notify the appropriate agency to respond and remove the animal's remains.

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D. Additional Elements

1. Sworn members are prohibited from engaging in horseplay with firearms.
2. Sworn members shall not allow their issued firearms to be held/fired by person(s) that are not a sworn member of this agency.
3. Sworn members must exercise caution when discharging a firearm to avoid endangering the lives of bystanders.
4. Firearms may be drawn only when a sworn member has reason to fear for his safety or the safety of others. Firearms may not be arbitrarily pointed at a person or persons.
5. Warning shots are prohibited.
6. In the event of an accidental firearms discharge the member in question will receive remedial training/instruction as soon as practical.
7. If a firearm is alleged to have malfunctioned the firearm will be provided to a Range Officer for examination.
8. Shots fired at a moving vehicle should only be considered as a last resort. There is an obvious danger to persons in the area if the driver should lose control of the vehicle. However, when a sworn member is on foot and a vehicle is being used against the member, or another person, and the safety of innocent persons would not be jeopardized the use of deadly force is authorized. Sworn members should avoid, when possible, placing themselves in front of all oncoming vehicle.
9. In foreign jurisdictions sworn members may only carry or wear a weapon, whether on or off duty in compliance with the laws of that jurisdiction and Office regulations. Foreign jurisdictions shall be considered anything outside the State of Maryland. In foreign jurisdictions, the use of deadly force is permissible only in defense against an attack that may result in death or serious bodily injury to the sworn member, other law enforcement personnel or to bystanders.

E. Medical Care

1. Members and supervisors must obtain medical evaluations and appropriate care for individuals:
 - a. Who show signs of any injury as a result of any use of force by a member.
 - b. Who complain of any injury as a result of any use of force.

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- c. Who become unconscious either during or following any use of force; or
 - d. Whenever a member or supervisor reasonably believes an individual is in need of a medical evaluation as a result of any use of force.
2. Medical evaluation must be provided immediately or as soon as practical. For the purposes of this directive, medical evaluation may be performed by responding Fire & Rescue Service emergency medical personnel at the scene of the incident or by hospital personnel. Once on the scene, medical personnel are responsible for advising the members of the need for further medical care beyond that provided at the scene.

F. Reporting and Investigating Responsibility

The following procedures must be used to report and investigate every incident of firearm discharge by a sworn member, with the exception of range practice and Office sanctioned events.

- 1. Whenever a sworn member discharges his/her firearm either accidentally or intentionally, he/she must immediately:
 - a. Determine the physical condition of any injured person and render first aid when appropriate.
 - b. Request necessary emergency medical aid.
 - c. Notify his/her supervisor or the highest-ranking member on duty in his/her absence. During off duty hours the Night Commander will be the point of contact.
 - d. Notify the Emergency Communications Center (911) of the incident and location, and advise if an injury has occurred. If incident occurs off duty, outside Baltimore County or in a foreign jurisdiction, regardless of injury, the member must immediately notify that jurisdiction.
 - e. Unless injured, the member must remain at the scene until the arrival of the appropriate investigators. However, if the circumstances are such that the continued presence of the member at the scene may cause a dangerous situation to develop (i.e. violent crowd), the ranking member or police officer at the scene has the discretion to instruct the member to respond to another, more appropriate location.
 - f. The member must protect his/her weapon for examination and submit the weapon to the appropriate investigator/supervisor.
 - g. The member must prepare a detailed report of the incident.

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- h.** The member should not discuss the case with anyone except:
 - i** Supervisory and assigned investigative personnel.
 - ii.** The assigned State's Attorney, if applicable.
 - iii.** The member's attorney, psychologist, clergy or spouse.
- i.** The member must be available at all reasonable times for official interviews and statements regarding the case and is subject to recall to duty at any time.

G. Required Reports

Members must complete and submit a Use of Force Report (#91) prior to the end of their tour of duty in the following circumstances:

1. Any time force is used to counteract a physical struggle. Use of an arm-bar technique to gain control of an individual will not be construed as a use of force unless an injury is sustained.
2. Any force that results in an injury or death of an individual or whenever an individual claims an injury as a result of the amount of force used.
3. Whenever force is applied by the use of a defensive weapon.
4. Whenever a firearm is discharged other than for range practice.
5. Whenever an office canine inflicts injury to a person during an enforcement action.
6. A member witnessing a use of force by any member of this Office shall notify his/her supervisor and provide a written report documenting same as soon as practical.

If a reportable use of force incident involved more than one member, it is the responsibility of the senior-ranking member involved in the incident to complete and submit the required report. However, at the discretion of a supervisor, each member involved in the incident may be required to submit separate reports.

Off-duty members involved in a reportable use of force incident must immediately report to the Sheriff's Office after clearing from the incident scene and complete and submit the required report(s) to their Squad Sergeant or the highest ranking member on duty.

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The Squad Sergeant or the highest-ranking member on duty during the evening or weekends must ensure that the involved member completes and submits all required reports, prior the end of the member's tour of duty. If the member is injured to such an extent that they are physically unable to complete the required reports the Squad Sergeant or the highest-ranking member on duty during the evening or weekends must assist in the completion of the required reports.

H. Notifications

1. Members must promptly notify the Sheriff's Office of any use of force that results in death or injury requiring medical attention and any firearm discharge except for authorized range practice. During normal working hours, notification must be made to the member's Squad Sergeant/Supervisor. The Sergeant/Supervisor is responsible for notifying the respective Lieutenant. The Lieutenant will then notify the following individuals of the incident:
 - a. Internal Affairs Unit.
 - b. Captain.
 - c. Chief Deputy
 - d. Undersheriff.

2. During the evening or weekends, notification must be made to the Squad Sergeant or highest-ranking member on duty in his/her absence. This member is responsible for contacting the Night Commander. If off duty, the member will contact the Night Commander directly. The Night Commander will then contact the following individuals and notify them of the incident:
 - a. Captain (if applicable).
 - b. Internal Affairs Unit.
 - c. Chief Deputy.
 - d. Undersheriff.

3. The Squad Sergeant or the highest-ranking member on duty during the evening or weekends, must notify the Baltimore County Police Department, Homicide/Missing Persons Section, after all accidental or intentional firearm discharges by a sworn member that result in injury or death to any person.

I. Lieutenant/Night Commander's Responsibilities

1. The Lieutenant/Night Commander must respond immediately to any incident in which a member discharges his/her firearm (with the exception of range practice or an Office sanctioned event), to any incident in which a member is injured, or when the action of the member results in the death or an injury requiring hospitalization of another person.

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- a. Respond to the scene and take charge until Baltimore County Police are on scene and assume responsibility for investigation.
 - b. Ensure medical attention has been ordered for injured persons.
 - c. Direct at least one Deputy to remain with the involved member to ensure his/her personal safety and wellbeing.
 - d. Attempt to secure evidence/crime scene and locate witnesses until Baltimore County Police are on scene.
 - e. If the involved member was injured and taken to an emergency facility, send a supervisor to the emergency facility to act as a liaison between emergency facility staff and the Sheriff's Office.
 - f. Conduct a preliminary field investigation.
 - g. Ensure photographs are taken of any injuries to the member or suspect.
 - h. Render command assistance to the assigned investigator(s).
 - i. Place any member directly involved in a deadly force incident on Administrative Leave upon completion of their preliminary report of the incident. The Lieutenant/Night Commander must explain to the member that this leave is without loss of pay or benefits, that it is pending the results of the investigation and that the assignment to administrative leave does not imply or indicate that the member has acted improperly.
 - j. Submit a detailed written report of the results of the field investigation, via official channels, to the Sheriff with a copy to the Internal Affairs Unit. The report shall state whether the incident is consistent with the Office's policy and training. The report shall not make a recommendation of discipline, either for or against the member.
2. In the event the incident occurs in a jurisdiction outside Baltimore County the Lieutenant/Night Commander will:
- a. Respond to the scene if practical and act as the agency representative.
 - b. Conduct a preliminary field investigation.
 - c. Render command assistance to the assigned investigator(s).

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- d. Place any member directly involved in a deadly force incident on Administrative Leave upon completion of his/her preliminary report of the incident. The Lieutenant/Night Commander must explain to the member that this leave is without loss of pay or benefits, that it is pending the results of the investigation and that the assignment to administrative leave does not imply or indicate that the member has acted improperly.
 - e. Submit a detailed written report of the results of the field investigation, via official channels, to the Sheriff with a copy to the Internal Affairs Unit. The report shall state whether the incident is consistent with the Department's policy and training. The report shall not make a recommendation of discipline, either for or against the member.
3. In the event of a firearm discharge without injury the Lieutenant/Night Commander will:
- a. Respond to the scene of the discharging. If the incident occurred in a jurisdiction outside Baltimore County the Lieutenant/Night Commander should respond if practical and act as the agency representative. The Lieutenant/Night Commander may delegate this task to a Squad Sergeant if he/she is unable to respond.
 - b. Ensure there are no injuries.
 - c. Attempt to secure scene and locate witnesses until Baltimore County Police or investigating agency are on scene and assume responsibility for investigation.
 - d. Conduct a preliminary field investigation.
 - e. Render command assistance to the assigned investigator(s).
 - f. Submit a detailed written report of the results of the field investigation, via official channels, to the Sheriff with a copy to the Internal Affairs Unit. The report shall state whether the incident is consistent with the Department's policy and training. The report shall not make a recommendation of discipline, either for or against the member.

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J. Internal Affairs Unit Responsibilities

The Internal Affairs Unit must respond to any incident in which a member discharges his/her firearm, or when the action of the member results in the death or an injury requiring hospitalization of another person. The Internal Affairs Unit must conduct an Administrative Investigation into all serious incidents involving members, parallel to any criminal investigation, to determine whether the actions were within policy, contrary to policy, or accidental. The Internal Affairs Unit must prepare and submit a detailed report of findings to the Sheriff.

K. Review of Use of Force Incidents

1. All Incident Reports must be reviewed and forwarded, via the chain of command, to the Sheriff.
2. The involved member's Squad Sergeant/Ranking Deputy/Supervisor, Lieutenant, Captain, Chief Deputy and Undersheriff must conduct a review of all Use of Force Reports.
 - a. The Squad Sergeant/Ranking Deputy/Supervisor shall assist the member with completion of required reporting and ensure reports are complete and accurate. The Squad Sergeant/Ranking Deputy/Supervisor will then sign the Use of Force Report (#91). He/she shall also complete an Intra-Office Memorandum Report (#125). The report shall state whether the incident is consistent with the Department's policy and training. The report shall not make a recommendation of discipline, either for or against the member.
 - b. The Lieutenant shall sign the Use of Force Report (#91) and complete an Intra-Office Memorandum Report (#125) containing results of his/her preliminary investigation.
 - c. The Captain shall sign the Use of Force Report (#91) and complete an Intra-Office Memorandum Report (#125) as to whether there are any policy, training, weapon, equipment, or discipline issues that should be addressed.
 - d. The Chief Deputy and Undersheriff shall initial and date the report after reviewing the report and comments of the Lieutenant and Captain. The Chief Deputy and Undersheriff will make comments and give direction as applicable.
 - e. The Internal Affairs Unit is responsible for maintaining all Use of Force Reports. The Unit will also maintain a Use of Force Log Book.

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3. Annually each January, the Internal Affairs Unit must conduct an analysis of all use of force incidents occurring during the preceding year. After reviewing the reported facts, circumstances, and if appropriate, any findings, the Internal Affairs Unit must submit a written report to the Sheriff as to any trends or patterns that could indicate a need for additional training, equipment upgrades or policy modification.

L. Disclaimer

This directive is for Sheriff's Office internal use only and is inapplicable in any criminal or civil proceeding. This policy does not create a legal standard of safety or care with respect to third parties. Violations of this directive may only form the basis for Sheriff's Office administrative actions.

IV. Appendix

Use of Force Statistical Data Form #91

Rescissions

Remove from manuals/files and rescind:
General Order B-1, Use of Force/Reporting Discharge of Firearms, dated 07/15/09.
General Order B-1, Use of Force/Reporting Discharge of Firearms Amended 08/03/09
General Order B-1, Use of Force/Reporting Discharge of Firearms Amended 12/04/09

Distribution

Sworn Members
Security Personnel

-By-Authority of _____, Sheriff

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BALTIMORE COUNTY

Appendix I

SHERIFF'S OFFICE

USE OF FORCE STATISTICAL DATA FORM

SD#: _____ Date of Report: _____

Deputy Sheriffs Name: _____ ID#: _____

Assignment: _____
Incident Date: _____ Time: _____ Day of Week: S M T W T F S

Nature of Incident: _____
Location: Residential Commercial Court Cell
Other: _____

Suspect Information:

Directions: Each Deputy Sheriff who uses force during an incident will complete one form for each suspect on whom force was used. If possible, staple all copies together prior to forwarding to the Administrative Services Bureau.

Suspect: No.# __ of __
Suspect Name: _____
Sex: _____ DOB: _____ Race: _____

Suspect appeared influenced by:

Alcohol Drugs Mental Disability Other: _____

Resistance used by the suspect:

Psychological Intimidation Passive Verbal Threats Defensive
 Active Aggression (Low Level) Aggravated Active Aggression (High Level)
 Lethal Force

Was a weapon used by the suspect? Yes No
Was a weapon found on the suspect during a search? Yes No
Was a weapon found in the area that the suspect controlled? Yes No
Type of weapon found: _____

Was the suspect injured? Yes No
Describe Injury: _____

Was medical treatment required? Yes No
If yes, where and by whom: _____

Reason forced was used: To prevent a crime To affect an arrest
To prevent subject from harming: Deputy Self Other: _____

Deputy Sheriff Information:

Number of Deputy Sheriffs present at the time of the arrest: _ . Name(s): _____

Assignment at the time of the incident:

- Warrant Section K-9 Comt Operations Field Operations
- Field Training Other: _____

Duty status at the time of the incident: On Duty Off Duty

Did incident occur while working secondary employment? Yes No

Level of controlled use by Deputy Sheriff:

- Verbal Commands/Directions

Empty Hand Control Used:

- Hand/Elbow Strikes Come Along/Take Down Other: _____

Intermediate Weapon Used:

- Collapsible Baton No# of Strikes: _____
- Location of Strikes: Arms Torso Legs Other: _____

- O.C. Spray K9 Dog Conducted Energy Device
- Other: -----

Name of techoique other than strike: _____

Deadly Force Weapon Used:

- Pistol Shotgun Other: _____

If at Tested, how was the suspect secuied:

- Handcuffs Flex-Cuffs Other: _____

Was the Deputy Sheriff injured? Yes No

Nature of injury: _____

Describe Suspect Behavior Leading Up To And During Use Of Force: Utilizing form #125 and attach smne to this report.

Describe Actions Of Suspect After Application: Utilizing form #125 and attach smne to this report.

Deputy _____ Date _____ Supervisor _____ Date _____

Lieutenant _____ Date _____ Captain _____ Date _____

FORM#91 (06-01-09)