



**CHEVY CHASE  
VILLAGE  
POLICE  
DEPARTMENT**

**GENERAL ORDER: 5-5; USE OF FORCE**

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DISTRIBUTION:    **Sworn Personnel**

  
Police Chief: John Fitzgerald

**I. POLICY**

It is the policy of this police department that police officers shall respect the sanctity of life and shall use only that force which, under the totality of the circumstances, is **necessary and proportional** to:

A. Prevent an imminent threat of physical injury to a person; or

B. Effectuate a legitimate law enforcement objective.

**II. PURPOSE**

The purpose of this General Order is to provide clear guidelines for Chevy Chase Village Police Officers when making decisions regarding the use of force. This policy is developed with serious consideration for the safety of both police officers and the public and with the knowledge that officers make split-second decisions in *stressful and rapidly-evolving* situations.

**III. DEFINITIONS**

**A. Choke hold:** A technique in which pressure is applied to any part of the neck, throat or windpipe by any means which has the potential of interfering with a person's ability to breathe; this would include the technique known as the lateral vascular neck restraint or carotid artery restraint.

**B. Deadly Force:** Any use of force which is **intended to or likely to cause a substantial risk of death or serious physical injury**. Choke holds are considered deadly force.

**C. Imminent:** Likely to occur very soon. (Compare with 'immediate' which means right now). For example, a subject may pose an imminent danger even if he or she is not at that very moment pointing a weapon at the officer but has a weapon within reach or is running for cover carrying a weapon or running to a place where the officer has reason to believe a weapon is available.

**D. Necessary:** Required. Absolutely needed. Logically unavoidable. In the context of this general order, force is not "necessary" unless there is no reasonable alternative to using force that, under the totality of the circumstances, would safely and effectively achieve the same legitimate ends. (See 107 Opinions of the Attorney General (2022) dated

February 25, 2022)

**E. Non-Deadly Force:** Any use of force other than that which is considered deadly force.

**F. Probable Cause:** Facts and circumstances that would lead a reasonable officer to believe that a crime has been committed and a particular individual has committed that crime.

**G. Proportional:** Corresponding in degree or intensity. Comparable. Relative. In the context of this general order, any force used must correspond to, and be appropriate in light of, the severity of the threat or resistance confronting the officer or the objective that the officer aims to achieve. Proportional force is force that is no more than is reasonably required under the circumstances. (107 Opinions of the Attorney General (2022), February 25, 2022).

**H. Protective Instruments:** Devices or tools authorized by the department that are intended to protect the officer or others. These less lethal items include the expandable baton and OC (pepper) spray.

**I. Reasonable Belief:** A belief that would be appropriate when viewed from the perspective of a reasonable police officer faced with the same circumstances and possessing the same information as the officer involved in the situation.

**J. Serious Physical Injury:** Bodily injury that results in or causes a substantial risk of:

- serious permanent disfigurement; or
- long-term loss or impairment of the function of any bodily member or organ.

**IV. NEW MARYLAND USE OF FORCE STANDARD; CRIMINAL LIABILITY FOR INTENTIONAL VIOLATION**

In the 2021 session of the Maryland Legislature, the General Assembly passed Senate Bill 71 (effective July 1, 2022) which established a more restrictive standard for the use of force by police (the standard was codified at §3-524 of the Public Safety Article).

**A. By law, police officers are prohibited from using force against a person unless, under the totality of circumstances, the force is **necessary and proportional** to:**

1. Prevent an imminent threat of physical injury to a person; or
2. Effectuate a legitimate law enforcement objective.

**B. Ending the use of force as required under Maryland law.**

A police officer shall cease the use of force as soon as:

1. The person on whom the force is used:
  - a. Is under the officer's control, or
  - b. No longer poses an imminent threat of physical injury or death to the police officer or to another person; or
2. The police officer determines that force will no longer accomplish a legitimate law enforcement objective.

**C. Criminal liability for intentional violations resulting in serious injury or death**

It is a misdemeanor punishable up to 10 years in prison if a police officer intentionally violates the use of force standard (Section IV. A. and B. immediately above) which results in serious injury or death to a person (§3-524 (i) of the Public Safety Article).

**V. USE OF FORCE GENERALLY**

- A. Officers encounter many situations (neighbor disputes, arguments between motorists, citizens in need of directions or information, etc.) that do not require the use of force of any kind. In fact, most situations are effectively resolved by police officers utilizing effective interpersonal communication skills—both verbal and non-verbal. Officers are encouraged to make a reasonable effort to resolve situations with effective communication whenever it is practical to do so.
- B. In performing their lawful duties, police officers are sometimes required to use force in effecting an arrest or detention, maintaining or regaining custody of a lawfully seized individual, protecting themselves or another person, or exercising their lawful authority in other circumstances.
- C. The decision to use force must be based upon the circumstances that an officer reasonably believes to exist. In determining the necessity for and the proportionality of the use of force, officers should consider various factors to include:
  1. The nature of the threat or amount of resistance faced by the officer;
  2. The severity of the crime at issue;

3. Whether the subject poses an imminent threat to the safety of the officer or others; and
4. Any other factors relevant to an officer's decision.

**VI. FORCE OPTIONS**

**A. Authorized Use of Non-Deadly Force**

1. Non-deadly force, as defined herein, may be used to effect arrests, to safely maintain an investigative detention, or to protect officers or others from personal attack, physical resistance, or injury, provided the force chosen is necessary to achieve the legal objective and proportional to the threat or resistance based upon the circumstances confronting the officer at the time.
2. Non-deadly force may involve the use of defensive tactics (hands/body) and/or protective instruments.
3. Although the department issues authorized protective instruments, in exigent circumstances, officers are not prohibited from using another object or instrument in order to protect themselves or others as long as the object is used in accordance with the limitations on force contained in this policy.

**B. Authorized Use of Deadly Force—Defense of Self or Another from a Threat of Deadly Force**

An officer may use deadly force to defend themselves or another person from what they reasonably believe is an imminent threat of death or serious physical injury. When officers reasonably believe that such a threat exists, the use of deadly force satisfies the statutory standard:

1. The officer's use of deadly force would be necessary to protect the officer or someone else from serious injury or death, and
2. The officer's use of deadly force would be proportional to the threat of deadly force facing the officer.

**C. Prohibitions**

1. Warning shots are prohibited.
2. Officers are prohibited from intentionally placing themselves in front of or behind an occupied vehicle (in its probable path of travel)—whether the vehicle is in motion or not—to arrest or confront any of its occupants.
3. Officers are prohibited from shooting at the operator of, or any person inside of, a moving vehicle unless:
  - a. The officer is responding to an imminent threat of death or serious physical injury from a source other than the moving

vehicle itself, or

- b. The vehicle is being used as a deadly weapon toward the officer or another person and deadly force directed at the operator is the only reasonable means available to stop that threat.
4. Officers are prohibited from using choke holds unless they are in a deadly force situation in which they are using it as a last resort to stop an immediate threat of death or serious physical injury.
5. Officers are prohibited from using deadly force against individuals who pose a danger only to themselves.

#### D. Firearm Handling and Safety

1. **Drawing firearms:** Officers may draw their firearm when they reasonably fear for their safety or the safety of others. Officers must be able to articulate the circumstances for drawing their firearms.
2. **Consideration of background:** When discharging a firearm for any reason, officers must exercise reasonable caution in order to avoid unnecessarily endangering the lives of bystanders. Officers must give consideration to bystanders, the shooting background, and overall location.

### VII. OFFICERS HAVE A CONTINUING DUTY TO DE-ESCALATE

#### A. Duty to de-escalate is continuous.

An officer's duty to de-escalate continues throughout every encounter—from before force is used, during the application of force, and after the use of force is complete.

#### B. De-escalation to avoid the use of force:

Effective de-escalation techniques can sometimes result in compliance and the avoidance of force entirely. Officers must use de-escalation techniques whenever it can be done without exposing the public or an officer to unreasonable risk based on the specific circumstances facing the officer.

De-escalation techniques include:

- Slowing things down and spending the time necessary to get help in place and to allow for negotiation to work;
- Speaking in a calm, reassuring tone without shouting commands;
- Using non-threatening gestures and body posture;
- Remaining at a safe distance with cover so as not to expose yourself to unnecessary risk or generate a conflict;
- Calling for additional resources (additional officers, mental health professionals, less lethal

force options such as Tasers and bean bag systems, shields, etc.)

#### C. De-escalation once force is used.

Encounters are often dynamic and officers must adjust their response based on the circumstances as they change. Officers must constantly assess the behavior of the suspect, the risk of the threat, the level of compliance, and the effectiveness of the officer's actions.

### VIII. EXCESSIVE/UNREASONABLE FORCE: Duty to Intervene, Duty to Report

- A. Officers shall intervene and immediately stop another police officer—whether from this agency or any other—from using excessive force (any force that does not comply with Maryland's use of force law requiring force to be *necessary and proportional*) whenever they witness it.
- B. Whenever an employee believes that he/she has witnessed or otherwise learns that an officer—whether from this agency or any other—may have used excessive force, the employee shall notify the Lieutenant or the Chief of Police as soon as possible regardless of the time of day.

### IX. RENDERING AID AFTER USE OF FORCE

- A. In addition to immediately requesting Fire/Rescue EMS to respond, officers shall render immediate and appropriate medical aid to anyone claiming to be injured or who is actually injured; or when an officer reasonably believes an individual is in need of medical treatment due to an officer's response to the person's resistance/aggression. Officers will render this aid if it can be done without endangering themselves or others.
- B. Medical assistance shall be summoned for any person who is unconscious, unresponsive, or otherwise incapable of refusing EMS assistance.
- C. Medical treatment will not be refused for an individual who requests it.

### X. SUPERVISORY RESPONSIBILITY

- A. Unless they are away from the Village when a force event occurs, the highest ranking on-duty supervisor (Chief, Lieutenant or Sergeant) shall respond to the scene when an officer has used force which results in:
  1. any injury to the officer or suspect,
  2. any claimed injury, or
  3. any property damage.
- B. Unless the Chief is already on the scene, the highest ranking officer on the scene of any use of force resulting in injury, claimed injury or property damage shall notify the Chief of Police of the incident at the earliest practical opportunity.

C. A Village police supervisor shall respond to the scene of any incident in which a police officer's use of force caused serious the physical injury or death of a person. If no Village supervisor is on duty, Communications shall immediately notify the Chief (preferably) or any supervisor, and that supervisor shall immediately respond to the scene.

D. The responding supervisor shall:

1. gather and review all known video recordings of the incident;
2. ensure that any injured person receives appropriate medical care promptly;
3. ensure that the scene and any related evidence is preserved as may be necessary and that appropriate investigative authorities are notified and summoned;
4. ensure that photos are taken of the scene and any injuries or property damage; and
5. ensure that the owners of any damaged property are notified and that their contact information is recorded.

## XI. REPORTING AND OVERSIGHT

A. Officers shall immediately notify the Lieutenant and shall submit a written incident report along with a Use of Force Report as soon as practical if:

- An officer discharges a firearm (except for authorized range practice) or employs any form of deadly force.
- An officer uses non-deadly force (including a defensive tactic or protective instrument) in the performance of his/her duties regardless of whether or not injury results.

B. Officers will complete an Incident Report for supervisory approval and will notify their supervisor and the Chief prior to the conclusion of that day's tour of duty whenever:

- the officer's action(s) cause injury, actual or claimed, to another person;
- the officer's action(s) resulted in damage, actual or claimed, to a person's property;
- the officer believes that a civil suit may result from an officer's action or inaction, i.e. threats of litigation by the person.

C. In the event the involved officer is incapacitated or otherwise incapable of completing the report and notifications required in section B above, the on-duty supervisor will initiate them. In the event no supervisor is available, the senior ranking officer on duty has the responsibility to ensure notification(s) and report(s) are completed prior to the end of the tour of duty that day.

D. All intentional (except for authorized range practice) and unintentional firearm discharges will be administratively investigated. Depending on the circumstances, the Department may request assistance from the Montgomery County Police Department.

E. Every use of force will be reviewed for compliance with agency policy. The **Review Process** formally begins with the Lieutenant. The purpose of the review process is to gather facts, determine adherence to Department policies and procedures, and determine if additional action or investigation is warranted.

- The Lieutenant shall gather and review all known video recordings of a use of force incident and review all related reports of the incident.
- The Lieutenant shall write a memo to the Chief summarizing the his evaluation of the incident. The Lieutenant shall include his preliminary opinion as to whether the use of force was consistent with law and policy, and forward the memo along with related reports and recordings to the Chief of Police.
- The Chief shall review the information forwarded by the Lieutenant and he will determine, based on the facts available to the Chief at the time, whether the use of force was consistent with Department policy and Maryland law.
- Annually, an analysis of these reports will be conducted by the Chief of Police or his designee in order to identify patterns or trends that could indicate training needs, equipment upgrades, and/or policy modifications.

## XII.EMPLOYEE REMOVAL FROM LINE-DUTY ASSIGNMENT PENDING REVIEW

A. The Department will remove from line-duty assignment, pending an administrative review, any employee whose action(s) or use of force in an official capacity results in death or serious physical injury.

B. The Department will send the employee to see a certified psychologist of the Department's choosing and at Village expense prior to returning to line-duty.

This directive voids the previous version dated 6/8/2020.