

# VIRGINIA MILITARY INSTITUTE POLICE DEPARTMENT

GENERAL ORDER	Number: 2-13
USE OF FORCE – GENERAL	Date: 11/17/2016
VLEPSC Number:	Manual Number:
Replaces:	Effective Date: 11/25/16
Authorization: Chief Michael L. Marshall	Review Date: Annually

Note: This order is for internal use only and does not enlarge an officer's liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this order, if proven, can only form the basis of a complaint by this department and then only in a non-judicial administrative setting.

## I. POLICY

The Virginia Military Institute Police Department recognizes and respects the value and special integrity of each human life. In vesting police officers with the lawful authority to use force to protect the public welfare, a careful balancing of all human interests is required. Therefore, it is the policy of this Department that officers shall use only that force which is reasonable to effectively bring an incident under control, while protecting the lives of the officers and/or others.

## II. PURPOSE

The purpose of this order is to establish guidelines concerning the authorization, implementation, investigation and documentation of the use force by officers of the Virginia Military Institute Police Department.

## III. DEFINITIONS

- A. Use of Force Wheel - is an instructional aid wherein an officer is hypothetically placed in the center or "hub" of a "force wheel" and reacts to potential use of force issues using a reasonable amount of force to gain control over a subject. When the subject's actions indicate a behavioral escalation or de-escalation, the officer's new use of force option may either travel around the perimeter of the wheel, straight across the wheel or in any direction to meet the tense, uncertain and rapidly evolving situations that the officer may encounter.

Examples of the type of force wheel options that are available to officers are: mere presence of the officer; verbal communications; O. C. spray; defensive tactics; impact weapons; and firearms.

- B. Reasonable belief - facts or circumstances that an officer knows or should know that would cause an ordinary and prudent person to act or think in a similar way under similar circumstances. Examples of circumstances that may support a reasonable belief that physical force is justified include, but are not limited to:
1. The suspect is armed
  2. The suspect has just caused the death, or injury, to someone
  3. The suspect is coming towards the officer in a threatening manner after being told to stop.
- C. Physical Force – bodily force exceeding the normal force required to take a person into custody, including any combination of strength, leverage, take-downs, control or come-along holds, and/or the use of hands, fists, knees, etc. in striking a person.

- D. Serious Physical Injury - An injury that creates a substantial risk of death; causes serious permanent disfigurement; results in long term impairment of a bodily organ or member.
- E. Deadly Force - Any force used against another that is intended to, or likely to, cause death or serious bodily injury.
- F. Non-Deadly Force - Any use of force not intended to, or likely to, cause death or serious physical injury

#### IV. PROCEDURE

##### A. General

1. For the purpose of the Use of Force General Order, “use of force” shall encompass both deadly and non-deadly force.
2. Officers shall only ever use that force which is reasonable to protect life and affect lawful objectives.
3. Officers shall utilize force in accordance with VMI Police Department policy and training.
4. Use of Force Wheel
  - a. The Department’s Use of Force Wheel shall serve as a basis for the use of an officer’s discretion in responding to perceived threats of aggression.
  - b. The “force wheel” is based upon the appropriate selection of force options available in response to the required level of compliance from an individual that is to be restrained or controlled. The minimum force option that will safely accomplish lawful objectives should be chosen.
  - c. Officers must be familiar with all alternative options on the “force wheel” and should be prepared to respond to the level of the threat present at the specific moment in time, (e.g. compliance, escalation, de-escalation).
5. Use of force options will not be used under the following conditions:
  - a. As a threat to make a person comply with an officer’s verbal order when no physical violence is imminent.
  - b. To elicit information from a person.
  - c. As a retaliation for verbal or physical abuse.
6. Deadly Force - an officer may use deadly force only when the officer reasonably believes the action is:
  - a. In defense of human life, including the officer’s own
  - b. In defense of any person in imminent danger of serious physical injury
  - c. In apprehension of a fleeing felon, when:
    - i. The officer reasonably believes the suspect’s freedom represents a significant immediate threat of serious physical injury or death to the officer or to other persons, *and*
    - ii. The officer has probable cause to believe that a felony has been committed and the person to be arrested committed it, *and*

- iii. The officer has identified himself as a police officer and given notice of his intention to arrest (time and circumstances permitting), *and*
    - iv. All other reasonable means of apprehension have been exhausted before deadly force is used.
  - d. A direct command of a police supervisor with knowledge potentially unknown to the officer, typically in the event of a critical incident.
- 7. Non-Deadly Force – an officer may employ any level of force reasonably necessary in order to:
  - a. Defend the officer or another person, *or*
  - b. Subdue a person resisting arrest, *or*
  - c. Prevent escape from custody
- 8. An officer will notify his supervisor as soon as practical after any incident involving a use of force.
- 9. Should medical attention be required by any person involved, the assigned officer will be responsible for notifying dispatch of the nature of the injury and requesting that emergency medical personnel be dispatched.
- 10. An officer's use of any item not specifically mentioned in this general order as a weapon will be for defensive purposes only.

## **V. USES OF FORCE**

### **A. Mere Presence**

In a number of instances, the mere presence at the scene by a uniformed officer displaying a professional demeanor may be sufficient to gain control and compliance.

### **B. Verbal Communication**

An officer may be able to gain voluntary compliance by using his voice. Verbal commands given in a clear and concise manner may gain control and compliance in certain instances, (e.g. "Stop-Police"; "Police-Don't Move"; "You're Under Arrest – Put Your Hands On Your Head", etc).

### **C. Use of Chemical Spray**

- 1. Chemical Spray (OC Spray or other issued equipment) may be used as a means of:
  - a. Physical restraint or control
  - b. Defense of any person
- 2. All uniformed officers will have their baton available and accessible on their duty belt while on duty.
- 3. Once a person is restrained and under control, the use of chemical spray is no longer justified.
- 4. In cases where chemical spray does not prove effective, officers should utilize other use of force options as necessary for restraint or control.
- 5. A person who has been sprayed with chemical spray:
  - a. Will be allowed to flush the affected area with water as soon as practical after the incident, and

- b. Will be informed by the officer involved that medical attention is available, at his own expense, if he so desires.

#### D. Use of Physical Force

1. Physical force may be used as a means of:
  - a. Physical restraint or control
  - b. Subduing a person resisting arrest
  - c. Defense of any person
  - d. Moving, removing or arresting any person who is obstructing a lawful police action in such a manner that the police action cannot be accomplished.
2. Once a person is restrained and under control, the use of physical force will be restricted to that force necessary to retain control.
3. Due to the possibility of asphyxiation, handcuffed persons should not be left lying face down. Positional asphyxia is of even greater concern for persons who have consumed drugs or alcohol, or who have certain medical conditions, such as obesity or autism.
4. No officer shall use any defensive tactic technique until he has been properly trained. Training in the use of defensive tactics shall be provided in the basic law enforcement training academy and refreshed periodically by a DCJS certified defensive tactics instructor.
5. No officer shall use any defensive tactic or physical holds which a DCJS certified defensive tactics instructor has not trained, unless the officer is in a combat life/death situation where deadly force is authorized.
6. No officer shall use a chokehold technique or any type of neck restraint unless deadly force is authorized. Duty to Intervene: Sworn employees have an obligation to protect the public and other employees.
7. It shall be the duty of every sworn employee present at any scene where physical force is being applied to either stop or attempt to stop another sworn employee when force is being inappropriately applied or is no longer required.
8. It shall be the duty of every sworn employee who witnesses inappropriate action by another officer to report that inappropriate action as soon as possible.

#### E. Use of Police Baton

1. The department issued baton may be used as a means of:
  - a. Physical restraint or control
  - b. Defense of any person
2. No member of the Department shall carry a baton until he or she has been instructed in the use of that baton. Each officer must have completed training with a certified Defensive Tactics Instructor and have passed all minimum standards required by DCJS.
3. All uniformed officers will have their baton available and accessible on their duty belt while on duty.
4. Officers should avoid intentionally striking any person on or about the head with the baton, except as deemed necessary in situations where the use of deadly force is justified.
5. Once a person is restrained and under control, the use of the baton is no longer justified.

## F. Use of Firearms

1. For the purposes of this order, the word *firearm* shall refer to any handgun or shoulder fired weapon issued by the department or authorized for concealed carry by the department.
2. Officers will be authorized to draw and/or display firearms when in fear for their own safety or the safety of other persons (e.g. building searches, high risk vehicle stops, confronting persons believed to be armed or dangerous, etc.)
3. Officers will be authorized to discharge their firearms for the following purposes:
  - a. As outlined in Section IV.A.6
  - b. To kill a seriously injured animal when:
    - i. the officer deems it appropriate to relieve the animal from further suffering
    - ii. no other disposition is practical
    - iii. is safe to do so
4. Officers are prohibited from discharging their weapons for the purpose of a warning shot.
5. Discharging a firearm at or from a moving vehicle is authorized *only* when:
  - i. Any occupant of the suspect vehicle is using or threatening to use deadly force by a means other than the use of the vehicle, *or*
  - j. The suspect vehicle is being operated in a manner indicating *deliberate intent* to strike an officer or another person, *and*
  - k. All other reasonable means of defense (including moving out of the path of the vehicle) have been exhausted or are not available, *and*
    - l. The safety of innocent persons will not be unduly jeopardized by the officer's actions
6. Officers faced with the possible necessity of discharging a firearm should be cognizant of the following:
  - a. Direction in which the firearm is to be discharged
  - b. That the target threat is in plain view and that the target threat is identified
  - c. The danger inherent in discharging a firearm while running or moving
7. Firearms- Rifle
  - a. The patrol rifle should not be deployed for routine police responses.
  - b. The patrol rifle may be deployed in response to critical incidents and serious violent felonies or any incident that involves the use of a firearm or other potentially lethal weapons or the threat of their use. The following incidents are examples of authorized use of the patrol rifle but the officer shall not be limited to these situations only:
    - i. An active shooter in a school or business
    - ii. High risks crimes in progress in which the suspect is believed to be armed with a firearm or other lethal device.
    - iii. Barricaded subject/subjects who are believed to have access to firearms.
    - iv. Rural searches that involve a suspect or suspects who are known to be possibly violent and possibly armed with a firearm or other lethal devices.

- v. Domestic terrorism with suspects who are believed to have firearms or other lethal devices.
  - vi. A suspect or suspects who have brandished a firearm at another person and placed them in danger of serious bodily injury or death.
  - vii. High risk traffic stops involving a possible armed suspect.
  - viii. Armed conflicts where officers determine that there are multiple shooters in the incident.
- c. The patrol rifle is not authorized as the primary weapon to put down injured wild game or domesticated animals except during circumstances where the officer's welfare and or public safety is in immediate jeopardy or the size or location of the animal(s) makes the use of other weapons impractical. This must be approved by a supervisor
8. Reporting discharge of firearms:
- a. Officers will verbally report to their supervisor the following:
    - i. Any discharge of their firearm constituting a use of deadly force against another person (on or off duty)
    - ii. Any accidental discharge of a department issued or authorized firearm (on or off duty)
    - iii. On- duty discharge of any firearm for any purpose other than department sanctioned training
  - b. Such report will be made as soon as incident circumstances permit.
  - c. Officers will use a Use of Force Form to document and discharge of a firearm that constitutes deadly force against another person.
  - d. Officers will complete a memorandum to document any accidental discharge of a department issued or approved firearm that does not constitute the use of deadly force against another person.
  - e. Officers will complete and IBR to document the discharge of a firearm related to the killing of any animal.

#### G. Use of Tire Deflation Devices

- 1. Tire deflation devices will be used in a pursuit situation when the pursuing officer or supervisor has reason to believe that the continued movement of the fleeing vehicle will place the driver and/or others in imminent danger of severe bodily harm or death.
- 2. Tire deflation devices will only be used by officers trained in the appropriate use of such devices.

## VI. REPORTING

- A. After the use of physical force involving any type of hitting, slapping, striking of an individual, the use of any head hold or neck restraint, the use of any department issued weapon or the use of force resulting in property damage, the officer shall:

- a. Notify his immediate supervisor as soon as possible.
- b. Verbally report to supervisors, other employees, or members of other agencies such information as is necessary to safeguard human life, aid in suspect apprehension or otherwise further an on-going investigation.
- c. Complete and submit all required paperwork prior to the end of his/her tour of duty.
- d. Employees who deliberately refuse to provide verbal and/or written incident information when ordered to do so will be subject to disciplinary action.

B. Any direct supervisor notified of a use of force incident shall:

1. Take appropriate steps to ensure the safety and well-being of the public, the involved officer(s) and suspect(s), including working to ensure the apprehension of suspects who pose an ongoing threat, summoning medical attention for the injured, etc.
2. Ensure that all appropriate paperwork is completed as soon as is practical.
3. Notify the Patrol Lieutenant of the use of force incident as soon as is practical.
4. Assign another employee to complete any required IBR or other incident report that the involved employee is physically unable to complete in a timely manner.
5. Complete any required administrative report that the involved employee is physically unable to complete in a timely manner.

C. The Patrol Lieutenant, upon being notified of a use of force incident, will:

1. Notify the Sergeant Detective to conduct a review of the incident to ensure compliance with departmental policy.
2. Review the completed incident investigation by the Sergeant detective and forward the investigative report and recommendations to the Chief of Police for final disposition.
3. Notify state police if there is any indication of criminal wrong doing by the involved officer(s).

D. The *VMI Police Department Use of Force Form* and any attached memoranda will be considered an *Attorney Work Product*, as this information is used to assist VMI, VMI Police department and the Office of the Attorney General in evaluating any claims against the Department. As such, the Use of Force Form and attachments:

1. Will be handled with utmost confidentiality
2. Will not be copied
3. Will not be forwarded through the report review process
4. Will not be filed within the Records Unit

E. IBR Reports will not be considered an attorney work product. IBR Reports:

1. Should not contain detailed information regarding the officer's use of force.
2. Should contain detailed, factual information regarding the suspect actions that led to the officer's use of force.

## **VII. USE OF FORCE RESULTING IN SERIOUS INJURY OR DEATH**

- A. At any time that an officer's use of force results in or is alleged to have resulted in, the death or serious physical injury of another person, or other circumstances indicate that it is likely to foster significant public interest, all officers present are responsible for:
  - 1. Securing the incident scene
  - 2. Identifying witnesses to the incident
  - 3. Preserving any evidence, including any firearm or other weapon involved
- B. If the use of force occurs in another jurisdiction, the officer(s) involved shall immediately notify that jurisdiction's local law enforcement agency, prior to making notification to VMI Police Department.
- C. As soon as the scene is secure, the involved officer(s) shall relinquish to a supervisory officer and discharged firearm, the firearm holster, and any ammunition in the officer's possession.
- D. Any officer who is required to relinquish a weapon utilized in a use of force will be issued a replacement weapon as soon as practical and before returning to duty.
- E. Any officer whose actions resulted in death or serious physical injury will be either temporarily reassigned to a non-patrol function or placed on administrative leave, with pay, pending the conclusion of any use of force investigation.
- F. Virginia State Police will always be contacted to conduct an independent investigation into any use of force by a VMI police officer resulting in serious injury or death.

## **VIII. OTHER**

- A. Mandatory Counseling
  - 1. Every officer who is directly involved in a use of force incident that results in death or serious physical injury to another person shall report for counseling to a mental health professional that has been selected by the Department.
    - a. Such counseling is intended to assist in the prevention of any adverse emotional effect that may result from the officer's experience.
    - b. The counseling of the officer is mandatory to ensure the officer receives timely and professional assistance.
  - 2. The Chief of Police, in conjunction with the recommendation of the mental health professional, shall decide the number of mandatory counseling sessions the officer will attend.
  - 3. The affected officer's shift supervisor will be responsible for:
    - a. Contacting the Department's designated mental health professional and if appropriate any referral to other mental health professionals.
    - b. Scheduling timely appointments.
    - c. Notifying the officer in advance of the scheduled appointment.
  - 4. Any non-mandatory session arranged by an officer shall be the financial responsibility of that officer.

Appendix A  
VMI Police Department  
Use of Force Investigation Form

**Virginia Military Institute  
Police Department  
Use of Force Investigation**

*To Be Completed By Officer Utilizing Force*

<b>Officer:</b>			<b>Badge #</b>		<b>Incident #:</b>		
<b>Date:</b>	<b>Time:</b>		<b>Weather/Lighting Conditions:</b>				
<b>Location:</b>				<b>Type of Location:</b>			
Suspect Name:				Gender:		Race:	
Address:			DOB:	SS#			
License:		State:		License year:			
Suspect Weapon:							
Weapon Displayed:	Not Visible		Visible		Brandished		Utilized

Describe the suspect's resistance, threat or force:

Charges Filed Against Suspect:

**Force Utilized by Officer (Check all that apply)**

Verbal Commands:		Physical Strikes:		Less Lethal/Impact:
Distraction Techniques:		Chemical Irritants:		Firearm:
Take-Down Maneuvers:		ASP Baton:		Other:
Chemical Irritants Only	Brand:		Estimated Length of Burst:	
Less Lethal/Impact Only	Weapon:		Number of Times Deployed:	
Firearm Only	Type:	Ser#:	Number of Rounds Fired:	

If "Other" was checked, describe weapon or force utilized:

Describe the use of force in detail:

Section 2.

*To Be Completed By Witnessing Officer*

Witnessing Officer:

Badge#:

Proximity to use of force:

Any obstructions to view of incident:

Describe the incident as you observed it:

Officer Signature:

Date:

Section 3.

*To Be Completed By Investigating Supervisor*

Did the suspect sustain injuries during the incident? **Y / N**

Was first aid offered to the suspect? **Y/N**

Describe the nature of the suspect's injuries:

First Aid Provided

By officers on scene:

By EMS on scene:

Transported by EMS:

EMS Agency Responding:

Transported to:

EMS Providers:

Did the officer sustain injuries during the incident? **Y / N**

Was first aid offered to the officer? **Y/N**

Describe the nature of the officer's injuries:

First Aid Provided

By officers on scene:

By EMS  
on scene:

Transported by EMS:

EMS Agency Responding:

Transported to:

EMS Providers:

Section 4.

*To Be Completed By Investigating Supervisor*

Supervisor:

Badge#:

Verification of information documented above? **Y / N** If yes, how?

Attached documentation:

Any photographs or video evidence obtained:

Were actions by officers within departmental guidelines? **Y / N** Explain:

Recommended action by department:

Initiating Officer:

Date:

Reviewing Supervisor:

Date:

Chief of Police:

Date:

Approved **Y / N**

Appendix- Witness Statement

*To be completed by Civilian Witness*

Name:

DOB:

SS#

Address:

Phone:

Where were you when you observed the force used by the officer?

Approximately, how far away were you from the incident?

Describe the weather at the time of the incident (for example- sunny, raining, snowing):

Describe the lighting at the time of the incident (for example- daylight, street lights, dark):

Did anything obstruct your view of the incident?

Did you record or photograph any portion of the incident?

Are you willing to share these recordings with VMI Police Department?

Describe what you observed.

Signature:

Date: