

Office of the Sheriff  
Somerset County, Maryland

General Order: 01-14-08

Effective Date: December 15, 2016

Revised Date: December 1, 2016

Chapter 13

Use of Force

Section 1 – General

1. Purpose

This policy provides law enforcement deputies of the Somerset County Sheriff's Office with guidelines for the use of force.

2. Policy

Members of the Somerset County Sheriff's Office may use only the force that reasonably appears necessary to effectively bring an incident under control, while protecting the lives of the officer and others. The use of force is not left to the unfettered discretion of the involved officer; this is not a subjective determination. The use of force must be objectively reasonable. The officer must only use that force which a reasonably prudent officer would use under the same or similar circumstances. Deputies are prohibited from using force for punitive or malicious reasons.

3. Definitions

*Deadly Force:* Any use of force that creates a substantial risk of causing death or serious bodily harm.

*Force:* The use of physical contact, chemical agents or weapons to control the movements of another person for a lawful purpose. This definition does not include instances when a person submits to a search, escort, handcuffs or other restraint, or to other routine enforcement actions.

*Objectively Reasonable:* This term means that, in determining the need to use force and the appropriate level of force, deputies shall evaluate each situation in light of the known circumstances, including, but not limited to, the seriousness of the crime, the level of threat or resistance presented by the subject, and the danger to the community.

#### 4. Procedures

##### A. Use of Deadly Force

- 1) Law enforcement deputies are authorized to use deadly force when one or both of the following apply:
  - a. To protect the officer or others from what is reasonably believed to be an immediate threat of death or serious bodily harm.
  - b. To prevent the escape of a fleeing violent suspect who the officer has probable cause to believe will pose a significant threat of death or serious physical injury to the officer or others. In this circumstance, where practicable prior to discharge of a firearm, or other weapon deputies shall identify themselves as law enforcement deputies and warn of their intent to use deadly force.
- 2) Deputies may use deadly force to destroy an animal that presents a threat to public safety or as a humanitarian measure where the animal is seriously injured, and when the officer reasonably believes that deadly force can be used without harm to the officer or others.
- 3) Warning shots should not be fired.
- 4) Firearms should not be discharged at a moving vehicle unless a person in the vehicle is immediately threatening the officer or another person with deadly force by means other than the vehicle. The moving vehicle alone shall not presumptively constitute a threat that justifies an officer's use of deadly force. An officer threatened by an oncoming vehicle should make efforts to move out of its path instead of discharging a firearm at it or any of its occupants, unless the circumstances are such that immediate application of force appears to be necessary.

##### B. Use of Force Generally

- 1) Where deadly force is not authorized, deputies may use the degree of force that is objectively reasonable to bring an incident under control.
- 2) Deputies are authorized to use department-approved, force techniques and issued equipment when one or more of the following apply:
  - a. To protect the officer or others from physical harm.

- b. To restrain or subdue a resistant individual.
- c. To bring an unlawful situation safely and effectively under control.

C. Factors Used to Determine the Reasonableness of Force

- 1) 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 characteristics (age, size, relative strength, skill level, injury/exhaustion and number of deputies vs. subjects).
  - c. If suspect appears to be under the influence of drugs/alcohol, or, of diminished capacity.
  - d. Proximity of weapons.
  - e. Time and circumstances permitting, the availability of other options, e.g. 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, deputies and suspects.
  - i. Risk of escape.
  - j. Other exigent circumstances.
- 2) It is recognized that deputies are expected to make split-second decisions and that the amount of an officer's time available to evaluate and respond to changing circumstances will impact his/her decision-making.
- 3) While various degrees of force exist, each officer is expected to use only that degree of force reasonable under the circumstances to successfully accomplish the legitimate law enforcement purpose in accordance with this policy. Physical force should be responsively de-escalated as resistance decreases. Deputies should allow individuals to respond and submit to arrest whenever feasible.
- 4) Deputies should use, disengagement, area containment, surveillance, waiting out a subject, summoning reinforcements, and/or calling in specialized units, when possible, in order to reduce the need for physical force and increase officer and civilian safety.

- 5) Deputies have no duty to retreat or suffer injury before responding with reasonable force.

#### D. Reporting the Use of Force

Any use of physical force by a member of the Somerset County Sheriff's Office shall be documented by the end of his/her shift promptly, completely and accurately using SCSO Form 14.

if an officer is incapacitated and unable to submit the Use of Force Report, the supervisor will submit a preliminary Use of Force report, SCSO Form 14 until the officer is able to complete his/her own report.

The use of particular weapons such as electronic control weapons or chemical agents may require the completion of additional report forms as specified in departmental policy and/or law, SCSO Form 13.

##### 1) Notification to Supervisors

An officer shall notify his/her supervisor as soon as practical following the application of physical force as defined in this policy and under any of the following circumstances:

- a. The application of force appears to have caused physical injury.
- b. The individual has expressed a complaint of pain.
- c. Any application of a control device.
- d. The individual has been rendered unconscious.

The shift supervisor shall immediately notify the Sheriff of the incident.

##### 2) Medical Attention for Injuries Sustained Using Force

Prior to booking or release, the officer shall obtain medical assistance for any person(s) who has sustained visible injury, expressed a complaint of pain, or who has been rendered unconscious. If any individual refuses medical attention, the refusal shall be fully documented in related reports and, whenever practical, should be witnessed by another officer and/or medical personnel.

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond physical characteristics, unusually high tolerance to pain, or who require a protracted physical encounter with multiple deputies to bring under control may be suffering from excited delirium and be at an increased risk of sudden death and should be examined by qualified medical personnel as soon as practicable. Any individual exhibiting signs of distress after such an encounter shall be medically cleared prior to booking.

3) Supervisor Responsibility

- a. If a supervisor is on the scene when a use of force is underway, he/she has a duty to intercede if the force applied clearly goes beyond that which is objectively reasonable under the circumstances. If he/she is in a position to do so.
- b. When a supervisor is able to respond to an incident in which there has been a reported application of force, the supervisor should:
  - Obtain the basic facts from the involved deputy.
  - Ensure that any injured parties are examined and treated.
  - Separately interview the subject(s) upon whom force was applied.
  - Ensure that photographs have been taken of any areas involving visible injury or complaint of pain as well as overall photographs of uninjured areas.
  - Identify any witnesses not already included in related reports.
  - Review and approve all related reports.

4) In the event that the supervisor believes that the incident may give rise to potential civil litigation, the agency legal counsel should be notified as soon as practical.

5) In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

Office of the Sheriff

Somerset County, Maryland

Section 2 – Alternative Weapons

1. Oleoresin Capsicum (OC) Spray
  - A. OC (Oleoresin Capsicum) spray is an organically based less-than lethal aerosol inflammatory agent. It causes immediate closing of the eyes, difficulty breathing, runny nose, and coughing. The duration of its effects depend on the strength of the spray but the average full effect lasts about thirty to forty five minutes, with diminished effects lasting for hours, usually with no permanent damage to the subject.
  - B. When sprayed into the face of a person, the results may include immediate swelling and closing of the eyes, uncontrollable coughing, gagging and gasping of breath.
  - C. The effects of the OC spray agent may produce such discomfort that an individual may lose coordination and upper body motor control, thereby reducing any further aggressive behavior. OC spray does NOT immediately immobilize an individual.
2. Use of OC Spray Agent
  - A. The OC Spray is considered a low level control and restraint technique that, a Deputy can use whenever confronted with overt resistance.
  - B. The OC spray may be used at the Deputy's discretion, in accordance with established policy and training in incidents as follows:
    - i. To defend the Deputy or others.
    - ii. To effect an arrest.
    - iii. To prevent the commission of a crime.
    - iv. When lower levels of force are deemed ineffective.
  - C. Deputies and Courtroom Security Officers shall be trained and certified in the use of OC spray prior to being permitted to wear and carry OC spray.

### 3. Expandable Batons and Flashlights

- A. Deputies are authorized to use non-lethal weapons, in a manner consistent with the provisions of this order, in the following circumstances.
- B. Deputies and Courtroom Security Officers shall be trained and certified in the use of expandable batons prior to his/her wearing and carrying the expandable baton. This weapon should be used as follows:
  - 1) To defend against a violent attack, when the use of firearms would not be appropriate or advisable.
  - 2) To overcome the violent resistance of a suspect when making an arrest.
  - 3) To restrain a combative suspect who is already in custody.
- C. Only that force necessary to control and restrain a suspect or prisoner or to defend against an assault may be used.
- D. Only flashlights approved by the Somerset County Sheriff's Office will be carried.
- E. In the event the approved flashlight is used for defensive purposes in an emergency situation, the provisions under Section 1-9 in this General Order shall apply.
- F. Expandable batons and flashlights used for defensive purposes in an emergency situation are to be used on points of the body where the impact will immobilize the suspect, but not cause permanent injury or death.

### 4. TASER

- A. The X26 TASER provides another less-lethal alternative use of force. The X26 TASER is not intended to replace the use of firearms when deadly force is necessary. Officers should be aware that the Taser may cause serious injury.

#### Definitions:

- 1) X26 TASER – An electro muscular disruption (EMD) weapon that utilizes compressed nitrogen to shoot two small probes up to 21 feet. These probes are connected to the weapon by high voltage insulated wire. When the probes make contact with the subject, they transmit an electrical pulse along the wires and into the body through up to two inches of clothing. The probes do not have to penetrate the flesh or cause bodily harm to be effective. The X TASER may also be discharged as a contact device.

- 2) Electro Muscular Disruption (EMD) – Electrical signal which overrides the central nervous system and directly controls the skeletal muscles. The EMD effect causes an uncontrollable contraction of the muscle tissue, debilitating the subject regardless of pain tolerance or mental focus. The output does not damage an implanted pacemaker and will not cause loss of bladder or bowel control.
- 3) Data Port – Every time the TASER is fired, it stores the time and date on a data port located at the back of the unit which can be downloaded.
- 4) AFID cartridge Tracking – Every time an air cartridge is fired, up to forty (40) small confetti microdot tags called AFIDS are ejected. Each AFID is printed with the serial number of the cartridge fired; allowing the Deputy to identify which Deputy fired the cartridge.

B. Use of X26 TASER

- 1) In the use of the TASER, it is imperative that the assisting Deputies/Court Security Officers are aware that it is about to be deployed. Deputies/Court Security Officers will clearly announce loudly and when practical, “TASER”.
- 2) When practical, use verbal commands to announce, “TASER”, to the suspect while pointing the laser light at him/her prior to discharging the TASER.
- 3) Have an assisting Deputy when possible to assist with the arrest.
- 4) The TASER will not be aimed at the head or facial area of the suspect.
- 5) Use of the TASER near flammable liquids and fumes is **strictly prohibited.** Additionally, the use of the TASER in conjunction with alcohol based OC spray is strictly prohibited.
- 6) Deputies/Court Security Officers shall not disrupt the TASER during the 5 second cycle.
- 7) Prior to deployment of the certified Deputy/Court Security Officer must consider the reasonableness of its use to include the subjects position where a secondary injury could result, children, women who are pregnant, proximity to a flight of stairs, flammable liquids and subjects with known heart problems.

C. Discharging Deputy/Courtroom Security Officer Responsibility

- 1) Ensure that proper maintenance is performed on the TASER. This includes ensuring the batteries of the TASER are properly charged. Prior to checking the batteries, ensure that the cartridges are removed.
- 2) When practical, the Deputy/Courtroom Security Officer shall announce, "TASER, TASER, TASER" to other personnel on the scene prior to discharging the weapon.
- 3) The Deputy/Court Security Office must give sufficient time for suspect to comply with commands before the TASER is discharged for a second or consecutive time.
- 4) Deputies will report the discharging, including accidental discharges to their immediate supervisor as soon as practical. **A TASER USE REPORT, Form 13** will be submitted to their immediate supervisor.
- 5) The Deputy discharging the TASER will immediately inspect the discharge site. Probes will be removed by the discharging deputy/Courtroom Security Officer.
- 6) A separate **TASER USE REPORT, FORM 13** will be completed and submitted for each TASER discharge.
- 7) Ensure photographs are taken of the probe sites and any secondary injuries.
- 8) Once probes have been removed they will be treated as Bio-hazard sharps.
- 9) The discharging Deputy/Courtroom Security Officer will submit the photographs, expended cartridge with probes and limited number of microdots into evidence. A chain of custody will be established.
- 10) Probes will be placed back into the TASER cartridge, tips down and placed into bio-hazard bags.
- 11) Discharging Deputies/Court Room Security Officers will be responsible for Incident Reports, Use of Force Reports, and Charging Documents, TASER use reports and any and all other reports required by the administration.

D. Supervisors Responsibility

- 1) Ensure that only certified Deputies/Court Room Security Officers wear and carry the TASER.

- 2) Ensure the TASER is inspected regularly.
- 3) Ensure that TASER Use Reports are submitted as soon as practical after an incident.

E. Coordinators Responsibility

- 1) Receive, inspect and ensure TASER maintenance.
- 2) Maintain TASER records.
- 3) Ensure downloads are conducted on a monthly basis.
- 4) Conduct yearly inventory of TASERS.
- 5) Ensure under the Maryland Police training Commission, yearly recertification for all personnel.

F. Court Supervisors Responsibility

- 1) Ensure that Court Security Officers are certified in the use of TASERS.
- 2) Ensure monthly inspections.
- 3) Ensure training in the use of force.
- 4) Ensure that TASERS are turned in at the end of their tour of duty.

G. Medical Treatment

- 1) In all cases where a person is injured by use of less than deadly force, the Deputy **shall** evaluate the need for medical treatment.
- 2) Medical treatment will be arranged if the person is determined to be injured or complains of discomfort.
- 3) Injured persons under arrest and who refuse treatment will be transported to the nearest hospital, where such refusal will be made a matter of record.
- 4) When an injured person who is not under arrest refuses medical treatment, such refusal shall be a matter of record.

H. Training

- 1) All SCSO personnel assigned a TASER will annually complete a MPTC approved training course.

- 2) Any SCSO personnel who fail to meet the minimum training requirements will not be authorized to carry/wear the TASER until successfully completing the training course.

I. Data Transfer

- 1) When a TASER is deployed on an individual, the following will occur;
  - i. Data from the TASER will be downloaded to reflect the date used,
  - ii. The data printout will be affixed to the Use of Force report.
- 2) Every 6 months regardless of use, data from all issued TASERS will be downloaded and filed in Adm. File 1-10.
- 3) Anytime a TASER is reassigned between SCSO personnel, data from the TASER will be downloaded and filed in Adm. File 1-10.

J. Maintenance

- 1) SCSO personnel will ensure their assigned TASER is properly maintained and serviceable by conducting "spark test" and there are not cracks or breaks on the frame.
- 2) SCSO personnel shall not attempt to dismantle any TASER other than removing the battery or cartridge. Personnel who dismantle a TASER will be responsible for reimbursing the Somerset County Sheriff's Office for replacement or repair.
- 3) TASERS will be returned to the manufacturer for repair or maintenance.
- 4) When batteries reach "25%" charge, SCSO personnel will request a new battery.
- 5) Batteries that reach a "20%" charge will be used for training only.
- 6) At no time, batteries with "0%" charge will be used in any TASER.
- 7) Per manufacturer's recommendation, batteries will remain inserted at all times until replacement is required.
- 8) Anytime a TASER is returned to SCSO personnel after maintenance, data will be downloaded to ensure the proper date and time is programmed.

5. Chapter Revisions

- A. General Order 01-14-08 has been revised.
- B. Revisions take affect December 15, 2016.

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