


WESTMORELAND COUNTY SHERIFF'S OFFICE GENERAL ORDERS	
SUBJECT: USE OF FORCE	NUMBER: 09-01
ORIGINAL EFFECTIVE DATE: 01-13-08	REVIEW: ANNUALY
AMENDS/SUPERSEDES: 07-28-2016	APPROVED:  <hr/> C.O. Balderson, Sheriff

NOTE: This general order is for internal use only, and does not enlarge a deputy's civil or criminal 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 directive, if proven, can only form the basis of a complaint by the Sheriff's Office, and then only in a non-judicial administrative setting.

I. POLICY:

Deputies are confronted daily with situations requiring the use of force to effect an arrest or ensure public and/or deputy safety. The degree of force used depends on what the deputy perceives as reasonable and necessary under the circumstances. Further, a deputy may resort to more rigorous use of force to overcome increasing resistance or increasingly dangerous threats to public and/or deputy safety. The Sheriff's Office expects that deputies will only employ that amount of force necessary to accomplish a legal purpose and only that amount of force to affect an arrest and to minimally overcome resistance is authorized. When any use of force is applied it shall be reported to the deputy's immediate supervisor. All uses of force shall be reviewed by the Chain of Command. All uses of force will be documented in the Sheriff's Office RMS system.

The use of force by members of law enforcement is a matter of critical concern both to the public and the law enforcement community. It is recognized that some individuals will not comply with the law or submit to control unless compelled to do so by the use of force; therefore, deputies are sometimes called upon to use force in the performance of their duties. It is also recognized that members of Westmoreland County Sheriff's Office derive their authority from the public and therefore must be ever mindful that they are not only the guardians, but also the servants of the public. The Sheriff's Office guiding value when using force shall be reverence for human life without regard to an individual's citizenship, immigration status, religion, national origin, race, ethnicity, sexual orientation, or gender identity and expression. When warranted, Sheriff's Office personnel may objectively use reasonable force to carry out their duties.

Deputies who use unreasonable force degrade the confidence of the community we serve, expose the Sheriff's Office and fellow deputies to legal and physical hazards, and violate the rights of individuals upon whom unreasonable force is used. Unreasonable use of force will subject deputies to discipline up to and including termination, possible criminal prosecution, and/or civil liability.

Unnecessarily or prematurely drawing or exhibiting a firearm limits a deputy's alternatives in controlling a situation, creates unnecessary anxiety on the part of the public and may result in an unwarranted or accidental discharge of the firearm. A deputy's decision to draw or exhibit a firearm should be based on the tactical situation and the deputy's reasonable belief there is a substantial risk that the situation may escalate to the point where deadly force may be justified. When a deputy has determined that the use of deadly force is not necessary, the deputy should, as soon as practicable, secure or holster the firearm.

The application of deadly force requires that the deputies' objective be to stop or incapacitate the suspect, and no other choice presents itself. The objective in the use of any force of any type is to overcome the suspect's unlawful resistance to a deputy's lawful purpose. The application of this policy requires that deputies do not unreasonably or unnecessarily endanger themselves or the public.

Deputies must make every attempt to comply with the Force Model however, it is noted that the Force Model is dynamic and fluid, depending upon a variety of factors present during the encounter. All sworn personnel shall receive annual training in the Use of Force.

II. PURPOSE:

This general order establishes guidelines governing the use of force, its limitations, and clearly describes prohibited activities.

A. Sanctity of Life:

It is the policy of the Westmoreland County Sheriff's Department, that deputies hold the highest regard for the sanctity of human life, dignity, and liberty of all persons. The application of deadly force is a measure to be employed only in the most extreme circumstances and after all lesser means of force have failed or could not be reasonably employed.

B. 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, when in a position to do so, safely intercede to prevent the use of such excessive force. Deputies shall promptly report these observations to a supervisor. Any deputy involved in intervening during the use of excessive

force will not suffer any forms of retaliation from fellow employees or superiors.

III. DEFINITIONS:

- A. 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 or non-lethal weapons, which further the deputy’s intent to establish or maintain control or custody or to defend themselves or another person.
- B. Deadly Force: Any force that has the substantial likelihood of causing serious bodily harm or death.
- C. Serious Bodily Injury: Any injury that creates a substantial risk of death, extreme physical pain, protracted and obvious disfigurement; or, protracted loss or impairment of the function of a bodily member, organ, or mental faculty.
- D. Less Lethal Force: All uses of force other than those that have the substantial likelihood of causing serious bodily harm or death.
- E. Reasonable Belief: A belief based on a set of facts and or circumstances that would cause a reasonable person to believe something is true.
- F. Objectively Reasonable Force: The level of force that is necessary in a particular situation. The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation. The reasonableness inquiry in an excessive force case is an objective one: the question is whether the officers' actions are objectively reasonable in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation.

Deputies may either escalate or de-escalate the use of reasonable force as the situation progresses or circumstances change. Deputies should recognize that their conduct immediately connected to the use of force may be a factor which can influence the level of force necessary in a given situation. Uses and frequency of force applications should always be minimized and deployed in a manner that avoids unnecessary injury. When reasonable under the totality of circumstances, deputies should use advisements, warnings, verbal persuasion, and other tactics and recognize that a deputy may withdraw to a position that is tactically more secure or allows a deputy greater distance in order to consider or deploy a greater variety of force options.

- G. Excessive Force: Any Force which is determined not reasonably necessary.
- H. Force Transitions: The movement, escalation/de-escalation, from the application of one force type to another in conjunction with the “objectively reasonable” standard from Graham v. Connor, 490 U.S. 386 (1989). The Deputy must consider all the factors prior to using force and choose a reasonable option based on the “totality of the circumstances” present.
- I. Imminent Threat: “Imminent threat” refers to an impending violent act or resistance that a deputy reasonably believes will occur, based on the totality of the circumstances.
- J. Levels of Control: Levels of Control are broad categories of influence or force in identifiable, escalating stages of intensity. They are identified as low level control, intermediate control, and deadly force.
- K. Low Level Control: Low level force is the level of force that is necessary to interact with a subject that is compliant or displaying Passive or Active Resistance.
- L. Intermediate Control: The level of force necessary to compel compliance by a subject displaying Aggressive Resistance, which is neither likely nor intended to cause death.
- M. Proportional Response: The use of force must match the level of resistance in question. A deputy can only employ as much force as required to remove the threat of the resisting subject. If the subject’s threat involves deadly force, the deputy defending themselves or others may use deadly force to counteract the threat. However, if the subject resisting involves low levels of resistance, the deputy may not use force that could cause serious bodily harm or death.
- N. Medical Treatment: Any action taken by Emergency Medical Service (EMS) or medical facility personnel to physically mend an injury (i.e., dress a wound, stitches, etc.) resulting from the use of force or accidental injury. Routine decontamination does not constitute medical treatment. Medical treatment for a pre-existing injury or condition shall be documented on an Incident Report, unless the use of force further compounds the pre-existing injury or condition.

IV. Considerations:

- A. Use-of-force incidents often require the deputy to transition to differing degrees or types of force, including attempts to de-escalate the situation, based on the suspect's actions and responses. Deputies must modify and control their levels of control and force in relation to the amount of resistance offered by the subject.
- B. The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable deputy of similar training and experience.

C. Using the guidelines established in Graham v. Connor, 490 U.S. 386 (1989), deputies may only use such force as is “objectively reasonable” under the totality of circumstances. Force should be used only when it is a necessity. The community expects and the Westmoreland County Sheriff’s Office requires that deputies use only reasonable force—the level of force objectively reasonable to perform their duties. The Sheriff’s Office expects deputies’ to perform their duties and resolve confrontations effectively and safely. The Sheriff’s Office also expects deputies’ to develop and display, over the course of their practice of law enforcement, the skills and abilities that allow them to regularly resolve confrontations without resorting to the higher levels of allowable force. The level of force applied must reflect the totality of circumstances surrounding the immediate situation, including but not limited to the following factors:

1. The seriousness of the crime or suspected offense.
2. The level of threat or resistance presented by the subject.
3. Whether the subject was posing an immediate threat to deputy (s) or a danger to the community.
4. The potential for injury to citizens, deputies or subjects.
5. The risk or apparent attempt by the subject to escape.
6. The conduct of the subject being confronted (as reasonably perceived by the deputy at the time).
7. The time available to a deputy to make a decision.
8. The availability of other resources to deescalate the situation.
9. The training and experience of the deputy.
10. The proximity or access of weapons to the subject.
11. Officer versus subject factors such as age, size, relative strength, skill level, injury/exhaustion and number officers versus subjects.
12. The environmental factors and/or other exigent circumstances.

C. The deputy need only select a level of force that is necessary and within the range of "objectively reasonable" options. Deputies must rely on training, experience and assessment of the situation to decide an appropriate level of force to be applied. Reasonable and sound judgment will dictate the force option

to be employed. Therefore, the Sheriff's Office examines all uses of force from an objective standard rather than a subjective standard.

- D. Use of force that is not lawful, reasonable and appropriate will not be tolerated. Sheriff's Office Policy as well as relevant Federal, State, and Local laws shall govern use of force by officers. The deputy must have acted properly under the established federal, state and local law at the time.

V. Training

- A. All sworn deputies of the Westmoreland County Sheriff's Office are required to attend an approved academy that provides initial use of force training and basic de-escalation skills training.
- B. Basic training should include discussion of, and scenario-based role-playing exercises that address the following:
 - 1. The use of alternative non-lethal methods of applying force and techniques that prevent the officer from escalating any situation where force is likely to be used.
 - 2. Verbal and physical tactics to minimize the need for the use of force, with an emphasis on communication, negotiation, de-escalation techniques, providing the time needed to resolve the incident safely for everyone.
 - 3. The use of the lowest level of force that is a possible and safe response to an identified threat, then re-evaluating the threat as it progresses.
 - 4. Techniques that provide all deputies with awareness and recognition of mental health and substance abuse issues with an emphasis on communication strategies, training deputies simultaneously in teams on de-escalation and use of force to improve group dynamics and diminish excessive use of force during critical incidents.
 - 5. Crisis intervention strategies to appropriately identify and respond to individuals suffering from mental health or substance abuse issues, with an emphasis on de-escalation tactics and promoting effective communication.

6. Strategies to de-escalate, calm and effectively manage individuals who are resistant to a deputy's commands.
7. Important Concepts in Law Enforcement:
 - a. The mission and role of law enforcement in a democratic society.
 - b. The sanctity of human life.
 - c. Overall use of force policies, de-escalation, and crisis intervention strategies.
8. Legal and constitutional issues regarding the use of force.
9. Lethal force, less-lethal force, and other options for disarming a person or making an arrest.
10. Crisis intervention strategies for responding effectively to persons with mental illness, mental or developmental disabilities, or other conditions that can cause them not to understand or respond reasonably to what a deputy is saying, such as deafness, Autism, and drug or alcohol addictions.
11. Protocols for better understanding the phenomenon of "suicide by cop".
12. De-escalation strategies, such as tactics for "slowing a situation down" in order to provide more time to assess a situation and summon assistance.
13. All deputies first sergeant and below will attend and successfully complete an annual four-hour de-escalation course.
14. The role implicit bias may play in evaluating the subject's behavior or level of resistance.
15. All deputies first sergeant and below will attend and successfully complete a forty-hour Crisis Intervention Training "CIT" course.

VI. Types of Resistance

- A. It is important that deputies are aware that there may be many reasons a suspect may resist arrest. The individual may not be capable of understanding the gravity of the situation as a result of a medical, mental, physical, language, or hearing impairment. This may not make the individual any less dangerous. However, if deputies recognize the situation for what it is, they may be able to use more effective tactics without jeopardizing deputy safety. Various types of resistance are identified as below:

1. Compliant: A person who follows lawful orders and offers no passive or active resistance, aggressive resistance, or aggravated aggressive resistance.
2. Passive Resistance: A person who is not complying with a deputy's commands and is uncooperative, but is only taking minimal physical action to prevent a deputy from placing the subject in custody and taking control. Examples include standing in a stationary position and not moving when directed to, refusing to move under their own power, and locking arms to another during a protest or demonstration.
3. Active Resistance: A person whose verbal or physical actions are intended to prevent a deputy from placing the subject under control and in custody, but are not intended to harm the deputy. Examples include walking or running away and breaking away from the deputy's grip to flee.
4. Aggressive Resistance: A person who displays the intent to harm the deputy, the person himself or herself, or another person and prevent a deputy from placing the person under control and in custody. Examples include a person taking a fighting stance, punching, kicking, striking, and attacking with weapons or other actions which present an imminent threat of physical harm to the deputy or another.
5. Aggravated Resistance: A person whose actions are likely to result in death or serious bodily harm to the deputy, the person himself or herself, or another person.
 - a. Examples include the use of a firearm, use of blunt or bladed weapon, and extreme physical force.

B. Levels of Control in Response to Resistance:

1. When use of force is necessary, deputies will assess each incident, based on policy, training, and experience, to determine which use-of-force options are appropriate for the situation and bring it under control in safe manner. Deputies must use only the amount of force that is objectively reasonable to overcome resistance in order to take lawful action. Levels of control include the following:
 - a. Low-Level Control: The level of control necessary to interact with a person who is Compliant or displaying Passive or Active Resistance. This level of control is not intended to cause injury and has a low probability of actually causing injury. Examples include handcuffing a compliant arrestee or placing the

suspect in a prone position during a high-risk vehicle stop. This level of control does not traditionally require use-of-force reporting, and includes but is not limited to:

- 1) Deputy Presence,
- 2) Verbal Communication,
- 3) Handcuffs or other approved restraint device.

b. Less-lethal Force: The level of force necessary to compel compliance by a subject displaying Aggressive Resistance, which is neither likely nor intended to cause death. This level of force does require use-of-force reporting. This level of force includes but is not limited to:

- 1) Impact weapons such as the baton,
- 2) Oleoresin Capsicum spray (OC),
- 3) Bean-bag shotgun. See General Order 09-02 for further procedural information on the use of this weapon.

c. Deadly Force:

- 1) Deadly force is that degree of force, the intended, natural, and expected consequence of which, or the misapplication of which, is substantially likely to produce death or serious bodily injury. Deadly force is not limited to the use of firearms. Other forms of force that may rise to the level of deadly force include but are not limited to: strikes to the head or other vital areas with impact weapons, low lethality shotguns or impact munitions.
- 2) Any force which in the manner used creates a substantial likelihood of serious bodily injury or death. The elements that must be present for use of deadly force are: Ability, Opportunity, Imminent Jeopardy, and Preclusion:
 - a) Ability: The subject has the ability to either kill or seriously injure the officer(s) or a third party.

- b) Opportunity: the subject has the opportunity to either kill or seriously injure the officer(s) or a third party.
- c) Imminent Jeopardy: Based on all facts and circumstances confronting the officer and without regard to a deputies underlying intent or motivation, the deputy reasonably believes that the subject poses an immediate threat to the life of the deputy(s) or other third parties and the deputy must act immediately to prevent death or serious bodily injury.
- d) Preclusion: All other options have been reasonably exhausted prior to the use of deadly force. Deadly force must be reasonable in response to the subject's actions.

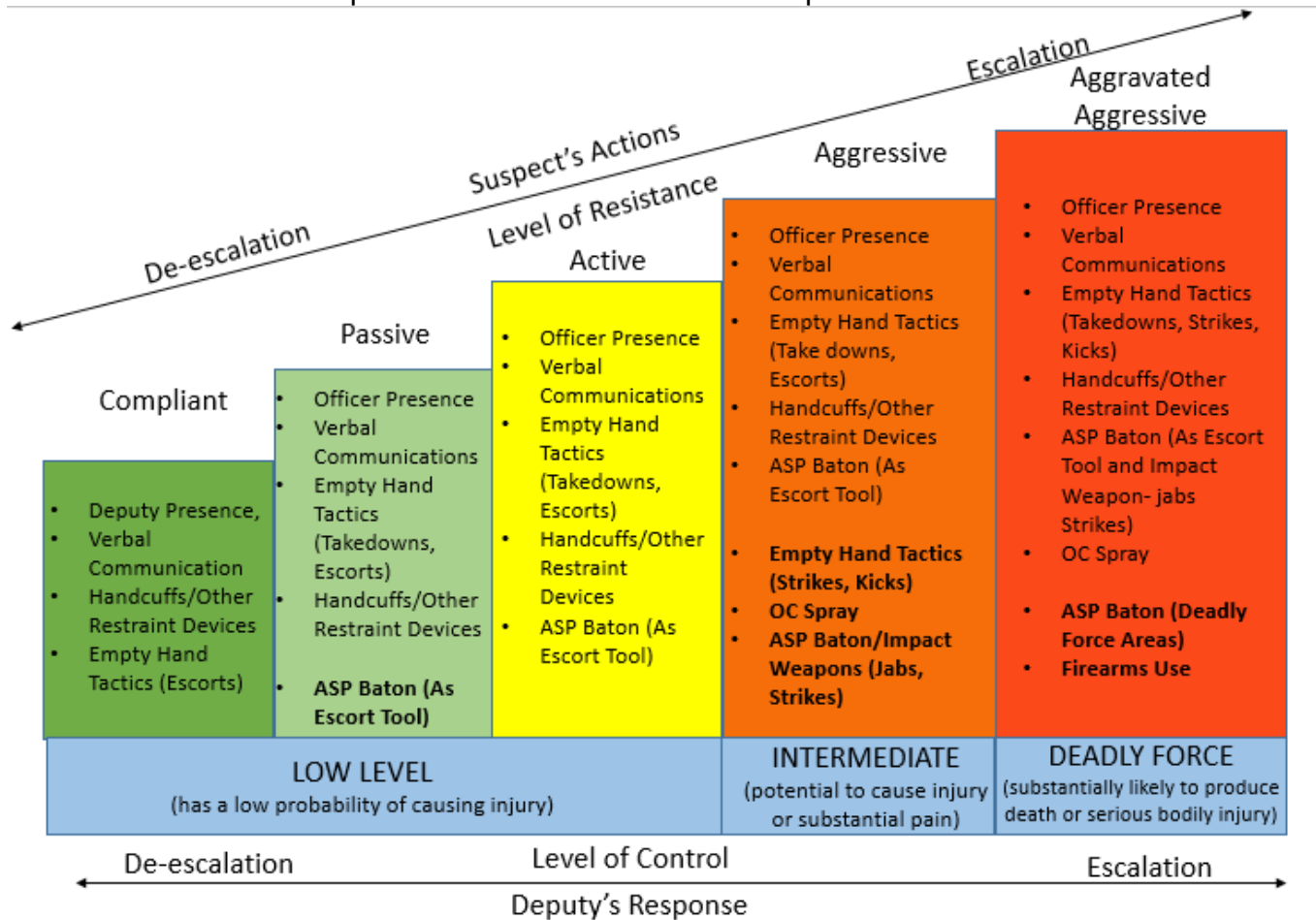
VII. Use of Force Levels

- A. Presence: The deputy is present, identifying himself/herself by displaying their badge of authority and or other identification, utilizing proper stance, posture and exhibiting command presence.
- B. Dialogue/Verbal Direction: The deputy verbally directs or commands a person to engage in, or refrain from a specific action or non-action, utilizing clear, concise language.
- C. Physical Control: This is a level of control employed by deputies when faced with resistance.
- D. Intermediate Force: This is a level of control employed by deputies when faced with an active fighter or threatening to be an active fighter.
- E. Deadly Force: Any force applied in any manner, by any means that there is a substantial likelihood it will cause serious bodily injury or death.
 - 1. Deadly force shall not be used unless it is objectively reasonable. Any deputy who uses deadly force to subdue a resisting or active fighter will only do so under extreme circumstances when lesser uses of force have failed or were not reasonably able to be employed. Every arrest is different and in certain incidents,

consecutively following the Use of Force Model may not be possible and a higher level of force may be used.

2. Use of Force Model:

Each bolded force option within the Levels of Control represents the highest levels of force options available; however, each other force option should be considered to help de-escalate the situation.



- This graphic is intended as a general guideline for a deputy. The suspect(s) actions will dictate the deputy's use of force.
- Force Transition: Force transition is the movement, escalation/de-escalation, from the application of one force type to another in conjunction with the "objectively reasonable" standard.
- In use of force incidents, the deputy will transition to differing degrees or types of force, including attempts to de-escalate.
- Force situations are dynamic and require a deputy to continually assess the suspect's actions to ensure a proportionate response.

Deputies shall modify their Level of Control in relation to the amount of resistance offered by a subject.

VIII. De-escalation:

- A. Policing requires that a deputy must exercise control of a violent or resisting subject to make an arrest, to protect themselves, other deputies, law enforcement personnel or members of the community from threat of imminent harm. Clearly, not every potential violent confrontation can be de-escalated, but deputies do have the ability to impact the direction and the outcome of many situations they handle, based on their decision-making and the tactics they chose to employ.
- B. When reasonable under the totality of circumstances, deputies should gather information about the incident, assess the risks, assemble resources, attempt to slow momentum, and communicate and coordinate a response. In their interactions with subjects, deputies should use advisements, warnings, verbal persuasion, and other tactics and alternatives to higher levels of force. Deputies should recognize that they may withdraw to a position that is tactically more secure or allows them greater distance in order to consider or deploy a greater variety of Force Options. Deputies shall perform their work in a manner that avoids jeopardizing their own safety or the safety of others through poor tactical decisions.

IX. Application of Less Lethal Force:

- A. This section relates to the use of less-lethal force through physical control, aerosol sprays, and the baton. It should be noted that although these devices or methods are considered “less-lethal,” their use in some cases, may result in unintended death or serious bodily injury. Deputies must be aware of the potential effects of using less-lethal force.
- B. Handcuffs, flexible handcuffs, or other restraint devices:
 - 1. Level of Control:
 - a. Low Level Force - Description: Deputies will only use sheriff’s office-authorized or issued handcuffs, flexible handcuffs, or other restraint devices
 - 2. Certification Requirements:
 - a. Entry level training is taught at the Rappahannock Regional Justice Academy.
 - 3. Re-certification requirements:

- a. Four hours of Defensive Tactics training annually for first sergeants and below and demonstrate proficiency with each tactic/tool they are authorized to use.
4. Inspection Requirement
- a. Handcuffs will be maintained in clean and working order.
5. Approved Use:
- a. This tool will be used only in accordance with policy and department training.
 - b. In an attempt to minimize the risk of injury to Deputies and others during arrest situations, Deputies will handcuff, behind the back, all persons arrested as soon as possible.
 - c. During investigative detentions (“Terry Stops”) where one or more of the following factors is present:
 - 1) Articulable facts that the subject is physically uncooperative.
 - 2) Articulable facts that a subject’s actions at the scene may present physical danger to themselves or others if not restrained.
 - 3) Reasonable possibility of flight based on the action of the subject.
 - 4) Information that the subject is currently armed.
 - 5) The stop closely follows a violent crime and the subject matches specific parts of a description.
 - 6) When there are articulable facts that a crime of violence is about to occur.
 - 7) Care and discretion should be used at extremes of age in handcuffing an individual during an investigative detention.
 - 8) The authority to handcuff during investigatory stops continues for only as long as the circumstances above exist.
 - 9) Persons presenting a threat to themselves.
 - 10) During a search warrant service;

- 11) At a private residence as is reasonably necessary to execute the warrant in safety.
- 12) At a commercial business open to the public if it reasonably appears that handcuffing is necessary to protect a deputy or others from physical harm. Circumstances which may justify initial handcuffing may change and eliminate continued justification.

6. Disapproved Use:

- a. If medical circumstances, make it unreasonable to handcuff an arrestee, deputies will refrain from handcuffing.

7. Tactical Considerations:

- a. Deputies will check handcuffs for tightness and double lock as soon as it is safe to do so prior to transport.
- b. Deputies will check handcuffs for tightness and double lock as soon as it is safe to do so prior to transport.
- c. When a handcuffed subject first complains that handcuffs are too tight and/or are hurting the subject, the deputy having custody of the handcuffed subject will, as soon as reasonably possible, check the handcuffs to make sure that they are not too tight. If they are too tight (per training), they will be loosened and relocked.
- d. Deputies will transport subject to the detention facility in a timely manner.

C. Oleoresin Capsicum, (OC)

1. When in the Use of Force Model, a deputy may need to resort to the use of an aerosol control option (ACO) such as OC in an act of self-defense, defense of a third person, or to subdue a violently resistive person. Prior to being issued, sworn employees shall have completed initial training and receive a copy of and be trained in this General Order.
2. Certification Requirements:
 - a. Entry level training is taught at the Rappahannock Regional Justice Academy (RRJA).

3. Re-certification requirements:

- a. Included within the four hours of Defensive Tactics training annually for first sergeants and below and demonstrate proficiency with the OC spray they are authorized to use.

4. Deployment Requirement:

- a. When deploying, a deputy will, if practical, announce a warning to the subject and other deputies of the intent to deploy the OC spray if the subject does not comply with your commands.

Example, “Do what I am telling you to do, or I will spray you with pepper spray.”

- b. Deputy shall give the subject a reasonable opportunity to voluntarily comply.

5. Approved Use:

- a. OC Spray will be used only in accordance with policy and department training.
- b. OC spray may be used when subject is engaging or displays the intent to engage in aggressive resistant behavior which may cause injury.
- c. OC spray may be used on vicious or aggressive animals when those animals interfere with the safety of the deputies or citizens.
- d. OC spray may only be used in a protest or demonstration situation when authorized by an incident commander in response to imminent threat of harm.

6. Disapproved Use:

- a. Shall not be used on a subject inside a closed vehicle, unless a deputy is attempting to secure an aggressive resistant suspect in a patrol vehicle. OC is not intended to be used to force extraction from an enclosed area.
- b. Shall not be used on passive resistant protestors.
- c. Shall not be used other than as an aerosol/stream.

- d. Shall not be used on a handcuffed subject unless the subject is displaying Aggressive Resistance.

7. Tactical Considerations:

- a. Whenever possible, should be used upwind and relatively close to the subject.

8. Post Use of Force Procedures:

- a. A deputy using OC spray will:

- 1) Request medical attention to the scene, as soon as possible, to wash and treat affected skin/eye area whenever a subject is directly exposed to OC spray in the facial area, or to treat any underlying condition that could be aggravated by the OC spray.
- 2) Be aware of the risk of serious bodily injury or death that can occur if affected subjects are improperly restrained after being taken into custody.

- b. Place subjects in an upright sitting or standing position as soon as possible after they are under control. If the subject is resisting by kicking, deputies should apply an approved restraint device to the subject's legs or feet. Deputies shall never connect a subject's legs or feet to the subject's hands, also known as "hog-tying." "Hog-tying" has been attributed to positional restraint asphyxia and is strictly prohibited. Once put in a vehicle, the subject should be placed in an upright sitting position or a reasonable variation with seat belt utilization to ensure upright positioning. Deputies should continue to visually monitor the affected subject for any signs of medical stress and if identified, emergency response personnel should be summoned immediately.

D. Physical Force (Arrest Control Tactics/Defensive Control Tactics):

- 1. Deputies may employ needed and reasonable physical force (holding, pulling, pushing, throwing, or exert greater strength to overcome resistance) in order to defend themselves or another person or to subdue a resisting subject. Deputies are strictly prohibited from using any form or adaptation of a "chokehold."

E. ASP Impact Expandable Baton:

1. Level of Control:
 - a. Low Level Force - when used as an escort tool.
 - b. Intermediate Force - when used for jabbing or striking.
 - c. Deadly Force - striking suspects on the head, neck, sternum, spine, groin, or kidneys
2. Description:
 - a. The ASP baton is a department-authorized expandable straight baton.
 - b. All sheriff's office sworn personnel the rank of First sergeant and below must obtain certification training and carry the baton when in an approved sheriff's office uniform.
3. Certification Requirements:
 - a. Entry level training is taught at the Rappahannock Regional Justice Academy.
 - b. All deputies shall complete the following requirements:
 - 1) Receive initial baton training in the academy.
4. Re-Certification Requirements:
 - a. Annual Training - Four hours of Defensive Tactics training for first sergeants and below and demonstrate proficiency with each tactic/tool they are authorized to use.
5. Inspection Requirement:
 - a. Batons will be maintained in clean and working order.

6. Approved Use:

- a. This tool will be used only in accordance with policy and department training.
- b. Blocking, jabbing, to apply control holds, or passive/active escort techniques.

7. Disapproved Use:

- a. A subject who poses no imminent threat will not be struck with a baton or impact tool.
- b. Deputies are discouraged from using their firearm as an impact tool due to the possibility of an unintentional discharge.
- c. During non-deadly force incidents, deputies will use reasonable care to avoid striking suspects on the head, neck, sternum, spine, groin, or kidneys, as these strikes may constitute deadly force.
- d. The use of instruments as a weapon for the purpose of striking or jabbing (i.e., flashlights, radio, etc.) other than department-authorized batons, is strongly discouraged and acceptable only when other authorized force responses have been exhausted and are either unavailable or ineffective.
- e. Deputies must be able to articulate a compelling need to use any other device or object other than an authorized baton as an impact weapon.

8. Post Use of Force Procedures:

- a. Any use of the baton, other than for escort/control hold and any incident where a subject is injured or complains of injury, is reportable.

F. Tire Deflation Devices

- 1. During a vehicular pursuit, it may be necessary for the deputy to use a Tire Deflation Device (TDD) to subdue a subject. While this is considered to be less-lethal force, using a TDD may result in unintended death or serious bodily injury. See General Order 04-05 for further procedural information.
- 2. Deputies using any less-lethal force listed above have received specific, on-site training through their respective academy and are

required to participate in and successfully complete annual training.

X. DEADLY FORCE:

- A. Deadly Force is authorized when the deputy has probable cause to believe that a suspect poses an imminent threat and substantial likelihood of serious bodily harm or death to the deputy or others. Probable cause exists based on the particular circumstances confronting the deputy at the time. Prior to using deadly force, a warning should be given if feasible.
- B. In [*Tennessee vs. Garner, 105 S. Ct. 1694 (1985)*], the Supreme Court ruled that the use of deadly force to prevent the escape of a suspected criminal is unconstitutional if the suspect appears to be unarmed and not presenting an imminent threat to the deputy, fellow deputies or members of the public.
- C. In effecting a lawful arrest for a felony or a misdemeanor, only that amount of force necessary to ensure safe custody or overcome resistance to arrest will be justified. If, in the course of making a lawful arrest for any violations of law, the arresting deputy is met with resistance to the extent that the deputy reasonably believes that a substantial likelihood that death or serious bodily harm will occur to himself/herself or any other person, and there is no reasonable alternative, the use of deadly force to overcome such resistance is justified.
- D. There is “probable cause to believe that the suspect has committed a crime involving the infliction or threatened infliction of serious, bodily physical harm”, there must be probable cause to believe that the suspect remains capable of inflicting death or serious bodily physical harm while escaping, and if feasible, some warning has been given.
- E. In any case where a deputy is justified in using deadly force, he/she shall not use deadly force recklessly.
- F. Prohibitions:
 - 1. Discharging a firearm into a crowd.
 - 2. Discharging a firearm in a felony case that does not involve an actual attack, but involves a threatened attack, unless the member has an objectively reasonable cause to believe the

threatened attack is imminent and could result in death and serious bodily injury.

3. Discharging a firearm in any misdemeanor offense, unless under exceptional circumstances.
 4. Discharging a firearm solely to protect property interests.
 5. Discharging a firearm to stop an individual on mere suspicion of a crime simply because the individual runs away.
- G. Either at or from a moving vehicle, unless it is absolutely necessary to do so to protect against imminent threat to life of the deputy or others. The imminent threat must be by means other than the vehicle itself.
1. Deputies will attempt to move out of the path of an oncoming vehicle, if possible, rather than discharge their firearms.
 2. Deputies will not intentionally place themselves in the path of an oncoming vehicle and attempt to disable the vehicle by discharging their firearms.
- H. In cases in which a deputy discharges a firearm with the intent to employ deadly force and the incident is related to or is a result of the commission of a crime, the deputy shall not be responsible for the investigation and subsequent arrest of the perpetrator. However, if an immediate on-scene arrest is necessary, the deputy is responsible for making such arrest.
- I. Any deputy involved in a Use of Force situation which has resulted in serious injury or death may be assigned to non-line duties or placed on administrative leave without loss of pay or benefits, pending the results of an administrative review of the incident. The Sheriff shall determine the duration of such assignment or leave.
- J. The assignment to non-line duties or administrative leave shall not be interpreted to imply or indicate that the deputy has acted improperly.
- K. Fleeing Felon
1. Deputies may use deadly force to apprehend a fleeing felon ONLY when every other reasonable means of effecting the arrest or preventing the escape has been exhausted.
 2. The suspect fleeing poses an immediate threat of death or serious bodily harm to the deputy or others.
 3. There is probable cause to believe the crime committed or attempted was a felony, which involved an actual or threatened attack which could result in death or serious bodily harm.

4. There is probable cause to believe the person fleeing committed or attempted to commit the crime.
5. Failure to immediately apprehend the person places a deputy(s) or the public in immediate danger of death or serious bodily injury.
6. The lives of innocent persons will not be endangered if deadly force is used.

XI. Deadly Force Against Animals

- A. During the normal course of duty, it may become necessary to euthanize (by use of firearm) an injured or rabid animal.
- B. In incidents involving a domesticated animal, the responding deputy should make a reasonable effort to ascertain ownership of the animal. If ownership cannot be ascertained, the deputy will contact the on-call Animal Control Deputy to receive further instruction. After contacting the on-call Animal Control Deputy, if ownership has still not been ascertained, the Animal Control Deputy will respond to the scene to detain the animal. After the animal has been taken, efforts will continue to be employed to locate the owner.
- C. In incidents involving hit or injured wildlife, the responding deputy will contact the on-call Animal Control Deputy who will direct the deputy to euthanize the injured wildlife. If it cannot be decided by call, the Animal Control Deputy will respond to the scene and properly euthanize the injured wildlife.
- D. A deputy may take reasonable action to defend himself/herself or others from an attack by a vicious or rabid animal. The deputy may euthanize the animal without contacting the on-call Animal Control Deputy if necessary. The deputy shall make a written Use of Force report of the action.

XII. Negligent Discharge of Firearms:

- A. The negligent discharge of a firearm not resulting in the death or injury of any person shall be investigated by the deputy's immediate supervisor. In these cases, the supervisor shall document the findings in a memorandum, to be concluded before the end of the tour of duty in which the investigation occurred and forwarded to the Sheriff.
- B. In the event the negligent discharge occurs while the deputy is off duty, he/she shall contact the on duty supervisor and/or the local law enforcement agency. A complete investigation will be conducted by the supervisor.

- C. In the event of an accidental discharge of a firearm either on or off duty, the deputy shall immediately contact the on duty supervisor to report the incident. After documenting the accidental discharge, the deputy's supervisor will deliver instructions to prevent further incidents, such as requiring the deputy to complete additional firearms training.

XIII. Prohibited Acts:

- A. The following acts associated with the Use of Force are prohibited.

1. Firing into crowds.
2. Warning shots are strictly prohibited.
3. Firing into a building or through doors when the person fired at is not clearly visible, unless deputies are responding to gunfire from such building or through such door.
4. Firing at a suspect when lesser force could be used and when the deputy believes that the suspect can be apprehended reasonably soon thereafter without the use of deadly force; or, when there is any substantial danger to innocent bystanders.

(WHEN IN DOUBT, DO NOT SHOOT.)

5. No deputy of the Westmoreland County Sheriff's Office will be allowed to carry a weapon authorized by this office until the deputy has been trained in and received copies of the entire use of force policy.
6. Shooting from a moving vehicle is prohibited.

The Westmoreland County Sheriff's Department will conduct a prompt, thorough and unbiased investigation of all allegations of misconduct relating to use of force to determine whether misconduct occurred and whether any remedial and/or disciplinary action is warranted through the Department's Internal Affairs. Disciplinary guidelines and procedures can be found in General Order 03-01 and 03-03.

XIV. DUTY TO REPORT

- A. Deputies shall immediately, as soon as possible and without delay report to a supervisor the circumstances of all resistances or incidents involving any use of force described in subsection B below. The supervisor shall ensure that all sections of the Westmoreland County Sheriff's Office General Orders Manual has been followed. The primary deputy will prepare the Use of Force Report, or Injury While in Custody/ Injury Prior to Arrest report, paying particular attention to the facts of the incident.
- B. The Use of Force Report the related supervisory investigation and reports are required in any of the following circumstances:
1. A deputy discharges a firearm other than in training or for bona fide recreational purposes.
 2. A person is injured or dies while in custody.
 3. A person is injured or complains of injury as a result of use of any physical force including the use of any weapon or chemical agent.
 4. A defendant is charged with resistance and/or assault and a deputy is listed as the victim.
 5. A deputy encounters an individual with obvious injuries, and the circumstances of the encounter coupled with the nature of the injuries are such that the person may claim the injuries resulted from contact with the deputy.
 6. A deputy applies force through use of the following, whether an arrest is or is not made:
 - a. Any tool, object or device used as an impact weapon.
 - b. Chemical agent.
 - c. Less Lethal Shotgun or forty (40) mm less lethal round.
 - d. Hand strike, leg thrust / kick.
 7. A deputy has an accidental discharge of a chemical agent other than in training, which occurs in view of the public or where members of the public are affected.
 8. The report shall include:
 - a. An accurate description of the incident using the coded tables and text boxes on the Use of Force report.

- b. Names of all involved deputies, suspect(s) and witnesses. Additional forms will be used as continuation pages. Only those sections applicable need be completed on continuation pages.
 - c. A narrative summary of the significant facts of the incident which are not listed on the front of the form.
9. The deputy's supervisor shall respond to the scene and shall personally contact the deputy immediately after the incident. The supervisor will interview witnesses and suspects, collect evidence and take photographs when appropriate. The supervisor will also collect and upload the deputy's worn body camera footage. Body camera procedures can be found in General Order 04-24. The supervisor will assist in preparing the Use of Force report, paying particular attention to the facts of the incident. When indicated, supervisors shall counsel deputies in methods to better handle future situations to avoid or minimize the use of force.
10. Each resistance, injury prior to arrest and injury while in custody incident will require the supervisor to conduct an independent and complete investigation and prepare and distribute written reports and documents. The minimum guidelines are described below:
- a. The supervisor's conclusion that the details of the incident and facts contained in the Report of Use of Force or Report of Injury While in Custody/Injury Prior to Arrest are accurate.
 - b. Names and statements of all witnesses.
 - c. A narrative summary of any significant facts determined through investigation.
 - d. Make every reasonable effort to identify video and/or still photos that may contain evidence relevant to the investigation and document actions taken to obtain and preserve the evidence and/or the instruments that contain such evidence.
11. The supervisor's conclusions that:
- a. The use of force, employed tactics, and all reporting requirements were performed within policy.

- b. One or more policies or procedures may have been violated. The specific general order section(s) will be cited, and if the supervisor finds that violations may have occurred, his/her commanding officer will be immediately notified and will determine the appropriate course of action regarding additional investigation, i.e. notifying IAD, etc.
- c. The Report of Use of Force, or Report of Injury While in Custody/Injury Prior to Arrest shall be promptly distributed as follows:
 - 1) The original report, along with all original statements, copies of other reports and photos, shall be forwarded to the Internal Affairs Division in a sealed envelope.
 - 2) One copy shall be forwarded to the patrol first sergeant.
 - 3) One copy shall be forwarded to the deputy's division captain through the chain of command.
- d. Supervisory or command officers performing secondary employment SHALL NOT investigate use of force incidents or injury prior to arrest incidents involving themselves or any deputy performing secondary employment under their supervision. On-duty personnel shall be summoned for this function.
- e. Any supervisory or command officer who investigates any incident involving any deputy engaged in secondary employment must verify that the deputy was approved for secondary employment and document the results.
- f. Supervisors and command officers SHALL NOT investigate use of force incidents in which they are personally involved.

XV. DUTY TO REQUEST MEDICAL ATTENTION

- A. Any time there is an injury or an alleged injury as a result of force used by a deputy or encounters an individual with obvious injuries and the circumstances of the encounter coupled with the nature of the injuries are such that the person may claim the injuries resulted from the contact with the deputy, the involved deputy(s) shall:

1. Visually examine any person claiming injury, request medical attention and immediately notify a supervisor. When an individual is struck with a less lethal weapon or an impact tool/device, or sprayed with a chemical agent, an ambulance shall be called to the scene of the incident to examine the person at the earliest and safest opportunity. Medical personnel will determine whether further medical attention is required.
2. Any prisoner suffering from any illness, injury or other condition that requires medical attention, such as the ingestion of narcotics or other harmful substances, will be sent to the nearest hospital for treatment.
3. Violent behavior may mask dangerous medical conditions; therefore, detainees shall be continuously monitored and provided with medical treatment if needed.

B. Other on-scene Responsibilities:

1. The deputy will remain at the scene (unless they are injured) until the arrival of the appropriate supervisor and investigators, however, if the circumstances are such that the continued presence of the deputy at the scene might cause a more hazardous situation to develop (violent crowd), the ranking supervisor at the scene shall have the discretion to instruct the deputy to respond to another more appropriate location.
2. The deputy will preserve and protect the item used to employ less-lethal force or Deadly Force for examination immediately following the incident and submit said weapon to the appropriate deputy or on-scene supervisor.
3. The deputy shall not discuss the case with anyone except:
 - a. Assigned Sheriff's Office personnel,
 - b. The Commonwealth Attorney,
 - c. Deputy's attorney,
 - d. Deputy's chosen clergy,
 - e. Deputy's immediate family, and
 - f. Deputy's mental health counselor

C. Communications:

1. The communications supervisor shall:
 - a. Dispatch requested medical aid
 - b. Notify the on-duty uniformed patrol supervisor
 - c. Notify the Patrol Captain
 - d. Notify the Sheriff and Major

D. Patrol Division:

1. The on duty supervisor shall proceed to the incident location, secure the scene, and conduct a preliminary field investigation.
2. The Patrol Captain shall proceed to the incident location, assign sufficient personnel to secure the scene and assure that proper notifications have been made. If the deputy is injured or killed, the Sheriff or his designee will arrange for notification of the deputy's family.

E. Administrative Investigation:

1. Any deputy or detective whose use of force results in a death or serious physical injury, shall be removed from line-duty pending an administrative review.
2. A separate and distinct phase of the investigation will be conducted by the assigned Internal Affairs detective to determine whether the shooting was within policy.
3. The Internal Affairs Investigator will prepare a detailed report of findings for the Sheriff and assigned Administrative Staff.\
4. The Westmoreland County Sheriff's Department will conduct a prompt, thorough and unbiased investigation of all allegations of misconduct relating to use of force to determine whether misconduct occurred and whether any remedial and/or disciplinary action is warranted through the Department's Internal Affairs. Disciplinary guidelines and procedures can be found in General Order 03-01 and 03-03.

XVI. Investigation of the Use of Deadly Force:

- A. In matters involving any deputy using deadly force to subdue a subject will be directly reported to the Sheriff. After documenting the incident, the Sheriff will

decide which external agency will conduct a proper investigation. Uses of Deadly Force will not be handled internally by the Westmoreland County Sheriff's Department. Disciplinary guidelines and procedures can be found in General Order 03-01 and 03-03.

XVII. Psychological Services:

- A. Psychological follow-up of post-shooting trauma will be directed by the Sheriff whenever deemed appropriate. During an internal investigation, the Sheriff's Office will do all within its power to avoid placement of a stigma on the deputy who shoots in the performance of duty.

XVIII. Documentation:

- A. All use of force incidents shall be documented in their entirety. The deputy involved shall complete the Use of Force Report and will forward to his/her immediate supervisor for approval. The supervisor shall forward the original to the
- B. Patrol Captain with the original Sheriff's Incident Report. The Patrol Captain will be responsible for dissemination to the Major and Sheriff. All uses of force will be documented on the incident report as well. Incidents involving mild or passive resistance to handcuffing or escorting do not have to be reported, unless there has been an allegation of misconduct. All other uses of force must be reported, i.e.: OC Spray; EMDD, physical control techniques, impact weapons, striking, kicking, take downs, pressure point control, joint locks/pain compliance, firearms.
- C. It is the policy of Westmoreland County Sheriff's Department to collect and maintain statistical data on all uses of force. All uses of force are documented and published annually on the Department's website.