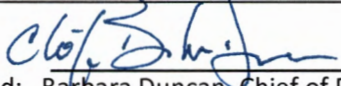
	<b>SALISBURY POLICE DEPARTMENT</b>
	<b>Written Directive: Use of Force</b>
	<b>Publication Date: August 17, 2020</b>
	 Approved: Barbara Duncan, Chief of Police
<b>Related CALEA Standards: 4.1.1, 4.1.2, 4.1.3, 4.1.5, 4.2.1, 4.2.2, 4.2.3, 4.2.4, 4.2.5</b>	<b><u>Use of Force</u></b> <b>Section #1001</b>

## Use of Force

### 1. Policy:

- A. It is the policy of the Salisbury Police Department to value and preserve human life in all situations. The Department recognizes the Sanctity of Life of all persons we come in contact with and will show respect and dignity to those persons. The value of human life shall guide all training, leadership, and procedures as well as guide sworn officers in the application of Use of Force.
- B. ESTABLISH COMMUNICATION. Communication with non-compliant subjects is often most effective when officers establish rapport, use the proper voice intonation, ask questions and provide advice to defuse conflict and achieve voluntary compliance before resorting to force options.
- C. DE-ESCALATION. Officers shall, when feasible, employ de-escalation techniques to decrease the likelihood of the need to use force during an incident and to increase the likelihood of voluntary compliance. Officers shall when feasible, attempt to understand and consider the possible reasons why a subject may be noncompliant or resisting arrest. A subject may not be capable of understanding the situation because of a medical condition; mental, physical, or hearing impairment; language barrier; drug interaction; or emotional crisis, and have no criminal intent. These situations may not make the subject any less dangerous, but understanding a subject's situation may enable officers to calm the subject and allow officers to use de-escalation techniques while maintaining public and officer safety. Officers who act to deescalate an incident, which can delay taking a subject into custody, while keeping the public and officers safe, will not be found to have neglected their duty. They will be found to have fulfilled it.
- D. PROPORTIONALITY. When determining the appropriate level of force, officers shall, when feasible, balance the severity of the offense committed and the level of resistance based on the totality of the circumstances known to or perceived by the officer at the time. It is particularly important that officers apply proportionality and critical decision making when encountering a subject who is armed with a weapon other than a firearm.

- E. **CRISIS INTERVENTION.** When feasible, Crisis Intervention Team (CIT) trained officers shall respond to calls for service involving individuals in mental or behavioral health crisis.
- F. **DUTY TO INTERVENE.** When in a position to do so, officers shall intervene when they know or have reason to know, that another officer is about to use, or is using, unnecessary force. Officers shall promptly report any use of unnecessary force and the efforts made to intervene to a supervisor.
- G. **FAIR AND UNBIASED POLICING.** Members shall carry out their duties, including the use of force, in a manner that is fair and unbiased pursuant to Written Directive: Biased Policing (Section #220).
- H. **VULNERABLE POPULATIONS.** The use of force against vulnerable populations – including children, elderly persons, pregnant women, people with physical and mental disabilities and people with limited English proficiency – can undermine public trust and should be used as a last resort, when all other reasonable means have been exhausted.

**2. Purpose:**

The purpose of this policy is to ensure that department personnel use only the force that appears to be reasonably necessary to effectively and safely resolve an incident, while protecting the lives of department personnel and others in our community.

**3. General:**

Sworn members are granted the authority to use reasonable force when necessary to accomplish lawful ends. This authority is grounded in the laws of the State of Maryland, the United States Constitution, and the provisions of this policy. Where officers are justified in the use of force, the utmost restraint should be exercised. When practical, officers should announce that force will be utilized prior to the application of such force.

This policy reinforces the responsibility of members to take those steps possible to prevent or stop the illegal or inappropriate use of force by other officers. Every officer is expected and required to take appropriate intervention, and to report to a supervisor any situation where that officer is aware that another officer is using force in violation of the law or Salisbury Police Department policy.

The decision to use force may be irrevocable. Many times the decision to use force is made in rapidly unfolding and highly stressful situations. Sound judgment and the

appropriate exercise of discretion will be the foundation of decision making in the broad range of possible use of force situations.

Every use of force by an officer of the Salisbury Police Department must be reported to a supervisor. Any officer with knowledge that another officer used force must also report that use of force to a supervisor. The supervisor will conduct a thorough review of the use of force, and document this review on the designated use of force report form before the conclusion of the supervisor's tour of duty.

#### **4. Definitions:**

- A. Passive Resistance - Individual is not actively resisting or being physically or verbally aggressive however the individual is not complying with the orders of the officer. Examples include but are not limited to individuals involved in non-aggressive civil disobediences or disturbances and those persons whose behavior is not likely to inflict injury on the officer or other persons.
- B. Deadly Force – The use of force which is intended to, or likely to cause death or serious physical injury.
- C. Reasonable belief: When facts or circumstances the officer knows are such as to cause an ordinary and prudent person to act or think in a similar way under similar circumstances.
- D. Serious physical injury: A bodily injury that creates a substantial risk of death causes serious permanent disfigurement, or results in long term loss or impairment of the function of any bodily member or organ.
- E. Feasible: Capable of being carried out if such warning does not endanger the life or serious physical injury to the officer or any other person in immediate danger, or further antagonize the subject.
- F. Force Transition: Force transition is the movement from the application of one force type to another consistent with the “objectively reasonable” standard (e.g., escalation/de-escalation).
- G. Imminent Danger: Actions or outcomes that may occur during an encounter which places the member in immediate fear for his/her safety or the safety of others. Imminent danger may be present even if a subject is not actively pointing a weapon at the law enforcement officer, but is carrying a weapon and running for cover to gain a tactical advantage over the officer. The period of time which is considered imminent and/or immediate may change as the circumstances and facts evident in each situation change. It is not the same in all situations.

- H. Less-Lethal Force: Force employed that is neither likely nor intended to cause death or serious physical injury (e.g. baton, OC spray, flashlight, CEW, etc.).
- I. Physical Force: Any physical coercion by an officer in performance of official duties, excluding the routine application of handcuffs.
- J. Reasonable Force: Force that is objectively reasonable and necessary under the circumstances to affect an arrest or protect the officer or other person.
- K. Reportable Force: A use of force by a member which requires written and verbal notification to a supervisor under this policy.
- L. Serious Physical Injury: Bodily injury that involves a substantial risk of death, unconsciousness, disfigurement, broken bones, protracted loss or impairment of an organ or mental faculty.
- M. Totality of Circumstances: Those circumstances that would lead an objectively reasonable officer to believe that he/she is encountering a situation that may require the use of force on a subject. Circumstances to consider may include the nature of the offense, seriousness of the offense, size and strength of the subject, number of subjects, availability of weapons, mental instability of the subject, availability of other force options, training and experience of the member and subject, environmental factors, and availability of back up and specialized units. This list is not meant to be exhaustive.
- N. Positional Asphyxia: A form of asphyxia that occurs when someone's body position prevents the person from breathing adequately.
- O. Empty Hand Control: Techniques that cover a number of subject control methods with the officer utilizing his hands and not yet employing any weapons.
- P. Dangerous Animal: An animal that has done or communicated by its actions an intention, habit, tendency, or propensity to do harm to people or other animals.
- Q. Display: Includes pointing a pistol, rifle or shotgun by an agency member on or off duty for the purposes of using force for defensive actions; excluding training sessions, recreational shooting, euthanizing an animal and tactical team activations in which specialized lethal weapons are utilized.
- R. Sanctity of Life: Respect the value of every human life. Deadly force should only be used in extreme circumstances and when reasonably necessary.

- S. Intervene: To come between, whether verbally or physically, so as to prevent or alter a result or course of events.

## 5. De-Escalation:

De-escalation is an effort by officers to defuse confrontations in an attempt to prevent an officer's use of force. This may not be safe or feasible in every situation. Officers shall use de-escalation techniques whenever reasonable and appropriate, before resorting to force and in an effort to reduce the need for force. De-escalation techniques may include verbal persuasion, warnings and tactical de-escalation techniques, such as slowing down the pace of an incident, waiting out subjects, creating distance (and thus the reactionary gap) between the member and the threat, and requesting additional resources (e.g., specialized units, mental health care providers, negotiators, etc.) to resolve the incident.

- A. When reasonable under the totality of circumstances, officers should use advisements, warnings, verbal persuasion, and other tactics and alternatives to higher levels of force.
- B. Officers should recognize that they may withdraw to a position that is tactically advantageous or allows them greater distance in order to de-escalate a situation or consider or deploy a greater variety of force options, including lesser force or no force at all. However, the law does not require an officer to retreat or take cover.
- C. Officers shall perform their work in a manner that avoids unduly jeopardizing their own safety or the safety of others through poor tactical decisions.
- D. Officers shall not use tactics designed to intentionally escalate the level of force.

Other options, not listed above, may be available to assist in de-escalating the situation.

Supervisors who become aware of a situation where an officer is using de-escalation techniques shall monitor the radio communications and evaluate the need to respond to the scene.

## 6. Reasonable Force Will Be Used to Accomplish Lawful Objectives

- A. Use of force by personnel is limited to that which is reasonably necessary and to accomplish lawful objectives. Weapons approved for use by personnel (other than Tactical Unit) are limited to chemical spray, baton, issued handguns; shotguns, patrol rifles (limited cases) and Conducted Electrical Weapons (CEW). Only the Tactical Unit members will employ counter-sniper rifles, automatic rifles, submachine guns, chemical munitions, pyrotechnics, or other special weapons. Personnel operating

under the provisions of this policy may utilize chemical munitions and other non-lethal weapons as necessary.

- B. Physical force will not be used in an attempt to prevent a suspect from swallowing evidence or to retrieve evidence that a suspect attempts to swallow. An attempt to manually remove an object from a suspect's mouth or throat, places both the suspect and officer at risk of injury. The officer will order the suspect to spit out the contraband and advise the suspect of the severe health consequences of swallowing objects or controlled dangerous substances. Persons in custody who swallow evidence will receive medical attention.

## **7. Duty to Intervene:**

Officers have a duty to intervene to prevent the use of excessive force by another officer toward any person. Intervention may be verbal and/or physical. Failure to intervene may subject an officer to disciplinary action. Officers must immediately notify a supervisor after such an intervention, when safe to do so. Failure to intervene may subject a sworn member to disciplinary action, civil liability and/or criminal prosecution.

### **A. Required Action**

- a) If aid is required by any individual, ensure that medical attention has been rendered as outlined in this policy.
- b) Take a preventive approach, whenever possible, if observing behavior that suggests that another officer of the department is about to apply or in the process of applying use of Force that is outside the guidelines of this policy.
  - i. Examine the circumstances surrounding the incident to determine the appropriate form of intervention, and
  - ii. Intervene verbally or physically, depending on the circumstances.
- c) Take an active approach to intervene to stop any unauthorized use of force, when such use of force is being committed by another officer of the department.
  - i. If verbal interventions are not sufficient to stop the unauthorized use of force, come between the officer and the other individual involved.

**EXAMPLE:** You observe an officer strike an individual without any reason, it is your duty to intervene with verbal or physical techniques, whichever is most appropriate at that time. If necessary, step in between the officer and the individual or hold the officer back in order to stop him/her from inflicting more unauthorized use of force.

- d) Immediately notify a supervisor after conducting any type of intervention, when safe to do so
- e) Consistent with the Department's Use of Force Policies and Procedures, when a physical intervention was performed, the intervening officer and any other officers who may have been involved in or witnessed the incident are required to

submit a detailed report of the incident, documenting their involvement, the actions that were taken, their observations and all other relevant facts.

## **8. Use of Force:**

Salisbury Police Department Officers will use only the degree of force that is objectively reasonable, under the circumstances.

- A. Reasonably Necessary: The reasonableness of a particular use of force is based on the totality of circumstances known by the officer at the time of the use of force.
- a) Reasonableness must be judged from the perspective of a reasonable officer on the scene.
  - b) The reasonableness standard is an objective one. Whether the officers' actions are reasonably necessary in light of the facts and circumstances confronting him or her, without regard to the officers underlying intent or motivation.
  - c) Reasonableness is not capable of precise definition or mechanical application. The reasonableness standard must allow for the fact that officers are often forced to make split-second decisions in circumstances that are tense, uncertain, dynamic and rapidly evolving about the amount of force that is necessary in a particular situation.
  - d) Officers will use physical force only when no reasonably effective alternative appears to exist, and only then to the degree which is reasonable to affect a lawful purpose.

B. The use of excessive force or brutality will not be tolerated under any circumstances.

## **9. Weaponless Physical Force/Empty Hand Control:**

- A. Weaponless physical force may include hard punches or kicks and the provisions of this policy apply. Officers will only use such force as is needed to accomplish lawful objectives which include such action in the defense of human life, including the officer's or any other person so endangered. The intent of this directive is to minimize the severity posed by obvious injuries or nonvisible trauma associated with weaponless or hand-to-hand tactics. Neck restraints are prohibited. "soft" techniques which have minimal chance of causing serious injury. These techniques include some pressure point control techniques and joint manipulations. Hard techniques are those that have a probability of causing serious injury. These techniques include punches and leg strikes.

## **10. Use of Deadly Force:**

- A. An officer may use deadly force only when the officer reasonably believes that the action is in defense of any human life, including the officer's own life, or in defense of any person in immediate danger of serious bodily injury. A verbal warning should be given, if feasible, before using deadly force.

- B. An officer may use deadly force to prevent the escape of a fleeing suspect if he/she reasonably believes that probable cause exists:
  - a. The suspect has committed or is in the process of committing a felony involving the infliction or threatened infliction of serious physical injury or death, and
  - b. The escape of the suspect would pose an imminent danger of death or serious physical injury to the officer or another person unless the suspect is apprehended without delay, and
  - c. The officer has given a verbal warning to the suspect, if time, safety, and circumstances permit.
  - d. At no time will deadly force be utilized to prevent injury or death of a police K-9 or a police service animal.
  
- C. When reasonable, an officer should identify himself/herself as a law enforcement officer and state his/her intention to use deadly force before using a firearm or employing deadly force.

**11. Restrictions on the Use of Deadly Force:**

- A. An officer shall not use deadly force to subdue persons whose actions are a threat only to property.
- B. Deadly force shall not be used against persons whose conduct is a threat only to the person himself/herself.
- C. Choke holds are prohibited unless deadly force is authorized.
- D. Officers will not discharge firearms at a vehicle for the purposes of disabling the vehicle.
- E. Members shall not fire any weapon from or at a moving vehicle, except:
  - a) To counter an imminent threat of death or serious bodily injury to the officer or another person, by a person in the vehicle using means other than the vehicle.
  - b) To counter a situation where the officer is unavoidably in the path of the vehicle and cannot move to safety. Officers should avoid positioning themselves in the path of a moving vehicle whenever possible.
- F. Warning shots are prohibited.

**12. Duty to Provide Medical Assistance (Medical aid):**

- A. Whenever there is an obvious injury, signs of injury, complaint of injury, or medical attention is requested by any individual after a use of force incident, officers shall immediately render aid consistent with his/her training and experience and notify the



communications center. Appropriate medical aid may consist of, but not be limited to, the following:

- a) Frequent observation of the subject to detect any obvious change in his/her physical or mental condition;
  - b) Flushing chemical agents from the subject's eyes;
  - c) Applying first aid to the subject's minor injuries;
  - d) Or for more serious or life threatening incidents, immediate aid by medical professionals.
- B. If an individual has been subjected to impact by a less-lethal weapon, needed first aid by the officer or by EMS personnel will be provided. If the individual refuses medical treatment the officer must document his/her actions taken on the use of force report.
- C. If an individual has been subjected to the use of a CEW, the individual shall be provided with medical treatment as stated in the policy.
- D. Additional care and caution should be exercised when encountering individuals who are visibly or known to be pregnant, suffering from pre-existing injuries, elderly, children, frail, have a low body mass, are experiencing a medical or mental health crisis, or are otherwise apparently vulnerable or in distress.
- E. If the subject was treated at the hospital, the officer shall obtain the identity of the attending physician, the medical aid rendered, and this information will be included in the use of force report.
- F. If the subject refuses medical treatment but in the opinion of the officer medical assistance is required, the subject shall be transported to the hospital.
- G. If the subject was injured prior to being in custody of department personnel, the injury shall be documented on the use of force report.

### **13. Dangerous Animals:**

- A. Officers may use reasonable force to stop a dangerous animal in circumstances where the animal appears to pose an imminent threat to human or animal safety.
- B. If the situation dictates, the investigating officer/detective may conduct pre-raid surveillance prior to executing a search and seizure warrant, in an effort to determine if a dangerous animal may be present at the location to be searched.
- C. Officers shall develop a reasonable contingency plan to control/avoid a dangerous animal prior to confronting the animal when given advance notice that a dangerous animal may be encountered (e.g., dog pole, contact the animal control officer, etc.).

#### **14. Training Requirements:**

- A. During an orientation phase after being hired, entry level sworn officers and animal control officers who will be authorized to carry lethal or less lethal weapons will be granted electronic access to all agencies polices related to lethal and less lethal weapons that are approved for use by the department. These same entry level personnel will also be instructed in the policies directly related to use of force before being authorized to carry a lethal or less lethal weapon. The issuance and instruction will be documented and forwarded to the administrative commander for review and included in the respective personnel file.
- B. Use of force training shall be conducted by a certified instructor.
- C. Annually, all agency personnel authorized to carry weapons shall receive training on the department's use of force policy to include, but not be limited to, the use of force in general, de-escalation, tactical alternatives to the use of force, the use of deadly force and the legal and policy limitations that govern the use of force and deadly force.
- D. The training officer maintains the curriculum used for the training. Training curriculum for the agencies use of force is reviewed by the Maryland Police Training Standards Commission, as affected personnel will receive in-service training credit.

#### **15. Use of Force-Required Report:**

- A. Use of force report shall be submitted to the officer's supervisor whenever an officer:
  - a) Discharges a firearm, for other than training or recreational purposes;
  - b) Takes an action that results in, or is alleged to have resulted in, injury or death of another person;
  - c) Applies force through the use of lethal or less lethal weapons; or
  - d) Applies weaponless physical force at a level as defined by agency policy, or
  - e) When the injury or death of another person results from a motor vehicle pursuit
- B. The officer shall make a verbal report to his/her/their supervisor as soon as possible following the incident. The intervening officer (if applicable) shall also make a verbal report to his/her/their supervisor as soon as possible following the incident.
- C. A detailed report shall be completed within that tour of duty or no later than eight (8) hours after the end of the tour of duty during which the incident occurred. The Division Commander(s) of the officer(s) involved may extend the eight (8) hour deadline if extenuating circumstances exist. Reports shall be submitted by all employees involved in the incident.
- D. The report shall contain, but not limit to, the following information:

- a) The essence of the incident beginning with the circumstances leading up to and culminating with the action taken by the officer(s);
  - b) Whether or not the subject(s) was armed;
  - c) The effectiveness of the equipment used;
  - d) Any injury to the officer(s) before, during and after the action taken;
  - e) The injured or deceased person's full name, DOB, sex, race and home address, if available;
  - f) The type of injury sustained by the person and how it occurred; and
  - g) If appropriate medical aid was rendered.
  - h) Whether the officers body camera, in-car camera or taser video was activated during the use of force incident.
- E. The officer shall ensure that his/her body camera, taser or in-car camera video footage has been downloaded no later than the end of his/her tour of duty.
- F. Any employee who witnesses an injury or death by another departmental employee(s) shall submit a complete and detailed report via the chain of command to the involved employee's Division Commander, within that tour of duty or no later than eight (8) hours after the end of the tour of duty during which the incident occurred. The Division Commander may extend the eight (8) hour deadline if extenuating circumstances exist.
- G. Any employee who intervenes, either verbally or physically, during another officer's unauthorized use of force shall submit a complete and detailed report via the chain of command to the involved employee's Division Commander, within that tour of duty or no later than eight (8) hours after the end of the tour of duty during which the incident occurred. The Division Commander may extend the eight (8) hour deadline if extenuating circumstances exist.
- H. A report, in accordance with the mandate of this policy, is also required if an injury or death occurs as a result of any other incident or a motor vehicle accident involving a departmental employee.
- I. This directive, in the absence of injury or death, does not require reporting the pointing of a departmentally issued handgun, using weaponless hand-to-hand control techniques that have little or no chance of producing injuries when gaining control over, or subduing non-complainant or resisting persons. These techniques include, but are not limited to: physical touching, gripping or holding, frisking, pain compliance measures, pressure point application, come-alongs, handcuffing, or other custodial procedures.
- J. The use of force by animal control Officer(s) falls within the purview of this policy.

- K. The reports shall contain a documented review of the incident by the officer's supervisor and determine if the use of force incident is consistent with policy or justified but avoidable. All reports will be routed to the division commander of the involved employee for a documented review and a determination as to whether the findings of the supervisor are consistent with policy. If involved personnel are assigned to two or more divisions and working a special detail, the reports shall be routed to the Division Commander in which the operation falls under. The division commander may also make recommendations deemed advisable such as, recommending remedial training and supervisor accountability.
- L. A copy of all reports shall also be routed to the chief of police for final review. All final reviewed reports will be submitted to the criminal investigation commander who is responsible for the annual analysis of use of force reports. Corrective action, if any, shall be completed by the officer's supervisor and submitted to the division commander. The corrective action shall be in accordance with the department's disciplinary matrix.
- M. Officers are responsible for explaining and articulating the specific facts, and reasonable inferences from those facts, which justify the officer's use of force. When officers do use force, the Salisbury Police Department is committed to thoroughly reviewing, investigating, and documenting the actions taken to determine if the use of force was consistent with Salisbury Police Department policy and training.
- N. Any officer who displays a pistol, rifle or shotgun at a person for the purposes of using force, will document such action on SPD-128 (handgun display form). Exceptions will include, training sessions, recreational shooting, euthanizing an animal and tactical team activations in which specialized lethal weapons are utilized.

## **16. Supervisor Responsibilities:**

### **A. Immediate Supervisor:**

The supervisor not involved in the incident shall respond to the scene and conduct a complete review of the use of force incident. The supervisor will complete a detailed review of the use of force incident and document his/her findings on the use of force report. Supervisors shall review all video footage associated with the use of force incident to include, body camera footage, in-car camera footage and taser video footage.

### **B. Division Commander:**

The division commander will critically review the immediate supervisor's use of force review. The commander will determine if the involved officers' actions were

consistent with Salisbury Police Department policies and procedures and whether the actions were within the scope of the officer's authority. The division commander shall document his/her findings on the use of force report and forward the report to the Chief of Police for final review.

- a) If the use of force review indicates the need for supplementary or remedial training, the reviewing division commanding should refer such training need to the training officer. When such training occurs, documentation of such training will be store in the officers file.

**17. Documented Annual Analysis of Use of Force Incidents:**

A. Annually the Criminal Investigation Division Commander will conduct a documented analysis of all use of force incidents and assaults on sworn officers. The agency's policies and practices will be closely analyzed with the following key areas focused on:

- a) number of incidents;
- b) disposition of each incident;
- c) date and time of incidents;
- d) types of encounters resulting in use of force;
- e) what actions the department can take to enhance officer safety;
- f) trends or patterns related to race, age and gender of the subjects involved;
- g) trends or patterns resulting in injury to any person including employees; and
- h) impact of findings on policies, practices, equipment and training.

**18. Removal of Officer from Operational Assignments:**

Any employee whose use of force in an official capacity results in a death or serious physical injury shall be removed from operational assignments, pending an administrative review.

The department shall also consider removing from operational assignments any officer involved in a critical or traumatic incident, such as a fatal automobile accident involving the officer, or to which an officer may have been the first responder, or other agency personnel.