

	Operational General Order	5.01 Use of Force	ORIGINATOR/REVIEW Chief's Staff
	SUBJECT Virginia Beach Police Department General Order Chapter 5 - Use of Force		DISTRIBUTION ALL
	CALEA: 4.1.1, 4.1.2, 4.1.3, 4.1.4, 4.1.5, 4.1.6, 4.1.7, 4.2.1, 4.2.2, 4.2.3, 4.2.5, 4.3.3, 4.4.4		
BY THE AUTHORITY OF THE POLICE CHIEF: PWN			

Definitions:

Force - Any physical effort that is used to seize, control, or repel another individual.

Reasonable Belief - A belief, based on specific and articulable facts which taken together with the rational inferences from those facts, reasonably warrant an officer's actions.

Objectively Reasonable Force - The legal standard used to determine the lawfulness of a use of force is the Fourth Amendment to the United States Constitution. See *Graham v. Connor*, 490 U.S. 386 (1989). *Graham* states in part, "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 force must be reasonable under the circumstances known to the officer at the time the force was used."

Serious Bodily Injury - Maiming, disfiguring, or disabling.

Deadly Force - Any use of force that is reasonably likely to cause death.

De-escalation - Taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary. De-escalation may include the use of such techniques as command presence, advisements, warnings, verbal persuasion, and tactical repositioning.

Purpose:

To ensure that all department members understand and comply with the department's philosophy and provisions regarding force and the use of force in accomplishing their law enforcement mission.

Policy:

It is the policy of the Virginia Beach Police Department to treat all members of the public with dignity, respect, and in adherence with the rights and liberties afforded by the United States Constitution and the Constitution and laws of the Commonwealth of Virginia. The department respects and values all human life and it recognizes that deadly force will only be used consistent with this policy.

In the course of their duties, officers of the Department may find it necessary to use force to defend themselves, defend others, effect an arrest or detention, prevent escape, or overcome resistance, and to protect property. In any encounter where the use of force becomes necessary, only objectively reasonable force should be used, consistent with policy and training. Any use of force shall require the officer to specifically detail the force used and the reason. Reviewing commands will evaluate the reasonableness, appropriateness, and necessity of the force used based on the circumstances known to the officer at the time the force was used. It is never permissible to use force greater than necessary to achieve lawful objectives or to conduct lawful public safety activities.

At times, policing requires that an officer must exercise control of a violent or resisting subject in order to make an arrest, to protect the officer, to protect other officers, or to protect the public from the risk of imminent harm. Not every potential violent confrontation can be de-escalated, but officers have the ability to impact the direction and the outcome of many situations they encounter, based on their decision-making and the tactics that they choose to employ. Whenever possible and reasonable based on the totality of circumstances, an officer shall use de-escalation techniques and other alternatives to force, consistent with his or her training, to reduce the need for force and before resorting to higher levels of force. Whenever possible and when such delay will not compromise the **safety of the officer or another** and will not result in the destruction of evidence, escape of a suspect, or commission of a crime, an officer shall allow an individual time and opportunity to submit to verbal commands before force is used.

In determining the appropriate level of force, officers shall evaluate each situation in light of the facts and circumstances of each particular case. Those factors may include, but are not limited to:

- A. The severity of the crime at issue
- B. The level of threat or resistance presented by the subject
- C. Whether the subject was posing an immediate threat to officers or danger to the community
- D. The potential for injury to citizens, officers, or subjects
- E. The risk or apparent attempt by the subject to escape
- F. The conduct of the subject being confronted
- G. The time available to an officer to make a decision
- H. The availability of other resources
- I. The training and experience of the officer
- J. The proximity or access of weapons to the subject
- K. Officer versus subject factors such as age, size, relative strength, skill level, injury/exhaustion, and number officers versus subjects

L. The environmental factors and/or other exigent circumstances

Deadly Force (CALEA 4.1.2, 4.1.3)

Virginia Code § 19.2-83.5 mandates that a law-enforcement officer shall not use deadly force against a person unless:

- A. The law-enforcement officer reasonably believes that deadly force is immediately necessary to protect the law-enforcement officer or another person, other than the subject of the use of deadly force, from the threat of serious bodily injury or death.
- B. If feasible, the law-enforcement officer has provided a warning to the subject of the deadly force that he will use deadly force.
- C. The law-enforcement officer's actions are reasonable, given the totality of the circumstances; and
- D. All other options have been exhausted or do not reasonably lend themselves to the circumstances.

When feasible, a verbal warning such as "Police, stop or I'll shoot," should be utilized.

In determining if a law-enforcement officer's use of deadly force is proper, the following factors shall be considered:

- A. The reasonableness of the law-enforcement officer's belief and actions from the perspective of a reasonable law-enforcement officer on the scene at the time of the incident; and
- B. The totality of the circumstances, including:
 1. The amount of time available to the law-enforcement officer to make a decision.
 2. Whether the subject of the use of deadly force (a) possessed or appeared to possess a deadly weapon and (b) refused to comply with the law-enforcement officer's lawful order to surrender an object believed to be a deadly weapon prior to the law-enforcement officer using deadly force;
 3. Whether the law-enforcement officer engaged in de-escalation measures prior to the use of deadly force, including taking cover, waiting for backup, trying to calm the subject prior to the use of force, or using non-deadly force prior to the use of deadly force.
 4. Whether any conduct by the law-enforcement officer prior to the use of deadly force intentionally increased the risk of a confrontation resulting in deadly force being used; and
 5. The seriousness of the suspected crime.

The use of deadly force cannot be used solely to prevent the escape of an unarmed felon or suspected felon. Deadly force may be used to prevent escape when the officer has a reasonable belief that the suspect poses a significant threat of death or serious physical injury to the officer or others.

Vascular Neck Restraint (CALEA 4.1.6)

Neck restraint is defined by Virginia Code § 19.2-83.3 to mean the use of any body part or object to attempt to control or disable a person by applying pressure against the neck, including the trachea or carotid artery, with the purpose, intent, or effect of controlling or restricting the person's movement or restricting the person's blood flow or breathing, including chokeholds, carotid restraints, and lateral vascular neck restraints.

Chokeholds (CALEA 4.1.7)

Chokeholds and neck restraints are not authorized unless the use of a neck restraint is immediately necessary to protect the law-enforcement officer or another person from death or serious bodily injury. This includes any tactic that involves pressure to the throat or windpipe, which may prevent or hinder breathing or reduce the intake of air.

Firing warning shots from a weapon is prohibited.

Officers may aim or point their firearm when there is a reasonable belief of a threat to the safety of the officer or other person(s). In all cases the officer must be prepared to provide an explanation of the incident. The officer shall submit a Use of Force report via the chain of command to the Commanding Officer of Internal Affairs.

Firing Weapons at a Moving Vehicle

Shooting at a moving vehicle is generally dangerous to both officers and others. Additionally, shooting at a moving vehicle is generally ineffective. The substantial risks generated by the use of gunfire against moving vehicles, in combination with the likelihood that such gunfire will fail to achieve its goal, demand that officer's resort to firing only in the most extreme and exceptional circumstances.

Firing a weapon at a moving vehicle is prohibited, except when the officer reasonably believes that:

- A. An occupant of a vehicle is using or threatening to use deadly force by means other than the vehicle; or
- B. A vehicle is operated in a manner deliberately intended to strike an officer and/or citizen and all other reasonable and available means of defense have been exhausted (including moving out of the path of the vehicle) and the safety of innocent persons would not be unduly jeopardized by the officer's actions. Officers shall not intentionally stand and/or step into the path of a vehicle, creating circumstances where the use of deadly force becomes necessary.

Officers must consider the potential risks to vehicular and pedestrian traffic, and to any other bystanders, before deciding to fire at or from a moving vehicle.

The reasonableness of an officer's actions when firing a weapon at a moving vehicle will be examined from all the objective facts surrounding the incident. The sole fact that a vehicle's driver is attempting to avoid apprehension will not justify use of a firearm to attempt to stop the vehicle.

Less Lethal Force (CALEA 4.1.4)

Consistent with the Virginia Beach Police Department's philosophy of using reasonable force, the department authorizes and/or issues a variety of weapons to sworn officers for use in those situations where a firearm would not be considered a reasonable use of force.

Weapons authorized for use and categorized as less lethal are delineated in General Order 5.02, Weapons.

Any sworn officer using a less lethal weapon, must have the proper training and be authorized by the Virginia Beach Police Department to carry and use the weapon.

OC Sabre/ Def-Tee MK-9 Chemical Irritant / High Volume Chemical Munitions Launcher (ISPRA)

Chemical Irritants are hand-held canisters containing a temporary disabling aerosol that is composed partly of oleoresin capsicum (OC) and causes burning sensation, involuntary eye closure, visual impairment, and reddening of the skin surface.

Chemical Irritant is a less lethal alternative for controlling, subduing, or apprehending a suspect that is actively resisting or one that is using mechanical means to thwart an officer's attempts to control or detain him/her.

OC Sabre/ Def-Tee MK-9

- A. OC should be deployed from 3' to 6' away from the subject. This will help to maintain a reactionary gap. No closer than 3' is recommended. However, there may be situations where this is not possible.
- B. Target Areas: Eyes, nose, and mouth
- C. Recommended spray method is ear to ear over the eyes. A verbal warning of "CLEAR" should be given before deploying OC.
- D. Deployed in 1, 1 second burst from a 45 degree angle. Spray and move

High Volume Chemical Munitions Launcher (ISPRA)

- A. Effective Range: 15 to 20 yards (40 to 60 ft) in still air. Dispersion pattern: 1 yard (3 feet) in width for every 3 yards (9 feet) in distance.
- B. Shots: Average repeat capability of 13 to 15 one-second bursts per fully charged unit.
- C. Firing: Unit is fired from the hip or from an underarm position in which the operator can brace themselves, remove safety pin, 1 second burst.
- D. Indoor/Outdoor use.

Expandable Baton/ Civil Disturbance Baton

- A. Batons are defense impact tools that offer less lethal methods for self-defense or defense of another. Impact tools are less lethal alternative for controlling, subduing, or apprehending a suspect that is acting or is about to act in an assaultive manner.
- B. Only the Expandable Baton is authorized for normal duty. Officers may only carry the Civil Disturbance Baton when authorized by a supervisor.
- C. Only those officers who have been trained in the use of the Monadnock PR-24 will be authorized to carry the baton when approved by a supervisor of CDRT.
- D. The target areas of the assailant include the arms, legs, and body.
- E. The operator should aim for center mass of whatever target area they are attempting to strike.
- F. Expandable ASP Baton
 - 1. There are 3 authorized closed mode strikes for close contact, weapon strike, reaction strike, and straight strike.
 - 2. There are 3 authorized open mode strikes for long range contact, weapon strike, reaction strike, and straight strike.
 - 3. The weapon hand is palm down striking at a 45° angle with the last 3 inches of the baton at center mass of the body.
 - 4. Officer should strike as hard as possible as long as resistance continues.
- G. Civil Disturbance Baton
 - 1. On guard position is used to move protesters or rioters back while advancing the line.
 - 2. The on-guard baton position is achieved by lowering the tip of the baton to approximately waist level, pointing it toward the crowd, and stepping forward with your opposing leg.
 - 3. Baton Strikes:
 - a. Straight strike
 - b. Strong hand strike
 - c. Reverse hand strike
- H. Monadnock PR-24 Baton

Basic application will be to move protesters or rioters back while holding or advancing the line.

 - 1. Basic Positions – the foundation from which all positions and techniques originate. Vertical Carry Horizontal Carry Two-Handed Carry

2. Long Position – position is achieved by using the strong hand positioned to rotate the short handle to move the long-extended portion forward until it is directly in front of the officer. With the support hand grasp the long-extended portion palm down. The long end will be facing directly toward the target.
3. Baton Strikes
 - a. Front Jab – a sharp but controlled forward thrusting motion, slightly rotating strong hand (palm down) as the jab is performed
 - b. Rear Jab – pull the PR-24 baton sharply to the rear as the officer looks over their strong shoulder.
 - c. Long Jab – A sharp but controlled forward jab. Support hand is palm down on the long portion.
 - d. Chop/Block – position in which the officer can block an incoming strike from a club or the like and chop/block using the various sections of the PR-24 baton
 - Flat Chop
 - Upper Chop
 - Power Chop

Penn Arms PL 65-40mm/ 40 mm single shot gas launcher

- A. Muzzle blast dispersion
- B. Micro-pulverized agent
- C. Agent is blown out of the muzzle
- D. Max Range 30 ft (10 yards)
- E. 0.44 oz (12.3g) active agent
- F. Dispersal - Instantaneous
- G. Deploy above head/Below waist
- H. Chemical Munition Projectiles
 1. Long (150 yds) and Short (75 yds) range
 2. Not to be fired directly into crowd
 3. Short range fired in front of crowd
 4. Long range fired to sides or behind crowd
 5. Agent is ignited (pyrotechnic)
 6. Discharge time 20-30 seconds
- I. Soft Baton Projectiles

1. 3 to 5 yards optimal range
2. Impact of projectile leaves body surface intact
3. Causes sufficient injury/pain to incapacitate the threatening subject
4. Capability of various payloads
 - a. Inert
 - b. CS
 - c. OC
 - d. Marking Round

Less Lethal Projectile Delivery Systems: SAGE SL-1/ SAGE ACE /SAGE SL-6

The Department has several types of Less Lethal Projectile Delivery Systems. These systems are authorized to be used against subjects armed with weapons other than firearms, making threatening gestures, making threatening statements without overt actions, or to subdue a subject to prevent injuries to themselves or others:

- A. A verbal warning must be given to the subject prior to discharging Sage less lethal.
- B. Ultimately the decision to fire the projectile is up to the Sage Operator.
- C. Target areas include: Lower Abdomen, Arms, Legs

Conducted Electrical Weapon (CEW/Taser)

The policy of the Virginia Beach Police Department is to consider the use of a Conducted Electrical Weapon (CEW) a serious use of force and in addition to the other provisions of this General Order will be guided by the following protocols:

- A. Deploying of Taser Probes and/or Drive Stun will not be used when confronting a non-violent resistance that does not represent a threat to police officers or others
- B. Officers may display, ARC, or Laser Paint a CEW on a subject to deescalate a situation
- C. The CEW shall not be deployed against a fleeing suspect except when the individual poses an immediate threat to officers or citizens.
- D. Prior to use of the CEW, officers will first attempt to use negotiation, command or physical skills unless the danger presented requires immediate action.
- E. Officers will avoid using a CEW against an obviously pregnant female, the very young, the very old, mentally ill or the physically disabled, unless all other less intrusive means to control the situation have proven ineffective or are impractical.
- F. The use of the Drive Stun is strongly discouraged unless it involves exigent circumstances where a standard deployment is impractical.

- G. A supervisor will be required to respond to every CEW discharge to manage the post incident after action review. The supervisor's responsibilities at the scene will include, locating, interviewing, documenting, and collecting all relevant data to help enable a full and proper UOF analysis.

PepperBall Launcher

- A. The PepperBall launcher is a less lethal tool that provides an alternative for apprehending subjects who are actively resisting arrest.
- B. Only authorized and trained sworn members may use the PepperBall Launcher System consistent with Use of Force Policy and training.
- C. Use of the PepperBall launcher, to include incidents involving SWAT, falls to the reasonableness of the incident and supervisor approval is not required.
- D. Officers should avoid using the PepperBall launcher on persons who reasonably appear to be, or known to be, young children, elderly, medically infirm, pregnant, or users of a cardiac pacemaker.
- E. A supervisor will be required to respond to every Pepper Ball Launcher discharge to manage the post incident after action review. The supervisor's responsibilities at the scene will include, locating, interviewing, documenting, and collecting all relevant data to help enable a full and proper UOF analysis.
- F. PepperBall launchers will be assigned to precincts and specialty units at the discretion of the Police Chief.
- G. The PepperBall round consists of a small, frangible sphere containing Pava powder.
- H. The PepperBall launcher is a semi-automatic less lethal weapon system that is powered by high pressure air (HPA).
 - 1. Each command will be provided a Self-Contained Breathing Apparatus (SCBA) HPA and fill adapter.
 - 2. SCBA tanks can be refilled by a Pepperball instructor at designated fire stations or Lynnhaven Dive Center on Great Neck Road.
- I. The Pepperball launcher can be shoulder mounted and has a high capacity gravity fed hopper.
- J. Only sworn personnel trained in the use of the Pepperball launcher are permitted to use the less lethal weapon system.
 - 1. The presence of a second officer to provide lethal cover is highly recommended while using the Pepperball launcher.
 - 2. If serious injury requiring hospitalization occurs from the use of the Pepperball launcher, follow the notification process for shots fired as outlined in this General Order.

- K. When targeting an individual with the Pepperball launcher, the following areas should be avoided unless deadly force is authorized:
 - 1. Head
 - 2. Neck
 - 3. Spine
 - 4. Tailbone
 - 5. Xiphoid Process
 - 6. Genitals
- L. The effect range of the Pepperball launcher is 0 to 60 feet for direct impact, and up to 150 feet for area saturation. Area saturation can be accomplished by aiming Pepperball munitions at solid objects such as buildings, walls, and the ground.
- M. When utilizing the Pepperball launcher, the minimum number of munitions should be deployed, and there should be a reassessment after each deployment. Heavy clothing can hinder the effectiveness of the Pepperball munitions, and other areas of the body should be considered for targeting.
- N. Individuals struck by a Pepperball munition often “crunch” over and lower their head. It is important to anticipate this reaction when deploying Pepperball munitions.
- O. Decontamination for individuals struck exposed to the Pepperball PAVA is fresh air and clean, cool water.
- P. Officers should avoid using the Pepperball launcher on persons who reasonably appear to be, or known to be, young children, elderly, medically infirm, pregnant, or users of a cardiac pacemaker. Use of the Pepperball launcher on such individuals is not prohibited, but limited to the exceptional circumstances where the potential benefit outweighs the risks.
- Q. After the use of the Pepperball launcher and the individual is under control, onlookers should be informed that the Pepperball launcher is a less lethal alternative designed to apprehend individuals without causing serious injury. Officers are exempt from this notification requirements during incidents involving civil unrest.

PepperBall Launcher (Crowd Control)

- A. Officers will not initiate the use of force or chemical irritant against crowds or a group of individuals except when reasonable and necessary to protect the officer, the subject, or another party from a risk of death or physical harm or is necessary to effect the arrest of an actively resisting subject or to prevent the escape of that subject.
- B. Officers encountering crowds will evaluate the situation and determine if there is a current or future need requiring crowd control or crowd management. Prior to police action, the officers will summons a supervisor to the scene.

- C. If crowd control is or will be required, the supervisor will summons a command officer, rank of Police Captain or above, or the designated Command Duty Officer (CDO) to the scene. Once on the scene, the command officer will direct all police action and authorize the use of weapons, tools, or tactics needed to resolve the situation.
- D. Only a Police Captain, designated CDO, or above can authorize the deployment of the PepperBall launcher, absent exigent circumstances.
- E. Officers must give verbal notice prior to deploying into a crowd unless it would present a danger to the officer or others to give such a warning. Any deployment of the PepperBall launcher during crowd control requires, specific targeting of a subject to be arrested or who represents an imminent risk of death or physical injury to the officer or others, except when using the Pepper Ball launcher as an area saturation tool.
- F. The officer must be reasonably sure the weapons will not strike other individuals in the crowd who pose no threat of violence.

Hand thrown chemical canisters/ Stinger Grenade with Rubber Pellet RP/ CS& RP/OC

- A. Officers will not initiate the use of force or chemical irritant against crowds or a group of individuals except when reasonable and necessary to protect the officer, the subject, to stop aggressive actions of a crowd, or if looting and destruction has begun or is increasing.
- B. Officers encountering crowds will evaluate the situation and determine if there is a current or future need requiring crowd control or crowd management. Prior to police action, the officers will summons a supervisor to the scene.
- C. If crowd control is or will be required, the supervisor will summons a command officer, rank of Police Captain or above, or the designated Command Duty Officer (CDO) to the scene. Once on the scene, the command officer will direct all police action and authorize the use of weapons, tools, or tactics needed to resolve the situation.
- D. Only a Police Captain, designated CDO, or above can authorize the deployment of the hand thrown chemical canisters, absent exigent circumstances.
- E. Officers must give verbal notice prior to deploying into a crowd unless it would present a danger to the officer or others to give such a warning.
- F. Hand thrown munitions (5-30 yards)
 - 1. Flameless expulsion hand canister
 - 2. Pyrotechnic hand canister
- G. Flameless Tri-Chamber
 - 1. M201AI Fuse - 1.5 second
 - 2. Dispersal time 20-30 seconds

3. 0.7 oz (20g) of active agent
 4. Primarily indoor use
- H. Triple Chaser Hand Canister
1. M201AI Fuse - 1.5 second
 2. 3.2 oz (92g) active agent
 3. Dispersal time 20-30 seconds
 4. Outdoor use ONLY
- I. On command, throw, allowing spoon to fly off as canister leaves hand
- J. For pyrotechnic canisters, generally aiming for the front of the crowd (upwind)
1. Not directly into crowd
 2. Canister may wind up in crowd, but that is not our intention
- K. This section Does Not apply to hand thrown Smoke canisters when used as a distraction tactic.

Long Range Acoustical Device (LRAD)

- A. LRAD is not a weapon; LRAD is a highly intelligible long-range communication system and a safer alternative to non-lethal and kinetic force.
- B. The LRAD can be deployed either on a tripod or armored vehicle. The LRAD is an excellent tool to make announcements, declare an unlawful assembly, provide warnings, and disperse crowds. It may also be utilized to give joint commands to the entire Civil Disturbance Unit.
- C. The LRAD does not exceed the Occupational Safety & Health Administration (OSHA) 90 dBA exposure regulation within an 8-hour time weighted average when being operated within the green volume. The LRAD should be operated in the green volume level only and can be operated at the maximum green volume with the "Voice Boost" activated. "Voice Boost" should not be used in the yellow or red volume. If officers are within 75 meters of the LRAD, AND in the 60-degree "cone", then officers should wear hearing protection. The LRAD should never be pointed directly at an individual.
- D. Only trained personnel shall operate the LRAD

Taser Shockwave

- A. The Taser Shockwave is primarily utilized as an area denial tool.
- B. Considerations of placement are in narrow funnel approaches.
- C. It shall only be used with trained SWAT officers monitoring the device.

Medical Assistance (CALEA 4.1.5)

All persons who have force used on them by a police officer shall be asked by an officer if they sustained any injuries and if they would like medical treatment. Medical assistance shall be obtained as soon as is practical for persons who have sustained injury, express any complaint of injury, been rendered unconscious, or that the officer has reason to believe has been injured as the result of any use of force incident. In the event that a suspect is injured, officers have a duty and obligation to provide medical treatment while the suspect is in custody. Any injured person shall be treated with dignity and respect and shall be properly cared for while awaiting the arrival of emergency services personnel. Officers should consider the medical condition and/or any resistance being used by the injured person before using restraining devices such as handcuffs. Any questioning about injuries should be captured on a Body Worn Camera (BWC) if possible, with the understanding that there will be times it is impractical or inappropriate to do so. Regardless of the availability of a BWC, the officer completing the BlueTeam will add the response to the injury questioning into the narrative of the Blue Team report.

Administrative Assignments/Counseling (CALEA 4.2.3)

All department personnel directly involved in a use of force incident, accident, or any other actions taken in an official capacity which results in serious injury or death shall be placed on administrative assignment for a period of time designated by the Police Chief or his designee pending an administrative review. This assignment will not result in loss of pay or benefits pending the results of an investigation and will not be in a position or role that will expose the employee to contact with the public. The assignment shall not be interpreted to imply or indicate that the department member acted improperly.

All department personnel directly involved in a use of force incident which results in serious injury or death shall receive counseling as soon as practical after the incident and at no cost to the officer(s). The officer's immediate supervisor shall be responsible for ensuring that such counseling is provided. Prior to returning to active duty, the officer will be screened by a mental health professional. The Officer's supervisor will arrange for the screening, which will be coordinated by the City of Virginia Beach Occupational Health Services. Follow-up counseling will be at the discretion of the officer(s) involved.

Training (CALEA 4.2.5, 4.3.3, 4.3.4)

Sworn members will receive basic training on the use of force by law enforcement personnel in the Virginia Beach Police Academy as part of basic police training.

Additionally, officers will receive annual refresher training on the use of force as part of the annual firearms qualification.

All supervisors responsible for managing use of force incidents and other police actions that result in death or serious bodily injury shall receive training in the managing this type of incident.

Officers shall receive awareness training on the criminal and administrative procedures for the investigation of use of force and other police actions that result in death or serious bodily injury.

Recruits and newly hired state certified officers will receive copies of the Use of Force Policy and Weapons Policy prior to firearms qualifications. Recruits and state certified officers will receive specific instructions on the policies and will be tested on the contents of the policies.

During scheduled firearms re-qualifications, officers will receive a briefing by the firearms instructors concerning the department's policies on use of force, firearms, and authorized ammunition.

Use of Force Notification/Supervisory Response to Reported Use of Force (CALEA 4.2.1, 4.2.2, 4.2.4, 82.3.5)

Officers will make verbal notification at the earliest and safest opportunity, to their on duty supervisor, (if working off duty refer to G.O. 02.14 Off Duty Employment) whenever force is used in the performance of an official police duty, or when exercising their law enforcement authority. This applies to all force, weapons, less than lethal or weaponless physical force. Such notification is required whether the officer is on or off duty. In situations where an officer takes action that involves the use of force in another jurisdiction, the officer will immediately notify the appropriate law enforcement agency in that jurisdiction and contact an on-duty supervisor in this department as soon as practical.

Once notified of a use of force the supervisor shall inquire with the involved officer on the extent of force used and objectively evaluate the circumstances. Additionally, they shall check on the physical and mental welfare of the officer(s) and any involved persons.

A supervisor shall respond to any use of force incident greater than the use of contact controls, such as strikes, defensive tactics, weapons, or involves actual or claimed injury. Supervisors responding to incidents shall complete a PD-136 as a reference guide to conduct a thorough administrative investigation of the use of force. The PD-136 will act as a supervisor's field notes of their investigation and will include all notes about the incident and statements made by the person force was used against. The responding supervisor should retain the PD-136 as their field notes of the incident and ensure they are included as an attachment to the BlueTeam when they conduct their review.

The responding supervisor shall conduct a thorough administrative investigation of the use of force unless the incident will be investigated criminally by the Detective Bureau. A thorough investigation should include speaking with witnesses, documenting injuries, or property damage, collecting photos, documenting conditions of the scene, and checking on the welfare of all persons involved.

The on-scene supervisor will ensure any involved officer shall submit to the appropriate tests as outlined in the City of Virginia Beach Human Resources Policy 6.15 (Substance Abuse Policy) when any of the following occurs while on duty, or while off duty and an employee has taken official police action:

- A. An employee discharges a firearm that is pointed towards a person, regardless of whether an injury is sustained.

If the incident location is not within the City of Virginia Beach the supervisor shall speak with the officer as soon as practical and determine the type of response needed from the Virginia Beach Police Department.

Questioning suspects about their injuries and treatment should be narrowly focused to personal welfare questions. Avoid questions that may elicit an incriminating response and would likely be interpreted as a criminal interrogation. Appropriate welfare questions are:
Are you injured? Do you need medical care/treatment?

Officers and supervisors should be aware that when asking about the welfare of an arrested subject that person may make spontaneous, incriminating statements. A Miranda warning is required before additional questioning or interrogation occurs. Specific questioning about how the individual obtained their injuries and any questioning about criminal activity on the part of the suspect should be done by the arresting officer after reading of Miranda rights.

Every effort should be made to have welfare check questioning recorded on a Body Worn Camera (BWC) and detailed notes should be recorded in the PD-136. All statements made to law enforcement are subject to the rules of discovery, therefore statements made by the arrestee during a welfare check shall be included in the arresting officer's investigative report (PD-3) for transmission to the Commonwealth Attorney's office. In cases where the charges are not being prosecuted by the Commonwealth Attorney's Office, the statements shall be retained by the arresting officer in case they are requested by a private attorney.

When an officer discharges his/her firearm not in the line of duty, including negligent discharges, he or she will immediately advise the Emergency Communications & Citizen Services (ECCS) of the incident and request that an on-duty supervisor be notified. IA shall be contacted as soon as possible, and the scene shall be secured until the assigned supervisor responds to conduct a preliminary investigation. The officer should secure the area of the shooting, if possible, and await the arrival of the supervisor.

For many cases, after consultation with IA and provided the shift commander or CDO is available to respond, IA can designate an on-duty supervisor to conduct the preliminary investigation which can be captured via Blue Team. IA will generally respond and conduct the preliminary investigation for cases that involve injury or 3rd party property damage. Additionally, IA will respond to cases to conduct the preliminary investigation when there is no shift commander or CDO available to respond.

The supervisor shall conduct an investigation as if a weapon was discharged within the officer's official capacity. If the supervisor determines that the discharge was negligent, resulting in no injury or property damage belonging to anyone other than that officer involved, the officer will provide a memorandum containing the facts of the incident to the investigating supervisor. In those cases where the on duty supervisor determines the incident was a negligent discharge, that supervisor shall complete an investigation, document the event on a memorandum, and forward the results and all attachments (to include the officer's memorandum) to the Commanding Officer of Internal Affairs. The Commanding Officer of the Internal Affairs will ensure that a copy is forwarded to the Training Bureau as soon as practical (See Administrative Field Guide for guidelines on the proper method for completing the investigative memo). All negligent discharge events

require the Internal Affairs Bureau to complete a firearms discharge investigation. The investigative memorandum generated by the on-scene supervisor will be the primary source for the IA Investigator's firearms discharge investigation.

The investigation conducted by the on-scene supervisor is separate from the IA firearms discharge investigation. In those cases involving injury or damage to property that does not belong to the officer involved, the supervisor will handle the scene as if a discharge occurred within the officer's official capacity and make the appropriate notifications to ensure that the appropriate criminal and administrative investigations are initiated.

An investigation will **not** be required for a negligent discharge if it occurred during authorized Virginia Beach Police Department firearms training, and when the negligent discharge occurs on the firing line where the round is fired safely downrange. When such discharge occurs, the range officer will appropriately address the matter as a training issue. If, however, the negligent discharge occurs off the firing line or if the round is fired in a direction that places others in danger, the range supervisor will ensure that an investigation is completed (See Administrative Field Guide for guidelines on the proper method for completing the investigative memo).

Officers will submit a Use of Force report to their supervisor to be forwarded through the appropriate chain of command to Internal Affairs. The Use of Force report will be completed by all sworn personnel if they use force under the following circumstances:

- A. Uses hands-on or greater physical force to seize, control, or repel any individual that demonstrates non-compliant behavior or is perceived by the officer to otherwise pose a threat or harm to himself or others.
- B. Applies force using a less lethal weapon.
- C. Any action, other than the use of a firearm, that results in or is alleged to have resulted in an injury.
- D. When an officer points their weapon at others. In situations such as a hostage situation, a drug raid, or when more than one officer would have his weapon pointed at an individual, the on scene supervisor will complete a single Use of Force report documenting the incident.
- E. Animal Euthanasia.

UOF Reporting Exemption

- A. Officer involved shootings or the Use of Force that results in significant injury or death, will not require a written UOF report to be completed by the involved officer. The information for the report will be obtained during the subsequent administrative investigation. The commanding officer of the Internal Affairs will determine if the injury rises to the level to be considered under this exemption.
- B. A purposeful discharge of a firearm during training or recreational purposes will not require a UOF report.

Unless the use of force falls under any of the stated exemptions, Use of Force reports will be completed by the involved officer or supervisor utilizing the "BlueTeam" software program prior to the officer's end of shift. Supervisors will review reports and ensure the report is clear and complete.

To determine whether the use of force was consistent with policy and training, supervisors will evaluate if the force was appropriate, necessary, and reasonable under the circumstances known to the officer at the time the force was used. Supervisors will ensure the report contains all required data and attachments.

After the review, the supervisor shall either return the report for corrections or forward the report through their chain of command to the Internal Affairs. When forwarding reports, supervisors at each level will make a recommendation as to whether the force used was permissible under department policy. Additionally, supervisors will ensure that any injuries to either the officer or citizen are properly documented and reported. Any photographs, TASER video or other relevant documents shall be attached to the "BlueTeam" report electronically; where the file size is too large to attach, a disc shall be created and forwarded to Internal Affairs along with a hard copy of the "BlueTeam" generated report. Use of Force reports shall be submitted by commands to Internal Affairs no later than thirty (30) days after the incident occurred.

Officer Involved Shooting

When an intentional discharge of a firearm occurs, the involved officer will be asked a series of questions by a responding supervisor. These questions are often referred to as "Public Safety Statements." The public safety statement is intended to establish the level of danger that may still exist, aid the initial operational response to locate suspects, and focus the initial stage of the investigation. Because the Public Safety Statement is designed to assess any imminent public safety threat to responding officers and citizens, these answers shall be provided to a responding supervisor immediately. The statements and responses by the involved officer(s) will be included in a memorandum to Internal Affairs. The memorandum will be completed by an on-scene supervisor and submitted by the end of the shift. Questions asked for purposes of the public safety statement is:

- A. If any shots were fired by involved parties, what was the direction of the fire
- B. The location of any unsecured weapons
- C. The location of injured persons
- D. A description of at-large suspects and their mode and direction of travel, time elapsed since they fled, and weapons that were available to them
- E. A description and location of known victims or witnesses
- F. Any information that would help ensure officer and public safety and assist in the apprehension of suspects.

Internal Affairs will generate a Firearms Discharge Review action and ensure the Blue Team use of Force Report is completed. When appropriate a written summary of the response to the Public Safety Statement should be completed by the on-scene supervisor and submitted by the end of the shift.

Internal Affairs will review each report received from commands for content, clarity, and compliance to this General Order. Commands will be responsible for the adjudication of all UOF cases but must consider recommendations made by the UOF Board as outlined below.

Once the case is adjudicated by the proper authority, Internal Affairs will finalize the report and capture the data in the IAPro Data Base.

Use of Force Board

A Use of Force Board will be convened to make recommendations to the Police Chief for any Use of Force that meets the following criteria:

- A. Any use of force that results in serious injury or death. Serious injury will be defined as any injury inflicted by an officer requiring a person to be admitted to a hospital for care.
- B. Any founded complaint regarding a use of force.
- C. Any use of force specifically requested by the Police Chief

The Use of Force Board will not adjudicate Firearms Discharge cases; these will remain the purview of the Firearms Discharge Review Board.

The UOF Board will be required to sign a confidentiality agreement due to the sensitive nature of the material being reviewed and be composed of the following members:

- A. Captain of the Internal Affairs Bureau or designee - Chair
- B. Internal Affairs Bureau Sergeant - Case investigator/Presenter
- C. Lieutenant of Training Bureau - Voting member
- D. Sergeant of Training Bureau - Voting member
- E. Use of Force Instructor of the Training Bureau- Voting member

The UOF Board will be provided all documentation relevant to the UOF, to include the UOF report and if applicable the administrative investigation to include any BWC and In-Car camera footage prior to the meeting for review. The Board will make the following recommendations based on a simple majority for each case reviewed:

- A. Whether all uses of force during the incident were consistent with Department policy and training
- B. Whether the officer(s) involved employed proper tactics
- C. Whether the incident was avoidable
- D. Whether other force alternatives were available and/or reasonable
- E. Training considerations.

The Captain of IAB shall complete a cover letter of the Board's concern of initial rule violations and if appropriate, a recommendation will be noted concerning UOF matters that relate to undisclosed UOF incident(s) that may not be part of the original complaint.

If additional information is needed, IAB will conduct a follow up investigation based on those concerns of the UOF Board. Once the investigation is completed, the cases will be returned to the UOF Board for additional recommendation and conclusion. The recommendation of the UOF Board will be advisory only.

The recommendation will be present to the Police Chief and attached to the investigative file upon conclusion on of the board.

Assault on Sworn Officer (CALEA 4.2.5)

At the conclusion of each calendar year, the Commanding Officer of the Training Bureau or his/her designee shall prepare an analysis for the Police Chief on the use of force by personnel and recommend any necessary training, equipment, or policy modifications.

Intervention

Departmental supervisors, and departmental members in the absence of a supervisor, shall immediately intervene:

- A. If they reasonably believe another department member or members are using force that is not objectively reasonable or is inconsistent with this policy.
- B. If they become aware of any violation of departmental policy, state/provincial or federal law, or local ordinance.

In addition, all members (Sworn, non-sworn, and volunteers) witnessing such an incident shall immediately notify his/her supervisor and follow up with a memorandum.

An internal investigation by Internal Affairs after such a reported incident will ensue.