

Use of Force

300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner.

All members of the Cheverly Police Department adhere to the understanding that all life has equal value and worth. It is the duty of every member of this department to value and respect all human beings, uphold the dignity of all persons, and preserve the sanctity of human life.

In addition to those methods, techniques, and tools set forth below, the guidelines for the reasonable application of force contained in this policy shall apply to all policies addressing the potential use of force, including but not limited to the Control Devices, Conducted Energy Weapon, and Officer-Involved Shootings and Death policies.

300.1.1 DEFINITIONS

Definitions related to this policy include:

Chokehold/Neck Hold/Carotid Restraint - A Chokehold is any hold or contact with the neck that may inhibit breathing by compression of the airway in the neck. A Carotid Restraint or Neck hold is any hold or contact with the neck that may inhibit blood flow by compression of the blood vessels in the neck, or that applies pressure to the front, side, or back of the neck. The Shoulder Pin technique is included as a type of carotid restraint. Chokeholds/Neck Holds/Carotid Restraints/Shoulder Pins are prohibited unless deadly/lethal force is reasonable, necessary, and proportional.

Deadly Force/Lethal Force - Any force likely to cause death or Serious Physical Injury, whether the officer intended to cause death or Serious Physical Injury or not. Deadly Force/Lethal Force includes, but is not limited to:

- (a) The discharge of a firearm at a person
- (b) Strikes with any hard object such as a baton, flashlight, radio, weapon stock/handle, or Improvised Impact Weapon to the head, neck, sternum, spine, groin, or kidneys
- (c) Intentionally striking a person's head against a hard, fixed object such as a roadway, concrete floor, wall, or iron bars
- (d) Kneeing or kicking a person's head, neck, or torso including "knee drops" onto a prone or supine person
- (e) Chokeholds/Neck Holds/Carotid Restraints
- (f) Shooting someone in the head, neck, chest, or back, with a Less-Lethal Launcher at close range
- (g) The use of any force on a person whose health, age, condition, or circumstances make it likely death or Serious Physical Injury will result

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De-Escalation Techniques - De-Escalation Techniques are actions taken by officers, team tactics, and scene management, designed to eliminate the need to use force and increase the likelihood of voluntary compliance in order to resolve any event or situation. De-Escalation Techniques include: talking to a person using a tone of voice and language that is not aggressive or confrontational; creating space or placing barriers between the officer and the person; waiting the person out when circumstances permit; permitting a person to move about when safe; permitting a person the opportunity to make statements or ask questions; slowing down the pace of an incident; tactical re-positioning and requesting additional resources. The guiding principles for de-escalation are patience, flexibility, and the desire to resolve each situation peacefully.

De minimis force - Physical interaction meant to separate, guide, and/or control without the use of control techniques that are intended to or are reasonably likely to cause any pain or injury. Officer-subject interactions require physical contact and not all such contact is, or should be, reportable force. Examples include handcuffing with minimal resistance, escort holds (without pain compliance), and physical guidance (to sit, or enter vehicle).

Feasible - Reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.

Imminent Threat - A person presents an Imminent Threat when the person has the means and ability to harm the officer or another person, and the officer reasonably believes the person intends to cause that harm.

Less-Lethal Force - Force that, when employed as designed, intended, and consistent with policy and training, is not likely to cause death or Serious Physical Injury. Examples include less-lethal launchers (FN303), batons/impact weapons, OC spray, and CEW (TASER).

Physical Force - An officer uses Physical Force any time an officer coercively touches, directly or indirectly, any person. Physical Force includes holds, grabs, blows, and strikes as well as the use of instruments, such as batons, devices, such as CEWs, tools such as O.C. spray, canines, or firearms, whether lethal or less lethal.

Reasonable, Necessary, and Proportional - The review of every Use of Force shall be to determine whether it was objectively reasonable, necessary, and proportional in light of the Totality of the Circumstances that were known, or should have been known, to the officer.

- (a) **Reasonable** - The reasonableness inquiry in an excessive-force case is an objective one examining the officers' actions in light of the Totality of the Circumstances confronting them, without regard to their underlying intent or motivation. Factors to be considered in determining the objective reasonableness of force include, but are not limited to:
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 any person

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4. The potential for injury to members of the public, officers, or subjects
 5. The risk or apparent attempt by the subject to escape
 6. The conduct of the subject being confronted
 7. The time available to an officer to make a decision
 8. The availability of other resources
 9. The training and experience of the officer
 10. The ability of the subject to access weapons
 11. Officer/subject factors such as age, size, relative strength, skill level, injury/exhaustion, disability, and number of officers versus subjects
 12. Environmental factors and/or other exigent circumstances
- (b) **Necessary** - Force is necessary force only when no reasonably effective alternative, to the use of force, appears to exist, to achieve a lawful purpose
- (c) **Proportional** - Proportionality measures whether the force used by the officer is rationally related to the level of resistance or aggression confronting the officer. The more immediate the threat and the more likely that the threat will result in death or serious physical injury, the greater the level of force that may be proportional, objectively reasonable, and necessary to counter it.

Recovery position - The recovery position for a subject who is restrained, has been subjected to any use of force, is intoxicated, impaired by a controlled dangerous substance or drug, unconscious, has a medical condition, or cannot remain standing or seated for any reason, is on their side. Officers shall monitor any person in the recovery position to confirm that they are breathing or not in distress. Officers shall not position a restrained person face-down (as it may cause positional asphyxia) or on their back (which may cause radial nerve damage to the wrist and forearm area).

Serious Physical Injury - Serious Physical Injury is when there is disfigurement or substantial disruption or harm to one or more body parts, organs, or systems. The term includes, for example, brain injury, with or without unconsciousness, gunshot wounds, cardiac arrhythmia, difficulty breathing, cardiac or respiratory arrest, broken bones, dislocations, torn ligaments or tendons, or significant bleeding. This list is not exhaustive and is intended only to provide representative examples for guidance.

Transitory Pain - Any pain or complaint of pain that is brief, does not result in injury, and is delivered as a means to gain compliance. Temporary Pain may result from the application of, but is not limited to, elbow grips, wrist grips, shoulder grips, pressure point technique

Totality of Circumstances - The Totality of Circumstances consists of all facts and circumstances surrounding any event. The facts and circumstances may include but are not limited to:

- (a) Whether an offense has occurred;
- (b) The nature of the offense;

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- (c) The seriousness of the offense;
- (d) The size and strength of the person;
- (e) The number of persons;
- (f) The availability of weapons, to include weapons of opportunity;
- (g) Whether the person is exhibiting signs of mental illness or is experiencing a behavioral health crisis;
- (h) Whether a person suffers from a medical or behavioral health disability, physical or hearing impairment, is impaired by alcohol or drug use, or may be non-compliant due to a language barrier;
- (i) Other force options;
- (j) Availability of non-force options, including tactical repositioning, going to cover or other De-Escalation Techniques;
- (k) Environmental factors;
- (l) Availability of back up and specialized units.

Types of Resistance - Officers will encounter resistance to the exercise of their lawful authority and must use discretion to resolve such resistance with the least reliance on the Use of Force.

- (a) **Passive Resistance** - Passive Resistance is when a non-assaultive person fails to comply with the officer's commands without attempting to flee. Passive Resistance may include, but not be limited to, going limp, standing stationary and not moving based upon lawful direction, and/or verbally signaling an intention to avoid or prevent being taken into custody.
- (b) **Active Resistance** - Active Resistance is when a person moves to avoid detention or arrest but does not attack or attempt to attack the officer or another person. Attempts to leave the scene, fleeing, hiding from detection, physical resistance to being handcuffed, or pulling away from the officer's grasp are all examples of Active Resistance. Verbal statements, bracing, or tensing alone do not constitute Active Resistance. A person's reaction to pain caused by an officer or purely defensive reactions to force does not constitute Active Resistance.

Types of Aggression - Officers may encounter aggression in response to the exercise of their lawful authority and must use discretion to resolve such resistance with the least reliance on the Use of Force.

- (a) **Active Aggression** - Active Aggression is when a person attacks or attempts to attack an officer or another person. Strikes, kicks, or attempted strikes or kicks with hands, fists, the head, elbows, knees, or an instrument, constitute Active Aggression.
- (b) **Aggravated Aggression** - Aggravated Aggression is when a person presents an Imminent Threat of death or Serious Physical Injury to the officer or another person based on the Totality of the Circumstances. Aggravated Aggression represents the least encountered but most serious threat to an officer or other person. Even when confronted with Aggravated Aggression, the officer is required to make every reasonable effort to de-escalate and to continuously assess the officer's Use of Force.

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Use of Force - Any Use of Force or show of force that falls within Level 1, Level 2, or Level 3 force as defined in this policy. Use of Force Levels are:

- (a) **Level 1 Force** - Force that causes transitory pain or the complaint of transitory pain. Examples include:
1. Using techniques that cause Temporary Pain or disorientation as a means of gaining compliance, including open hand strikes and pressure point compliance techniques. Force under this category is not reasonably expected to cause injury.
 2. Pointing a firearm, Less-Lethal Launcher, or CEW, at a person.
 3. Controlled takedowns that do not result in actual injury or hospitalization.
- (b) **Level 2 Force** - Force that causes or could reasonably be expected to cause an injury greater than transitory pain or the use of weapons or techniques listed below. Examples include:
1. Discharge of a CEW in drive-stun or probe mode, in the direction of a person, regardless of whether the application made contact or was effective.
 2. Use of OC spray.
 3. Weaponless defense techniques including, but not limited to, elbow or closed fist strikes and kicks,
 4. Discharge of a Less-Lethal Launcher/Munitions in the direction of a person, regardless of whether the application made contact or was effective.
 5. Canine-inflicted injuries that do not rise to a Level 3 Use of Force.
 6. Striking of a person or a vehicle with a vehicle that does not rise to Level 3 Use of Force.
- (c) **Level 3 Force** - Force that causes or is reasonably expected to cause, great bodily harm, substantial bodily harm, loss of consciousness, or death. Examples include:
1. Strikes to the head, neck, sternum, spine, groin, or kidney area with an impact weapon.
 2. Firearm discharges (including unintentional firearm discharges).
 3. CEW application for longer than 15 seconds whether the application is a single continuous application or from multiple applications.
 4. Uses of Deadly Force/Lethal Force.
 5. Any use of force resulting in loss of consciousness or injury requiring hospitalization (admittance into a hospital).

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300.1.2 CORE PRINCIPLES

Sanctity of Human Life. Officers shall make every effort to preserve human life in all situations.

Value and Worth of All Persons. All human beings have equal value and worth and officers shall respect and uphold the value and dignity of all persons at all times.

Peaceful Resolutions. Officers shall seek peaceful resolutions to all encounters.

Reasonable, Necessary and Proportional Use of Force. Officers shall use only the force Reasonable, Necessary, and Proportional to respond to a threat or resistance to effectively and safely resolve an incident and will immediately reduce the level of force as the threat or resistance diminishes.

Avoiding Escalation. Officers shall not do or say anything that escalates an encounter unless necessary to achieve a lawful purpose.

De-Escalation. Officers shall use De-Escalation techniques and tactics to reduce any threat or gain voluntary compliance to lawful commands with the least reliance on the Use of Force.

Assessment and Modulation. Officers shall continuously assess each situation and change the officer's response as the circumstances change. Officers may be justified in using force in one instance, but not justified in using force an instant later. Officers should continually assess evolving circumstances and modulate their use of force to ensure that it remains objectively reasonable, necessary, proportional, and effective.

Retaliatory Force. Officers are prohibited from using force against persons solely engaged in First Amendment protected activities or to punish persons for fleeing, resisting arrest or assaulting an officer, or for any other retaliatory reason.

Reporting Use of Force. Each officer who uses force, or observes another officer or officers use force, shall immediately notify their supervisor, and will accurately and completely report the Use of Force by the end of their tour of duty.

Duty to Intervene. Officers shall intervene to prevent the abusive conduct or the use of excessive, or unnecessary force by another officer, regardless of rank or seniority.

Duty to Provide Medical Assistance. After any Use of Force incident, officers shall immediately render aid to any injured person consistent with their training and request medical assistance. Officers shall not position a restrained person face-down (as it may cause positional asphyxia) or on their back (which may cause radial nerve damage to the wrist and forearm area). Restrained persons are to be seated or placed in the recovery position.

Accountability. Officers shall be held accountable for uses of force that violate law or policy.

300.2 POLICY

Every officer of the Cheverly Police Department's commitment to public safety includes the welfare of the public, the officer, and fellow officers, with an emphasis on respect, professionalism, and protection of human life, even when force is necessary. Officers have the responsibility to use force, when necessary, to protect life, to effect an arrest, and to keep the peace. This is a

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responsibility that must be approached thoughtfully and patiently. Every decision to use force requires careful attention and continual assessment of the situation, threats, options, and risks, with the goal of resolving the encounter safely for all involved in search of the best possible outcome.

It is the policy of the Cheverly Police Department to value and preserve human life when using lawful authority to use force. Therefore, officers of the Cheverly Police Department shall use only the amount of force that is objectively reasonable, necessary, and proportional to effectively bring an incident or person under control.

Use of excessive, unnecessary, or disproportionate force is a violation of the subject's civil rights and will result in disciplinary action, possible criminal prosecution and/or civil liability. Additionally, every excessive or unnecessary use of force, regardless of specific consequences, diminishes the legitimacy of this department and makes our officers and the public less safe.

While any application of force will be evaluated based on the totality of the circumstances, and the facts known to the officer at the time the force was used, officers are advised that this Department places restrictions on officer use of force that goes beyond the restrictions set forth under the Constitution or state law.

300.2.1 DUTY TO INTERCEDE AND REPORT

Any officer present and observing another law enforcement officer or a member using unreasonable, unnecessary or excessive force shall, intercede to stop the officer, regardless of rank. Intervention may be verbal and/or physical. Officers shall not be subject to discipline, nor retaliation, for attempting to stop the use of unreasonable, unnecessary, or excessive force in good faith; failing to intercede may subject an officer to disciplinary action.

Any officer who observes another law enforcement officer or a member use force that is potentially beyond that which is objectively reasonable under the circumstances should report these observations to a supervisor as soon as feasible. Officers shall not be subject to discipline, nor retaliation, for attempting to stop the use of unreasonable, unnecessary, or excessive force in good faith.

300.2.2 PERSPECTIVE

When observing force used by a law enforcement officer, each officer should take into account the totality of the circumstances.

300.2.3 CRITICAL THINKING

When safe and feasible, prior to using force, CPD Officers shall use a critical thinking and decision-making framework to analyze and respond to incidents. This framework will allow Officers to uphold the sanctity of life and protect themselves by decelerating and stabilizing a situation to minimize the likelihood of a Use of Force incident. Using this framework, Officers will:

- (a) Assess the situation, threats, and risks;
- (b) Gather relevant facts about the incident;

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- (c) Consider police powers and CPD policy;
- (d) Identify options and determine the best course of action; and
- (e) Act, review, and re-assess the situation.

300.3 USE OF FORCE

Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by this department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

300.3.1 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include but are not limited to:

- (a) Immediacy and severity of the threat to officers or others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- (c) Officer/subject factors (e.g., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The effects of suspected drug or alcohol use.
- (e) The individual's mental state or capacity.
- (f) The individual's ability to understand and comply with officer commands.

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- (g) Proximity of weapons or dangerous improvised devices.
- (h) The degree to which the individual has been effectively restrained and his/her ability to resist despite being restrained.
- (i) The availability of other reasonable and feasible options and their possible effectiveness.
- (j) Seriousness of the suspected offense or reason for contact with the individual.
- (k) Training and experience of the officer.
- (l) Potential for injury to officers, suspects, and others.
- (m) Whether the individual appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.
- (n) The risk and reasonably foreseeable consequences of escape.
- (o) The apparent need for immediate control of the individual or a prompt resolution of the situation.
- (p) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (q) Prior contacts with the individual or awareness of any propensity for violence.
- (r) Any other exigent circumstances.

300.3.2 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Officers may only apply those pain compliance techniques for which they have successfully completed department-approved training. Officers utilizing any pain compliance technique should consider:

- (a) The degree to which the application of the technique may be controlled given the level of resistance.
- (b) Whether the individual can comply with the direction or orders of the officer.
- (c) Whether the individual has been given sufficient opportunity to comply.

The application of any pain compliance technique shall be discontinued once the officer determines that compliance has been achieved.

300.3.3 LESS LETHAL USE OF FORCE TOOLS

This section is to provide additional tool specific guidance, restrictions, and considerations.

Less-lethal tools are used to interrupt a subject's aggressive behavior so that officers may take physical control of the subject with less risk of injury to the subject or officer than posed by greater force applications. Less-lethal tools alone cannot be expected to render a subject harmless.

300.3.4 RESTRICTED USES OF LESS LETHAL TOOLS

When safety permits, Officers shall provide a warning and allow a reasonable amount of time for the subject to comply, prior to using any Less Lethal Tool. If time allows, officers shall explain the

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anticipated effect of the weapon (, “if I tase you, it will hurt, you will become incapacitated, and you will fall to the ground.”).

Officer should not use Less Lethal Weapons in circumstances where the situational risks and likelihood for severe injury to the subject or third parties outweighs the need to use the tool, including, but not limited to situations in which:

- (a) The subject is the operator of a motor vehicle, bicycle, scooter, skateboard, or other vehicle or conveyance.
- (b) The subject is in an elevated position where a fall is likely.
- (c) The subject is in a location where drowning is foreseeable.
- (d) When an individual is fully contained in a police vehicle

Less Lethal Weapons should not be used against persons who are obviously pregnant, apparently elderly, is visibly frail or has a low body mass, a child, or a restrained person unless Deadly/Lethal Force is reasonable, necessary, and proportional.

Officers must be able to explain each individual application of Less Lethal Tools as Reasonable, necessary, and proportional when documenting the Use of Force:

- (a) Impact Weapons (Baton, Asp) - For policy on impact weapons, please refer to Chapter 303: "Control Devices", Section 303.5: "Impact Weapons (Baton, Asp) Guidelines" of this policy manual.
- (b) Oleoresin Capsicum (OC or Pepper Spray) - For policy on Oleoresin Capsicum, please refer to Chapter 303: "Control Devices", Section 303.7: "Oleoresin Capsicum (OC) Guidelines", and Section 308: "Pepper Projectile Systems." of this policy manual.
- (c) CEW (Taser) - For policy on Conducted Energy Weapons (tasers), please refer to Chapter 304: "Conducted Energy Weapon" of this policy manual.
- (d) Less Lethal Launchers (FN303) - For policy on Less Lethal Launchers, please refer to Chapter 303: "Control Devices", Section 303.10: "Kinetic Energy Projectile Guidelines" of this policy manual.

The application of any less lethal use of force shall be discontinued once the officer determines that compliance has been achieved.

300.3.5 CHOKEHOLDS/NECK HOLDS/CAROTID CONTROL HOLDS

The proper application of a hold may be effective in restraining a violent or combative individual. However, due to the potential for injury, the use of any hold is limited to those circumstances where deadly force is reasonable, necessary, and proportional, and is subject to the following:

- (a) At all times during the application of a hold, the response of the individual should be monitored. The hold should be discontinued when circumstances indicate that the application no longer reasonably appears necessary.
- (b) Any individual who has had a hold applied, regardless of whether he/she was rendered unconscious, shall be promptly examined by paramedics or other qualified medical personnel and should be monitored until such examination occurs.

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- (c) The officer shall inform any person receiving custody, or any person placed in a position of providing care, that the individual has been subjected to a hold and whether the individual lost consciousness as a result.
- (d) Any officer attempting or applying a hold shall promptly notify a supervisor of the use or attempted use of such hold.
- (e) The use or attempted use of a hold shall be thoroughly documented by the officer in any related reports.
- (f) The use of a hold shall never be used on a restrained individual.

300.3.6 USE OF FORCE TO SEIZE EVIDENCE

In general, officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, officers are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, officers should not intentionally use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted. Officers are encouraged to use techniques and methods taught by the Maryland Police and Correctional Training Commission's Class I Certified Police Academy for this specific purpose.

300.3.7 ALTERNATIVE TACTICS – DE-ESCALATION

When safe and feasible, officers shall minimize the need to use force by using De-Escalation Techniques, including verbal persuasion and warnings, slowing down the pace of an incident, waiting out persons, using barriers, creating distance (and thus the reactionary gap) between the officer and the threat, and requesting additional resources such as specialized units, CIT trained officers, behavioral health care providers, or negotiators, before resorting to force, and to reduce the need for force. Approaches include, but are not limited to:

- (a) Talking to the person; attempt to convince the person to comply; reduce any threat presented by withdrawing to a position that is tactically advantageous; or take actions that allow the officer greater distance and time, in order to de-escalate a situation or deploy a lesser force option or no force at all.
- (b) Officers shall speak to a person in their preferred language if the officer speaks that language. Additionally, when a language barrier exists, officers on scene will identify that they speak the language of the person the officers are attempting to communicate with and offer to take over communications. Similarly, officers with appropriate language skills will be called to the scene if available.
- (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 including, but not limited to, immediately approaching a person without proper evaluation of the situation, failing to leave sufficient space between the officer and the person, closing the reactionary gap, or escalating a situation.
- (d) Team approaches to de-escalation are encouraged and should consider officer training and skill level, number of officers, and whether any officer has successfully established rapport with the subject. Where officers use a team approach to de-

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escalation, each individual officer's obligation to de-escalate will be satisfied as long as the officer's actions complement the overall approach.

- (e) Officers shall not use tactics that unnecessarily escalate an encounter or create a need for force.
- (f) If the officer has no alternative to using force, the officer shall use only the amount of force that is reasonable, necessary, and proportional to respond to the threat or resistance and shall immediately reduce the level of force as the threat or resistance lessens or stops.
- (g) Officers shall Assess and Modulate force immediately as resistance decreases.

300.3.8 CHILDREN AND YOUTH

As part of De-Escalation techniques, Officers will, when feasible, employ developmentally appropriate tactics including, but not limited to, using a calm and natural demeanor, explaining issues slowly and repetitively, and avoiding threatening language. Officers will consider whether failure to comply is due to developmental or fear-based reactions children and youth may experience during an encounter.

When force against a child or young person is necessary, officers should take into account personalized factors of the child or young person including, apparent age, body size, and relative strength of the officer relative to the child or young person; and risk posed by the child or young person.

In the case of injury resulting from a Use of Force, in addition to the requirements to render aid, summon medical care and notify a supervisor, the officer will notify the child or young person's parent, guardian, or in their absence, another responsible adult.

300.3.9 PROHIBITED FORCE

- (a) Officers are prohibited from using force against persons solely engaged in First Amendment protected activities, those who are filming them, to punish persons for fleeing, resisting arrest or assaulting an officer, or for any other reason related to protected rights.
- (b) Officers are prohibited from using Chokeholds/Neck Holds/Carotid Restraints unless deadly/lethal force is reasonable, necessary, and proportional.
- (c) Officers are prohibited from using force against individuals who only verbally confront them.
- (d) Officers are prohibited from using force to stop a subject from swallowing a substance that is already in their mouth (In the event that an officer reasonably believes that a suspect has ingested a harmful substance, officers shall summon medical assistance as soon as feasible).

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300.3.10 RESTRICTIONS OF USE OF FORCE

Officers shall not use force against persons who are handcuffed or otherwise restrained, except in exceptional circumstances to prevent physical injury. Officers shall not use force against a handcuffed or restrained person if the person's actions only present a risk of property damage.

Officers are cautioned that force that may be Reasonable, Necessary, and Proportional against an unrestrained person may not be Reasonable, Necessary, and Proportional when used on a restrained person.

300.3.11 REASONABLE, NECESSARY, AND PROPORTIONAL FORCE

An officer shall use only the force objectively Reasonable, Necessary, and Proportional to effectively bring an incident or person under control, while protecting the life and safety of all persons, to achieve a law-enforcement objective.

The force used must comply with the provisions of this policy, which has higher standards than, and encompasses the laws of the State of Maryland, federal law, and the United States Constitution.

When reasonable, Officers should announce that force will be utilized prior to the application of such force.

300.4 DEADLY FORCE APPLICATIONS

When reasonable, the officer shall, prior to the use of deadly force, make efforts to identify him/herself as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts.

Use of deadly force is justified in the following circumstances involving imminent threat or imminent risk:

- (a) An officer may use deadly force when they reasonably believe such action is immediately necessary to protect a person from an Imminent Threat of death or Serious Physical Injury.
- (b) An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the individual has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to any other person if the individual is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if an officer reasonably believes that the individual has a weapon or is attempting to access one and intends to use it against the officer or another person. An imminent danger may also exist if the individual is capable of causing serious bodily injury or death without a weapon, and the officer believes the individual intends to do so.

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300.4.1 PROHIBITED DEADLY FORCE/LETHAL FORCE

- (a) Deadly Force/Lethal Force shall not be used to subdue persons whose conduct is a threat only to property.
- (b) Deadly Force/Lethal Force shall not be used against persons whose conduct is a threat only to themselves (suicidal subjects).
- (c) Firing Warning Shots is prohibited.
- (d) Firing into crowds is prohibited.

300.4.2 MOVING VEHICLES

Shots fired at or from a moving vehicle are rarely effective. Officers should not intentionally place themselves in the path, and should move out of the path, of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. For the purposes of this section, the moving vehicle itself shall not presumptively constitute a threat that justifies an officer's use of deadly or lethal force.

As such, Officers shall not fire any weapon at a moving vehicle, except:

- (a) To counter an immediate threat of death or Serious Physical Injury, by means other than the vehicle, to any person, by a person in the vehicle (i.e., drive by shooting).
- (b) When all of the following conditions exist:
 - 1. Any person is unavoidably in the path of the vehicle and cannot move to safety, because of physical barriers or constraints, AND;
 - 2. The Officer is reasonably certain that the failure to do so will result in serious physical injuries or death to the officer or a third person AND;
 - 3. The risk to public safety posed by the vehicle outweighs the risk posed by the officer discharging a firearm.

300.5 REPORTING THE USE OF FORCE

The responsibility to use force includes maintaining vigorous and transparent systems of review to ensure accountability to the community and improve departmental policies and operations. In order to ensure accountability and transparency, officers must clearly and reliably report and thoroughly document each time they use force, and the level of departmental review must be commensurate with the seriousness of the use of force. This balances departmental resources with the need for thorough review.

Officers should be honest, clear, direct, and accurate in use of force reports and should avoid boilerplate language and jargon. Every use of force is a significant event and should be documented with particularity.

300.5.1 REPORTING DEADLINE

Any use of force by a member of this department shall be documented as required in the Report Preparation Policy (Md. Code PS § 3-514).

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300.5.2 NOTIFICATIONS TO SUPERVISORS

Supervisory notification, as described herein, shall be verbal in nature (i.e., via phone call or via radio transmission)

Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances:

- (a) The application caused a visible injury.
- (b) The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.
- (c) The individual subjected to the force complained of injury or continuing pain.
- (d) The individual indicates intent to pursue litigation.
- (e) Any application of the Conducted Energy Weapon (CEW) or control device.
- (f) Any application of a restraint device other than handcuffs, hobble straps or leg irons, or belly chains.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was struck or kicked.
- (i) An individual alleges unreasonable force was used or that any of the above has occurred.

300.5.3 GENERAL REPORTING AND INVESTIGATING REQUIREMENTS

- (a) All force is reportable, other than de minimis force.
- (b) Officers should immediately notify their supervisor about any reportable use of force. The supervisor must be at least one rank above the officer using force.
- (c) Based on the initial notification, the supervisor should classify the use of force as Type I, II, or III, and commence an investigation at the appropriate level. Cases that are not clearly classified should either be screened with the Chief of Police or should be investigated at the higher level (, if a use of force could potentially be classified as Type I or Type II, the force should be investigated as a Type II use of force until facts and circumstances make classification determinable).
- (d) A supervisor may re-classify a case to a higher-level investigation; reclassifying an investigation to a lower level must be screened with, and approved by, the Chief of Police.
- (e) When multiple officers are involved in a Use of Force, the incident will be reviewed at the highest level reached by any officer during the incident.
- (f) No supervisor who ordered, used, or participated in reportable force, or participated in the tactical planning that led to the use of reportable force, will conduct the investigation of the incident, unless no other supervisors are available, and approved by the Chief of Police. If an involved supervisor conducts an investigation, their role will be limited to fact gathering and the investigation should be handed off to a non-involved supervisor at the earliest opportunity for finalization and review.

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- (g) If at any time during the investigation of a Use of Force, a supervisor believes that a policy violation has occurred, the supervisor will suspend the investigation and consult with the Chief of Police to ensure compliance with all applicable laws and to preserve the integrity of any required Internal Affairs investigation.

300.5.4 TYPE I USE OF FORCE REPORTING

- (a) All involved officers shall write a Use of Force report describing the use of force, in detail, by the end of their shift, including:
 1. The reason for the police presence.
 2. A description of the facts and circumstances around the use of force, including officer and subject actions.
 3. A description of all force used.
 4. A description of de-escalation efforts or why de-escalation was not feasible.
- (b) Witness officer statements are not required at Type I; however, a witness officer may choose to provide a statement.

300.5.5 TYPE I USE OF FORCE INVESTIGATIONS

- (a) Supervisors do not need to respond to the scene of a Type I Use of Force.
- (b) Supervisors will review the officer statements and the Use of Force Report and will direct the officer to provide more information as necessary to ensure a complete record. Supervisors will review body worn camera evidence as needed but are not required to watch the complete record.
- (c) The supervisor will prepare a Use of Force Investigation Report within seven (7) working days that summarizes the facts and circumstances of the Use of Force and indicating whether the force was within CPD policy.
- (d) The supervisor will send the Use of Force Investigation Report to the Chief of Police for final review.
- (e) The Chief of Police or designee will make the final determination whether the force was within CPD policy.

300.5.6 TYPE II USE OF FORCE REPORTING

- (a) All involved officers shall write a Use of Force report describing the use of force in detail by the end of their shift, including:
 1. The reason for the police presence.
 2. A description of the facts and circumstances around the use of force, including all officer and subject actions.
 3. The presence and location of witnesses at the scene.
 4. A description of all force used.
 5. A description of all resistance or threat posed by the subject.

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6. A description of de-escalation efforts or why de-escalation was not feasible.
 7. A description of relevant evidence, including the existence of body worn camera or in-car video evidence.
- (b) All witness officers shall document their observations, including:
1. The reason for the police presence.
 2. A description of their observed facts and circumstances around the use of force, including any officer and subject actions.
 3. The presence and location of witnesses at the scene.
 4. A description of all force observed.
 5. A description of all observed resistance or threat posed by the subject.
 6. Any attempts to de-escalate the situation.
 7. Any and all violations of department policy known to the reporting officer.

300.5.7 TYPE II USE OF FORCE SUPERVISOR RESPONSIBILITIES AND INVESTIGATIONS

- (a) If there is a Supervisor available on the shift, the Supervisors will respond to the scene of a Type II Use of Force and ensure that any injured parties have been examined and treated, and thoroughly investigate the facts and circumstances surrounding the Use of Force. If there is no Supervisor available on the shift, the next Supervisor to come on duty will complete the investigation.
- (b) Supervisors will attempt to identify, and interview, any and all witnesses who were present at the scene, or obtain contact information for follow-up interviews. If a witness has left the scene, but has provided contact information, the supervisor will attempt a follow-up interview with that witness.
- (c) Supervisors will gather any available evidence at the scene, including surveillance video or witness cell phone video (if the person is willing to share).
- (d) Supervisors will attempt to conduct a recorded interview with the subject of the force, at the scene, out of view from all other witnesses and/or officers. If the subject has left the scene, the supervisor will attempt a follow-up interview with the subject. No subject shall be detained solely for the purpose of waiting for a supervisor to arrive. If this interview is conducted without the individual having voluntarily waived his/her rights, the following shall apply:
 1. The content of the interview should not be summarized or included in any related criminal charges.
 2. The fact that a recorded interview was conducted should be documented in a property or other report.
 3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.

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- (e) Once any initial medical assessment has been completed or first aid has been rendered, supervisors will ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas, and, if the subject is cooperative, take close up photographs of any injuries. These photographs should be retained until all potential for civil litigation has expired.
- (f) Supervisors will review the officer statements and the Use of Force Report and will direct the officer to provide more information as necessary to ensure a complete record.
- (g) Supervisors will review the body-worn camera evidence.
- (h) The Supervisor will prepare a Use of Force Investigation Report within ten (10) working days that summarizes the facts and circumstances of the Use of Force and indicates whether the force was within CPD policy.
- (i) The supervisor will send the Use of Force Investigation Report to the Chief of Police for final review.
- (j) The Chief of Police or designee will make the final determination whether the force was within CPD policy.

300.5.8 TYPE III USE OF FORCE SUPERVISOR RESPONSIBILITIES, REPORTING AND INVESTIGATIONS

- (a) Supervisors will immediately notify the Chief of Police that a Type III Use of Force has occurred.
- (b) Supervisors will respond to the scene of a Type III Use of Force.
- (c) Supervisors will request support from the Investigative Section to thoroughly investigate the facts and circumstances surrounding the Use of Force, including taking photographs, recovering any physical or video evidence, and conducting subject and witness interviews.
- (d) Once on scene, an Investigations supervisor will take lead on the investigation.
- (e) Involved officers at the scene will be separated and not assigned on-scene tasks, unless absolutely necessary. Involved officers should not discuss the facts and circumstances of the case on scene, except to share needed public safety information, such as outstanding suspects, threats or injured persons.
- (f) Involved officers should be transported to a secure location, and provided food and water, when requested.
- (g) As requested by Investigations, or if Investigations support is not available, supervisors will attempt to identify, and interview, any and all witnesses who were present at the scene or obtain contact information for follow-up interviews. If a witness has left the scene, but has provided contact information, Investigations will conduct a follow-up interview with that witness.
- (h) As requested by Investigations, or if Investigations support is not available, supervisors will gather any available evidence at the scene, including surveillance video or witness cell phone video (if the person is willing to share).

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- (i) As requested by Investigations, or if Investigations support is not available, supervisors will attempt to conduct a recorded interview with the subject of the force, at the scene, out of view from all other witnesses and/or officers. If the subject has left the scene or has been transported to the hospital, Investigations will attempt a follow-up interview with that witness. If this interview is conducted without the individual having voluntarily waived his/her Mirandairights, the following shall apply:
 - 1. The content of the interview should not be summarized or included in any related criminal charges.
 - 2. The fact that a recorded interview was conducted should be documented in a property or other report.
 - 3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- (j) As requested by Investigations, or if Investigations support is not available, supervisors will ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas, and, if the subject is cooperative, take close up photographs of any injuries. These photographs should be retained until all potential for civil litigation has expired.
- (k) All body worn camera evidence will be reviewed by the Investigations Section Supervisor.
- (l) The Investigations Section Supervisor will review all of the evidence and prepare a Use of Force Investigation Report within thirty (30) working days that summarizes the facts and circumstances of the Use of Force and indicating whether the force was within CPD policy.
- (m) A supervisor will review the completed Use of Force Investigation Report and will request additional information, or changes for missing or inaccurate information, or forward to the Chief of Police for Review.
- (n) The supervisor will send the Use of Force Investigation Report to the Chief of Police for final review.
- (o) The Chief of Police or designee will make the final determination whether the force was within CPD policy.

300.6 MEDICAL CONSIDERATIONS

When there is a visible injury, complaint of injury, signs of medical distress, or when medical attention is requested by any person, Officers shall immediately request that a medic respond to the scene and render aid consistent with their training.

If a person has been subjected to impact by any type of Less-Lethal Force including CEW, impact weapons or impact projectile, the subject will be provided with medical treatment. If the person refuses medical treatment or leaves the location (persons of an unlawful gathering dispersed by Less-Lethal Force that may voluntarily leave without aid), Officers must document those facts.

See the Medical Aid and Response Policy for additional guidelines.

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300.7 SHIFT SUPERVISOR RESPONSIBILITY

The Shift Supervisor shall review each use of force by any personnel within his/her command to ensure compliance with this policy and to address any training issues.

300.8 TRAINING

Officers will receive periodic training on this policy and demonstrate their knowledge and understanding.

Subject to available resources, officers should receive periodic training on:

- (a) Guidelines regarding vulnerable populations, including but not limited to children, elderly, pregnant persons, and individuals with physical, mental, or intellectual disabilities.
- (b) De-escalation tactics, including alternatives to force.

300.9 COMMITTEE ON USE OF FORCE

The department will convene an annual Committee on Use of Force to discuss trends, facts, and circumstances around the Use of Force by the Cheverly Police Department. This review will focus on lessons that can be learned from the Use of Force incidents, including recommendations for policy, training, or additional resources. Every supervisor has the duty to report and route any uses of force that fall within policy, but are nevertheless problematic indicating an issue with department policy or training to the Chief. These issues will be considered by the Chief or brought to the Committee on Use of Force for consideration.

The committee will be comprised of the Chief of Police, one supervisor, one officer, one civilian employee, and a qualified Use of Force consultant.

300.10 USE OF FORCE ANALYSIS

The department will prepare an Annual Use of Force Report summarizing the outcomes of the annual committee on Use of Force and any actions taken. The report should include:

- (a) The identification of any trends in the use of force by members, including:
 - 1. Location
 - 2. Time of Day
 - 3. Types of Force Used
 - 4. Subject Demographics
 - 5. Officer Demographics
- (b) Training needs recommendations
- (c) Equipment needs recommendations
- (d) Policy revision recommendations

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The report shall not contain the names of officers, suspects, or case numbers. The Annual Use of Force Report will be published on the CPD website.