

FREDERICK POLICE DEPARTMENT GENERAL ORDER

Section 7:

Force, Detention, and Arrest
Order Number: 720

Topic:

DEADLY
FORCE
GUIDELINES

Issued
by: Chief of
Police

Approved: AND INVESTIGATIONS
12/9/15
Review: Annually in September by Professional Services Commander
Supersedes: G.O. 720 dated 01/01/08

.01 PURPOSE:

To set guidelines for the use of deadly force by sworn personnel and to specify procedures for incidents in which deadly force was used or attempted, and incidents in which sworn personnel have discharged their firearms.

.02 CROSS-REF:

G.O. [710](#), "Less-Lethal Force – Chemical Agent Weapons"
G.O. [965](#), "Vehicles: Pursuits"
G.O. [962](#), "Vehicles: Emergency Operation"
G.O. [920](#), "Firearms Regulations"
G.O. [1732](#), "Firearms Qualification"
CALEA STANDARDS: 1.3.1; 1.3.2; 1.3.3; 1.3.5; 1.3.6; 1.3.8
Form [CID-007](#), Preliminary Report of Investigation

.03 DISCUSSION:

The value of human life is immeasurable in our society. The manner in which the police officer uses force may have a bearing upon the ability of the Department to effectively achieve its mission. The decision to employ deadly force is the most difficult choice a police officer may ever make and therefore must occupy a primary place in a police department's policies, training, and practices.

While the use of deadly force is most commonly associated with the discharge of a firearm, it is not limited to such weapons, but may also include other "less than lethal" protection instruments issued by the Department, such as the expandable baton, or any other means used by an officer.

.04 POLICY:

It is the policy of the Frederick Police Department that officers use prudence and restraint in exercising their authority to use deadly force and will do so only when necessary to accomplish lawful objectives. Officers should discharge their firearm or use or attempt to use deadly force only when it is necessary to protect life or when it is the only effective means to apprehend an individual who poses a significant threat of death or serious bodily injury to officers or citizens.

The Department will ensure that a neutral, impartial and thorough investigation of deadly force incidents is conducted. Such investigation will be conducted in all incidents in which an officer discharges a firearm (except under the exclusions listed in Section .50.3) and in all incidents involving the actual or attempted use of deadly force, regardless of the weapon(s) used. The

purpose of this investigation will be to determine whether there are legal, policy, training, weapon/equipment, or discipline issues that need to be addressed.

At the same time the Department will be supportive of each officer involved in the critical incident by acknowledging the trauma related to the incident and responding positively to the stress with which the officer will need to cope with throughout the investigation. Any officer involved in a use of force or whose actions result in death or serious physical injury will be removed from active duty and placed in an administrative position or on "Administrative Leave" in order to cope with the situation as deemed appropriate by the Office of the Chief.

While some of the verbiage of this order addresses the use of firearms, there may be occasions where deadly force may be applied or attempted through the use of other weapons or means. The allowances and prohibitions for the use of firearms in this order, as well as investigative procedures and requirements, apply to other weapons or methods used to apply or attempt to apply deadly force as well.

.05 DEFINITIONS:

DEADLY FORCE: Physical force which by its application causes death or has a high probability of causing death or serious physical injury.

SERIOUS PHYSICAL INJURY: An injury that causes major disfigurement, severe tissue damage, broken bones, internal organ injury or permanent paralysis.

.10 LEGAL STANDARD:

This order is for departmental use only and shall not alter any criminal or civil standard of care. The Department's policy and procedures should not be construed as a creation of a greater or higher legal standard of safety or duty of care in an evidentiary sense with respect to third party claims. Violations of this Order will only form the basis for departmental administrative sanctions.

.20 USE OF FIREARMS:

1. Officers will be ever mindful of their duty to perform their police mission, using only that force necessary to carry out their responsibilities effectively and safely. **Officers may only justify use of a firearm by facts known at the time a decision to use a firearm is made.** Facts unknown, no matter how compelling, cannot be considered later when determining if the use of a firearm was justified.
2. All reasonable considerations must be given to prevent inadvertent injury to innocent bystanders.
3. Officers will communicate to a suspect their identity, purpose, and intention to fire, unless circumstances are such that the suspect already knows their identity, or due to special tactical considerations where the announcement of identity jeopardizes the safety of the officer or citizen. Officers in plain clothes and/or off-duty are not as recognizable as those officers in uniform; therefore, they should make every **reasonable** attempt to identify themselves prior to using deadly force.

.25 USE OF DEADLY FORCE:

An officer may discharge a firearm or use or attempt to use deadly force in the performance of his police duties, either on- or off-duty, **ONLY** in the following circumstances:

1. In self defense from death or serious bodily injury when nothing less than deadly force is adequate to ensure his safety.
2. In defense of another person from death or serious bodily injury when nothing less than deadly force is adequate to ensure his safety.

3. To apprehend or prevent the escape of a suspected felon, **only** if the officer has probable cause to **believe** that if not immediately apprehended the suspect poses a significant threat of death or serious bodily injury to any person.
4. To kill a dangerous animal, or to humanely destroy a badly injured animal to relieve it from further suffering, when no other appropriate means exist.
5. To call for assistance or to sound an alarm only in an extreme emergency, and when no other appropriate means exist.
6. During qualification and/or training at the Department's or any other approved range, and under the supervision of a firearms instructor or line safety officer. This applies to Department-issued firearms only.

.30 FLEEING FELON GUIDELINES:

Prior to using deadly force against a fleeing felon, **ALL SIX (6) CONSIDERATIONS MUST BE MET:**

1. All other reasonable means to apprehend or prevent the escape of the felon have been exhausted;
2. The suspect is a known felon or there is probable cause to believe a felony was committed;
3. Deadly force was used or threatened to be used during the commission of the crime;
4. The officer believes that deadly force would be used again if the suspect is not immediately apprehended;
5. Every reasonable consideration has been given to prevent inadvertent injury to innocent bystanders; AND
6. Where feasible/reasonable, a warning has been given as to the officer's intent, and the felon refuses to stop.

.40 WHEN FIREARMS/DEADLY FORCE WILL NOT BE USED:

Firearms will not be discharged and deadly force will not be used under circumstances not in compliance with this Order and the law. Examples of prohibited discharge of firearms are, but are not necessarily limited to, the following:

1. An officer will never fire at any person who is attempting to avoid apprehension for committing a misdemeanor.
2. An officer will not fire a warning shot at any time or under any circumstances.
3. An officer will not fire from a moving vehicle, while riding on a bicycle, or while running on foot. This does not prohibit controlled firing while moving tactically.
4. An officer will not fire at a moving vehicle unless it is self defense or defense of another person, as defined in Section .25.1 and .25.2 of this order, or unless directly authorized by a supervisor or command officer.

.50 INVESTIGATION REQUIRED:

1. All firearms discharges and uses or attempted uses of deadly force must be reported, investigated, reviewed, and forwarded to the Chief of Police in accordance with this Order, regardless of location or duty status. The initial report will be submitted prior to the end of the tour of duty in which the discharge occurred (see Section .60.2I of this order).
2. Deadly force incidents are most commonly associated with the use of firearms; however, officers may, as a last resort, utilize some other means which they intend as deadly force in self defense or defense of another. These incidents require the same type of investigation and reporting as those that involve firearms discharges.
3. EXCEPTIONS:
 - A. Shots discharged by accident, *which are not an attempted use of deadly force and do not result in injury*, will be investigated and documented by the officer's supervisor. The supervisor will notify the Commander of Professional Services, who will evaluate a course of action. The supervisor's report will be submitted through the chain of command to the Deputy Chief with a copy to PSD. After evaluation, the incident may be investigated further.
 - B. Shots fired in the necessary dispatch of a dangerous or injured animal (Refer to Section .80 of this order).
 - C. Where no injury, death, or complaint of property damage results during:
 - (1) an authorized training session;
 - (2) lawful hunting with off-duty firearm while off-duty; or,
 - (3) target practice with a personally owned firearm while off-duty.
4. Civilian Employees Involved in Death/Serious Injury Incidents while in official capacity:
 - A. Death/Serious Injury incidents are most commonly associated with the use of firearms; however, Civilian members could be involved in incidents that result in death or serious injury to another person.(ie. traffic accidents while operating departmental vehicles) These incidents require the same type of investigation and reporting as those that involve firearms discharges by sworn personnel.
 - B. Civilian members of the department are not afforded the protections under LEOBR as are sworn members hence those sections pertaining to LEOBR in this order are not applicable to civilian members.
 - C. All deaths or serious injury incidents must be reported, investigated, reviewed, and forwarded to the Chief of Police in accordance with this Order, regardless of location or duty status. The involved member will submit a detailed memo outlining the incident prior to the end of the tour of duty in which the incident occurred.
 - D. The on duty supervisor will;
 - (1) Report to and ensure the scene is secure; evidence (including departmental vehicle and equipment) is preserved in its original

position/condition; and witnesses are available for interviews by investigators. If necessary, provide emotional support and physical first aid to the involved member.

- (2) Ascertain a brief account of what occurred from the member(s) involved. The supervisor will **not** conduct any formal administrative interviews of the member(s) involved. An overview of what occurred will allow the supervisor to brief others, i.e., command personnel, arriving at the scene and ensure appropriate crime scene processing.
- (3) Advise Communications to make the following notifications:
 - (a) Command Page;
 - (b) On-Call Crime Scene Unit member/ or Accident Reconstruction Team.
- (4) Arrange for a prompt escort to headquarters for those member(s) involved. If more than one member is involved, they will be separated but not isolated. The escort officer should not be involved in the incident and he will not question the involved member(s). He will remain with the involved member(s) to provide support as needed until relieved by a CID or PSD investigator.
- (5) Notify promptly and personally, or permit the involved member(s) to contact, his or her family prior to any media release or coverage. The Departmental Chaplain will be made available to any involved member(s) or their families.
- (6) Advise the involved member(s) that he/she may experience the symptoms of PTSD and that the Department will be making arrangements for him to meet with appropriate professional personnel. The supervisor may also encourage the member to seek consultation with the Employee Assistance Program or another professional person of the member's choosing.
- (7) The involved member will be placed on paid administrative leave and not return to work until such time as they are cleared by the Chief of Police.
- (8) The investigation into the incident will be completed in compliance with section .60 (.3) of this order. (except those sections not applicable to civilian members pertaining to firearms, LEOBR, etc.)

.60 INVESTIGATIVE PROCEDURES- GENERAL

1. OFFICER USING OR ATTEMPTING TO USE DEADLY FORCE WILL:
 - A. Notify his supervisor or the On-Duty Supervisor immediately.
NOTE: If the officer using or attempting to use deadly force is a supervisor, he will relinquish control of the scene upon the arrival of another supervisor on the scene, regardless of rank and even if inferior in rank to the involved supervisor.
 - B. Notify Communications to dispatch medical personnel.

- C. Submit any weapons used, including ammunition, to the Criminal Investigation Division (CID) or PSD investigator upon request.
 - D. Not discuss the incident, except to provide a supervisor with a brief account of what occurred, or write any statements or complete any administrative reports until after discussion with the CID or PSD investigator conducting the investigation.
 - E. Complete a Use of Force Report before the end of his tour of duty, unless granted an extension due to exigent circumstances.
2. OFFICER'S SUPERVISOR OR ON-DUTY PATROL SUPERVISOR WILL:
- A. Report to and ensure the scene is secure; evidence (including police vehicle and equipment) is preserved in its original position/condition; and witnesses are available for interviews by investigators. If necessary, provide emotional support and physical first aid.
 - B. Advise Communications to make the following notifications:
 - (1) Chief of Police;
 - (2) Deputy Chief;
 - (3) Division Commander;
 - (4) CID, to include the CID Commander;
 - (5) PSD Commander;
 - (6) On-Call Crime Scene Unit member;
 - C. Ascertain a brief account of what occurred from the officer(s) involved. The supervisor will **not** conduct any formal administrative interviews of the officer(s) involved. An overview of what occurred will allow the supervisor to brief others, i.e., command personnel, arriving at the scene and ensure appropriate crime scene processing.
 - D. Arrange for a prompt escort to headquarters for those officers involved. If more than one officer is involved, they will be separated but not isolated. The escort officer should not be involved in the incident and he will not question the involved officer(s). He will remain with the involved officer(s) to provide support as needed until relieved by a CID or PSD investigator.
 - E. Notify promptly and personally, or permit the involved officer(s) to contact, his or her family prior to any media release or coverage. The Departmental Chaplain will be made available to any involved officer(s) or their families. A member of the Executive Board of the Fraternal Order of Police, FSK Lodge #91, will be notified of the incident as soon as possible.
 - F. The involved officer's unit supervisor or on-duty patrol sergeant or corporal will complete the initial offense report, provided neither was involved in the incident.

- G. Advise the involved officer(s) that he may experience the symptoms of post shooting trauma and that the Department will be making arrangements for him to meet with appropriate professional personnel. The supervisor may also encourage the officer to seek consultation with the Employee Assistance Program or another professional person of the officer's choosing.
 - H. Ensure the Issuance of a replacement firearm as appropriate, in conjunction with the CID/PSD investigators.
3. CRIMINAL INVESTIGATION DIVISION and PROFESSIONAL SERVICES DIVISION WILL:
- A. Coordinate and conduct a thorough investigation of all incidents involving any officers where deadly force was attempted or applied in The City of Frederick. CID will generally be responsible for ensuring all aspects of a preliminary and follow-up investigation are handled to include the processing of the crime scene, interviewing of non-departmental witnesses, and placing of criminal charges if appropriate. PSD will interview all departmental witnesses and ensure that personnel involved followed departmental policies and procedures. Every reasonable attempt should be made to minimize the number of times the involved officer(s) is interviewed and is required to repeat his or her description of the incident. (In the case of incidents occurring outside of the City, PSD will conduct an internal investigation in conjunction with any criminal investigation being conducted by the governing jurisdiction.)
 - B. Explain to the officer(s) what will happen administratively. In the case of uses of force that result in injury or death or other appropriate circumstances, advise the officer(s) involved that they will be placed on administrative leave or assigned to administrative duties pending an administrative review of the incident. Officers will be advised that they are expected to cooperate fully with the investigation. Administrative leave is authorized at the direction of the Office of the Chief of Police, who will determine its duration in each case. An officer placed on Administrative Leave will be responsible for advising his Division Commander of his whereabouts so contact may be made when necessary. Administrative leave is not to be confused with suspension, as no punitive intent is involved.
 - C. Take custody of the firearm(s) from the involved officer(s), as well as ammunition in his or her possession, and explain that a replacement will be issued as soon as is practical. *At no time will the officer's firearm be taken in the presence of the suspect or news media. The firearm will be unloaded and rendered safe by or at the direction of the investigator.*
 - D. Review all written statements/reports by members and witnesses.
 - E. Initiate criminal charges, if warranted, after consultation with the State's Attorneys Office (CID).
 - F. Submit a complete administrative report of the investigation to the Chief of Police through proper channels (PSD).
 - G. CID will prepare a "Preliminary Report of Investigation" (FPD Form CID-007) for the Chief of Police, which will be completed and submitted via the chain of command by 1700 hours on the next business day following the incident by the

assigned investigator or other investigator as directed by the CID Commander.

- H. The CID and PSD Commanders will periodically apprise the Office of the Chief of the progress of all investigations (criminal and administrative) pertaining to the deadly force incident. Professional Services will conduct an administrative review of the circumstances of the incident and report its findings to the Chief of Police.

4. DIVISION COMMANDERS WILL:

- A. Brief, in cooperation with other Division Commanders, all other members of the Department about the incident. This will prevent the officer(s) from being bombarded with questions and rumors will be held in check.
- B. Ensure that the on-call member of the States Attorney's Office, as well as the on-call Department Chaplain, is notified as conditions of the incident warrant.
- C. Ensure that follow-up medical and emotional support to the involved officer(s) is provided.
- D. Make arrangements, through the Personnel Unit, for the involved officer(s) to attend a meeting with a psychologist or psychiatrist selected by the Department prior to returning to his or her current assignment.
- E. If necessary, locate, identify and inform the owner of any damaged property.

5. DEPUTY CHIEF WILL:

- A. Ensure that there is a determination of whether to place the officer(s) on administrative leave or in an administrative assignment.
- B. After final submission of all investigative reports, make a determination if there are policy, training, weapon/equipment issues which should be addressed, and if appropriate, ensure that corrective action is instituted.

.70 INVESTIGATIVE PROCEDURE- UNINTENTIONAL DISCHARGES:

- 1. Follow previous applicable procedures as outlined in Section .60 of this Order.
- 2. OFFICER'S SUPERVISOR OR ON-DUTY PATROL SUPERVISOR:
 - A. Respond to the location where the discharge occurred if possible/feasible. Obtain the firearm in question and transport same to headquarters to be secured. If the discharge occurred in another state or outside the City, the jurisdiction conducting the investigation may take custody of the firearm as part of its investigation, depending on that agency's procedures.
 - B. Immediately instruct the officer involved that their departmental authority to carry that type of firearm (e.g., handgun, shotgun, etc.) is **suspended**. Firearms suspension will remain in effect until the firearm is determined to be functioning properly and the officer's knowledge of the firearm has been demonstrated.
 - C. Ensure the firearm is transported to the Firearms Range for examination by an armorer on the next regularly scheduled work day, provided the firearm is not in the custody of another agency.

- D. Obtain dates and times from the firearms coordinator for the officer involved, only when a mechanical defect is not found, to report to the Firearms Range to receive remedial training and demonstrate their knowledge of safe weapon handling. In most cases, this should be the officer's next regularly scheduled work day.
- E. Review the incident/administrative report submitted by the officer involved.

.80 DISCHARGE OF FIREARMS- ANIMAL CASES:

1. OFFICER:

- A. In cases of an injured domestic animal, make reasonable attempts to contact the animal's owner or animal control before using the discretion to humanely destroy the animal to relieve its suffering.
- B. Weigh the totality of the circumstances against the potential hazards associated with a firearm discharge.
- C. Advise their supervisor of all relevant factors known (e.g., lighting, traffic, background, etc.).
- D. Obtain supervisory approval.
- E. If practical, recover the spent casing(s) and dispose of it with supervisory approval after it is determined that it has no evidentiary value.

2. OFFICER'S SUPERVISOR OR ON-DUTY PATROL SUPERVISOR:

- A. When practical, respond to the scene prior to granting approval.
- B. Review the report submitted by the officer.
- C. Ensure the issuance of a replacement round(s).

.85 POST-INCIDENT PROCEDURES:

The following events are to occur prior to the return of an involved officer to full duty after a use or attempted use of deadly force incident:

- 1. The officer will be required to participate in a post-incident debriefing with the Department psychologist, who must make a positive recommendation for return to full duty;
- 2. The Preliminary Report of Investigation will be submitted to the Chief of Police by the CID, with a preliminary conclusion that no criminal charges against the officer are anticipated; and
- 3. The Chief of Police approves the officer's return to full duty.