

	FREDERICKSBURG POLICE DEPARTMENT DIRECTIVES	
	OPERATIONS	
302.00	APPROVED: David W. Nye, Chief of Police	Initiated: 10/01/2007
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RESPONSE TO RESISTANCE; LETHAL AND LESS-LETHAL WEAPONS

302.00 – Use of Force – In any encounter where the use of force becomes necessary, only reasonable force will be used. Under no circumstances will force used be greater than necessary to achieve lawful objectives and to conduct lawful public safety activities. [1.3.1]

In determining the appropriate level of force, officers should apply the levels of force under the department’s trained use of force options along with the following three factor Graham v. Connor test:

1. How serious is the offense at the time the force is used?
2. What is the physical threat to the officer or others?
3. Is the subject actively resisting or attempting to evade arrest by flight?

Officers must consider whether the force option they choose is proportional to the need for the force and officers must take into account a subject’s mental illness when dealing with a subject known to be mentally ill.

Officers should use de-escalation techniques when appropriate and safe to do so.

302.01 – Use of Deadly Force – An officer may employ deadly force when he or she has a reasonable belief that his or her life or that of another is threatened by imminent death or serious bodily injury. The use of deadly force solely to prevent the escape of an unarmed felon or suspected felon is generally prohibited; deadly force may be used to prevent escape only when the officer has a reasonable belief that the suspect poses an immediate threat of death or serious bodily injury to the officer or others. Chokeholds or neck restraints shall not be employed unless the use of deadly force is appropriate. The following definitions will be used to govern this directive:

- **Force:** Any physical effort that is used to seize, control, or repel another individual.
- **Deadly Force:** A degree of force intended or likely to cause great bodily harm or death.

- **Less Lethal Force:** A degree of quantity of force that is neither likely nor intended to cause death or great bodily harm. Less lethal force includes the use of physical strength, a chemical agent, baton, or other approved less-lethal weapon.
- **Reasonable Belief:** A belief based on specific and articulable facts which, taken together with the rational inferences from those facts, reasonably warrants an officer's action.
- **Serious Bodily Injury:** Any injury that could result in maiming, disfiguring, or disabling. [1.3.2]

In any circumstance where deadly force has been used, the Watch Commander or designee shall direct Communications to conduct a "roll call" to account for personnel as soon as reasonably possible. Other circumstances that require personnel to be accounted for are:

- Use or possible use of deadly force against police employees
- Vehicle pursuits
- Foot pursuits
- Incident Command System situations
- Any event or time where personnel accountability may be in question

302.02– Discharging Firearms from a Moving Vehicle – Shooting at or from a moving vehicle is prohibited, except as a last resort in the most extreme and exceptional circumstances when required to avoid immediate and clearly foreseeable danger of death or serious injury to the officer or citizen (s).

As in any case in which lethal force is used, the safety of innocent persons is of paramount importance and the officer's actions shall not unreasonably jeopardize the safety of such persons. Further, officers must consider the following factors in determining whether shooting at or from a moving vehicle is justified:

- An occupant of the target vehicle is using or threatening to use lethal force by a means other than the vehicle.
- The target vehicle is being operated in a manner deliberately intended to strike an officer or a citizen.
- All other reasonable means of defense (including taking cover or moving out of the path of the vehicle or taking other evasive action) have been exhausted, are not practical or are not present.

Officers should also be aware and cognizant of the following factors when making decisions on shooting at or from moving vehicles:

- Bullets fired at a moving vehicle are unlikely to stop or disable the vehicle.
- Bullets may ricochet off glass or metal and cause injury to officers or other citizens.
- The vehicle may crash and cause injury to others if the bullets disable the driver.
- Shooting at or from a moving vehicle is extremely difficult, greatly reducing the likelihood of striking the intended target.

302.03 – Warning Shots – The firing of warning shots is strictly prohibited. [1.3.3]

302.04 – Less Lethal Force – Officers are authorized to use less lethal force to:

- Defend themselves or others from assaults and other threats.
- Arrest, detain, subdue, control, and/or restrain a non-compliant (active resistance or active aggression) suspect.
- Prevent the escape of a suspect.
- Bring an unlawful or dangerous situation safely and effectively under control.

As with the use of deadly force, officers contemplating the use of non-deadly force shall apply a standard of objective reasonableness, basing any decision to use force on the totality of the circumstances known to them at the time.

Officers need not select the least amount of force that can be used, but must select a level of force that is reasonable for the given circumstances.

Nothing in this directive requires or encourages officers to expose themselves to unreasonable risk, take extraordinary measures, or sustain injury before applying appropriate non-deadly force.

A variety of less-lethal weapons are issued to sworn officers for use in situations where a firearm would not be considered a reasonable use of force. Weapons authorized for use and categorized as less lethal are:

- Oleoresin Capsicum (OC) Spray
- Expandable Baton
- TASER
- 37mm Bean Bag round

Guidelines for use of less lethal weapons are listed below.

302.05 - Oleoresin Capsicum (OC) Spray:

Oleoresin Capsicum (OC) Spray may be used in situations where force is permitted, provided that the officer has been trained in the use of the substance and is approved for such use by the Department.

When a suspect has been sprayed or otherwise exposed to a chemical substance, the officer shall arrange for the suspect to be examined by Emergency Medical Services (EMS) personnel. This examination shall not be deemed an emergency (unless breathing difficulties are involved), but shall occur without unreasonable delay. It may occur at or near the scene, if practical, or upon arrival at the prisoner transport destination.

The suspect shall be transported to a hospital or other appropriate acute care facility if:

- EMS personnel determine that the suspect requires attention at a medical facility.
- The suspect is observed to have difficulty breathing or exhibits other symptoms that suggest an unusually violent or abnormal reaction to the chemical substance.

- The suspect specifically requests examination or treatment at a medical facility, regardless of whether the suspect has been examined by EMS personnel.

If an innocent bystander is unintentionally exposed to a chemical substance, the officer shall counsel the bystander regarding the proper cleansing methods and shall offer to summon an ambulance if the bystander so desires. The officer shall also obtain the bystander's name and address for inclusion in relevant reports.

Additional Guidelines:

- Oleoresin Capsicum (OC) Spray will not generally be sprayed into crowds except as described in bullet 3 below. Such tactics would require a large volume of spray and the primary disabling feature of the spray would be lost on clothing and the atmosphere.
- OC Spray shall not be used to extricate persons from a stopped motor vehicle without first gaining approval of a supervisor.
- OC Spray will not be used for crowd control during incidents of civil unrest without authorization of a supervisor. Supervisors will ensure that innocent persons are not unnecessarily exposed to oleoresin capsicum pepper spray.

302.06 - Expandable Baton:

Use of Impact Weapons - Officers may elect to use an authorized impact weapon in any situation where use of force is permitted, provided that the weapon is a reasonable and appropriate response to the level of resistance or the level of threat then confronting the officer.

In non-deadly force situations, officers shall employ only those weapons for which they are trained (and certified), and only in the manner in which they were trained. However, in situations where deadly force is authorized, officers may employ any weapon or object at their disposal regardless of training and/or the object's intended purpose.

302.07- TASER

On January 11, 2016 the 4th Circuit ruled that deploying an Electronic Control Weapon (such as a taser) is a serious use of force because it causes excruciating pain. The use of an ECW is a proportional use of force when deployed in response to a situation in which an objectively reasonable officer would perceive that the circumstances present a risk of **immediate danger** that could be mitigated by the use of force. Mere physical resistance to arrest is not synonymous with "risk of immediate danger." The immediate danger must be so severe that the deployment of the taser is proportional.

NOTE: Immediate danger requires an articulable danger to the officer or some other identifiable person who is present.

The Taser is not a substitute for deadly force. The Taser may prevent many situations from escalating to deadly force.

Officers assigned to the Patrol Division and trained in the use of the Taser shall wear a Taser when they are working their regularly scheduled work shift. The Patrol Division Commander or his designee will determine the assignments and accounting process for the Tasers as they become available.

Officers working in an off-duty capacity must carry a taser if one is available to them. (Officers must carry a taser while working an off duty detail if the detail falls during their regularly scheduled work week and a taser has been issued to them to carry until the end of their regularly scheduled work week.)

Use Of Taser Restricted From Some Areas Of The Body:

Cases have shown that if a subject experiences cardiac arrest during a situation involving a Taser discharge to the chest, it is difficult to determine whether or not the Taser contributed to the cardiac arrest.

Cases have also shown that a **frontal application** of the Taser is more effective when the point of aim is to the lower torso (below the sternum). *The most effective and preferred frontal zone taser shot is to have one probe impact in the abdomen and one probe impact in the thigh.*

The back is always the preferred target area when reasonably practical under the totality of circumstances of the incident.

Deployment of the Taser, probes or contact mode, to the restricted areas listed below shall be avoided if possible:

1. Eyes
2. Head, Throat & facial area
3. Chest area
4. Genitalia

If a suspect is struck in one of the restricted areas listed due to their own actions, the officer must document the reason(s) in the Use of Force report. An example would be if the suspect is moving at the time the Taser was deployed and the suspect moved into the probes.

Rules for the Taser are:

- Officers assigned to the Patrol Division shall carry a Taser before beginning their tour of duty
- The Patrol Division Commander or his designee will determine how the Tasers are assigned to each Patrol Officer.
- Officers will vocalize a warning. (ex, verbal or laser painting) when they are about to deploy the Taser unless it would place the officer(s) in danger. This will alert other officers at the scene of the impending deployment and to reduce the risk of other Taser uses against the subject by different officers.

- The Taser will not be used on subjects who are in physical control of a vehicle in motion (ex., auto, motorcycle, ATV, moped, bicycle).
- A Taser deployment shall not be considered for the passively resistant subject.
- Active resistance that poses a threat of immediate danger to the officer or another shall be required.

NOTE: Physical resistance is not the same thing as the risk of immediate danger.

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- The Taser is to control dangerous or violent persons especially when a reason exists to believe that it would be unsafe to approach within contact range of the individual.
- The Taser is deployed as an additional officer tool and is not intended to replace self-defense techniques or to be used as a restraint.
- The Taser shall not be used by any officer of this Department who has not received the four (4) hour mandatory training in handling and using the Taser by an instructor trained in such disciplines by the TASER manufacturer.
- The “**Drive Stun Mode**” of the Taser will only be used in the following scenarios:
 1. To supplement the “Probe Mode” to complete the incapacitation circuit, **or**
 2. As a countermeasure to gain separation between officers and the subject so the officers can consider other force options, or
 3. In those situations where the deployment of a cartridge is either unsafe or impractical, ex., due to officer/suspect proximity, suspect’s clothing, line of fire.

NOTE: The use of the Taser in the drive stun mode still requires active resistance that poses a threat of immediate danger to the officer or another.

- A subject fleeing from an officer, by itself, is not justification for the Taser to be deployed and **is prohibited**.
- Never point the Taser at another person unless its use is intended.
- The TASER shall not be used on handcuffed individuals except when one or more of the following circumstances exists:
 1. Subject is physically violent and is an immediate danger to the officer or others.
 2. Subject is actively resisting and control cannot be otherwise accomplished.

The following are General and Safety Warnings that shall be strictly adhered to in order to minimize undue injuries:

- Do not use the Taser on any known or obviously pregnant female.
- Do not use the Taser on any subject if it is known they are saturated with or in the presence of highly flammable or combustible materials or liquid.
- Do not use the Taser on any subject who may receive a secondary injury resulting from a fall from its use; i.e., standing on a roof ledge or other high places.
- Do not use the Taser on individuals in deep bodies of water due to the outside chance of drowning.
- Do not have more than one officer deploy the Taser against a single individual at the same time.
- Do not use the Taser as a punitive measure.
- Personnel should use the Taser for one standard cycle (five seconds) and then evaluate the situation to determine if subsequent cycles are necessary. Personnel should consider that exposure to the Taser for longer than 15 seconds (whether due to multiple applications or continuous cycling) may increase the risk of death or serious injury. Any subsequent Taser exposures beyond 15 seconds of multiple applications or continuous cycling should be independently justifiable, and the risks should be weighed against other force options. *(Any person exposed to the Taser for longer than 15 seconds **shall** be taken to the hospital for a medical evaluation).*
- Keep the Taser out of reach of children.
- Officers shall wear the Taser on their duty belt or vest mount configuration on the side ***opposite*** from their shooting hand. Officers are encouraged to draw the Taser **using their weak hand**, and transition the weapon to their strong hand.
- The Taser may be used against aggressive animals in situations where the animal is attacking a person or another animal. (ex., Dog attack)
- All subjects who have been Tased ***shall*** receive a medical evaluation. This can be accomplished by having a medic unit respond to the officer's location to evaluate the Tased subject. If the subject is to be incarcerated then the jail officer will be made aware of the Taser usage by the transporting officer, and that the subject received a medical evaluation.
- Officers who have been trained may remove the probes from subjects who have been tased unless they are in a sensitive area (head, throat, neck, genitalia).
- Darts/cartridges shall be properly stored and maintained as evidence following a discharge.
- Officers shall check and test the assigned weapon at the beginning of his or her duty shift.

Supervisors will:

- Respond to any scene where a Taser has been used.

Taser Cartridges:

Cartridges for the Taser will be issued by the Taser Supervisor who oversees the Taser program for the department. The Taser Supervisor will document which cartridge was issued to each authorized Taser user by documenting the serial number of the cartridge into the electronic file maintained by the

Taser Supervisor. If an officer deploys the cartridge assigned to them, they must notify the Taser Supervisor of the reason for the deployment, and a replacement cartridge will be issued to them.

Any spent or used Taser cartridges shall be properly disposed of by one of the officers at the scene.

302.08 – 37MM Super-Sock Bean Bag - The Super-Sock is a non-lethal compliance product that is designed to give law enforcement officers an additional option in intermediate range impact munitions. The Super-Sock has a maximum effective range of 20 yards. The projectile is a 155 gram flexible sock filled with silica beads. The muzzle velocity of the Super-Sock is 250 feet per second.

The Super-Sock is designed to deliver its kinetic energy over a relatively large area and impart a less-lethal impact to the target. The Super-Sock is in its deployed state immediately upon exiting the weapon barrel. It does not require a minimum range. Optimal ranges are between 5 and 15 yards. However, it is stressed that shot placement rather than deployment range is the critical factor in determining the extent of injury caused. Shots to the head, neck, thorax, heart or spine can result in fatal or serious injury.

The 37MM Gun with Super-Sock rounds; will be carried in the Supervisor's SUV. Supervisors are responsible to ensure that this equipment is carried and available with other assigned equipment. Supervisors are responsible for the care of the weapon and shall immediately report any needed maintenance to the Support Services Division Commander.

Situations that may be considered for use of the Super-Sock are:

- Controlling uncooperative or violent suspects. The Super-Sock gives officers a safe option to deploy a less-lethal weapon without resorting to deadly force to stop despondent suspects wielding weapons such as a knife or baseball bat. **(Provided that this can be accomplished without placing the officer's safety in jeopardy).**
- Standoff/Barricade Situations – The Super-Sock helps law enforcement personnel resolve barricade and standoff situations by delivering a kinetic energy impact from a distance.
- Suicide-by-Cop – Super-Sock will utilize kinetic energy impact to enable law enforcement officers to avoid tragedy and force a suicidal suspect to drop weapons and surrender.
- Warrant Service – Super-Sock will allow officers to deliver a kinetic energy impact from as far away as 60 feet.

The Super-Sock shall not be used:

- To extricate persons from a stopped motor vehicle without first gaining approval of a supervisor.

Any subject who has been shot with a Super-Sock shall receive a medical evaluation.

302.09 – Medical Aid – Medical aid will be requested as soon as possible for persons who have sustained injury, expressed any complaint of injury, been rendered unconscious, or that the officer has reason to believe have been injured as the result of the use of force. In the event that a suspect is injured, officers are obligated to request medical treatment while the suspect is in custody. Further,

officers should consider the medical condition of and any resistance being used by the injured person (s) before using restraining devices such as handcuffs. [1.3.5]

302.10 – Less Lethal Weapons Review, Inspection, and Proficiency - All less lethal weapons approved for use by the Chief of Police shall be reviewed and inspected by a weapons or defensive tactics instructor prior to being issued. Less lethal weapons shall be inspected annually on a schedule established by the Patrol Division Commander. Any less lethal weapon that is found to be in need of repair or replacement shall be placed out of service and a replacement issued, as applicable. [1.3.9]

Sworn personnel assigned less lethal weapons or that use “pool” less lethal weapons (ex. Tasers) shall demonstrate proficiency with the weapon on an annual basis. Only sworn personnel who demonstrate proficiency will be permitted to carry/use such weapons. [1.3.10]

Less lethal weapons may be used during training sessions **ONLY** when the training has been approved through normal department channels. Activation or use of a less lethal weapon outside of an approved training session shall be considered a use of force requiring a use of force report and administrative review.

302.11 – Use of Force Reports – Officers will make immediate verbal notification to their supervisors whenever force is used in the performance of an official police duty, or when exercising their law enforcement authority. 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. However, notification need not be made to agencies from adjoining jurisdictions when the officer is on duty and:

- The use of force did not involve a firearm;
- Did not result in serious bodily injury; and
- The incident occurred within one mile of the City line (An example of this is that there is no need to notify Spotsylvania County Sheriff's Office of a use of OC spray by an on-duty officer in the Spotsylvania Mall parking lot).
- Officers will submit an incident report and a Use of Force report to their supervisor. The report is forwarded, through the chain of command, to the Chief of Police. NOTE: A Use of Force Report **IS NOT** to be completed by the officer if a CRIMINAL investigation of the officer's actions is conducted (ref. Investigation of Police Involved Deadly Force Incidents Directive). Instead, the officer's supervisor will be responsible for completing the Use of Force report.

A Use of Force report will be completed for the following actions:

- Any discharge of a weapon for other than training purposes; [1.3.6, a]
- Actions that result in or are alleged to have resulted in the injury or death of another person; [1.3.6, b]
- The use of a lethal or less lethal weapon; [1.3.6, c]

- The use of weaponless physical force that involves striking techniques. NOTE: Control or restraint techniques that do not involve striking techniques or result in alleged or actual injury do not meet criteria for use of force reporting. [1.3.6, d]

302.12 – Administrative Review of Use of Force Reports – Descriptive information contained in the report will be screened to ensure that the force used was in compliance with this directive. The supervisor's findings will be forwarded along with the use of force report via the chain of command to the Chief of Police. Additionally, supervisors will ensure that any injuries to either the officer or citizen are documented by photographs etc., and are properly documented and reported. [1.3.7]

302.13 – Annual Analysis of Use of Force Reports – At the conclusion of each calendar year, Professional Standards personnel or a Commander designated by the Chief of Police shall prepare a report on the use of force by department personnel and recommend any necessary training, equipment, or policy modification. [1.3.13]

302.14 – Administrative Assignment/Counseling – Any department personnel whose action (s) or use of force in an official capacity results in death or serious physical injury shall be removed from line-duty assignment for a period of time specified by the Chief of Police pending an administrative review. Removal from line-duty assignment will not result in loss of pay or benefits pending the results of an administrative review, nor shall removal from line-duty assignment indicate or imply that the department member acted improperly. Moreover, all department personnel directly involved in a use of force incident that results in serious physical injury or death must participate in a debriefing with a mental health professional at the expense of the department before returning to duty. Professional Standards investigations will be initiated for all use of force incidents that result in a serious physical injury or death. [1.3.8]