**Bowie State University Police Department**

 *General Order*

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| *Subject:* **Use of Force** | *Number:* **6** |
| *Effective Date:* **January 1, 2021** | *Rescinds:* **July 2, 2003** |
| *Approved: Acting Chief of Police James Booker* |

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**6.1 Policy**

**6.1.1** Situations which require a determination of propriety in the use of police weapons occur infrequently; but, because of the extreme consequences which result from police shootings, as well as other kinds of force, the issue must be considered one of vital concern.

a. Despite the legal justification for using deadly force to deal with those who may perpetrate crimes against property, little deliberation is needed to recognize the distinction between the value of human life compared to the value of property.

b. Officers shall only use force that is necessary, appropriate and objectively reasonable to make an arrest, an investigatory stop/detention or other seizure, in the performance of their lawful duties, to protect themselves or others from personal attack, physical resistance, harm or death, and/or to accomplish a lawful objective. The decision to exercise force is discretionary based upon the facts and circumstances that the

 officer reasonably believes to exist at the time force is applied. In determining the appropriate levels of force to be used by an officer, the nature of the threat or resistance faced or perceived by the officer as compared to the force employed should be considered. An officer will, if appropriate, attempt to de-escalate a given situation prior to engaging in physical force.

 Factors to be considered in assessing the level of force to be used include, but are not limited to the following:

 1. The severity of the crime at issue,

 2. Whether the subject poses an imminent threat to the safety of the officers or others,

 3. Whether the subject is actively resisting arrest, or the subject is attempting to evade arrest by flight.

c. It must be understood that the laws justifying the use of deadly force do not obligate a police employee to use such force; but rather, define the legal parameters within which they may or may not and provide to them several alternative courses of action.

d. Therefore, both the responsibility of whatever choice he/she may make and the actual employment of deadly force lies solely with the member.

**6.1.2** The decision to use deadly force is the most serious decision an officer can make.

a. In making that decision, officers must be mindful of their duty to perform their police mission using only that force required to carry out their responsibilities effectively and safely.

b. The officer's action can only be justified by the facts or information known to the officer at the time he makes that decision.

c. Facts unknown to the officer, no matter how compelling, cannot be considered in later determining whether the use of deadly force was justified.

**6.1.3** It is the policy of the BSUPD that members of the department shall, in every instance, use only the minimum force necessary to accomplish a lawful objective and shall exhaust every other reasonable means before resorting to deadly force. Officers shall only use force that is necessary, appropriate and objectively reasonable to make an arrest, an investigatory stop/detention or other seizure, in the performance of their lawful duties, to protect themselves or others from personal attack, physical resistance, harm or death, and/or to accomplish a lawful objective

**6.1.4** It is the policy of the BSUPD to accomplish police objectives as efficiently and unobtrusively as possible, with the highest regard for the human dignity and liberty of all persons. The legal authority and justification to use any degree of force is contingent upon the concept of reasonableness and necessity of force used. The concept is applied as follows:

**a.** The necessity to resort to force, i.e., if another alternative to the use of force is likely to be effective under the particular circumstances and this alternative is not attempted, the use of force is not authorized; and

**b.** The degree of force used must be reasonable under the circumstances. An officer may utilize superior force to stop a force, however once a lawful objective is attained, all force must immediately cease i.e., the member may use only enough force to overcome the resistance or aggression met. If the degree of force is greater than needed to overcome resistance or aggression, that force is not legally authorized

**c.** The use of choke holdsin any form is prohibited except in those situations where the use of deadly force is allowed by law.

**6.1.5** It is department policy that a member must reasonably anticipate a situation justifying the use of a weapon before removing it from its holster or otherwise displaying it. The use or display of weapons in circumstances other than those described in this article is contrary to department policy.

**6.1.6** A member's choice to employ less-lethal force, e.g., the police baton, pepper-spray, must also be based on the same relative justification as is needed for use of firearms. Although the use of less-lethal force, such as using the police baton, rarely terminates in a fatality, that potential nevertheless exists. Serious consideration must be afforded the decision to use a weapon.

**6.1.7**  Excessive force is never tolerated and will result in severe disciplinary action.

**6.1.8** The department shall conduct an administrative review to determine whether the use of force by its members was justified.

a. A conclusion as to whether the use of force was justified will be based on what reasonably appears to be the facts known by the employee at the time the force was used.

b. Information made available after the incident occurred may not be used to justify the employee's action.

**6.2 Definitions**

**6.2.1** *Force:* Power, compulsion, or constraint exerted upon or against a person or thing. Power dynamically considered, that is, in motion or in action; constraining power, compulsion; strength directed to an end. Force may be applied through the use of a person's physical presence, body, weapons, equipment, and/or other instruments.

**6.2.2** *Deadly Force:* Any physical force, by its application which has a substantial risk that could result in death or serious injury or which a reasonable prudent person could consider likely to cause death or serious bodily injury.

**6.2.3**  *Less than deadly/lethal force*: Physical force which is generally not intended or reasonably likely to result in death or serious physical injury. Such force includes but is not limited to officer presence, verbal commands, hands on, etc.

**6.2.4** *Necessary:* Means that no reasonably effective alternative to the use of force appears to exist and that the amount of force to be used is reasonable to effect the lawful objective intended, two (2) factors should be considered:

 a. The potential danger to the officers or others presented by a subject.

b. The absence of safe alternatives to accomplish a lawful purpose.

6.2.5 *Excessive Force*: Any use of force that is greater than the degree of force needed to overcome resistance or aggression. Such use of force is not legally authorized.

6.2.6 *De-Escalation*: Strategies and techniques used by officers to reduce potential conflict among officers and citizens arising out of contacts between the same.

1. Pre-Incident: Taking action or communicating during a potential use of

physical force encounter in an attempt to stabilize the situation and reduce

the immediacy of the threat faced by the officer so that more time, options,

and resources can be called upon to resolve the situation without the use of

force or with a reduction in the force necessary. Example of pre-incident

de-escalation actions include, but are not limited to: tactical use of cover,

use of tactical verbal communication strategies, etc.

2. Post-Incident: Taking action to communicate and stabilize a situation after

6.2.7 *Objectively Reasonable Force*: The level of force which is appropriate when analyzed from the perspective of a reasonable officer on the scene possessing the same information and faced with the same circumstances as the officer who actually utilized the force. The objective reasonableness of a particular use of force is not analyzed with hindsight, but will take into account the fact that officers must make rapid decisions regarding the amount of force to use in tense, uncertain, unpredictable, and rapidly evolving situations.

6.2.8 *Passive Resistance*: A refusal by a known unarmed person to comply with an officer’s verbal command or physical control techniques by non-violent actions. Examples include, but are not limited to, ignoring verbal instructions by failing to respond or move, linking arms, or going limp.

6.2.9 *Physical Force*: Is the exertion or use of any physical object or body part against an individual with the intent of compelling a physical response or constraining (stopping) some action.

6.2.10 *Probable Cause*: More than mere suspicion. It is the reasonable belief based

upon a police officer’s education, training, and information (provided to or known to an officer at the time of an incident or occurrence) that would cause a reasonable officer to conclude that the point at issue is probably true.

6.2.11 *Proportional Force:* The level of force applied must reflect the totality of

circumstances surrounding the situation, including the presence of imminent danger to officers or others. Proportional force does not require officers to use the same type or amount of force as the subject. 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 objectively reasonable and necessary to counter, subdue or overcome it.

6.2.12 Reasonable Force: Force that is objectively reasonable and necessary under the circumstances to effect an arrest, protect the officer or other person(s) or attain a lawful objective.

6.2.13 *Totality of Circumstances*: Circumstances that would lead an objectively

reasonable officer to believe that they are encountering a situation that may

require the use of force on a subject. Circumstances to consider may include the nature of the offense, seriousness of the offense, size and strength of the subject, number of subjects, availability of weapons, mental instability of the subject, availability of other force options, training and experience of the member and subject, environmental factors, and availability of back up and specialized units. This list is not meant to be exhaustive.

**6.3 Parameters for Use of Deadly Force**

**6.3.1** A firearm may only be discharged in the performance of police duties by a member when used in the following circumstances:

a. To protect him/herself or others from what he/she reasonably believes to be an imminent threat of death or serious bodily injury;

b. To prevent the escape of a dangerous felon where the member has probable cause to believe that the suspect poses a significant threat of death or serious bodily injury to the officer or others, if the apprehension is delayed;

c. When used at an approved range facility; or

d. To humanely destroy animals which are seriously injured or pose a threat to public safety, when no other means are available.

**6.3.2** A firearm shall be used only if:

a. The member concludes that non-deadly force will not suffice; and

b. One of the circumstances in Section 6.3.1 is met.

**6.3.3** Under no circumstances shall a firearm be discharged:

a. As a warning;

b. At or from a moving vehicle;

c. In any felony which does not involve an actual or threatened, and immediately imminent, attack which the member has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to him/herself or others; or

d. When it appears likely that an innocent person may be injured.

**6.3.4** In all circumstances, consideration shall be given to the surrounding area and building construction to assure that a projectile will not go astray and injure an innocent person.

**6.4 Parameters for Use of Less than Lethal/Deadly Force**

**6.4.1** When the use of force is authorized, members shall, to the extent possible, utilize an escalating scale of options and shall not employ a more forceful measure, unless it is judged that a lower level of force would not be adequate, or such a level of force is attempted and actually found to be inadequate. The scale of options, in order of increasing severity, is as follows:

1. Officer Presence
2. Verbal Commands

C. Physical strength, and

c. Less than lethal/deadly (i.e. baton, pepper spray, etc.)

**6.4.2** A member is justified in using physical, but not deadly, force to:

a. Protect him/herself or another person from physical harm;

b. Restrain or subdue a resistant individual; or

c. Bring an unlawful situation safely and effectively under control.

**6.4.3** General guidelines for the use of non-deadly force are:

a. Physical force involving no weapons shall be used if the situation is such that the member reasonably concludes that the subject can be subdued without using a weapon. No more force than is necessary may be used.

b. A baton shall be used only if physical force involving no weapons will not suffice or is not appropriate (such as for crowd control)

**6.4.4** The baton shall not be used:

a. Indiscriminately or in mere anticipation of violence or resistance.

b. As a striking implement against a person who is under restraint and/or subdued.

c. To intentionally deliver a blow to a person's head, face, neck, or throat area, unless there are life-threatening exigent circumstances.

**6.4.5** Flashlights shall not be used as weapons against any person unless there are life-threatening exigent circumstances.

**6.5 General Restrictions and Procedures**

**6.5.1** All members, when on-duty, shall be armed with a department-issued firearm, carry their badge, BSUPD identification card and MPCTC certification card on their person.

a. When on campus and in civilian attire, a member's firearm shall be properly concealed at all times, not worn in such a manner as to be visible to the public.

b. A member is not required to wear a firearm when on campus and off-duty.

c. Only departmental-issued ammunition shall be used in department-issued firearms.

**6.5.2** The following shall apply whenever a firearm is discharged and a person is struck.

a. Whenever a member discharges his/her firearm and strikes any person, he/she shall immediately:

(1) Determine the physical condition of the injured party and render first aid when appropriate;

(2) Request necessary emergency medical aid; and

(3) Notify the dispatcher of the incident and location of same.

b. The member shall protect his firearm for examination and submit the firearm to the shift supervisor upon his/her arrival.

c. At the arrangement of the department, the member shall undergo a debriefing with a psychologist as soon as possible after the shooting, but no later than twenty-four hours after the shooting. The debriefing session shall be confidential and remain protected by the privileged physician-patient relationship.

**6.5.3** Anytime a member draws his/her firearm on or off duty, whether or not the firearm is discharged, he/she shall notify his/her immediate supervisor and submit

a written summary of the circumstances to the Patrol Division Supervisor on the date of the incident.

a. Whenever a firearm is used or withdrawn from its holster with the intention of using it, such action must be with a realization that the injury or death of some person may occur.

b. Discharging a firearm in the direction of a person shall always be construed as the application of deadly force.

**6.5.4** Firearms shall never be drawn or displayed in a public place, except for official use.

**6.5.5** Members shall not carry or display a weapon in an obvious or flagrant manner, or in any manner which would invite unfavorable comment from the public.

**6.5.6** Persons in police custody who claim injury (visible or not) as a result of the use of a non-deadly weapon shall be transported to the hospital where they will either refuse treatment or be medically cleared by a staff physician. The reporting officer shall note the time of the use of non-deadly force in the narrative of the report, as well as the time of arrival at the hospital emergency room.

**6.5.7** When members are on extended sick leave or medical leave of absence, they shall turn in their issued firearm and ammunition, and police I.D. card, to the administrative sergeant until such time as they are returned to full duty.

**6.6 Reporting and Notifications**

**6.6.1** A member shall immediately notify the Shift Commander:

a. Whenever the member discharges his/her issued firearm outside the firing range, or an approved off-duty firearm when it potentially violates any state or local laws or ordinances;

b. Whenever the member uses force that results in death or serious injury;

c. Whenever the member uses non-deadly force on a person; or

d. When a suspect complains to the member that he/she has been injured or an injury is visible.

**6.6.2** A written report shall be prepared by the member under the same circumstances outlined in Section 6.6.1. The report shall be submitted:

a. To the shift supervisor before the end of the member's tour of duty, or as soon as practical, but no later than 24 hours, if the member is off-duty; and

b. On a BSU Form 95 whenever a member's on-duty or off-duty firearm is discharged outside the firing range. Each member at the scene when the firearm was discharged must also submit a BSU Form 95 to Shift Commander.

**6.6.3** Whenever a use of force results in death or serious injury, the Shift Commander shall:

a. Immediately notify:

(1) The Homicide Squad, Prince George's County Police Department,

(2) The Crime Laboratory Department, Prince George's County Police Department,

(3) The Assistant Director, and

(4) The Director of Campus Safety;

b. Prepare a preliminary report to be forwarded to the Assistant Director before the end of his/her tour of duty;

c. Place the member in a non-line capacity; and

d. Prepare a final investigative report to be submitted to the Assistant Director within 30 days of the incident. This report will include the following:

(1) Statements made by the officer and recorded in his/her police report;

(2) Statements made by witnesses and other officers and recorded in the original police report;

(3) Statements made by the victim and recorded in the original police report; and

(4) A recommendation that the use of the firearm either "conformed with department policy and procedure or did not conform with the department policy and procedure."

**6.6.4** Whenever a member discharges a firearm and a person is struck, but not seriously injured, the shift supervisor shall follow the same procedures as in Section 6.6.3, except that:

a. The Prince George s' County Police Department shall not be notified, and

b. The member shall be placed in a non-line capacity if the Assistant Director considers such an action to be in the best interest of the department and the university.

**6.6.5** In all other instances of use of force:

a. The Shift Commander shall interview separately and without unreasonable delay the member(s) involved, and all other available witnesses, and submit a written report to the Assistant director within twenty-four (24) hours of the incident, unless the time is extended by the Assistant Director.

b. The member shall be placed in a non-line capacity if the Assistant Director considers such an action to be in the best interest of the department and the university.

**6.6.6** The Assistant Director shall:

a. Review the written report, with its attachments, from the Shift Commander concerning each use of force;

b. Determine if a member who has been placed in a non-line capacity by the Shift Commander should be returned to full duty capacity;

c. If a member is continued in a non-line capacity, determine when the member will be returned to regular duty;

d. Direct follow-up action, if any, to be taken after review of use of force reports. Such action may include, but is not limited to:

(1) Convening a board of review;

(2) Referral to the department training/education coordinator to address identified training and/or equipment needs;

(3) Referral for additional investigation; or

(4) Appropriate notification;

e. Send an "unusual occurrence" MILES message to report the discharge of a firearm in cases where the police employee has shot or attempted to shoot a person or where the incident is otherwise unusual. A copy of the message shall be sent to C.I.D.; and

f. Notify the Attorney General's Office of the incident whenever a member discharges his/her issued or off-duty firearm and strikes a person in the performance of duty, and request the presence of a representative to give legal advice to the member involved, supervisory personnel, and university administrators.

6.7 Administrative Review

6.7.1 The department may conduct an administrative review to determine whether the use of force by its members was justified.

a. A conclusion as to whether the use of force was justified will be based on what reasonably appears to be the facts known by the member at the time the force was used.

b. Information made available after the incident occurred may not be used to justify the member's action.

**6.7.2** In cases of the use of non-deadly force:

a. If the Assistant Director determines that the member has conformed with the department's firearms policy and procedures, he/she shall inform the member of the decision and forward the report to C.I.D.

b. If the Assistant Director determines that the member has not conformed with the department's firearms policy and procedures, he/she shall proceed with disciplinary action.

**6.7.3** In cases of the use of deadly force, the Deadly Force Review Board shall be appointed and convened by the Director of Campus Safety.

a. The review board shall include:

(1) The Assistant Director (Chair),

(2) A Shift Commander from any shift on which the officer is not assigned and who did not prepare the investigative report,

(3) A first-line supervisor from any shift on which the officer is not assigned,

(4) A firearms instructor, and

(5) A member of equal rank to the member involved.

b. The review board shall evaluate in detail each aspect of the incident. The evaluation shall consist of:

(1) The Shift Commander's report, and

(2) Direct testimony, if necessary.

c. At the conclusion of the evaluation, the board shall forward to the Director of Campus Safety the following:

 (1) Whether the shooting was within policy, outside of policy, or accidental;

(2) The quality of supervision;

(3) Training considerations; and

(4) Discipline considerations.

d. The officer shall be available for official departmental interviews at all times and shall be subject to duty at any time.

(1) If the incident is a homicide, the officer shall be placed on administrative leave with pay.

(2) The assignment to administrative leave is not intended to imply or indicate that the officer acted improperly.

**6.7.4** C.I.D. shall be the central repository for all information concerning members' discharging firearms during the performance of their duty.

**6.8** Carrying a Firearm Off-duty - All Officers are considered to be on duty or ready for duty at all times and should be suitably armed.

**6.8.1** When a member is off-duty and elects to carry a firearm:

a. The firearm must be a department-approved firearm; and

b. The member must carry:

(1) His/her badge,

(2) BSUPD Identification Card, and

(3) MPCTC certification card.

**6.8.2** Off-duty members, when out of the Bowie State University's jurisdiction and carrying a weapon, have the same authority as any private citizen. Members carrying or using their firearm in another jurisdiction must do so with the realization that they subject themselves to the judicial and administrative processes of that jurisdiction.

**6.8.3** All members of the BSUPD shall use prudence and good judgment in wearing their off-duty weapons while participating in any social activity. They shall keep their weapon covered and be aware that the accidental display of a weapon in public may cause apprehension and could direct unfavorable comment toward the department.

**6.8.4** Members desiring to carry an off-duty weapon shall:

a. Submit a Form 95 through channels to the Assistant Director requesting approval to carry an off-duty weapon;

b. Possess a Maryland Police Commission Training Certification Card; and

c. Submit the weapon and the weapon's holster for inspection by the Range Instructor who must be able to certify, on the proper form, that the weapon is in excellent working condition and that the holster is manufactured and designed for the specific firearm.

(1) If the weapon is not properly functional, it is the member's responsibility to bring it up to acceptable standards.

(2) If the holster is not manufactured or designed for the weapon, it is the member's responsibility to obtain the proper holster.

(3) The Range Instructor shall not certify the weapon or the holster, until he/she is satisfied that the weapon is in excellent working order and that the holster is of the appropriate manufacture and design.

**6.8.5** The member shall qualify at the range with his/her off-duty weapon in order to obtain final authorization to carry an off-duty weapon.

**6.8.6** Ammunition for a member's off-duty weapon shall be the same as that currently used for department-issued firearms.

**6.8.7** The member's off-duty weapon shall be carried in the holster specifically approved by the Firearms Instructor.

**6.8.8** When a member is on campus, but not on duty, he shall notify the dispatcher of his/her presence, location, and whether he is armed. This information is important in the event of an emergency or need for a back-up of on-duty officers.

**6.8.9** A member's department-issued firearm shall not be authorized for off-duty use unless the member is within his/her jurisdiction.

**6.8.10** No member shall be armed while under the influence of alcoholic beverages or drugs, and while taking medication to the extent that it would render him/her incapable of effectively using a firearm.

**6.8.11** Any violation of Section 6.8, concerning off-duty firearms, shall result in an indefinite suspension of the privilege to carry an off-duty firearm and appropriate disciplinary action.

**6.8.12** The provisions of Section 6.8 concerning off-duty firearms are based on Article 27, Sections 36, 36A, and 36B of the Maryland Annotated Code, and on rulings of the Office of the Attorney General.

**6.9 Firearms Qualification**

**6.9.1** The Firearms Range Instructor shall design for the Assistant Director's approval:

a. A firearms qualification test for all weapons issued or approved by the department; and

b. A uniform firearms training program for all weapons issued or approved by the department.

**6.9.2** The Firearms Range Instructor shall set qualifications and training requirements for all personnel.

a. Firearms training and qualification tests with designated primary weapons shall be mandatory for all members.

b. The primary weapon for all personnel shall be the department-issued handgun or a non-issue handgun approved to carry off-duty.

c. The Training Coordinator shall be responsible to see that all members participate in the approved training program.

d. A Firearms Instructor shall supervise all training and qualification tests.

**6.9.3**  All members shall fire the approved training program annually and pass an approved qualification test.

a. Members shall participate in an annual uniform training program designed for their primary weapon, and pass the approved qualification test for that weapon.

b. In order to carry a department-approved off-duty handgun, members shall qualify on the course approved for that weapon once annually. A single qualifying score will be acceptable evidence of proficiency.

**6.9.4** If a member fails to pass the qualification test with the primary weapon, the Firearms Instructor shall report such fact to the assistant Director. The Training Coordinator shall schedule the member for remedial firearms training and retesting to be completed within five (5) working days of the member's last testing date.

**6.9.5** If a member demonstrates poor performance with his/her primary weapon during a training session, the Firearms Instructor shall report such fact to the Assistant Director.

a. The member shall be scheduled for remedial firearms training to be completed within fifteen (l5) days of the member's last training session.

b. At the conclusion of this remedial training, the member shall be retested.

c. If, following the remedial training, the member passes the firearms qualification test, no further training shall be required.

**6.9.6** A member's failure to qualify and/or poor performance shall be documented by the Firearms Instructor on BSUPD Form 044 and the original maintained by him/her. Once the member successfully completes the remedial training, the Firearms Instructor shall indicate same on the original form and immediately forward it to the Assistant Director.

**6.9.7** Continued failure to qualify shall be regarded as incompetence and may lead to dismissal.

**6.10 Firearms Safety and Security**

**6.10.1** Members shall retain possession of their issued firearm at all times, except when:

a. Stored in their assigned Pistol Lock Box when not on-duty

b. Given to a superior officer;

c. Given to the Firearms Instructor; or

d. Required to secure it by an agency of competent authority, such as the court. If a member is unsure as to whether he should remove his/her firearm in a particular facility, he/she shall contact the Shift Commander for a decision before relinquishing it.

**6.10.2** It shall be the responsibility of each member to have his/her firearm properly secured in his/her BSU assigned Pistol Lock Box when not on-duty, so that the weapon is not readily accessible for use by an unauthorized person. This Pistol Lock Box is subject to random inspection by the Director of Campus Safety or designee.

**6.10.3** No member shall lend his/her firearm or non-deadly weapons to another person without specific written permission from a superior officer. The superior officer shall submit a report to the Assistant Director explaining the circumstances.

**6.10.4** Every precaution shall be taken at all times to prevent access to such firearms or other weapons by prisoners or other unauthorized persons.

a. Firearms shall never be left unsecured or unattended.

b. Members shall not leave their firearm or other weapon in a vehicle, locker, or desk, or exposed on tables or other furniture, or in any other place which may subject the weapon to unauthorized possession or use.

**6.10.5** Only police officers may clean or otherwise handle department-issued or approved firearms.

a. Firearms shall be cleaned promptly after they have been used, but only in a private and safe location free from distraction and interference.

b. Prior to cleaning, all firearms shall be checked to ensure that they are not loaded.

**\*** **Rescissions:**

1. Article 3, Section 4

2. Article 3, Section 11

3. Article 3, Section 11-A

4. Article 6, Section 6

5. Article 6, Section 6-A