

Cobb County Police Department

Policy 5.20

USE OF FORCE

Effective Date: December 15, 2017	Issued By: Chief M.J. Register
Rescinds: Policy 5.20 (November 1, 2017)	Page 1 of 11
The words “he, his, him,” which may appear in this policy, are used generically for clarity and ease of reading. These terms are not meant to imply gender and relate to all employees of the Department.	

The purpose of this policy is to provide members of the Department with guidelines on the use of deadly and non-deadly force. This policy and the standards contained herein are for Cobb County Police Department use only, and the standards or policy established do not apply in any criminal or civil proceedings. Even though, in certain instances, the standards or policy contained herein may be more stringent than legal standards for criminal or civil liability, they are not to be construed as creating a higher legal standard of safety or care by which the officer is to be bound in an evidentiary sense with respect to claims by others involving criminal or civil liability. The violation of this policy will subject the officer to Department sanctions or disciplinary action only, and shall not form the basis for civil and/or criminal action.

I. POLICY

The Cobb County Police Department recognizes and respects the value and special integrity of each human life. In vesting the members of this agency with the lawful authority to use force to protect the public welfare, a careful balancing of all human interests is required. Therefore, it is the policy of this Department that police officers use reasonable force to bring an incident under control, while protecting the lives of the officer and others.

II. DEFINITIONS

As used in this policy, the following words and terms shall have the meaning ascribed:

- A. Deadly Force:** Any use of force that is likely to cause death or serious physical harm.
- B. Non-Deadly Force:** Any use of force other than that which is considered deadly force.
- C. Reasonable Belief:** According to Georgia Code 16-1-3 (16), “Reasonable Belief means that the person concerned, acting as a reasonable man, believes that the described facts exist.”
- D. Serious Physical Harm/Serious Bodily Injury:** A bodily injury that creates a substantial risk of death; causes serious, permanent disfigurement; or results in long-term loss or impairment of the functioning of any bodily member or organ.

- E. **Impact Weapon:** The Department authorizes sworn personnel to carry the ASP expandable baton on duty after proper training. Straight and riot batons will be issued on an as-needed basis.
- F. **Oleoresin Capsicum (OC) Spray:** The Department authorizes sworn personnel to carry and use OC Spray on duty after proper training.
- G. **Mental Stunning:** The temporary disruption of the subject's thought process.
- H. **Motor Dysfunction:** The temporary disruption of the subject's ability to use a muscle or muscle group.
- I. **Other Less-Lethal Weapons:** Weapons authorized for use by the Department which are designed to be less than lethal (i.e. beanbag rounds, etc.).
- J. **Firearm:** Any firearm issued/authorized by the Department.

III. FORCE OPTIONS

- A. When a police officer is performing his duty, there is often the potential for a confrontation requiring the use of force. The police officer should not only maintain environmental and situational awareness, but also be mentally and physically prepared to control a resisting or violent subject. When confronted with a resisting or violent subject, the officer will have to utilize some level of force to ensure control. The force utilized by the officer must:
 - 1. Be utilized to control the subject.
 - 2. Be reasonable and necessary.
 - 3. Be relative to the subject's resistance level.
 - 4. Be escalated and de-escalated.
 - 5. Cease when control has been established.
- B. The police officer has seven (7) force options available to overcome and control a resisting subject. These options are:
 - 1. **Presence:** An identification of authority.
 - 2. **Verbal commands:** Verbal skills utilized to control or de-escalate the situation.
 - 3. **Soft empty hand control:** Techniques that have a low potential of injury to the subject.
 - 4. **Oleoresin Capsicum (OC)/Conducted Electrical Weapon (CEW):** Officer perceives that low level control options will not effectively control the subject and escalates to a chemical inflammatory agent or conducted electrical weapon used to temporarily incapacitate the subject.

5. **Hard empty hand control:** Techniques that have a possibility of creating mental stunning and/or motor dysfunction.
 6. **Impact or other less-lethal weapons:** A baton may be utilized when empty hand control techniques or OC spray/CEW cannot control a resisting subject, or the officer perceives that empty hand techniques or OC spray/CEW will not control the subject and that deadly force is not justified. Other less-lethal weapons, as defined in definition “I”, may also be utilized, if available.
 7. **Deadly force:** Any use of force that is likely to cause death or serious physical harm.
- C. The police officer must understand that the above force options must be correlated with the totality of the circumstances in order to articulate and define what force level was reasonable and necessary.

IV. USE OF DEADLY FORCE

- A. Police officers shall review and be familiar with Official Code of Georgia, Sections 16-3-20 through 16-3-24, and 17-4-20. The Cobb County Public Safety Training Center shall ensure that at least annually, all sworn officers will receive training on these statutes and the use of deadly force.
- B. OCGA 17-4-20(b) states that “...[officers] may use deadly force to apprehend a suspected felon only when the officer reasonably believes that the suspect possesses a deadly weapon or any object, device, or instrument which, when used offensively against a person, is likely to or actually does result in serious bodily injury; when the officer reasonably believes that the suspect poses an immediate threat of physical violence to the officer or others; or when there is probable cause to believe that the suspect has committed a crime involving the infliction or threatened infliction of serious physical harm. Nothing in this Code section shall be construed so as to restrict such sheriffs or peace officers from the use of such reasonable non-deadly force as may be necessary to apprehend and arrest a suspected felon or misdemeanorant.”

In accordance with this statute, and the U.S. Supreme Court’s decision in the case of Tennessee v. Garner the following doctrine has been developed by the Department and shall be adhered to by officers using deadly force:

1. In protecting either himself or a third party an officer must have a reasonable belief that the following three elements are present and exist simultaneously before the use of deadly force can be used:
 - a. **Ability:** There exists a means or capability, either physical or mechanical, for a person to be able to cause death or serious physical injury to the officer or a third party.

- b. **Opportunity:** The person is within an effective range and/or has time to utilize a physical or mechanical means to cause death or serious physical injury to the officer or a third party.
 - c. **Jeopardy:** There has been a verbal communication, or a physical action, which manifests an intent on the part of the person to cause death or serious physical injury to the officer or a third party.
- 2. Officers may use deadly force to prevent the escape of a suspected felon where there is probable cause to believe that the suspect has committed a crime involving the infliction or threatened infliction of serious physical harm, and, if feasible, a warning is given.
 - 3. Officers shall not use deadly force to apprehend an unarmed, non-dangerous suspect.
 - 4. Officers will not be restricted in their use of reasonable non-deadly force to effect a lawful arrest.
- C. Police officers shall use deadly force only to stop and incapacitate a suspect, in accordance with training methods approved by the Cobb County Public Safety Training Center.
- D. Warning shots are generally prohibited. The only exception is when an officer is immediately faced with the option of either firing a warning shot or justifiably using deadly force. When firing a warning shot is a reasonable measure to prevent the immediate need for use of deadly force, the warning shot shall be considered justified. Before firing the warning shot the officer must take into consideration his surrounding environment, so as not to injure an uninvolved party.
- E. A police officer may also discharge a weapon under the following circumstances:
- 1. During range practice or competitive sporting events.
 - 2. To destroy an animal that represents a threat to public safety, or as a humanitarian measure where the animal is seriously injured.

NOTE: This policy will not preclude officers from using any available resource when defending themselves or another from physical assault likely to cause great bodily harm or death.

V. USE OF NON-DEADLY FORCE

- A. Where deadly force is not authorized, officers shall use reasonable force in order to de-escalate the situation and bring it under control.

- B.** Police officers are authorized to use non-deadly force techniques and Department issued equipment (e. g. impact weapon, OC spray, CEW) for resolution of incidents as follows:
1. To protect themselves or another from physical harm.
 2. To restrain or subdue a resistant individual.
 3. To bring an unlawful situation safely and effectively under control.
 4. When the officer's supervisor authorizes the officer to use non-deadly force techniques in a crowd control situation. Typical examples are the use of the baton and the deployment of chemical agents.

VI. DEPARTMENT RESPONSE TO USE OF FORCE

- A.** When an officer has to present a weapon (baton, OC spray, CEW, service weapon, etc.) to force compliance of a subject, but does not use the weapon, the incident does not have to be documented unless an arrest is made.
- B.** When an officer uses force (other than presence, dialogue, or handcuffing) which does not result in any injury, complaint of injury, or property damage, the incident will be documented on an incident report.
- C.** When an officer uses force which results in property damage, the following procedures will be followed:
1. Immediately notify his supervisor.
 2. Document the incident on an incident report.
- D.** When an officer uses non-deadly force which results in an injury or complaint of injury, the following procedures will be followed:
1. Medical aid will be requested by the officer involved, or by the first officer on the scene, if the involved officer is unable to call for the aid.
 2. The involved officer will notify his immediate supervisor of the incident and location. If the officer is unable to do this, the first uninvolved officer on the scene will do so.
 3. The officer will be advised by his supervisor as to whether he should remain at the scene or relocate.
 4. The officer will document the incident on a Department incident report.
 5. A Use of Force Statistical Report (separate from the incident report) will be completed by the officer and submitted to the Department of Public Safety Training Unit through the precinct or unit chain of command.
 6. The supervisor will ensure that photographs of any injuries to the officer or other subjects are taken and secured.

E. When an officer utilizes OC spray to control a resistive subject, the following procedures will be followed:

1. The officer will notify his supervisor of the exposure incident.
2. The officer will request the Communications Center to dispatch Emergency Medical Services for decontamination procedures.
3. The subject will be decontaminated and monitored for at least **2 hours** after being exposed to OC spray. The monitoring may be conducted by:
 - a. Department personnel;
 - b. The Cobb County Sheriff's Office personnel. Book-in personnel will be notified by the arresting or transporting officer that the subject has been exposed to OC spray;
 - c. Medical personnel; and
 - d. Any combination of the above personnel.

In the case of a by-stander ("non-arrestee") being exposed to OC, after being decontaminated they should be instructed to have a friend, relative, or medical personnel monitor them for two hours.

4. The officer will offer the subject further medical attention once the decontamination process has been completed. The subject can decline or accept the offer if he wishes.
5. Document the incident on a Departmental incident report form.
6. A Use of Force Statistical Report (separate from the incident report) will be completed and submitted to the Department of Public Safety Training Unit through the precinct or unit chain of command.

F. When an officer, whether on duty or off duty, accidentally discharges his firearm, but there is no subsequent injury, the officer will notify his immediate supervisor of the incident.

1. On Duty Incidents

The supervisor, upon being notified, will:

- a. Proceed immediately to the scene.
- b. Take charge of investigating the scene.
- c. Ensure that the next level of command has been notified.
- d. Render command assistance to the involved officer.

- e. Ensure a Use of Force Statistical Report (in addition to the incident report) is completed and submitted to the Department of Public Safety Training Unit through the precinct or unit chain of command.

2. Off Duty Incidents

The supervisor, upon being notified, will:

- a. Ensure that the next level of command has been notified.
- b. Render command assistance to the involved officer.
- c. Ensure a Use of Force Statistical Report (in addition to the incident report) is completed and submitted to the Department of Public Safety Training Unit through the precinct or unit chain of command.

3. The officer will attend firearms training as directed by the range master.

G. When an officer, whether on duty or off duty, intentionally discharges his firearm, but there is no subsequent injury, the following procedures will be followed:

1. The officer will notify his immediate supervisor and the Communication Center of the incident. The supervisor, upon being notified, will:
 - a. Proceed immediately to the scene.
 - b. Take charge of securing the scene.
 - c. Ensure that the next level of command has been notified.
 - d. Ensure that Crimes Against Persons Unit has been notified.
 - e. Render command assistance to the involved officer and the assigned detective.
 - f. Complete a detailed addendum to the original report.
2. The officer will remain at and secure the scene, unless directed to do otherwise by a supervisor.
3. The officer will protect his firearm and present it for examination only to the Crimes Against Persons detective assigned to investigate the incident. If the act of physically handling the weapon would result in the loss of evidence, the officer will physically secure the scene, including the undisturbed weapon, until the scene has been released by detectives.
4. The involved officer will make himself available for all questioning and will follow all verbal or written directives of his immediate supervisor and/or Crimes Against Persons detectives.
5. The officer will document the incident on a Department incident report.
6. The Crimes Against Persons Unit will conduct an investigation of the incident in accordance with the Standard Operating Procedures of the unit. A Use of Force Statistical Report will be completed by a Crimes Against

Persons detective and submitted to the Department of Public Safety Training Unit through the chain of command.

7. The officer will attend firearms training as directed by the range master.

H. When an officer discharges his firearm, or uses other deadly force, either accidentally or intentionally, and injury or death of another person results, the following procedures will be followed:

1. Medical aid will be requested by the officer involved, or the first officer on the scene if the involved officer is unable to call for aid.
2. The involved officer will notify his immediate supervisor and the Communications Center of the incident. If the involved officer is unable to do this, the first officer at the scene shall do so. Upon notification the supervisor will:
 - a. Proceed immediately to the scene.
 - b. Take charge of securing the scene.
 - c. Ensure that the next level of command has been notified.
 - d. Ensure that Crimes Against Persons Unit and Internal Affairs Unit have been notified.
 - e. Render command assistance to the involved officer and assigned investigators.
 - f. Complete an addendum to the original report.
3. The officer will remain at and secure the scene unless directed to do otherwise by a supervisor. The supervisor giving such an order will also designate an uninvolved officer to accompany the involved officer.
4. If the involved officer used a firearm in the incident, he will protect it and present it for examination only to the Crimes Against Persons detective assigned to investigate the incident. If the involved officer is unable to do this, the first officer on the scene will ensure the weapon is protected for examination without disturbing the scene. If the act of physically handling the weapon would result in the loss of evidence, the officer will physically secure the scene, including the undisturbed weapon, until the scene has been released by the detectives.
5. The Crimes Against Person Detective assigned to investigate will secure the weapon and retain it throughout the investigation as physical evidence. The Deputy Chief of the appropriate bureau will determine, based on the circumstances of the incident, when the officer will be issued another weapon to replace the surrendered weapon.
6. The involved officer will make himself available for questioning by the Internal Affairs Investigator and will follow all verbal or written directives of the Internal Affairs Unit.

7. Internal Affairs and Crimes Against Persons detectives will conduct an investigation of the incident in accordance with the Standard Operating Procedures of their respective units. The Crimes Against Persons Unit will complete the original incident report and all other investigative addendums concerning the incident. A Use of Force Statistical Report will also be completed by a Crimes Against Person detective, and submitted through the chain of command to the Department of Public Safety Training Unit.
 8. The officer will attend firearms training as directed by the range master.
- I. An incident report and Use of Force Report will be submitted whenever an employee discharges a firearm, for other than training or recreational purposes.

VII. ADMINISTRATIVE REQUIREMENTS

A. Administrative Leave/Duty Procedure

Any employee, whose action(s) or use of force in an official capacity results in death or serious physical injury, will be removed from operational assignments and placed on administrative leave, pending an administrative review of the incident.

1. The administrative leave will begin directly upon conclusion of the preliminary interview with the Internal Affairs investigator, or as authorized by the Chief of Police.
2. The order placing the employee on administrative leave will be given by the Internal Affairs Commander or his designee. The scope and contents of the order will comply with the Standard Operating Procedures of the Internal Affairs Unit.
3. This leave shall be without loss of pay or benefits, pending the results of the investigation. The assignment shall not be interpreted to imply or indicate that the employee has acted improperly.
4. While on administrative leave the employee shall strictly comply with all rules and requirements associated with this leave status as prescribed by Internal Affairs.

B. Psychological Services for the Employee

1. Any employee, whose action(s) or use of force in an official capacity results in death or serious physical injury; or any employee who has been the victim of a deadly force act, may be required to undergo a psychological debriefing as soon as possible after the incident; and 90-120 days after the incident.
 - a. The counselor, psychologist, or psychiatrist will send a written report to the commander of Internal Affairs stating if, and when, the

employee should return to his regular duty assignment.

- b. The Internal Affairs Commander will immediately notify the Director of Public Safety and the Chief of Police of the return-to-duty status. The Chief, in turn, will notify the appropriate chain of command.
 - c. It will be the responsibility of the Internal Affairs Commander, or his designee, to coordinate all administrative actions between counselors, psychologists, psychiatrists, the Director of Public Safety, and the Chief of Police.
2. The services of the Department's counseling staff will be available to the employee and his family. The purpose of this provision is to give the employee and/or his family a source of professional consultation to aid them in dealing with any potential moral and ethical after-effects. The services shall not be related to any Department investigation of the incident, and nothing discussed will be divulged to the Department.
 - a. The consultation sessions will remain protected by the privileged relationship.
 - b. It will be the responsibility of the employee to notify the Internal Affairs Commander if he desires such services for his family. Upon notification by the employee, the Internal Affairs Commander shall arrange the services as soon as possible. Internal Affairs may make administrative documentation of such counseling in unit records, but no mention of the request will be placed in the investigative file.

C. Legal Representation Rights

Any employee, whose action(s) or use of force in an official capacity results in death or serious physical injury shall be entitled to contact an attorney and have him present at all stages of the Department investigation to advise him of his legal and Departmental rights. If the attorney is present during the investigation conducted by Internal Affairs, the attorney will act as a mute observer only, and will not advise or otherwise take an active part in the investigative proceedings.

D. Blood/Urine Testing

1. Any employee, whose action(s) or use of force in an official capacity results in death or serious physical injury will be required to submit to a blood and/or a urine test if the investigating unit or any supervisor determines that there is a reasonable suspicion that the employee involved is under the influence of alcohol or drugs.
2. These tests will be administered according to the guidelines set forth in County Policy.

E. Civil Rights Investigation

1. The Department will respect the rights of the Federal Government to conduct an independent investigation to identify any civil rights violation which may have occurred.
2. The Department will not order or request any of its members who may be suspects to confer with federal investigators without the advice of counsel.

VIII. ADMINISTRATIVE REVIEW OF INCIDENTS

- A.** All reported uses of force will be reviewed by the involved officer's supervision to determine whether:
1. Department rules, policies, or procedures were violated, and
 2. If the relevant policy was clearly understandable and effective in the resolution of the incident.
- B.** The findings of policy violations or training inadequacies shall be reported to the appropriate unit for disposition.
- C.** In February of each year, the Department of Public Safety Training Unit will conduct an annual review and analysis of the use of force activities from the previous year, to include use of force policies and practices. The analysis will identify:
- Date and time of incidents
 - Types of encounters resulting in use of force
 - Trends or patterns relating to race, age, and gender of subjects involved
 - Trends or patterns resulting in injury to any person including employees
 - Impact of findings on policies, practices, equipment, and training

Recommendations concerning training and policy needs will be submitted to the Chief of Police, or his designee, for further action.

- D.** In February of each year, the Department of Public Safety Training Unit will conduct a review of all assaults on law enforcement officers to determine trends or patterns, with recommendations to enhance officer safety, revise policy, or address training issues.