



VIENNA POLICE DEPARTMENT  GENERAL ORDERS	SUBJECT: GENERAL ORDERS		NUMBER: 900
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	TOPIC: RESPONSE TO RESISTANCE		
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900 Response to Resistance

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901 PURPOSE


The purpose of this policy is to establish guidelines and reporting requirements for the use of force by members of the Vienna Police Department.

902 POLICY


It is the policy of the Town of Vienna Police Department that force is used only to the extent reasonably necessary to accomplish lawful objectives.

903 DEFINITIONS

- A. Deadly Force: Any level of force that is likely to cause death or serious injury.
- B. Electronic Control Weapon (ECW): A device that disrupts the sensory and motor nervous system of an individual by deploying battery-powered electrical energy sufficient to cause sensory and neuromuscular incapacitation.
- C. Excessive Force: Any force which is determined not to be objectively reasonable.
- D. Felonies Involving Violence: Crimes under this definition are murder, manslaughter, mob-related felonies, malicious wounding, felony kidnapping or abduction, robbery, carjacking, felony criminal sexual offenses, escape with force, and any felonies involving the discharge of a firearm. (Va. Code Ann. § 19.2-297.1)
- E. Firearm: Any handgun, shotgun, or rifle that will or is designed to or may readily be converted to expel single or multiple projectiles by action of an explosion of a combustible material. (Va. Code Ann. § 18.2-308.2:2)
- F. Force: Any physical strike or instrumental contact with an individual, or any significant physical contact that restricts an individual's movement. Force does not include escorting or handcuffing an individual who is exhibiting minimal or no resistance. Merely placing an individual in handcuffs as a restraint in arrest or transport activities, the simple presence of officers or patrol dogs, or police issuance of tactical commands does not constitute a reportable action.
- G. Institutional Integrity: The condition whereby order is maintained in a detention facility. Force options may be used in a detention facility to prevent the following:
 - 1. Violations of law
 - 2. Threatened assault to others
 - 3. Attempted or threatened suicide
 - 4. Failure of prisoners to respond to lawful commands to do any acts which are necessary for safety concerns of the facility.

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- H. Less-Lethal Force: Any level of force not designed to cause death or serious injuries.
- I. Medical Treatment: Any action taken by Emergency Medical Services (EMS) or medical facility personnel to medically assess an individual or physically mend an injury (e.g., dress a wound, stitches, etc.) resulting from an accidental injury and/or use of force. Access to medical treatment requires direct contact between the patient and one of the above-defined competent medical authorities. Routine decontamination does not constitute medical treatment.
- J. Modified Ready: A one- or two-handed grip of a firearm held against the body with the muzzle pointed toward the ground, and the trigger finger straight along the frame. This position is used when maneuvering in close proximity to other officers or individuals thereby preventing the inadvertent pointing of the firearm at a person while also maintaining a tactical advantage.
- K. Objectively Reasonable: The level of force that is appropriate when analyzed from the perspective of a reasonable officer possessing the same information and faced with the same set of circumstances. Objective reasonableness is not analyzed with the benefit of hindsight, but rather takes into account the fact that officers must make rapid and necessary decisions regarding the amount of force to use in tense, uncertain, and rapidly evolving situations.
- L. Probable Cause: Facts and circumstances which, taken together with rational inferences therefrom, would lead a prudent person to believe:
1. To arrest: that a crime is being, has been, or is about to be committed and that a particular person committed it.
 2. To search: that evidence of a crime or contraband is in the place to be searched.
- M. Ready Gun: A firearm presented toward a threat area with the muzzle lowered from the officer's eye level sufficient to see the threat area clearly. If an officer is covering an individual, the firearm is lowered sufficiently to see an individual's hand and waist area. The officer's eyes are open with their trigger finger straight along the frame. When an officer utilizes a shotgun or rifle, the safety is engaged. The ready-gun position is used to search a location or object or to cover a threat area (high or low), depending on the environment (e.g., up or down a stairwell).
- N. Serious Injury: An injury which creates a substantial risk of death, disfigurement, prolonged hospitalization, impairment of the functions of any bodily organ or limb, or any injury that medical personnel deems to be potentially life-threatening.
- O. Tactical (Tac) Ready: A firearm presented toward a threat area with a one- or two-handed grip. The firearm is close to the officer's body at the sternum level with the muzzle parallel to the terrain. If the firearm is fired, a round should strike the center mass of an average-sized threat. This position presents a compact profile and helps prevent telegraphing the officer's location when working corners or making room entries.

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- P. Critical Incident Response Team (CRT): Multi-jurisdictional team of investigators that conduct the criminal investigative aspects of a critical incident.

904 DE-ESCALATION


- A. De-escalation is the result of a combination of communication, tact, empathy, instinct, and sound officer safety tactics. The ultimate goal is to help achieve a positive outcome by reducing the need for force.
- B. When possible, officers should seek to utilize de-escalation strategies to prevent situations from deteriorating to the point where they would need to use force. Officers should attempt to gain voluntary compliance and reduce the level of force required in a situation through verbal communication efforts. When force is applied, officers will adjust the amount of force used to overcome an individual's resistance and to gain control.

905 DUTY TO INTERVENE

Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, safely intercede to end and prevent the further use of such excessive force. Additionally, officers have the duty to intervene in all other situations where an officer is acting in violation of laws, orders, policies, or ethical conduct and immediately notify an on-duty supervisor or commander.

906 TYPES OF RESISTANCE

- A. The following are three types of resistance offered by persons, which are discussed in the Order:
1. **Passive Resistance:** Where an individual poses no immediate threat to an officer but is not complying with lawful orders and is taking minimal physical action to prevent an officer from taking lawful action
 2. **Active Resistance:** Where an individual's verbal and/or physical actions are intended to prevent an officer from taking lawful action but are not intended to harm the officer
 3. **Assaultive Resistance:** Where an individual displays the intent to cause injury, serious injury, or death to others, an officer, or themselves and prevents the officer from taking lawful action
- B. Officers should also be mindful that people they interact with may not understand their directions or commands due to underlying medical, cultural, language, mental health issues, or any other disabilities. This may not make the encounter any less dangerous. However, when limitations are known, officers should take appropriate steps to factor these limitations into their critical decision-making process and when feasible, take the necessary steps consistent with their departmental training to accommodate the rights and needs of these individuals.


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907 LEVELS OF CONTROL IN RESPONSE TO RESISTANCE

- A. When force is necessary, officers will assess each incident, based on policy, training, and experience, to determine which force options are appropriate for the situation to safely bring a person under control in a safe manner.
- B. Officers must only use the amount of control that is objectively reasonable to overcome resistance in order to take lawful action. Levels of control include the following:
 - 1. Low-Level Control: This level of control is not intended to cause injury and is typically used on individuals displaying passive and/or active resistance. This level of control includes, but is not limited to:
 - a. Officer Presence
 - b. Verbal Communication
 - c. Handcuffs or other department-issued restraint devices.
 - 2. Less-Lethal Force: Any level of force not designed to cause death or serious injury that is reasonably necessary to gain compliance of individuals offering resistance. Less-lethal force includes, but is not limited to:
 - a. Empty-hand tactics, such as strikes, kicks, or takedowns
 - b. Impact weapons
 - c. Oleoresin Capsicum spray
 - d. Electronic Control Weapons
 - e. PepperBall System
 - 3. Deadly Force: Any level of force likely to cause death or serious injury that is reasonably necessary to cease an individual's aggressive resistance.
- C. Force incidents often require the officer to transition to different critical decision making force options, including de-escalation or escalation techniques based on a person's actions and responses. Officers must modify their levels of control in relation to the amount of resistance offered by an individual.

908 OBJECTIVE REASONABLENESS

- A. In determining whether force is objectively reasonable, an officer must give careful attention to the totality of circumstances in each particular case including but not limited to:
 - 1. Whether the individual poses an immediate safety threat to the officer or others
 - 2. The severity of the crime
 - 3. Whether the individual is actively resisting or attempting to evade arrest
 - 4. Weapon(s) involved
 - 5. Presence of other officers or individuals
 - 6. Training, age, size and strength of the officer
 - 7. Training, age, size and perceived strength of the individual
 - 8. Environmental conditions.

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909 LESS-LETHAL FORCE

- A. Instances where less-lethal force may be effective include but are not limited to:
 - 1. Effecting an investigative stop or arrest
 - 2. Preventing escape from lawful custody
 - 3. Defending oneself or another individual from injury or assault
 - 4. Establishing custody for a temporary detention order

- B. Only the level of less-lethal force that is objectively reasonable shall be used to gain control and compliance.


- C. Less-lethal force may also be used against an animal that is attacking or threatening to attack a human or another animal. Instruments of less-lethal force are intended to reduce the likelihood of serious injury or death to the animal and to provide a more humane and less traumatic conclusion to the incident.

- D. The following are Department issued and approved instruments or techniques that are intended to be less-lethal force options:
 - 1. Empty-Hand Tactics, such as strikes, kicks, or takedowns
 - 2. Oleoresin Capsicum (OC)
 - 3. Baton
 - 4. Electronic Control Weapon (ECW)
 - 5. PepperBall System


910 LESS-LETHAL FORCE NOTIFICATION

- A. Officers who use less-lethal force shall promptly inform their on-duty supervisor. A supervisor shall respond to the scene of any force incident where an individual has an injury, complains of an injury, is transported to a medical facility for medical treatment, or is otherwise provided with access to medical treatment. The Shift Supervisor shall review the circumstances surrounding the less-lethal force incident and notify the appropriate commander of the occurrence of:
 - 1. Any less-lethal force options resulting in any injury or death
 - 2. Any medical treatment provided by Emergency Medical Services (EMS), personnel or a medical facility.

- B. The Shift Supervisor will determine if an injury is to be designated a serious injury. This determination will be based, in part, on information from medical personnel. At the earliest opportunity, the Shift Supervisor will notify the appropriate Division Commanders of all injuries designated as serious.

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- C. The Shift Supervisor shall work with the dispatcher on duty to ensure that the Operations Division Commander is notified. The Operations Division Commander shall make further notifications as he/she deems necessary.
- D. The use of less-lethal force will be investigated and documented as follows:
1. Death or the potential loss of life to any individual resulting from the use of less-lethal force:
 - a. Investigative Authority: Criminal Investigations Division for the administrative investigation and an outside agency at the discretion of the Chief of Police, most likely the Northern Virginia Criminal Incident Response Team, (CIRT), for the criminal investigation.
 - b. Investigative Format: Criminal investigation and Internal Affairs administrative investigation.
 - c. Documentation Review: The Deputy Chief shall review the administrative investigation and forward the investigation to the Chief of Police.
 - d. Photographs shall be taken of all injuries by the investigative authority and maintained within the case file.
 - e. Any video and/or audio recordings of the incident shall be preserved by the investigative authority.
 - f. The force option used in a less-lethal force incident resulting in serious injury or death shall be left in the same condition as it was when it was utilized.
 - g. The collection of evidence, including the involved force option, shall be performed at the direction of the lead Criminal Investigations Division (CID) Commander.
 2. Medical treatment at a medical facility for any injury resulting from the use of less-lethal force:
 - a. Investigative Authority: The on-duty supervisor or above.
 - b. Investigative Format: Administrative investigation and a use-of-force supplement describing the incident, the type of force used, extent of injuries, and type of medical treatment provided.
 - c. Documentation Review: The on-duty supervisor shall review and forward all investigative reports to their commander for appropriate review and dissemination. The completed administrative investigation shall be forwarded to the Deputy Chief for appropriate review and action.
 - d. Photographs will be taken of all injuries by the investigative authority and maintained within the case file.
 - e. Any video and/or audio recordings of the incident will be reviewed and preserved by the investigative authority.
 3. Medical treatment for non-serious injuries that is provided by EMS personnel or the individual refuses medical treatment resulting from the use of less-lethal force:
 - a. Investigative Authority: The on-duty supervisor or above.
 - b. Investigative Format: Use of force report (PD 67) describing the incident, type of force used, extent of injuries observed or the complaint of injuries, and the fact that medical treatment was administered or refused by the injured individual. Documentation of

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injuries should also be noted in the field report narrative along with proper justification for actions taken or refused.


- c. Documentation Review: The on-duty supervisor shall review and forward all investigative reports to their commander for appropriate review and dissemination to division commanders.
- d. Photographs shall be taken of all injuries by the investigative authority.
- e. Any video and/or audio recordings of the incident shall be reviewed and preserved by the investigative authority.
- 4. All less-lethal force that does not involve the complaint of injury or medical treatment:
 - a. Investigative Authority: The on-duty supervisor or above.
 - b. Investigative Format: Use of force report (PD 67) describing the incident, the type of force used, and that there were no injuries observed or any complaints of injuries.
 - c. Documentation Review: The on-duty supervisor shall review and forward all investigative reports to their commander for appropriate review and dissemination command staff as necessary.
 - d. Photographs shall be taken of all involved subjects whether an injury occurred or not by the investigative authority, and maintained within the case file.

911 POINTING A FIREARM INVESTIGATION

- A. Pointing a firearm at a person in response to their actions in order to gain control and compliance shall be investigated and documented as follows:
 - 1. Investigative Authority: The on-duty supervisor or above.
 - 2. Investigative Format: Use of force report (PD 67) describing the incident.
 - 3. Documentation Review: The on-duty supervisor shall review and forward all investigative reports to their commander for appropriate review and dissemination to division or bureau commanders.

912 DEADLY FORCE

- A. The use of deadly force is only permissible where an officer reasonably believes, based upon the totality of the circumstances known at the time, that deadly force is immediately necessary in order to protect the officer or another person (other than the subject of the use of deadly force), from the threat of serious bodily injury or death, and that all other options have been exhausted, do not reasonably lend themselves to the circumstances, are not feasible, or have already proven to be ineffective. If feasible, officers shall provide a verbal warning to the subject of deadly force that they will use deadly force. Officers are only permitted to use weapons issued by the Vienna Police Department. No personal weapons may be carried without the approval of the Chief of Police or his/her designee.
- B. Deadly force shall not be used to apprehend a fleeing misdemeanor.

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- C. Deadly force may be used to apprehend a fleeing felon only if:
 1. The officer has probable cause to believe that the individual committed a felony involving violence,
 2. All other means to effect an arrest have been exhausted, and
 3. The felon's escape poses a significant threat of serious injury or death to the officer or to others.

913 DEADLY FORCE NOTIFICATION

- A. On-duty officers who use deadly force shall immediately notify the dispatcher. The dispatcher will make the necessary notifications to an on-duty supervisor and command staff. An on-duty supervisor shall respond to the scene.
- B. Off-duty officers who use deadly force shall contact dispatch in a timely manner. Dispatch will make the necessary notifications to the CIS Supervisor and command staff.
- C. Once the dispatcher has been notified of a deadly-force incident, the dispatcher shall coordinate with the on-duty supervisor to immediately notify:
 1. Chief
 2. Deputy Chief
 3. Support Services Division Commander
 4. Operations Division Commander
 5. Administrative Services Division Commander

914 DEADLY FORCE INVESTIGATION


- A. Intentional Firearm Discharges
 1. All intentional discharges that result in death or serious injury occurring in the Town of Vienna, while in the performance of an officer's duties, will be investigated by Critical Incident Response Team, (CIRT) in accordance with SOP 21-001. The Criminal Investigations Division will assist CIRT and conduct the administrative investigation.
 2. All intentional firearm discharges not resulting in death or serious injury occurring in the Town of Vienna, while in the performance of an officer's duties and not during an approved training exercise, will be investigated by the Criminal Investigations Division or, at the direction of the Chief of Police, by an agency outside the Department.
 3. All intentional firearm discharges occurring outside the Town of Vienna that result in death or serious injury will be investigated by the Criminal Investigations Division in cooperation with the appropriate jurisdiction.
 4. All intentional firearm discharges occurring outside the Town of Vienna that do not result in death or serious injury will be investigated by the Criminal Investigations Division in cooperation with the appropriate jurisdiction.
- B. Unintentional Firearm Discharges

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1. All unintentional firearm discharges occurring in the Town of Vienna that result in death or serious injury will be investigated by the CIRT and the Criminal Investigations Division.
 2. All unintentional firearm discharges occurring outside the Town of Vienna that result in death or serious injury will be investigated by the Criminal Investigations Division in cooperation with the appropriate jurisdiction.
 3. All unintentional firearm discharges, regardless of jurisdiction, that do not result in death or serious injury and which occur on or off-duty and not during an approved training exercise, will be investigated by the Criminal Investigations Division Commander who will make a determination on the investigating authority. The investigating authority shall document the findings in an administrative investigation.
 4. All unintentional firearm discharges that do not result in death or serious injury to any individual, and that occur during approved training exercises, will be investigated by the Criminal Investigations Division Commander.
- C. Any directly-involved officer in a deadly-force incident shall not be responsible for investigating any crimes associated with the incident. Any crimes associated with a deadly-force incident will be investigated by the Criminal Investigations Division unless the Chief or Deputy Chief determines a different entity will be responsible for the investigation.
- D. Unless immediate action is necessary, any officer involved in a deadly-force incident shall not be responsible for the arrest of the individual suspected in any associated crimes.
- E. Any directly involved officers who use deadly force against an individual shall be placed on administrative leave by a commander.

915 DEADLY FORCE AGAINST ANIMALS


- A. Officers may use deadly force to destroy a non-domesticated injured animal or any suspected rabid animal. Deadly force may be used against any animal that is attacking or threatening to attack any individual or another domestic animal.
- B. When an animal is attacking, force should be used progressively as practical by officers to protect a domestic animal, another individual, or themselves, from an attacking animal. Other less-lethal options may include striking instruments, Oleoresin Capsicum (OC), PepperBall System, Electronic Control Weapons (ECW), physical barriers, or catch poles. Less-lethal force strategies should be developed to establish control over domesticated animals when planning all operations.
- C. In any situation where an officer is otherwise justified in using deadly force against an animal, the officer shall not use deadly force recklessly or in any manner where injury or death to any individual is foreseeable.

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- D. When field euthanasia of a non-domesticated animal is necessary, the officer shall advise the supervisor of their intentions, unless circumstances dictate notification after the fact. The officer shall then clear the area of spectators and use the utmost caution to perform field euthanasia upon the animal.
- E. Notification
 - 1. On-duty officers who use deadly force against an animal shall immediately notify the on-duty supervisor.
 - 2. Off-duty officers within the Town of Vienna and in other Virginia localities who use deadly force against an animal (excluding hunting) shall contact the on-duty supervisor.
- F. Investigation
 - 1. The use of deadly force against any domesticated animal that results in an animal's death or injury shall be investigated by the Criminal Investigations Division Commander.
 - 2. The use of deadly force against any domesticated animal that does not result in the animal's death or injury shall be administratively investigated by the Criminal Investigations Division Commander. A copy of the administrative investigation shall be forwarded to the Criminal Investigations Division through the appropriate commander for review.
 - 3. Unless otherwise directed by a commander, the use of deadly force against a non-domesticated animal shall be reviewed by a first-line supervisor and the incident report shall be forwarded to the Operations Division Commander for review.

916 FORCE OPTIONS

- A. The Vienna Police Department trains officers and provides direction on the objectively reasonable amount of force to be used to effect a lawful purpose. Force options allow for the reasonable escalation and/or de-escalation of force proportional to the responses of an individual's actions and/or levels of resistance.
- B. When prudently possible, force options should be considered after discussion, negotiation, or persuasion have been found to be ineffective or inappropriate in light of the situation. Clearly, there are events that can unfold rapidly and force options will be based upon objective reasonableness.
- C. Every officer shall refrain from unwarranted infliction of pain or suffering and shall never engage in cruel, degrading, or inhumane physical or verbal treatment of any individual.
- D. Only those force options authorized by the Vienna Police Department shall be used by officers unless it is necessary for officers to protect themselves or others from the imminent threat of death or serious bodily injury, and the officer's most appropriate tools and training have not worked or are not available. In these instances, the officer may, as a last resort, turn to other tools and empty-hand tactics to save themselves or another.

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- E. Only officers who are trained or certified by DCJS in the following force options shall be permitted to carry and/or use them:
1. Empty-Hand Tactics, such as strikes, kicks, or takedowns
 2. Oleoresin Capsicum (OC)
 3. Baton
 4. Electronic Control Weapon (ECW)
 5. Pepper Ball System
 6. Firearms
- F. Handcuffed persons who resist arrest or assault officers present unique force option decisions. Officers may use only that amount of force objectively reasonable to ensure safe custody of the person or to overcome the person's resistance to a lawful arrest. Striking instruments, OC spray, and the ECW shall not be used on a handcuffed person unless the person continues to pose a threat to the officer, to others, to themselves, and/or other force options have become ineffective or are unacceptable for the situation.

917 EXCITED DELIRIUM

Officers who utilize any force option upon a person exhibiting symptoms of a mental health crisis or drug intoxication should give particular consideration to the fact that these people may be experiencing an episode of excited delirium or are at an increased risk of suffering an episode of excited delirium. Excited delirium should be strongly suspected in persons who exhibit extreme paranoia, physical symptoms (profuse sweating, foaming at the mouth, seizures, shaking, inability to breathe, etc.), violent resistance to arrest, little or no reaction to pain, unusual strength, and/or extreme aggression toward objects. Excited delirium is a potentially fatal acute medical condition. Officers shall request Emergency Medical Services for persons who are exhibiting signs and/or symptoms of excited delirium.

918 EMPTY-HAND TACTICS

- A. Empty-hand tactics, such as strikes, kicks or takedowns, are considered less-lethal force.
- B. Officers may use empty-hand tactics to reduce the likelihood of injury to oneself or to another person. Instances where empty-hand tactics may be effective include but are not limited to:
1. When it is objectively reasonable to overcome a passive resisting person to effect a lawful arrest
 2. Preventing escape from lawful custody
 3. Defending oneself or another individual from injury or assault
 4. Establishing custody for a temporary detention order
 5. Restoring institutional integrity in a detention facility
- C. Carotid artery restraints and chokeholds are not sanctioned force options by the Vienna Police Department.

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D. Intentional application of force to the spine or neck of a subject who is in a prone position should be avoided.

E. Medical Treatment

1. Access to medical treatment shall be provided to any person who complains of injury, who has obvious injuries, or who requests medical attention.
2. Access to medical treatment shall be provided whenever empty-hand tactics are utilized against the following individuals:
 - a. Pregnant females
 - b. Juveniles 13 years of age and younger
 - c. Elderly persons
 - d. Physically frail persons
 - e. Any person with known serious medical issues.

NOTE: Officers may not compel any person, whether in custody or not, to receive medical treatment.

919 OLEORESIN CAPSICUM

A. Oleoresin Capsicum (OC) is considered less-lethal force.

B. OC should be directed at the person's face and ideally not at the eyes when closer than three feet. This is due to the potential risk of injury and damage to the eyes from the pressure of the propellant.


C. Officers may use OC to resolve potentially violent situations thereby reducing the likelihood of injury to oneself or other individuals. Instances, where OC may be effective, would include, but are not limited to:

1. When it is objectively reasonable to accomplish or overcome resistance to a lawful arrest
2. Preventing escape from lawful custody
3. Defending oneself or an individual from injury or assault
4. Establishing custody for a temporary detention order
5. Restoring institutional integrity in a detention facility.

D. Prior to utilizing OC, officers should consider the totality of circumstances and give particular consideration to its use on a person who is at risk for an adverse reaction to OC to include:

1. Persons who appear to be morbidly obese
2. Those who are known to have respiratory ailments
3. Individuals who are in an enclosed area without ventilation
4. An individual's location in relation to others.

E. Persons in custody who have been exposed to OC shall be restrained or transported in a manner that does not constrict their body position because these individuals have a greater risk for positional asphyxiation.

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F. Medical Treatment and Decontamination

1. Officers shall offer decontamination options to all persons in custody who have been exposed to OC. Options for decontamination include treatment by officers or Emergency Medical Services (EMS) personnel. The decontamination procedure is to pour water over the bridge of the nose so that it floods both eyes. Particular care should be given to persons wearing contact lenses.
2. Individuals not in custody who are inadvertently exposed to OC and who request decontamination or medical attention shall be provided either by officers. Options for decontamination include treatment by officers or EMS personnel. Decontamination should be administered by pouring water over the bridge of the nose so that it floods both eyes. Particular care should be given to persons wearing contact lenses.
3. Access to medical treatment shall be provided to any person who complains of injury, who has obvious injuries, or who requests medical attention.
4. Access to medical treatment shall be provided whenever OC is utilized against the following persons:
 1. Pregnant females
 2. Juveniles
 3. Elderly persons
 4. Physically frail persons
 5. Any person with known serious medical issues
 6. Persons who appear morbidly obese
 7. Persons with known respiratory ailments (e.g., bronchitis, asthma, emphysema, etc.).


NOTE: Officers may not compel any person, whether in custody or not, to receive medical treatment.

920 PEPPER BALL SYSTEM

The PepperBall system is designed to provide an alternative to physical force. Deployment of the PepperBall system by operators shall be authorized by the shift supervisor. The use of the PepperBall system will be at the discretion of the system operator once on the scene. However, the use of PepperBall system may not always be appropriate and should not be considered if not readily available and a delay in action could be detrimental to the situation.

The PepperBall system is considered non-deadly use of force, which is not intended to cause death or serious physical injury. However, depending on the system's use, it can fall into one or both of the below listed categories on the Use of Force Continuum:

1. Chemical Agent (OC): If used for area saturation without striking subjects.
2. Control Modes without Weapons (STUNNING): If used against a person to cause diffused pressure striking and to deliver the PAVA chemical agent.


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The PepperBall system may be used to control a violent or potentially violent subject when an officer reasonably believes any of the following conditions exist:

1. Deadly force does not appear to be immediately necessary.
2. Attempts to gain compliance by verbal commands and/or physical control are likely to be ineffective or have been ineffective in the situation.
3. There is a reasonable expectation that it will be unsafe for officers to approach within the contact range of the subject.
4. The PepperBall system should not be used on the following individuals, except in circumstances where the safety of officers or the public outweighs the potential health risk to the suspect:
 - a. Children
 - b. Elderly persons
 - c. Persons with known respiratory ailments
 - d. Persons with known heart related ailments
 - e. Females known or appear to be pregnant
5. Officers are responsible for decontaminating subjects in their custody who have been exposed to the PAVA powder. Personal security should be established in a safe area and subjects must be physically controlled prior to undertaking decontamination procedures.

921 BATON

- A. The use of a baton is considered a less-lethal force.
- B. The baton may be used to strike a person in designated target areas of the body (e.g., torso, legs, and arms).
- C. Intentional strikes to a person's head, kidneys, or groin shall be avoided except in situations when deadly force is justified.
- D. Officers may use the baton to resolve potentially violent situations thereby reducing the likelihood of injury to oneself or to other persons. Instances, where the baton may be effective, would include, but are not limited to:
 1. When it is objectively reasonable to overcome resistance to a lawful arrest
 2. Preventing escape from lawful custody
 3. Defending oneself or others from injury or assault
 4. Establishing custody for a temporary detention order


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5. Restoring institutional integrity in a detention facility.
- E. Prior to utilizing the baton, officers should consider the totality of the circumstances and give particular consideration to its use on any person who is at risk for an adverse reaction to baton strikes, specifically the elderly, frail, and/or pregnant females.
 - F. The baton may be used as a lever to induce sufficient pressure to cause a person to stop their level of resistance.
 - G. Utilizing the baton in a manner constituting a carotid artery restraint or chokehold is not sanctioned by the Vienna Police Department.
 - H. Medical Treatment
 1. Access to medical treatment shall be provided to any person who complains of injury, who has obvious injuries, or who requests medical attention.
 2. Access to medical treatment shall be provided whenever a baton is utilized against the following persons:
 - a. Pregnant females
 - b. Juveniles
 - c. Elderly persons
 - d. Physically frail persons
 - e. Any person with known serious medical issues.


NOTE: Officers may not compel any person, whether in custody or not, to receive medical treatment.

922 ELECTRONIC CONTROL WEAPON

- A. The Electronic Control Weapon (ECW) is considered less-lethal force.
- B. The ECW provides police officers certified to use the weapon as an alternative to physical force in many situations. However, use of an ECW is not always appropriate and should not be considered if not readily available and delay in taking lawful action could be detrimental to the situation. ECWs should be used as a weapon of need, not a tool of convenience, and officers should not rely on the ECW in situations where more effective or appropriate force alternatives are available.
- C. Electronic Control Weapon – Uniformed Officers
 1. Subject to equipment availability, all ECW certified, uniformed officers, shall carry an ECW on or about their person while on patrol.
 2. Uniformed officers will, when available, carry a brightly colored (e.g., yellow) ECW to reduce the risk of unintentional escalation in an event. Brightly-colored ECWs are plainly visible and will decrease the possibility that another officer might mistake the ECW for a firearm.

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3. Exceptions to carrying a brightly-colored ECW are subject to supervisory approval based upon safety factors relative to mission objectives.
- D. Use of Electronic Control Weapon on Humans
1. An ECW should be used only in situations where a reasonable officer would perceive an immediate danger that could be mitigated through the use of the ECW. Resistance that is non-violent in nature does not necessarily constitute immediate danger. Thus ECWs should never be used against a person displaying passive resistance.
 2. Instances, where the use of or presence of an ECW (with the probes or in drive stun mode) may be effective, would include, but are not limited to:
 - a. Persons who have made active movements to avoid physical control
 - b. Service of Mental Detention Orders on an individual **believed to be violent**
 - c. Apprehension of individuals armed with weapons other than firearms
 - d. Preplanned warrant service with potentially violent persons
 - e. Apprehension of violent individuals under the influence of drugs/alcohol
 - f. Detention of persons threatening suicide or injury to themselves.
 3. Prior to utilizing the ECW, officers should consider the totality of the circumstances and the surrounding environment (e.g., persons standing in water) or the likelihood of injury when incapacitated by the ECW (e.g., persons on a ledge, building, or bridge).
 4. Officers must have an elevated level of justification and articulable facts prior to using the ECW on:
 - a. Pregnant females
 - b. Juveniles/Children
 - c. Elderly persons
 - d. Physically frail persons
 - e. Any person with known serious medical issues.
 5. Officers should use an ECW for one standard cycle (five seconds) and then evaluate the situation to determine if subsequent cycles are independently justifiable. The risks of exposure to multiple cycles should be weighed against other force options and any potentially adverse medical effects.
 6. Officers should make all efforts to control or handcuff should be made with the ECW cycle is running in order to minimize the number of cycles necessary.
 7. Absent exigent circumstances, officers should request supervisor approval prior to ECW use on a person in excess of three (3) cycles, if the request may be made without compromising officer safety or the safety of others.
 8. Fleeing should not be the sole justification for using an ECW against a person. Officers should consider the severity of the offense, the person's threat level to others, and the risk of serious injury to the person before deciding to use an ECW.
 9. An ECW should not be used on handcuffed persons unless it is necessary to prevent them from causing serious bodily harm to themselves or others, or if lesser attempts of control have been ineffective.
 10. An ECW should not be used against persons in physical control of a vehicle in motion (e.g., automobiles, trucks, motorcycles, ATVs, bicycles, scooters).

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11. An ECW should not be used where individuals have been exposed to combustible vapors or flammable liquids.
12. When practical, a warning should be given to the person prior to activating the ECW unless doing so would compromise any individual's safety. Warnings may be in the form of verbalization, display, laser painting, arcing, or a combination of these tactics.
13. Based on operational needs, when practical, an announcement should be made to other officers on the scene that an ECW is going to be activated. This can reduce the risk of multiple officers activating ECWs simultaneously against one person.
14. An ECW in drive-stun mode should be pressed firmly in the following suggested areas:
 - a. Forearm (radial)
 - b. Outside of thigh (common peroneal nerve)
 - c. Calf muscle (tibia)
15. If possible, an officer should avoid applying the ECW in drive-stun mode to the
 - a. Side of neck (carotid)
 - b. Pelvic triangle
16. These areas are sensitive to mechanical injury and should only be targeted when officers are defending themselves from violent attacks.
17. Officers shall notify the receiving personnel at the Adult Detention Center, or any other detention facility, that the person in custody was exposed to an ECW application.

E. Probe Removal on Persons

1. Only ECW-certified officers who have been trained in the removal of probes may remove ECW probes embedded in a person's skin. When removing these probes, the officer shall wear protective gloves. The officer should grab the probe and pull it directly away from the person's skin, while simultaneously supporting the skin surrounding the probe with their opposing hand. Once the probe is removed, it shall be visually inspected to ensure the barb is still attached to the probe. The probe shall then be inserted into the expended cartridge for disposal. The expended cartridge should be encapsulated within the officer's protective glove, then double wrapped with the second glove and disposed of. The officer shall clean the wound on the person with an antiseptic wipe and then cover the impact area with a bandage.
2. If an officer finds that a barb is not attached to the probe, the officer shall request that the person be transported by EMS to a medical facility for barb removal, subject to the person's consent.
3. Officers shall not remove any probe if the individual objects or requests EMS if any probe is embedded in the face, genital area, buttocks, spine, neck, pre-existing injury area, or in a woman's breast. In these events, the officer shall request that the person be transported by EMS to a medical facility for barb removal, subject to the person's consent.

F. Use of Electronic Control Weapons on Animals

1. The use of an ECW on an attacking animal may reduce the need for greater force against the animal and should be based on the officer's intent to provide a safer conclusion to the incident.

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2. The use of an ECW on an animal is appropriate if the animal is an active threat to any human or another animal.
3. An officer should target the length of the animal's body. Officers may need to hold the ECW in a horizontally angled (canted) position to achieve this target area. Care should be taken to avoid the head and other sensitive areas on the animal. It is understood that deployments against animals may be very dynamic in nature and the probes may impact unintended areas.

G. Probe Removal on Animals


1. Safety is paramount when removing probes from a potentially dangerous animal. Officers will take reasonable measures to consider that the animal's welfare is provided for in the event that probes impact a sensitive area, or it appears the animal's health is in jeopardy. In these cases, the animal shall be transported to a veterinarian for probe removal and treatment. If the assistance of an ACO is needed after hours, the ACO may be requested through the on-duty supervisor.

H. Medical Treatment


1. Access to medical treatment shall be provided whenever an ECW is utilized against any person.
 - a. Due to the possibility of adverse medical effects to persons who have had a prolonged ECW application (3 or more 5-second cycles, or 15 or more seconds of total exposure), officers shall request that the person be transported by EMS to a medical facility for medical treatment or obtain medical treatment at a medical facility, subject to the person's consent.
 - b. Officers shall notify the medical personnel providing medical treatment that the individual has been exposed to a prolonged application.
2. Officers observing or otherwise aware of any of the following symptoms or conditions by persons who had an ECW utilized against them, shall promptly inform medical personnel of their observations:
 - a. Symptoms of excited delirium
 - b. Admitted or known serious, medical condition
 - c. Prolonged physical exertion, such as actively resisting or fighting.

923 FIREARMS

- A. The act of discharging a firearm (excluding training and recreational purposes) shall be considered a use of deadly force.
- B. Only ammunition and firearms issued or authorized by the Vienna Police Department shall be used on-duty or carried in an off-duty capacity. This does not apply to lawfully possessed firearms related to off-duty activities such as hunting or recreational purposes.
- C. The cardinal rules of gun safety are:
 1. Always treat every weapon as if it were loaded

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2. Never point a firearm at anyone unless you are ready and willing to shoot that person
 3. Keep your finger off the trigger until you are ready to fire, and
 4. Be sure of your target and what is beyond
- D. The three approved firearm deployment positions include:
1. Ready gun
 2. Tactical (Tac) ready
 3. Modified ready
- E. If feasible, when using a firearm for the purpose of deadly force or attaining a ready gun position, officers should give the verbal warning, "Police, don't move!" When possible and depending upon the person's level of resistance, officers should provide simple, specific, and clear directions to the person.
- F. Officers shall not fire warning shots under any circumstances.
- G. Officers shall exercise caution at all times and in any place when handling or displaying firearms.
- H. Except for official purposes (e.g., training, securing, cleaning, etc.), department-issued firearms shall not be handled or displayed.
- I. Firearms (loaded or unloaded) shall not be aimed at any person except as necessary in the line of duty.
- J. Officers shall not leave (on-duty or off-duty) any Department issued or authorized firearms unsecured.
- K. When an officer discharges their firearm, the officer shall not do so recklessly or in such a manner that injury or death to a bystander is likely.
- L. Due to the dangers associated with an unintentional discharge, using a firearm as a striking instrument shall be avoided unless there is a threat of death or serious injury against the officer or another person.
- M. Discharge of a Firearm At or From a Moving Vehicle
1. Officers shall not discharge their firearm at or from a moving vehicle unless there is a threat of death or serious injury against the officer or another person.
 2. Officers have an affirmative obligation, based on the totality of circumstances, to move out of the path of an oncoming vehicle when possible.
 3. Officers on foot shall not intentionally place themselves in the path of an oncoming vehicle where the use of deadly force would be the likely outcome.
 4. Factors to be considered when using deadly force against a moving vehicle include:

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- a. Whether the officer's life or the lives of others are in peril of immediate and severe physical harm
- b. There are no objectively reasonable or apparent means of escape

N. Pointing of a Firearm


1. The pointing of a firearm at a human to gain control and compliance is considered a use of force.

O. Medical Treatment

1. When safe to do so, officers shall immediately and without delay:
 - a. Request Emergency Medical Services respond for any person injured from the discharge of a firearm for possible medical treatment
 - b. Personally render medical aid to any person injured from the discharge of a firearm.

924 DOCUMENTING ACTIONS


- A. An officer who uses any force or reportable action shall document the circumstances in an incident report or supplement in the current Record Management System (RMS). If the deploying officer is rendered incapable of documenting the circumstances of the event, the responsibility of documentation shall be coordinated by either an on-duty supervisor or commander. The need for additional documentation and investigation will be determined by the force or reportable action utilized.
- B. Any medical treatment performed on a person as a result of a force option or reportable action shall be documented on an incident report. Officers shall note whether the injuries incurred were a result of the incident or were pre-existing. When possible photos should be taken of injury.
- C. The documentation of force incidents or reportable actions requiring a criminal investigation shall be coordinated by the commander of the Criminal Investigations Division.
- D. Officer Responsibilities
 1. Officers shall articulate the basis for using any force option or reportable action.
 2. Officers shall document the use of the following force options or reportable actions in a clearly worded incident report or supplement in the current RMS:
 - a. Empty-Hand Tactics
 - b. Oleoresin Capsicum (OC)
 - c. PepperBall System
 - d. Baton, or any other instrument used to strike an individual
 - e. Electronic Control Weapon (ECW)

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NOTE: The use of ECW and/or the removal of its probes require a completed ECW / use of force form. Copies of the incident report and use of force supplement ECW report shall be forwarded to the Patrol Division Commander.

- f. The pointing of a firearm at an individual in order to gain control and/or compliance
NOTE: This does not apply to any planned, tactical operations. Furthermore, the unholstering of a weapon, utilizing a firearm for room clearing purposes during a building search, or the pointing of a weapon downward towards the ground with finger on the frame of the weapon are not to be reportable actions within the context of this policy because officers may take this action for their safety, to control a situation, or when they reasonably believe or know that wanted or dangerous individuals are nearby, e.g., entering a dark building, alley, other location of concern.
- g. The use of deadly force against an animal
- h. The use of deadly force against a human.
3. The documenting officers and/or investigators shall avoid drawing conclusions without providing supporting facts. Officers should avoid using "boilerplate" language in their reports that merely cite, for example, a general fear for their safety or fear of injury as a result of an individual's level of resistance. Furthermore, supervisors and commanders must not only read and review these reports but also question officers when they discover inconsistent or generic statements in their narratives.
4. When articulating the circumstances that led to a use of force incident or reportable action, officers should consider including information regarding the following:
 - a. The number of persons compared to the number of officers involved
 - b. A person's actions and statements
 - c. Size, age, and physical condition of the person and officer
 - d. Known or perceived physical abilities of the person
 - e. Violent or mental health history of the person known to the officer
 - f. Perception of the use of alcohol or drugs by the person
 - g. Perception of the individual's mental or psychiatric history based on specific actions
 - h. The availability and proximity to weapons or items that might be used as weapons
 - i. Environmental factors
 - j. Injury to the officer or prolonged duration of the incident
 - k. Officer on the ground or other unfavorable position
 - l. Characteristics of being armed
5. Any report (including supplements) documenting a use of force incident or reportable action shall ensure that:
 - a. The officer using force or reportable action is clearly identified in the incident report, and
 - b. The incident report includes:
 1. The force option(s) or reportable action used,
 2. The reason for the use of force or reportable action, and
 3. The supervisor who was notified of the use of force or reportable action.

E. Supervisor Responsibilities

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1. The on-duty supervisor shall ensure that any use of force incident or reportable action is properly documented by an officer on an incident report or supplement in the current RMS.
2. A use of force supplement describing the force incident or reportable action in detail shall be completed by the supervisor in the current RMS in a timely manner. Where a supervisor believes that a force incident or reportable action was excessive or not within policy, the supervisor shall promptly notify their commander of their findings.
3. Copies of all incident reports involving use of force or reportable actions shall be sent to the Patrol Division Commander.

925 TRAINING

- A. All sworn officers shall receive training in firearms, Electronic Control Weapons (ECW), empty hand tactics, Oleoresin Capsicum (OC), PepperBall System and Baton.
- B. Officers shall qualify with all of their issued and/or approved firearms (including off-duty firearms) on an annual basis to comply with the mandates established by the Virginia Department of Criminal Justice Services.
- C. Officers who are Electronic Control Weapon (ECW) certified shall recertify in the use of ECW on an annual basis.
- D. Officers shall undergo refresher training and qualification or certification (where applicable) at least every two years for any authorized force options, other than firearms and ECW.

FORCE OPTION	TRAINING DUE
1. Firearm	Yearly
2. ECW	Yearly
3. Empty Hand Tactics	Every Two Years (May be Roll Call Training)
4. Oleoresin Capsicum (OC)	Every Two Years (May be Roll Call Training)
5. Pepper Ball System	Every Two Years
6. Baton	Every Two Years (May be Roll Call Training)

- F. An essential function for the role of a police officer is the ability to qualify with the issued pistol and shotgun, and demonstrate proficiency in the use of nonlethal weapons. At least annually, the Department conducts recertification exercises to establish and measure proficiency with the weapons. It is at these periodic recertification events that officers must demonstrate their ability to meet the minimum standards that have been established by the Virginia Department of Criminal Justice Services. Officers not meeting this criteria are subject to the following:
 1. Any officer who fails to achieve a qualifying score during **shotgun** training will receive written notification in the form of a memorandum from the range supervisor indicating that the officer is not currently qualified to use a shotgun, and the officer will sign the notification. The notification will then be forwarded to the individual's division


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commander. The division commander will coordinate with the range supervisor to have the individual receive remedial training and return to the range. Under no circumstances will an officer be authorized to use a shotgun until obtaining certification.

2. Any officer who fails to achieve a qualifying score with the **pistol** will be given written notification in the form of a memorandum by the range supervisor indicating that the officer has failed to achieve certification. The officer will immediately surrender their pistol to the range supervisor who will secure the weapon as necessary. The notification documents will be immediately forwarded to the individual's division commander, who will coordinate with the range supervisor to have the individual return to the range as soon as possible for retraining and recertification. An officer who fails to requalify will be placed on administrative status. Failure to achieve recertification may result in dismissal of the officer.
3. Officers who fail to demonstrate proficiency in the use of **non-lethal weapons** during annual recertification exercises will be given written notification in the form of a memorandum indicating that they have failed to achieve recertification. The officer will immediately surrender the nonlethal weapon to the instructor who will secure the weapon as necessary. The notification documents will be immediately forwarded to the individual's division commander, who will coordinate with the instructor to have the individual scheduled for retraining and recertification. An officer who fails to demonstrate proficiency in the use of nonlethal weapons after a reasonable amount of retraining and opportunity for recertification will be placed on administrative status. Failure to achieve recertification may result in dismissal of the officer.


926 LEGAL REFERENCES

- A. Va. Code Ann. § 18.2-312 permits the lawful use of tear gas or other gases by police officers or other peace officers in the proper performance of their duties, or by any person or person in the protection of person, life, or property.
- B. Va. Code Ann. § 37.2-810 permits officers to lawfully go to or be sent beyond the territorial limits of the county, city, or town in which they served to any point in the Commonwealth for the purpose of executing any order for temporary detention.
- C. In 1985, the U.S. Supreme Court stated in *Tennessee v. Garner*, 471 U.S. 1 (1985), that the use of deadly force solely to prevent the escape of a felony suspect, is constitutionally unreasonable where the suspect poses no immediate threat to the officer or general public because the harm resulting from failing to apprehend the suspect does not justify the use of deadly force to do so. Where an officer has probable cause to believe that a suspect poses a significant threat of serious physical harm, either to the officer or others, it is not constitutionally unreasonable to prevent escape by using deadly force.
- D. In 1988, the United States Court of Appeals for the Fourth Circuit in *United States v. Taylor*, 857 F.2d 210, 213 (4th Cir. 1988), stated that the pointing of a firearm at a person under

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circumstances where an officer's safety is at risk is an appropriate show of authority performed in order to properly effect a safe seizure, and does not rise to a level of force. The Court stated that "[a]lthough approaching a suspect with drawn weapons is an extraordinary measure, such police procedures have been justified in this circuit as a reasonable means of neutralizing potential danger to police and innocent bystanders." See also *Harris v. Commonwealth*, 27 Va. App. 554, 563 (1998), which classifies the pointing of a firearm by an officer as a "show of authority" that may be a reasonable method of restraint under certain circumstances.

- E. In 1989, the U.S. Supreme Court in the case of *Graham v. Connor*, 490 U.S. 386 (1989), defined the "objective reasonableness" standard. The "reasonableness" of a particular use of force must be judged from the "objective" standard of a "reasonable" officer on the scene, and it must take into allowance the fact that police officers are often forced to make split- second decisions about the amount of force necessary in a particular situation.
- F. In 2016, the U.S. Court of Appeals for the Fourth Circuit in *Armstrong v. Village of Pinehurst*, 810 F.3d 892 (4th Cir. 2016) defined Tasers (also known as Electronic Control Weapons) as being proportional force "only when deployed in response to a situation in which a reasonable officer would perceive some immediate danger that could be mitigated by using the Taser." The Court found that the use of a Taser in drive stun mode to obtain pain compliance from a stationary and non-violent individual resisting handcuffing was excessive force, and officers who utilize the Taser in this manner are not entitled to qualified immunity.
- G. In 2015, the Supreme Court of the United States in *Mullenix v. Luna*, 136 S. Ct. 305 (2015), recognized that where an officer uses deadly force on a motor vehicle coming towards him, his actions will likely be entitled to qualified immunity based upon a "threat of immediate and severe physical harm." In its opinion, the Court also upheld its previous rulings in *Brosseau v. Haugen*, 543 U.S. 194 (2004) ["Where an officer has probable cause to believe that a use of force poses a threat of serious physical harm, either to the officer or to others, it is not constitutionally unreasonable to prevent escape by using deadly force"] and *Scott v. Harris*, 550 U.S. 372 (2007) ["An officer's attempt to terminate a dangerous high-speed car chase that threatens the lives of innocent bystanders does not violate the Fourth Amendment, even when it places the fleeing motorist at risk of serious injury or death."]


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Vienna Police Department Response to Resistance

	Document on Field Inv.	PD67	Supervisor conduct IA format Inv.	CIS Criminal Inv.	CIS IA Inv.	Notifications Commander
Deadly Force	Yes	Yes	No	Yes*	Yes	Yes
Striking, Kicking, Hitting	Yes	Yes	No			
Use of Taser, Baton, O.C, Pepper ball	Yes	Yes	No			Yes
Less Lethal	Yes	Yes	No		Yes	Yes
Hobble	Yes	No	No			
Take to Ground	Yes	No	No			
Handcuffing, minor force used.	Yes	No	No			
Pointing Firearm	Yes	Yes	No			
Pressure points	Yes	No	No			
PIT	Yes	Yes	No		Yes	Yes

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Vehicle Incident	Yes	Yes	Yes			
Destruction of Domestic Animal	Yes	No	No		Yes	Yes
Destruction of Non-Domestic Animal	Yes	No	No		No	No
<i>Injuries</i>						
Rescue or Refused	Yes	Yes	No	No		Yes
Hosp minor	Yes	Yes	Yes	No		Yes
Hosp Serious	Yes	Yes	No	Yes	Yes	Yes

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Integrated Use of Force Model

The Use of Force Paradigm for Enforcement and Corrections

