

Rockville City Police Department

GENERAL ORDER



Subject RESPONSE TO RESISTANCE AND AGGRESSION		Procedure G.O. # 4 - 1
Authorizing Signature	Effective: 02-29-2012 Revised: 04-21-2022 Revised: 10-18-2016 Revised: 07-01-2022 Revised: 06-19-2020 Revised: 06-01-2023	Total Pages 25

I. PURPOSE

The primary purpose of this General Order is to provide clear guidelines for Rockville City Police Officers when making decisions regarding the use of force. The need to use force, whether deadly or non-deadly, is one of the most demanding and critical decisions that a law enforcement officer must make. The department respects the sanctity of every human life. There are situations when an officer is forced to make the irreversible decision of whether or not to use deadly or non-deadly force. Such a decision can have a powerful and possibly harmful effect on the officer, the department, and the community.

II. POLICY

This policy establishes the manner in which all officers of the Rockville City Police Department (RCPD) may use force to achieve a legitimate law enforcement objective when no other peaceful resolution exists, and the obligations officers have before, during, and after a use of force incident. This policy also recognizes that in certain situations, the use of force is unavoidable and there is no way to specify the exact amount or type of force to be applied in every possible situation.

- A. The use of force is necessary when there are no reasonable or feasible alternatives to force which would accomplish a legitimate law enforcement objective or protect against an imminent threat of physical injury. Officers are not required to exhaust alternatives to force which would jeopardize their safety, place them in a tactical disadvantage, or fail to accomplish a law enforcement objective prior to using force. Officers are also not required to exhaust alternatives to force when faced with a dynamic, rapidly evolving situation that requires a degree of force to accomplish a legitimate law enforcement objective or to protect against an imminent threat of physical injury. However, force may not qualify as necessary when an officer needlessly escalates the situation and fails to use alternatives that are reasonable. Each specific application of force must be deemed necessary based on the totality of circumstances surrounding the level of resistance and/or aggression confronting the officer.
- B. Proportional force is a degree of force, that is reasonably required to protect a person from physical injury or to accomplish a legitimate law enforcement objective. An officer must consider all information known to them regarding the subject and circumstances at-hand. An officer must balance the seriousness of the law enforcement objective against the harm the use of force would cause. An officer is prohibited from using force if the

harm likely to result is too severe in relation to the level of resistance and/or aggression confronting the officer.

1. An analysis of proportionality includes examining the level of threat, resistance and/or aggression presented by the subject, whether the subject is posing an immediate threat to officers or a danger to the community, and a recognition of the need for rapid or split-second decision-making. If an officer is confronted with resistance and/or aggression, the officer may overcome force with force. Proportionality to a threat, resistance and/or aggression, does not mean the officer should use only the force that is equivalent to what they encounter. Proportionality does not limit an officer to using force that is equal in type or amount to the threat the officer is presented with, nor does it require lesser or alternative forms of force to be used first. Officer may use force that is rationally and reasonably related to the level of resistance and/or aggression confronting them.
- C. Officers may only use force, when under the totality of the circumstances, it is necessary and proportional to prevent an imminent threat of physical injury to a person or effectuate a legitimate law enforcement objective. The totality of the circumstances analysis, includes, but is not limited to:
1. The seriousness of the crime or suspected offense;
 2. Whether the subject was posing an immediate threat to officers or a danger to the community;
 3. The level of threat and/or resistance presented by the subject;
 4. The potential for injury to bystanders, officers, or subjects;
 5. The risk or apparent attempt by the subject to escape;
 6. Pre-assault indicators - The subject's actions and statements (as reasonably perceived by the officer at the time);
 7. The time available to an officer to make a decision;
 8. The training and experience of the officer;
 9. The availability of and proximity or access to weapons by the subject;
 10. Officer versus subject factors such as age, size, relative strength, skill level, injury/exhaustion, and the number of officers available versus the number of subjects;
 11. Whether there is a hostile crowd present at the scene that threatens the safety of officers or others;
 12. Environmental factors such as night, day, snow, ice, terrain, etc.
 13. Known or perceived physical disability and/or perceived abilities of the subject (e.g., known police fighter);

- 14. Previous violent or mental history of the subject known to the officer at the time;
 - 15. Perception of the use of alcohol and/or drugs by the subject;
 - 16. Officer on the ground or other unfavorable position that could compromise the officer's safety and their ability to defend themselves and the safety of bystanders; and,
 - 17. Any other exigent circumstances.
- D. The decision to employ any force, including the use of firearms, may be considered excessive by law and agency policy or both if it knowingly exceeds a degree of force that was necessary and proportional based on the totality of circumstances of the specific situation.
- E. Use of force decisions are made under exceedingly varied scenarios and often on a split-second basis, and officers are not expected to possess all knowledge of every aspect of the interaction, or to act at the time of the interaction as if they had the benefit of perfect hindsight.

III. **DEFINITIONS**

- A. **Active Resistance**: Refers to any action or evasive movements a subject takes to avoid or physically counteract an officer's attempts to detain or place them in custody, and/or take control. Active resistance movements or behaviors may include, but are not limited to, pushing away, tensing arm muscles to avoid handcuffing (bracing), twisting, fleeing arrest, or refusing to be taken into custody by exerting some degree of physical force in response to the lawful performance of an officer's duties.
- B. **Active Aggression**: Refers to any physically aggressive or combative movements displayed by a subject which may cause injury to the officer or another. This aggression may manifest itself through actions that include, but are not limited to, a fighting stance, punching, kicking, biting, pushing, threat of an instrument that may be perceived as a weapon or other actions which present an imminent threat of harm to the officer or another.
- C. **Alternatives**: Non-force options, tactics, and methods used by a law enforcement officer to effectuate an arrest that do not unreasonably increase the risk posed to the law enforcement officer or another person, including verbal communication, distance, warnings, de-escalation tactics and techniques, tactical repositioning, and other tactics and techniques intended to stabilize the situation and reduce the immediacy of the risk so that more time, options, and resources can be called upon to resolve the situation with reduced, or without the use of force. With respect to the use of deadly force, such term includes the use of less lethal force.
- D. **Carotid Restraint**: A technique applied in an effort to control or disable a subject by applying pressure to the carotid artery, the jugular vein, or the neck with the purpose or

effect of controlling a subject's movement or rendering a subject unconscious by constricting the flow of blood to and from the brain.

- E. **De-escalation Tactics and Techniques**: Proactive actions and approaches used by a law enforcement officer to stabilize the situation so that more time, options, and resources are available to gain a person's voluntary compliance and reduce or eliminate the need to use force, including verbal persuasion, warnings, tactical repositioning techniques, slowing down the pace of an incident, waiting out a subject, creating distance between the officer and the threat, and requesting additional resources to resolve the incident.
- F. **Deadly Force**: Force that creates a substantial risk of causing death or serious bodily injury, including the discharge of a firearm, a carotid restraint, or a neck restraint.
- G. **Imminent**: Likely to happen without delay; impending; threatening.
- H. **Excited Delirium**: A state of extreme mental and physiological excitement, characterized by extreme agitation, hyperthermia, epiphora, hostility, exceptional strength, and endurance without fatigue.
- I. **Exigent Circumstances**: Situations requiring swift action to prevent imminent danger to life or the imminent destruction of evidence.
- J. **Less Lethal Force**: Any degree of force that is not likely to have a lethal effect.
- K. **Medical Treatment**: A minimum of an on-scene response by a medically trained professional – Fire Department Emergency Medical personnel will assess the need for further medical care beyond what is provided at the scene.
- L. **Necessary Force**: Force is necessary only if the officer has no other reasonable alternative(s) under the totality of the circumstances to prevent imminent physical harm or accomplish a legitimate law enforcement objective. When force is necessary, the use of force shall be used in a manner that avoids unnecessary injury or risk of injury to all persons involved.
- M. **Neck Restraint**: A technique involving the use of an arm, leg, or other firm objects to attempt to control or disable a subject by applying pressure against the windpipe or the neck with the purpose or effect of controlling a subject's movement or rendering a subject unconscious by blocking the passage of air through the windpipe.
- N. **Officers**: For purposes of this policy, officers mean all sworn RCPD law enforcement personnel.
- O. **Passive Resistance**: Refers to displays of defiant behavior refusing to comply with an officer's verbal command or physical control techniques by non-violent actions. Passive

resistance may include, but is not limited to, standing stationary and not moving upon lawful direction, falling limp and refusing to move (dead weight), or other non-compliant behavior that does not pose a threat to the officer or another.

- P. **Police Involved Death**: A death of a member of the public, resulting from an action or omission of a law enforcement officer, while the law enforcement officer is on duty, or while the law enforcement officer is off duty, but performing activities that are within the scope of his or her law enforcement duties.
- Q. **Probable Cause**: Facts and circumstances that would lead a reasonable person to believe that a crime has been committed and a particular individual has committed that crime.
- R. **Proportional**: Whether the force used by an officer is rationally related to the level of resistance and/or aggression confronting the officer.
- S. **Protective Instruments**: Less-lethal weapons or tools authorized by the department that are intended to protect the officer or another and/or to affect an arrest, investigative stop/detention, or seizure when other alternatives are unsuccessful in achieving a peaceful outcome (e.g., CEW, OC Spray, ASP Baton, Pepper Ball, K9 Teams, etc.)
- T. **Response to Resistance**: Any action other than compliant handcuffing or unresisted escorting that an officer is required to use to compel compliance to arrest an individual suspected of committing a crime, temporarily detain an individual to complete an investigation, or to address an immediate threat to the safety of the public, law enforcement officers, or persons as a result of non-compliance with a legitimate law enforcement purpose.
- U. **Restrained Individual**: An individual who is under control and is not actively resisting arrest by use of intentional force that threatens serious bodily injury.
- V. **Scene**: The location(s) where force was utilized during an event.
- W. **Serious Bodily Injury**: Bodily injury that creates a substantial risk of death, causes a serious, permanent disfigurement, or results in long-term loss or impairment of any bodily member or organ.
- X. **Striking**: Hitting forcibly and deliberately with a weapon; a body part such as a hand, elbow, knee, or foot; or any other implement.
- Y. **Totality of the Circumstances**: All credible facts known to the law enforcement officer leading up to and at the time of the use of force, including the actions of the person against whom the law enforcement officer uses such force and the actions of the law enforcement officer.

Z. **Under Control**: In custody and in restraints, to include handcuffs, and/or is calm and non-combative.

AA. **Use of Force**: The intentional use of any weapon, instrument, device, means, or physical effort(s) by law enforcement other than compliant handcuffing or unresisted escorting, in response to the action or inaction of an individual in order to control, restrain, or overcome the resistance of an individual(s) to gain compliance, control, or custody.

IV. **RESPONSE TO RESISTANCE**

A. An officer may encounter situations that require not only the officer's presence but some form of verbal or non-verbal communication. This communication may take the form of providing information, giving commands, physical gestures, or directions, asking, or answering questions, conducting interviews, etc. It may also take the form of issuing specific instructions to individuals or groups, dealing with arguments, verbal assaults, or threats, handling disputes, disagreements, etc. The department recognizes that some situations require the application of force.

B. All officers have a number of force options available to use in those situations where force is necessary and proportional under the totality of the circumstances. Examples where force may be used, include but are not limited to:

1. Subduing or arresting a physically assaultive person.
2. Instances that reasonably threaten the safety of an officer or other person.
3. Stopping a person who is attempting to flee or escape a lawful detention or arrest.
4. Directing, controlling, or escorting resistive or physically uncooperative persons.
5. Situations where persons who are being placed into custody are non-compliant or resistant to lawful orders.
6. To overcome resistance directed at the officer or others.
7. To prevent physical harm to the officer or to another person.

C. Officers will, when time, circumstances, and safety allow, take steps to gain compliance and de-escalate conflict without using physical force.

D. Officers shall not intentionally escalate a situation or create the need to use force unless necessary to achieve a legitimate lawful objective. The dynamics of any situation can

quickly change which may cause the officer (s) to escalate or de-escalate the type, degree, and amount of necessary and proportional force they are using against an individual – officers must continually assess the situation at-hand and the behaviors of all subjects to ensure a necessary and proportional response to resistance and/or aggression.

E. Officers shall cease the use of force as soon as the subject:

1. Is under the police officer's control;
2. No longer poses an imminent threat of physical injury or death to the police officer or to another person; or
3. The officer(s) determine that force will no longer accomplish a legitimate law enforcement objective.

F. A person need not strike or attempt to strike an officer to be considered a physical threat (verbal threats, verbal defiance, physical stance, etc.) as long as an officer believes that the person is physically threatening and has the present ability to harm the officer or another person.

1. Examples of actions, behaviors, or observations that may lead an officer to believe that a person is a threat include, but are not limited to:
 - a. clenched fists;
 - b. displayed hostility or anger;
 - c. verbal threats;
 - d. aggressive stance;
 - e. non-compliance with lawful commands, and
 - f. furtive movements, among other things.

2. Under the law, officers are not obligated to retreat when confronted with a threat.

G. The more immediate the threat and the more likely that the threat will result in death or serious bodily injury, the greater the level of force that may be necessary and proportional to counter it.

H. Authorized Use of Less-Lethal Force:

1. Officers may use Less-Lethal to affect an arrest, to defend themselves or another person, or during the constitutionally permissible detention of an individual. Examples of such constitutional detentions include, but are not limited to:
 - a. When the officer has probable cause to believe the individual has committed a criminal offense;

- b. To effect an investigative detention; or
 - c. To effect service of an Emergency Evaluation Petition, Extreme Risk Protective Order, or other similar civil order.
- 2. Less-Lethal force may involve the use of defensive tactics (hands/body), control holds (pain compliance), and/or protective instruments.
- 3. Although the department issues authorized protective instruments and equipment, in exigent circumstances, officers are not prohibited from using any weapons, means, object, or instrument at their disposal regardless of their training and/or the object's intended purpose, in order to defend themselves or others as long as the weapons, means, object or instrument is used in accordance with this policy.

I. Authorized Use of Deadly Force

- 1. Officers may use deadly force when necessary and proportional, as a last resort due to a lack of reasonable and safe alternatives, to defend themselves or another person from what they reasonably believe is an imminent threat of death or serious physical injury. Such force must not create substantial unnecessary risk of injury to a third person.

Officers shall, when feasible, identify themselves as police officers and issue a verbal warning prior to using deadly force, unless identification and warning would jeopardize their safety or the safety of another person.

- 2. Officers may only use deadly force against a fleeing person if:
 - a. Such force is necessary and proportional, as a last resort due to a lack of reasonable and safe alternatives, to prevent imminent and serious bodily injury or death to the officer or another person;
 - b. The use of such force creates no substantial unnecessary risk of injury to a third person; and
 - c. Probable cause exists that the fleeing person committed a felony that threatened or resulted in death or serious bodily injury of another.

J. Unauthorized Use of Force:

- 1. Officers are prohibited from the following actions:
 - a. Utilizing a neck or carotid restraint against an individual unless the use of deadly force would be authorized;

- b. Shooting at a moving vehicle unless the vehicle is being used as a weapon and/or the circumstances would authorize the use of deadly force;
- c. Intentionally placing themselves in the path of a moving vehicle where an officer's use of deadly force would be the probable outcome. When confronted by an oncoming vehicle, officers will move out of its path, if possible, rather than fire at the vehicle;
- d. Shooting from a moving vehicle unless circumstances would authorize the use of deadly force;
- e. Striking a handcuffed/restrained individual, unless the individual poses an imminent threat of serious bodily injury or death to the officer(s) or another person; or
- f. Firing warning shots.

K. Duty to Intervene

- 1. Officers have a duty to intervene when they have an opportunity to prevent another officer from using unlawful force or force that is outside of department regulations.
- 2. Officers who intervene with another officer's application of force shall immediately report such intervention to the on-duty supervisor.
- 3. Any officer who makes such a report is protected from retaliation consistent with department policy.

L. Destruction of Animals

1. Humane Destruction of Injured Animals

Officers may discharge their firearms to destroy injured animals when no other reasonable alternative exists for humanitarian purposes. Factors taken into account must include backstop, location, bystanders, etc. A patrol supervisor will be notified prior to discharging a firearm, where feasible. When an animal is destroyed, officers must complete RCPD Form #25, "Use of Deadly Force on Animal Report" regarding the destruction of a domestic injured animal (cats, dogs, cattle, horses, etc.). The destruction of an animal that is not dangerous will be a last resort. Effort should be made to notify the owner but if they cannot be quickly located a Neighborhood Services Officer (NSO) will be contacted to handle the situation. If a NSO is not available a Montgomery County Animal

Services Officer will be contacted to handle the situation. An incident report will also be completed when a firearm is discharged in relation to animal destruction. RCPD Form #25 is also required for the humane destruction of non-domestic animals (deer, raccoons, and other wildlife). The Watch Commander will be immediately notified of all firearms discharges by members of RCPD – that Commander will make additional notifications, if required.

2. Destruction of Dangerous or Vicious Animals

If an officer destroys a dangerous or vicious animal (domestic or non-domestic) that presents a threat to the safety of the officer or another, an incident report documenting the incident shall be completed in addition to the RCPD Form #25. This includes attempted destruction by firearm. Officers who are confronted by dangerous animals are encouraged to consider the use of non-firearm alternatives, to include a CEW. RCPD Form #25 is required in cases where an officer uses a protective instrument against a dangerous or vicious animal.

V. WEAPONS

A. Drawing a Firearm

1. Firearms may be drawn whenever officers reasonably fear for their safety or the safety of others.
2. Officers shall only point a firearm at an individual when circumstances create a reasonable belief that it may be immediately necessary for the officer to use deadly force. When the officer no longer reasonably believes that deadly force may be immediately necessary, the officer shall, as soon as practicable, secure or holster the firearm.
3. Drawing and pointing a firearm at or in the direction of a person is reportable and officers shall notify a supervisor of the event – a Response to Resistance and Aggression Report (RRAR) form shall be completed. (Reference section X of this policy.)

B. Consideration of Backstop

1. When discharging a firearm for any reason, officers must exercise reasonable caution in order to avoid unnecessarily endangering the lives of bystanders.
2. When possible, officers should give consideration to background, bystanders, and location prior to discharging a firearm.

VI. CONDUCTED ENERGY WEAPONS

- A. A Conducted Energy Weapon (CEW) is a less-lethal weapon that will only be discharged when necessary and proportional to the level of resistance met and an objectively reasonable officer would conclude the circumstances present a risk of immediate danger that could be mitigated by the use of said device.
- B. The CEW will be utilized in accordance with the guidelines set forth in the department's Conducted Energy Weapons policy (G.O. #4-51).

VII. LESS-LETHAL WEAPONS:

- A. Officers, who are properly trained and certified, are authorized to use departmental issued less-lethal weapons. Less-lethal weapons are designed to provide officers with options during use of force incidents. Less-lethal weapons may be used to resolve incidents in a less-lethal manner, to protect officers and other persons from harm, to protect a suspect/subject from self-inflicted injury, or to end incidents involving resistant and/or aggressive subjects. Officers shall not interpret this policy to mean that a less-lethal weapon replaces the use of deadly force when deadly force is justified. During situations where less-lethal weapons are deployed and deadly force is justifiable, lethal cover must be provided for the less-lethal weapon operator.
- B. Some Less-Lethal Weapons are intended to provide a less-lethal use of force options with greater standoff distance than other protective instruments. Officers using these weapons will be trained in their use, shall maintain any certifications as required, and shall utilize these devices consistent with the training provided.
- C. All officers who use these weapons must ensure that any person struck with a projectile and in custody receives prompt medical evaluation by emergency medical services and, if necessary, treatment at a hospital. Officers will request that the appropriate emergency medical service provider transport the person.
- D. If emergency medical services refuse to transport the person an on-scene supervisor will ensure the person is transported to the hospital by an officer, and the refusal is documented in an incident report. Photos of all injuries will be taken when Body Worn Camera (BWC) recordings of the incident are not available, or it is believed the BWC recording does not capture the involved officer(s) and/or subject(s).

VIII. UNITENTIONAL WEAPONS DISCHARGE

- A. Whenever a weapons system, such as a firearm, CEW, or less-lethal device, is unintentionally discharged, officers shall notify their supervisor immediately.

Supervisors shall:

1. Ensure medical treatment is provided to any injured parties as provided for by department policy,
2. Document any damage to department or civilian property.
3. Secure, and treat as evidence, the weapon system and accessories (to include holster) if applicable. Supervisors shall utilize the Crime Scene Unit if necessary.
4. Notify a Commander, the Office of Professional Responsibilities, and the respective instructors of those weapons systems (e.g., Firearms Instructor, CEW Instructor, etc.)

IX. CUSTODY AND TRANSPORT

A. Important Considerations

1. Officers must be mindful of certain indicators and/or conditions when detaining or arresting a person. The following conditions and/or indicators may potentially contribute to sudden unexpected death following extreme physical exertion and/or restraint. These indicators and/or conditions include, but are not limited to:
 - a. Excited Delirium
 - b. Alcohol or drug use/abuse
 - c. Obesity
 - d. Display of erratic/psychotic behavior
 - e. Incoherent speech
 - f. State of agitation

- g. Subject intentionally injuring themselves
 - h. Subject disrobing or naked
 - 2. Officers must recognize these factors and closely monitor a subject in custody in the aftermath of a struggle when one or more of the above indicators are present.
- B. Officers must take appropriate measures so that the individual being transported is able to breathe without restriction and if possible, should lay the subject on their side or be seated in an upright position. Officers must avoid transporting subjects in a face-down position whenever possible.
- C. Medical Treatment
 - 1. Officers and supervisors will be required to administer first aid and obtain medical treatment as soon as practical for individuals:
 - a. Who show or complain of any injury as a result of any response to resistance and aggression.
 - b. Who become unconscious or exhibits reduced consciousness either during or following any response to resistance and aggression.
 - c. When a subject exhibits or complains of trouble breathing.
 - d. When the officer or supervisor reasonably believes an individual is in need of medical treatment as a result of any response to resistance and aggression.
 - e. When an individual shows obvious signs that chemical restraint may be necessary. Officers must specifically request an Advanced Life Support (“ALS”) unit that carries medication such as Haldol or Ketamine which can assist in treating individuals suffering from excited or agitated delirium.
 - f. When an individual is exposed to a CEW, they will be evaluated on scene by a Montgomery County Fire Rescue Service (MCFRS) personnel for medical treatment as an appropriate level of care in most circumstances: hospital/emergency medical center treatment is determined by MCFRS personnel for all CEW contact exposures. However, probe removal requires transport to a hospital and treatment by hospital staff.
 - 2. Medical treatment will be provided immediately or as soon as practical and will not be refused for any individual who requests it. For the purposes of this General Order, medical treatment may be performed by responding MCFRS, emergency

medical personnel at the scene of the incident, or by hospital personnel. Once on the scene, MCFRS personnel will advise police personnel of the need for further medical care beyond that provided at the scene.

3. Individuals exposed to Oleoresin Capsicum (OC) spray usually display predictable reactions. Officers certified in OC spray are trained to recognize these reactions and may provide field decontamination of OC in accordance with their training. Unless other circumstances are required as directed by on-scene medical personnel from MCFRS, as outlined in **IX(C)2** of this policy, individuals exposed to OC spray may not require further medical treatment.
4. If safety circumstances reasonably dictate moving the subject to another location, officers may have emergency medical personnel meet the officers at a nearby location to assess the subject and render aid.

X. RESPONSE TO RESISTANCE AND AGGRESSION REPORTING REQUIREMENTS

A. The Response to Resistance and Aggression Report (RRAR) will be completed by each officer actively involved any time force is used, to include:

1. Any time an employee discharges a firearm, except in the following circumstances:
 - a. The firearm was discharged for training purposes.
 - b. The firearm was discharged for recreational purposes.
 - c. The firearm was discharged for destroying an aggressive or seriously injured animal.
 - d. The firearm was unintentionally discharged.
2. An employee takes an action that results in (or is alleged to have resulted) any injury or death of another person.
3. An employee applies force through the use of a lethal, less-lethal, non-lethal, personal weapon (i.e., punches, elbow strikes, knee strikes, kicks), or a weapon of opportunity.
4. Where it becomes necessary for an employee to apply physical force, due to met resistance and/or aggression, which may include utilizing hands-on methods such as control and restraint techniques or pain compliance, even if no injury occurs or is evident.
5. Where the individual claims injury as a result of the use of force.
6. Where any physical force is applied to the extent it is likely to cause or lead to unforeseen injury, claim of injury or allegations of excessive force.

7. Drawing and pointing a firearm in the direction of a person.
8. Drawing and pointing a CEW at or in the direction of a person or “ARCIing” the CEW in an effort to de-escalate an incident.
9. Drawing and pointing of Oleoresin Capsicum (O.C.) spray at or in the direction of a person.
10. Whenever a department canine inflicts injury on any subject in conjunction with a canine deployment

B. The following are not considered to be reportable responses to resistance and aggression:

1. Escorting or touching a subject or arrestee with minimal or no resistance to:
 - a. Ensure officer safety or the safety of others; or
 - b. Accomplish a legitimate law enforcement objective.
2. Routine handcuffing/similar restraining (e.g., with flex cuffs, etc.) with minimal or no resistance.

- C. The RRAR will be completed no later than the end of the shift on which the response to resistance and aggression occurred, and forwarded to the Chief of Police, via the chain of command. RRAR’s will also be used to evaluate the response to resistance and aggression department wide.
- D. If the submission of the RRAR will take longer than the required time frame, the Bureau Commander will be notified of the delay and the reason for the delay. The Bureau Commander or Bureau Commander's designee will determine a due date for submission of the RRAR.
- E. The Chief of Police will designate a Senior Police Official to conduct an annual analysis of its use of force activities, policies, and practices with the assistance of the Department’s defensive tactics and weapons instructors. The Senior Police Official will report the results of the analysis to the Chief of Police.

NOTE: The Response to Resistance and Aggression Report does not replace the Incident Report or revoke any other reporting requirements – it is to be submitted in addition to any required reports.

Injuries that are self-inflicted after custody is achieved (ex: subject intentionally bangs head into cage during transport, etc.) are not considered applications of force. Self-inflicted injuries that occur after custody is achieved will be thoroughly photographed and articulated in the incident report with notifications in accordance with the departments notification policy (G.O. #2 – 16).

XI. RESPONSIBILITIES

A. Officer

- a. Officers will report immediately to their supervisor, and off-duty officers to the on-duty supervisor, any circumstance described in section **X(A)1 through 10** of his policy, as well as any firearm discharge (except authorized range practice) or serious medical emergency involving a subject in-custody.
- b. Officers will complete or provide information for the completion of incident reports, charging documents, and the RRAR and any other reporting requirements deemed necessary. An incident-report and RRAR SHALL be completed prior to the end of the shift whenever force is used unless the involved officer is disabled.

B. Shift Supervisor

1. Respond to the scene of all CEW deployments, firearm discharges (including the humane destruction of domestic and non-domestic animals), and any use of force that results in any injury or complaint of injury.
 - a. Ensure appropriate medical treatment has been received or requested, evidence is collected, witness/involved persons are interviewed, and are pictures taken of all involved parties whether injured or not, when Body Worn Camera (BWC) recordings of the incident are not available, or it is believed the BWC recording does not capture the involved officer(s) and/or subject(s).
2. Review for completeness the associated incident report and RRAR(s) submitted by the officer, review associated BWC, complete the supervisor section and forward to the on-duty Watch Commander (or next scheduled WC if one is not on duty), prior to the end of the tour of duty.
3. Immediately notify the on duty/on call Watch Commander of all incidents listed in section **XI(B)1** of this policy, serious medical emergency involving a subject in-custody, and/or any serious concerns after reviewing the incident report, RRAR and/or BWC.

4. Complete the Response to Resistance and Aggression Report and ensure an incident report is completed if the officer is unable to complete.
5. On-duty supervisors will ensure that off-duty officers involved in reportable use of force events fulfill the requirements of section **X(A)(B) and C** of this policy.

C. Watch Commander

1. Respond to the scene of any serious, fatal use of force or firearm discharges (except the humane destruction of non-domestic animals). See section **XII** of this policy for investigative processes for departmental shootings as well as serious and fatal use of force. Ensure section **XI(B)1(a)** of this policy is completed.
2. Review for appropriate level of response to resistance and aggression and completeness of the associated incident report and RRAR(s) submitted by the officer, review associated BWC, complete the appropriate section and forward to the appropriate Bureau Commander for assignment to an appropriate certified instructor in the discipline of force that was used as soon as practical.
3. Immediately notify the appropriate Bureau Commander of any serious concerns after reviewing the incident report, RRAR and/or BWC.

D. Certified Instructor's Review

1. Once assigned by a Watch Commander, this will be completed by a certified instructor in the discipline of force that was used.
2. Review for completeness the RRAR(s) submitted by the officer, review associated BWC, complete the certified instructor's section and forward to the appropriate Bureau Commander by the end of the tour of duty on which it was received.

E. Bureau Commander

1. Review for completeness the associated incident report and RRAR(s) submitted by the officer, review associated BWC, comments from other reviewers, complete the appropriate section and forward to the Deputy Chief of Police as soon as practical.
2. Immediately notify the Deputy Chief of Police of any serious concerns after reviewing the incident report, RRAR and/or BWC.

F. Deputy Chief of Police

1. Review the associated incident report and RRAR(s), review associated BWC, comments from other reviewers, complete the appropriate section and forward to the Chief of Police as soon as practical.

G. Chief of Police

1. Review the associated incident report and RRAR(s), review associated BWC, comments from other reviewers, complete the appropriate section and forward to the Office of Professional Responsibility for filing and/or appropriate follow-up.

XII. DEPARTMENTAL NON-LIFE-THREATENING USE OF FORCE AND SHOOTING INVESTIGATION PROCESS

- A. The department will ensure a thorough investigation is completed for all non-life-threatening serious use of force incidents as well as every officer involved shooting.

1. Shift Supervisor Responsibilities (in addition to **XI(B)** of this policy):

- a. The supervisor will secure the scene until relieved by investigative personnel or a higher-ranking authority.
- b. During any period where the involved officer is required to remain on the scene, but has no immediate duties to fulfill, the officer shall be taken to a quiet area away from the scene of the incident.
- c. The supervisor should briefly meet with the involved officer(s) and preliminary questions should be asked about the incident, but in a minimal capacity in a public safety exception. A walk through of the incident may be conducive to understanding how the incident transpired and for a protective sweep of the area to secure evidence.
- d. The officers should be advised that a more detailed debriefing would be conducted at a later time.
- e. The supervisor should arrange for the officers directly involved in the incident to leave the scene as soon as possible, and to be taken directly to a quiet secure setting at the police station or MCPD PSHQ where they will be turned over to an investigator from the Criminal Investigation Unit or MCPD Homicide Detective if it is determined appropriate by the Chief of Police or his designee and MCPD agrees to handle the investigation.

2. Watch Commander Responsibilities (in addition to section **XI(C)** of this policy):

- a. Respond to the scene and ensure steps of section **XI(B)** and **XII(A)1(a through e)** of this policy are completed.
- b. Ensure the Chief of Police and IID are notified.

3. Whenever an officer is involved in a shooting and does not involve a life-threatening injury or fatality, the incident will be investigated by the Criminal Investigations Unit (CIU). The CIU will conduct a complete investigation, provide a written report of the findings directly to the Chief of Police. It shall be the duty of the Criminal Investigations Unit to notify the State's Attorney's Office as soon as possible. Depending upon the circumstances the Chief of Police, or the Chief's designee may request MCPD to lead or assist with the investigation as deemed appropriate.

XIII. DEPARTMENTAL POLICE INVOLVED LIFE-THREATENING OR DEATH INVESTIGATION PROCESS

1. Primary criminal investigative responsibility for officer actions involving Police-Involved Deaths will reside with the Office of the Attorney General's Independent Investigations Division (IID), and the Maryland State Police will lead the investigation. As provided by Section 3-527(b) of the Public Safety Article of the Maryland Code, notification to IID responsibility will rest with the agency from which the involved officer(s) are employed. The Montgomery County Police (MCPD) will provide investigative resources to assist the IID to include, but not limited to, detectives from the Major Crimes Division, Forensic Services, and Collision Reconstruction Unit for incidents involving RCPD Officers. RCPD will provide investigative resources to assist IID, to include, but not limited to detectives from the Criminal Investigations Unit involving RCPD officers and/or County Police Officer incidents occurring inside the City of Rockville boundaries. RCPD is responsible for conducting the administrative investigation once the IID criminal investigation has concluded when incidents involve RCPD personnel.
2. See Appendix A for detailed guidance on the IID process.

XIV. DEPARTMENTAL MISC PROCEDURES AND DUTIES FOR POLICE INVOLVED DEATHS, SHOOTINGS, AND SERIOUS USE OF FORCE

A. Mental Health Support

1. Peer Support Team (PST) – The on scene ranking officer should evaluate the need for RCPD and/or MCPD PST. The PST can be activated by contacting ECC.
2. Psychologist – In all cases where an officer is involved in any in custody death, fatal use of force or officer involved shooting (other than authorized target practice or destroying an injured or dangerous animal), that officer will be required to meet with a department-furnished psychologist within five days of the incident. The session will remain protected by the privileged Professional Psychologist Code of Ethics.
3. Employee Assistance Program (EAP)- In all cases where an officer has been involved in a police-involved death or police involved shooting where the subject was injured the involved officer and his family will have available to them services provided by EAP. The consultation sessions will remain protected by the privileged relationship.

B. Weapon

1. If an officer's service weapon is taken as evidence, and approved by the Chief of Police or designee, the supervisor will ensure that the officer is provided with a replacement weapon before the end of the tour of duty. Requirements for range qualifications with the replacement weapon will be temporarily waived until a firearm instructor can schedule a qualification session
2. In all cases where an officer fires his weapon (excluding firearm discharges as a result of authorized range practice or the destruction of an injured or dangerous animal), the involved officer will be required to re-qualify with his weapon prior to returning to on-duty status. A certified firearms training instructor shall conduct the re-qualification.

C. Reassignment/Leave

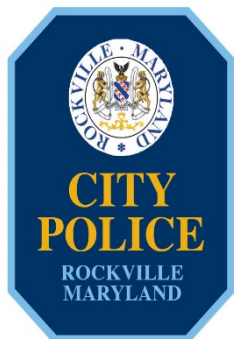
1. When a police officer discharges a weapon resulting in a contact shooting where the subject is either injured or killed or if the officer is involved in a police-involved death or serious life-threatening injury, the officer(s) will complete the preliminary report of the incident, an RRAR, and then be directly placed on "Administrative Leave." The senior ranking officer on the scene will complete the preliminary report if the officer is unable to do so.
 - a. This leave shall be without loss of pay or benefits, pending the outcome of the investigation by the State's Attorney's Office or the assigned investigative and/or prosecutorial entity.
 - b. The assignment to Administrative Leave shall not be a presumption that the officer acted improperly.
 - c. While on Administrative Leave, the officer shall remain available at all times for official departmental interviews and statements regarding the incident and shall be subject to recall to duty at any time.
2. When a police officer intentionally or unintentionally discharges a weapon resulting in a non-contact shooting, (excluding firearm discharges as a result of authorized range practice or the destruction of an injured or dangerous animal), the officer shall be temporally assigned to administrative duties within the confines of the police building. The Patrol Supervisor and Watch Commander shall respond to the scene of all firearms non-contact department discharges, CIU will respond to the scene and assume investigative responsibilities unless those duties are designated to another organization. The officer shall remain in this assignment until the Criminal Investigations Unit, and any other organization authorized to investigate the incident completes their investigation. Depending on the circumstances, the Chief of Police or the Chief's designee, may place the involved officer on administrative leave. If an officer is placed on administrative leave section **XIV(C)1(a though c)** of this policy applies.

- D. Media – All press releases relative to a police-involved death, officer involved shooting or use of force incident will only be made by the Chief of Police or designee, MCPD,

State's Attorney's Office or the OAG/IID as appropriate dependent upon who is handling the investigation and/or prosecution if applicable.

XV. DISCLAIMER

This General Order is for departmental use only and does not apply in any criminal or civil proceedings. This Department policy should not be construed as the creation of a higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this General Order will only form the basis for departmental administrative sanctions.



G.O. #4-1 Appendix A
Independent Investigations of Police-Involved
Deaths by the Office of the Attorney General,
State of Maryland

Date: March 29, 2022

In 2021, the Maryland General Assembly enacted into law SB600, the Maryland Police Accountability Act of 2021, creating an Independent Investigations Division (IID) within the Office of the Attorney General (OAG). The IID is charged with investigating all alleged or potential officer-involved deaths of civilians as mandated by Maryland Annotated Code, State Government Article, section 6-602. An officer-involved death is defined as a death or potential death of an individual resulting from an action or an omission on the part of a law enforcement officer while the officer is on-duty, or while off-duty but performing activities that are within the scope of his or her law enforcement duties. Examples include, but are not limited to, the following:

1. Officer involved shootings and other use of force incidents that are fatal or result in the likelihood of death of the individual.
2. Deaths occurring while an individual is in police custody.
3. Vehicle pursuits by law enforcement that result in death or likelihood of death of the individual.

The IID will be the primary investigative entity and will be responsible for the following:

1. Interviewing of witnesses/officers involved.
2. Crime scene evidence collection.
3. All other functions related to the officer-involved death investigation.

By law, the OAG may detail one or more Maryland State Troopers to the IID or employ civilian personnel as needed to assist with investigations.

When an officer-involved death or potential death has been determined it is imperative that a timely notification to the IID is made. While MCPD will make notification, RCPD is responsible for making notification when an incident involves an RCPD Officer. After initial notifications are made to the appropriate MCPD investigative group and the RCPD Watch Commander, a representative from the Major Crimes Division, Homicide Section or Traffic Operations Division, Collision Reconstruction Unit (CRU) will:

1. Immediately notify the IID point of contact, i.e., the MSP Headquarters Duty Officer at (410)653-4474; and
2. Provide the IID point of contact with contact information for the on-scene commander who has the responsibility for the initial crime scene response.

The RCPD Watch Commander will:

1. Immediately notify the IID point of contact, i.e., the MSP Headquarters Duty Officer at (410)653-4474; and
2. Provide the IID point of contact with contact information for the on-scene commander who has the responsibility for the initial crime scene response.
3. After initial notification to MSP HQ, additional questions can be directed to the on-call IID investigator at (410)576-7070.

IID personnel will take responsibility of the investigation and will make every effort to arrive within one to two hours from notification. MCPD being the primary investigative entity for Major Crimes, via MOU, does not relieve our responsibility to also make notification to the IID. If it is uncertain whether an incident qualifies as an officer involved death, notification to the IID shall be made. The IID will make the determination whether the incident qualifies for their response.

The IID may request assistance from the local law enforcement agency (LEA) to provide additional resources and aid in any security concerns. As a result, a liaison from MCD and/or CRU as well as the Crime Scene Unit will likely respond to the scene as is customary along with patrol officers. Importantly, RCPD patrol response protocols to officer-involved death investigations will remain consistent in many significant ways. For instance, initial responding officers shall, at a minimum;

1. Maintain control over the crime scene;
2. Ensure that medical attention is provided to all injured parties;
3. Identify all involved including civilian witnesses and witness officers;
4. Identify and protect all potential evidence.

The initial responding supervisor has the same responsibilities and should handle the crime scene in the same manner as any other major crime scene. The supervisor shall:

1. Ascertain a good understanding of what occurred;
2. Determine which personnel were involved;
3. Determine what resources are required;
4. Will ensure all BWCS and MVS cameras for all officers are uploaded as soon as possible; and
5. Ensure all reports are completed as required by policy.

Unless directed by the IID, no evidence will be collected by RCPD / MCPD. Personnel from the MSP Forensic Sciences Division (MSP FSD) will respond to process the crime scene(s) relating to the IID investigation. After notification, MSP FSD personnel will make every effort to arrive at the scene within one to two hours from notification. RCPD / MCPD will be responsible for the following:

1. Maintaining control over and security of the crime scene(s) until arrival of MSP FSD.
2. Providing traffic control/scene security until the on-scene investigation is complete and the scene is released.

3. Providing security for any individuals in custody until either treated and booked, relieved by the Maryland Division of Corrections as a bedside commitment or transferred to the Office of the Chief Medical Examiner.

In the event of imminent threat to evidence, which is defined as a situation in which evidence will be lost, damaged, or contaminated if personnel on the scene do not take immediate action (i.e. rain, wind, flood, heat or potential interference from civilian, medical personnel, or animals), MCPD Crime Scene Unit or CRU personnel on scene should document, photograph, scan/survey (if applicable) and collect the evidence. If the MCPD Crime Scene Unit or CRU is not readily available, Shift ID/Decentralized CRU officers should be utilized prior to officers who have not participated in the Shift ID/Decentralized CRU training programs. If evidence is collected due to imminent threat the IID should be asked if the evidence is to be transferred to MSP-FSD or processed by the collecting agency.

Witness officers should be separated but remain at the scene pending the arrival of the IID, MCPD Homicide, or CRU investigators.

Unless any involved officer is injured and requires immediate transport for medical care, the involved officer will be individually photographed, in a discreet manner, using Crime Scene Unit cameras or video. Prior to removing any involved officers from the scene, MCD or CRU investigators will consult with IID investigators for guidance. If the decision to remove the involved officer from the scene is made, a supervisor, or their designee, must accompany the involved officer until relieved by IID personnel. BWCS as well as MVS will be utilized consistent with existing RCPD policy.

In addition, any involved officer should not change or remove their clothing or equipment, nor remove their service weapon or duty belt, until those items are collected by IID personnel. Exceptions can be made under exigent circumstances, such as in the event that an officer's clothing is contaminated by biohazard or other material. In these cases, a supervisor should:

1. Be notified of the need to change clothing.
2. Contact a responding/on-scene MCPD investigator who will communicate the need to the IID.
3. Allow to occur only after receiving permission from the IID.
4. Properly collect and store the evidence until transferred to the MSP FSD personnel.

If an involved officer is injured and is requiring on-scene medical treatment or transport to a medical facility, the on-scene supervisor or designee will:

1. Take custody of the officer's service weapon and duty belt, uniform, other clothing or equipment, and any other property as necessary.
2. Maintain custody of property until it is collected by the MSP FSD.

Communication with the public and media during a fatal or potentially fatal officer involved incident must balance the public's desire for timely answers, the need for accuracy, and the need to convey the independence of the investigation. Often, the local LEA will be called upon to provide some information prior to the IID fully taking control of the investigation. The IID will generally release the name of the involved officer(s) within 48

hours of the incident, though that period may be extended if there is a specific reason to believe that an officer's safety is at risk. The IID will generally release BWCS footage within 14 days of the incident. The IID will be solely responsible for next of kin notifications.

In the event of an officer-involved death or potential death, the MCPD Public Information Division and RCPD PIO will be:

1. Notified, respond to the scene; and
2. Will work in collaboration with IID personnel with media responsibility.

Upon completion of its investigation, the IID will:

1. Provide a report containing detailed findings to the State's Attorney of the county that has jurisdiction over the underlying incident; and
2. The appropriate law enforcement agency (LEA) will be notified that the investigation is complete.

The IID will not comment on the report itself due to it being considered confidential by statute until after the prosecution is complete. The IID will publicly release its report, with appropriate redactions for confidentiality, within 30 days of final judgement of all defendants in any prosecuted case or within 30 days after a determination by the SAO or other relevant prosecutorial entity that they are declining to prosecute the case.

RCPD will continue to have jurisdiction in any officer-involved shooting or other use of force case where death does not occur nor is probable. The RCPD Chief of Police or his designee can request the Montgomery County Police Department lead or assist with the investigation. Collateral criminal investigations and investigations that arise from non-police criminal activity within the same general incident will be conducted by both agencies with proper investigations, without causing prejudice to either case.

