

BERLIN POLICE DEPARTMENT
Berlin, Maryland

SUBJECT: USE OF FORCE and REPORTING USE OF FORCE		NO: 200 F-1
APPROVED/EFFECTIVE DATE November 14, 2011	AMENDS G.O. 200 F-1 dated JULY 26, 2010	RESCINDS
DISTRIBUTION/DATE November 18, 2011	REFERENCES 71 Opinions of Attorney Gen'l 1986 Opinion No. 86-606, Nov. 17, 1986	

- .10 The Berlin Police Department recognizes the value and special integrity of each human life. In vesting police officers with the lawful authority to use force to protect the public welfare, a careful balancing of all human interests is required. Therefore, it is the policy of this Department that police officers shall use only that force that is reasonably necessary to effectively bring an incident under control. The Berlin Police Department prohibits the use of excessive force by its staff and prohibits excessive force against any individuals engaged in nonviolent civil rights demonstrations.
- .20 By law, police officers are empowered to arrest people who violate the law. Police officers shall use the proper amount of force reasonably necessary to affect an arrest.
- .30 It must be clearly understood that this Department not only supports but also expects all officers to defend themselves from physical attack while engaged in the performance of their official duties.

- .40 There are two kinds of situations involving the use of force. The first is a case in which an officer must defend him/herself or another from physical attack, and the second is a case in which there is no physical attack but in which force must be used to overcome resistance in carrying out the police mission. Officers, when not in uniform, must take steps to clearly identify themselves. When it comes to undertaking a specific police mission to a successful conclusion, and there is no immediate or apparent danger calling for self defense by the officer, action must be tempered by good judgment, common sense, restraint, and understanding. Action taken by an officer would not be considered excessive force, provided the officer:
- A. Is acting officially within the restrictions imposed by law and established by the Berlin Police Department policies and procedures;
 - B. Demonstrates impartial and dispassionate conduct;
 - C. Is firm without being unreasonable;
 - D. Provides reasonable opportunity for compliance with the law;
 - E. Uses proper force and
 - F. Discontinues the force once compliance or control has been achieved.
- .50 Physical Control: Officers may employ needed and reasonable physical force (holding, pulling, pushing, throwing, or exert greater strength to overcome resistance) in order to control a situation, to defend themselves or another person or to subdue a resisting subject.
- .60 Non-Deadly Forces: Is the use of force other than that which is considered deadly force.
- A. Parameters for use of non-deadly force:
 - 1. Where deadly force is not authorized, officers should assess the incident in order to determine which non-deadly technique or weapon will best de-escalate the incident and bring it under control in a safe manner.

2. Police officers are authorized to use department approved non-deadly force techniques and issued equipment for resolution of incidents, as follows:
 - a. To protect themselves or another from physical harm, or;
 - B. To restrain or subdue a resistant individual, or;
 - C. to bring an unlawful situation safely and effectively under control.

.70 Use of Weapons -- Non-Deadly Force

- A. Officers shall only use authorized defensive equipment when it is necessary to perform official duties. The member may utilize an authorized defensive weapon, when necessary, for self-defense, in defense of another, and to overcome physical resistance in arrest and custody situations. Nothing in this directive shall prevent a member of the Berlin Police Department from utilizing any readily available object that may substitute as a defensive weapon under exigent circumstances, which are justifiable.
- B. The carrying of non-lethal weapons, other than those authorized by the Department, are not permitted. To carry a non-lethal weapon, a member must be authorized by the Department to carry the weapon and receive approved training in the proper use of the non-lethal weapon, prior to carrying it.
- C. Departmentally approved batons (ASPs, PR-24s, and Straight Batons) shall be authorized defensive equipment to be carried while on-duty. The carrying of flat saps, slapjacks, black jacks and other such items while on or off duty is prohibited.

D. The use of Oleoresin Capsicum (OC spray).

1. Oleoresin capsicum (OC) spray shall be issued to officers who have completed OC training. The OC canister shall be carried on their person in an issued holster or pocket. It will be the responsibility of the individual officer to keep the OC canister safe and within his/her control while on or off duty.
2. Officers may only use OC canisters authorized by the Berlin Police Department.
3. Officers may use OC spray in any of the following circumstances:
 - a. When necessary to defend him/herself or others;
 - b. To effect an arrest;
 - c. To prevent the commission of a public offense;
 - d. When lower levels of force are deemed ineffective;
 - e. Any reasonable and prudent deployment of OC consistent with the officers' training;
 - f. To incapacitate unruly persons.
4. Members shall use only the amount of OC spray needed to control the situation. Subjects should never be allowed to get the advantage in a physical confrontation. Once the situation is under control, the use of OC spray must be discontinued.

5. It is the officer's responsibility to make an effort to relieve discomfort to the subject, which is due to exposure to OC spray. The officer shall flush the eyes and other contaminated areas with water as soon as it is safe to do so. If the subject exposed to OC spray requests medical attention or if the effects of OC spray do not dissipate after 45 minutes, the officer shall bring this request or situation to the attention of a supervisor immediately. The supervisor shall request Emergency Medical Services in the appropriate situations. Note the effects of OC spray are:
 - a. Burning sensation in eyes
 - b. Burning sensation and swelling of mucous membranes
 - c. Sensation of intense burning of the skin
 - d. Interrupted thought process leading to loss of coordination and loss of upper body control
 - e. Can be effective on people under influence of alcohol and/or controlled dangerous substances
 - f. Can be effective on people who are mentally unbalanced or highly agitated/motivated
 - g. Also may be effective on some animals if necessary
6. The officer should make every reasonable attempt to warn and remove bystanders from the area, prior to the use of OC spray.
7. The improper use of OC spray will not be tolerated. Any violation of this policy shall

be subject to disciplinary action. It will be the responsibility of supervisors to monitor the use of OC spray.

8. Anytime OC is used, with the exception of training; officers are required to report the incident to their immediate supervisor (form 95). In all cases, the officer must document each incident on a "Use of Force Report" and in the officer's incident report.

E. The use of the Taser.

1. Tasers will be issued only to those officers who have completed certified training. It will be the responsibility of the individual officer to keep the Taser safe and within his/her control while on or off duty.
2. Officers may only use Tasers authorized and issued by the Berlin Police Department.
3. Officers may use Tasers in any of the following circumstances:
 - a. When necessary to defend him/herself or others;
 - b. To effect an arrest;
 - c. When lower levels of force are deemed ineffective;
 - d. Any reasonable and prudent deployment of the Taser consistent with the officers' training
4. Members shall only use the Taser to control the situation. Subjects should never be allowed to get the advantage in a physical confrontation. Once the situation is under control, the use of Taser must be discontinued. Note the Taser affects the body's ability to communicate messages from the brain to the muscles, causing motor skill dysfunction.

5. It is the officer's responsibility to make an effort to relieve discomfort to the subject, which is due to being shocked. If the subject exposed to Taser requests medical attention or if the effects of Taser do not dissipate after 30 minutes, the officer shall bring this request to the attention of a supervisor immediately. The supervisor shall request Emergency Medical Services in the appropriate situations without delay. Special care should be followed to inspect for any secondary injuries related to the incident.

6. The improper use of Taser will not be tolerated. Any violation of this policy shall be subject to disciplinary action. It will be the responsibility of supervisors to monitor the use of Taser.

7. Anytime the Taser is used, with the exception of training; officers are required to report the incident to their immediate supervisor (form 95). In all cases, the officer must document each incident on a "Use of Force Report" and in the officer's incident report.

.80 Deadly Force: Is any force that is likely to cause death or serious bodily harm.

A. Parameters for use of deadly force:

1. Police officers are authorized to fire their weapons in order to:

a. Defend himself/herself others from what is reasonably believed to be an immediate threat of death or serious bodily harm; and

b. To prevent the escape of a convicted felon or to effect the arrest of a person whom the officer has probable cause to believe has committed or is

attempting to commit a felony; and

- c. The officer has probable cause to believe the suspect is dangerous and poses a threat of serious physical harm to the officer or others; and
 - d. Only if its use is necessary to affect the arrest.
2. A police officer may also discharge a firearm under the following circumstances:
- a. Departmental training, practice and/or competitive sporting events;
 - b. To destroy an animal that represents a threat to public safety, or as a humanitarian measure where the animal is seriously injured;
 - c. To give an alarm or to call assistance when no other means can be used.
3. Police officers shall adhere to the following restrictions when their firearm is exhibited:
- a. Except for maintenance or during training, police officers shall not draw or exhibit their firearm unless circumstances create reasonable cause to believe it may be necessary to use the weapon in conformance with this policy;
 - b. Warning shots are prohibited;
 - c. Police officers shall not fire their weapons at or from a moving vehicle, except under extreme circumstances;

- d. Firearms shall not be discharged when it appears likely than an innocent person may be injured.

.90 Additional Considerations

- A. Unholstering Firearms - firearms may be drawn whenever an officer has reason to fear for his/her life, another person's safety, or when necessary in conformance with this policy.
- B. Bystanders - officers must exercise caution when discharging a firearm to avoid endangering the lives of bystanders.

.100 Firearms

- A. Members of the Department who are authorized by law to carry firearms shall exercise the utmost care and precaution in the preservation and use of such weapons.
- B. Berlin Police Officers will carry their department-approved firearms with department issued ammunition as their primary weapon while on-duty, unless otherwise exempted (i.e. light duty, special assignment, etc.). The specific weapon issued will vary, depending on individual member's job assignment. Officers are authorized to carry more than one firearm on their person while on-duty.
- C. All sworn members of the Department shall be suitably armed at all times when on-duty and when operating a departmental vehicle. Sworn permanent members, off-duty, within the Town of Berlin, should be suitably armed except at such times, or under such circumstances, or when engaged in such activities, as a prudent person would reasonably conclude the wearing of a firearm to be inappropriate. Off-duty sworn members are authorized to carry approved handguns, outside the jurisdiction of the Town of Berlin, under State and Federal Laws governing the carrying of firearms. There is, however, no requirement to be armed when off-duty outside the Town limits.

While sworn permanent members are authorized to wear, carry or transport a handgun off-duty, they are reminded that their manner of doing so must be in conformance with existing State law and Departmental General orders.

- D. No officer will be authorized to carry a firearm until he/she has demonstrated proficiency with the firearm by successfully completing a course of fire, which is conducted at least annually. This will include any Department issued firearm as well as any non-issued personal firearm.
- E. A departmentally approved pistol shall be considered the only authorized handgun to be carried by permanent sworn personnel, while on-duty.
- F. Personnel shall not modify the firearm's working mechanism or have any device added to or removed from the firearm, without specific approval of the Department's Armorer.
- G. Supervisors shall periodically inspect firearms of their subordinates, including ammunition, and ensure their serviceability. Faulty weapons shall be turned in to the department.
- H. Only members of the Department who successfully complete an approved departmental special weapons training course shall be permitted to utilize special weapons, under existing departmental guidelines.
- I. Personnel are not authorized to carry or wear a firearm off-duty under the influence of alcohol. The definition of "under the influence" shall be the same standards as defined by the Maryland Courts and Judicial Proceedings Article for the operation of a motor vehicle under Section 10-307D. Supervisors, who suspect any departmental member of carrying or wearing a firearm off-duty, in violation of this order, shall order the suspected violator to submit to field tests and submit to a breathalyzer for administrative

disciplinary purposes.

.110 Off-Duty Weapons

- A. When a firearm is carried off-duty, official identification must also be carried.
- B. Any permanent officer who wishes to carry a personally owned firearm on-duty, or off-duty, must request permission, in writing, to the Chief of Police.
- C. Firearms must be inspected and approved, by the Department's Armorer, as to working condition prior to the request.
- D. Firearms must fire approved ammunition.

.120 Shoulder-Fired Weapons (Patrol Rifle/Shotgun)

- A. Due to the increased effectiveness of a shoulder-fired weapon, members should consider the use of a shoulder-fired weapon for any situation where an armed subject(s) maybe encountered.
- B. Only those personnel who successfully complete an approved training course shall be authorized to utilize a patrol rifle or shotgun.
- C. Members who are issued departmental shoulder-fired weapons shall be responsible for maintaining the weapons as set fourth in the training course.
- D. Members of the department who are issued shoulder-fired weapons shall be responsible for the security of the weapon.

.130 Special Weapons (Bolt Action/ Automatic Rifles)

- A. Only members of the department who are properly trained shall be permitted to utilize special

weapons, under existing Departmental guidelines.

.140 Training

No officer will use any of the weapons mentioned in paragraph above without having received prior training in all areas relating to their use.

.150 Reporting

A: Required Reporting - Use of Force

1. Officers involved in physical altercations will report the incident as soon as possible, both verbally and in writing (by completing a Use of Force and documenting in the incident report) to the immediate supervisor. The appropriate charge(s) should be placed on the subject(s) who resists arrest. The immediate supervisor will assess the situation and if excessive force is determined to have been used by the arresting officer, the incident will be referred to the Chief of Police, and the use of alleged excessive force will be investigated by the proper investigative agency.
2. In any incident where a firearm is discharged, on or off-duty, by a member of this agency, excluding practice, or approved competition, the member shall immediately notify his/her immediate supervisor. Additionally, members shall submit a detailed report of the incident within 24 hours of the discharge to the office of the Chief of Police. Each reported discharge should be promptly investigated.
3. In cases involving the death or serious injury (including traffic accidents) of an

individual by an officer, the Supervisor, after being notified, will immediately contact, the Chief of Police. The State's Attorney's Office and the Town Attorney will be notified. An immediate preliminary investigation will be conducted internally.

- a. The officer, if physically able to, must submit a written report utilizing the current incident offense report form detailing the facts surrounding the incident and Use of Force Form (completed within one day)
 - b. If the officer is unable to make a report, the supervisor must submit one (within 24 hours).
 - c. Additionally, members shall surrender the firearm discharged to the appropriate investigator for an official investigation. The Supervisor, if appropriate shall issue a replacement firearm to the member.
- B. Administrative Review Pursuant to this General order, all incidents involving the use of force shall be subject to administrative review. The on-duty supervisor shall conduct this review. The substance and conclusions of that review will be reported on the officer's Use of Force Form. In the event that the supervisor who would normally be required to review an incident and report it on the officer's Use of Force Form is directly involved in that incident, another supervisor of same or higher rank will be assigned to complete those duties.

The supervisor reviewing the Use of Force Form must reach one of the following conclusions:

1. The use of force was necessary and appropriate.
2. The use of force was not consistent with agency

rules or policy.

The Use of Force Form shall then be forwarded to the office of the Chief of Police.

.160 Administrative Leave

- A. An officer directly involved in a deadly force incident, which results in injury or death, shall be placed on "Administrative Leave" upon completion of the preliminary investigation of the incident. This leave shall be without loss of pay or benefits, pending results of the investigation. The leave shall not be interpreted to imply or indicate that the officer has acted improperly. Upon approval of the Chief of Police, the officer may be assigned to administrative duties. While on administrative leave, the officer shall remain available for departmental interviews and shall be subject to recall to duty at any time. Upon returning to duty, the officer may be assigned to administrative duties for a period of time deemed appropriate by the Chief of Police.

- B. In all cases where a person has been injured or killed as a result of deadly force by an officer, the involved officer will be required to undergo a consultation with the Department's psychologist. The purpose of this consultation is to allow the officer to express his/her feelings and to deal with the psychological after-effect of the incident. The consultation shall not be related to any investigation of the incident, and nothing discussed in this consultation shall be reported to the Department. The family of the officer involved will also have available to them the services of a psychologist, at the department's expense (department's selection).

. 170 Summary of Policy

- A. This use of force procedure is for internal management assistance only, and is not intended,

nor shall it enlarge, an officer's civil or criminal liability in any way. This procedure is not intended, nor does it create, a legal or higher standard of care or safety with respect to claims against the Town of Berlin, the Department, or any employee thereof, than the general laws of the State of Maryland. Violations of this section, if proven, can only form the basis for non-judicial administrative action by this Department. This section shall be used in conjunction with all other relevant Departmental policies, procedures and regulations.

- B. This policy seeks to reflect a critical balance of self- protection for officers, the value of human life, and the right of every citizen to be safe in his/her person and does not preclude an officer from unholstering and displaying his/her sidearm when the possibility of danger to him/herself or another person exists.
- C. This policy applies whenever any officer uses force while acting in the capacity of a police officer based on his/her authority to do so a member of the Berlin Police Department.
- D. This policy is applicable in the use of any firearm or other method employing force.
- E. Although Maryland law may authorize the use of deadly force in other circumstances, the policy of the Department is more restrictive in its use. It is the policy of the Department that the firearm should be considered primarily as a defensive weapon.
- F. When an officer must use deadly force, he/she will be supported by the Department, and will not be criticized for his/her decision when the standards in this policy have been followed.
- G. Every member of the Department must refrain from using excessive force or violence, and shall not strike a prisoner or any other person, except in self-defense. However, they must be firm and resolute, and if they are resisted, they may repel force with force, using only such force as is necessary to take the prisoner into custody.

