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| <b>THURMONT POLICE DEPARTMENT</b>                     |                                    |  |                                     |
| <b>GENERAL ORDER</b>                                  | <i>Date Issued: April 16, 2014</i> | <i>Effective Date: April 16, 2014</i>      | <i>Order No: <b>Chapter 1.3</b></i> |
| <i>Authority: Chief of Police<br/>Gregory L. Eyer</i> |                                    | <i>Manual Page No:</i>                     |                                     |
| <i>Subject: Subject Management</i>                    |                                    | <i>Replaces Page No:</i>                   |                                     |
| <i>CALEA Standard: 1.3</i>                            | <i>Distribution: <b>ALL</b></i>    | <i>Amends:</i>                             | <i>Number of Pages: 16</i>          |
| <i>Related Documents:</i>                             |                                    | <i>Rescinds:<br/><b>Previous Order</b></i> |                                     |

This Directive is for internal use only, and other than as contraindicated here this Directive does not create or enlarge this Department's, governmental entity's, any of this Department's officers, and/or any other entities' civil, criminal, and/or other accountability in any way. This Directive is not to be construed as the creation of a standard of safety or care in any sense, with respect to any complaint, demand for settlement, or any other form of grievance, litigation, and/or other action. Deviations from this Directive, if substantiated, can only form the basis for intra-Departmental administrative action(s) (including discipline and/or termination).

**I. PURPOSE:**

To provide guidelines to sworn personnel regarding the application of various types of force, to include deadly force utilized by officers to gain compliance or accomplish legitimate law enforcement goals.

**II. POLICY:**

It is the policy of the Thurmont Police Department that its members will employ only force that is objectively reasonable and necessary to accomplish lawful objectives. In accordance with case law, the "reasonableness" of the force will be a major factor in any review as to the propriety of any use of force (whether constructive or actual), as well as whether the force was appropriately applied and in accordance with training.

**III. DEFINITIONS:**

Incorporated in procedures

**IV. PROCEDURE:** Authorization to Use Force

**A. Definitions:**

1. Appropriate Force – the amount of force which a reasonable, trained law enforcement officer would apply or determine to be permissible to apply in a given situation in order to obtain compliance from a resistant individual, using established departmental and/or judicially accepted standards. Appropriate force must be commensurate with the actual or potential threat posed, based upon the articulable facts of a given situation, in keeping with the policies and procedures of the Department, and recognized by the courts as reasonable.
2. Deadly Force – physical force which, by application, causes death or has a high probability of causing death or serious physical injury.
3. Empty-Hand Control – any weaponless control or technique performed with empty or open hands, such as, control holds, joint locks and manipulation, pressure points, take downs and the intentional moving (pushing) of an uncooperative person, as well as, instinctive weaponless control techniques used to gain control of a resistant subject. Empty-hand control does not include any strikes or active use of personal weapons (feet, fists, elbows, knees, etc.).
4. Excessive Force – physical force that is grossly disproportionate to the actual or potential threat posed by an individual, and exceeds the amount of force that a reasonable, trained police officer would deem permissible to apply in a given situation. The application of excessive force either causes or may potentially cause injury to an individual.
5. Force – the amount of effort used by a police officer to gain compliance from a subject while acting in his/her official capacity, whether on or off duty. This definition includes both physical and “constructive force” (presence, commands, pointing a firearm, etc.).
6. Inappropriate Force – a higher level of force than a reasonable, trained police officer would utilize or deem permissible to apply in a given situation using established departmental and/or judicially accepted standards.
7. Non-Deadly Force – physical force which, by its application, is not intended to cause and/or has a low probability of causing death or serious physical injury.
8. Reasonable Belief – believing that a given fact or combination of facts exist, and that the circumstances which are known, or should be known, are such as to cause a reasonable person to believe so.

9. Reportable Force – those types of force that the Department requires to be documented in a Subject Management Report.
10. Serious Physical Injury – an injury that causes major disfigurement, severe tissue damage, broken bones, internal organ injury, permanent paralysis, or partial paralysis.
11. Progressive Force – the escalation of force used by an officer in order to control a situation or the actions of persons from minimal to maximum (i.e., verbal force, physical force, immediate force, deadly force).
12. Less Lethal Weapon – any weapon, other than a firearm, used to control persons or defend an officer from harm. Handcuffs are not considered a weapon, but rather a restraining device.

**B. Authorization to Use Force:**

1. The Department authorizes its sworn personnel to use appropriate force under specific conditions and in accordance with their training:
  - a. to defend from a physical attack or the use of physical force by another;
  - b. to defend a third party from a physical attack or the use of physical force by another;
  - c. to affect the arrest of a non-compliant individual and/or to prevent a suspect's escape from a police custody;
  - d. to secure and maintain control of an arrestee while in police custody; or,
  - e. to accomplish a legally permitted law enforcement activity such as the execution of a search and seizure warrant, the service of an emergency petition, or the service of an arrest warrant, etc.
2. The Department understands that an officer's PERCEPTIONS are an essential element in the decision to use force. **Nothing in this Order is intended to infer that an officer or third party must actually be physically attacked or suffer injury prior to the use of appropriate force.** Appropriate force may be used as stated above in response to perceived imminent danger or a threat, provided that the perceived danger/threat or reason the force was necessary can be articulated, and

is a threat/necessity to which a reasonable, trained police officer would likewise respond.

3. When assessing the need to use force and the appropriate level of force to use, personnel will consider all relevant information, including, but not limited to, the following:
  - a. the nature, extent, and imminence of the threat or perceived threat to the officer and/or third party by the individual(s);
  - b. the severity of the crime or incident;
  - c. the threat level posed or perceived to be posed by the individual(s);
  - d. any attempt made by the individual to evade arrest by flight;
  - e. the availability of, and benefit of, other options and/or tactics;
  - f. the skill level of the particular officer in various tactics/techniques;
  - g. the danger to innocent bystanders; and,
  - h. the established General Orders and training guidelines of the Department.
4. The force used in any incident must be appropriate as defined in the Order. **Personnel are expressly prohibited from using inappropriate or excessive force.** Force used by sworn members of the Department will be evaluated by supervisors and command staff to ensure that it was appropriate and reasonable. Personnel using force deemed to be either inappropriate or excessive may be subject to remedial training and/or administrative action.
5. Sworn officers who are authorized to carry firearms may employ deadly force in the performance of the official duties to prevent the escape of a felony suspect only when all of the following conditions exist:
  - a. Where there is direct knowledge or probable cause to believe the perpetrator is a felon, and actually used or threatened the use of deadly force in the commission of a crime; and,

- b. The Department member has reason to believe the felony suspect poses an immediate and serious degree of threat by using deadly force against the member or others if not immediately apprehended.
  - c. Every reasonable consideration has been given to prevent inadvertent injury to innocent bystanders, and
  - d. Where feasible, the Department member has given notice of intent to use deadly force and the felony suspect refuses to obey the order to stop.
  - e. Every other reasonable means of effecting arrest have been exhausted.
6. Deadly force must never be used on mere suspicion that a crime, no matter how serious, was committed or that the person being pursued committed the crime. The member should either have witnessed the crime or should have sufficient probable cause to believe that the suspect has committed, is committing, or is about to commit an offense for which the use of deadly force is permissible.
7. Types of Force Prohibited:
  - a. The Department recognizes that in a truly violent confrontation or struggle during which an officer is unable to use the tactics and/or equipment provided because of the circumstances, he may have to deviate from the limits placed on him as to the methods and/or manner in which force may be applied in order to fend off death or serious physical injury. In its training and in this Order, the Department acknowledges and teaches that should an officer become involved in a violent confrontation in which established tactics and authorized equipment are ineffective or unavailable for use **AND** there is the likelihood of serious injury to the officer or another, he may have to resort to instinctive survival tactics to preserve his life or the life of another. Such tactics may involve the use of other physical objects, which are at hand as defensive weapons in lieu of authorized equipment or may involve the use of tactics not recognized by the Department under other circumstances. Personnel are cautioned that the use of any tactic/technique must consider the welfare and safety of innocent bystanders and will always be judged by the Department using the

standard of reasonable/appropriate force as defined in this Order.

- b. However, barring such imminent threat to an officer's safety or the safety of a third party, the Department expressly **prohibits** the following tactics/techniques to be used by personnel.
  - i. strangle or choke holds which restrict the ability of an individual to breathe or restrict the flow of blood to the brain;
  - ii. intentional, direct blows to the head;
  - iii. dragging an individual along the ground, floor, or stairs; and,
  - iv. binding an arrestee's hands and feet together (commonly known as "hog tying").

**C. Authorized Equipment:**

- 1. The Department issues various items of defensive equipment and restraining devices for use by its personnel. Personnel are prohibited from carrying, displaying and/or using any weapon, control device or other equipment which may be considered an offensive or defensive weapon while on-duty or engaged in secondary employment which has not been expressly approved by the Chief of Police or his designee. Officers will use only those weapons, to include ammunition, for which they have been trained and are qualified to use by the Department. (Exception: officers may carry a small folding type knife with a blade not exceeding four (4) inches for non-offensive purposes.)
- 2. Off-duty personnel who carry other weapons or control devices, which are neither approved nor issued by the Department, should carefully weigh their own personal liability should such devices be used.

**D. Reportable Force Requirements:**

- 1. In documenting any use of force, officers will report specifically the force or threat that was used against them or another and detail what tactics/techniques were utilized to overcome the resistance. Whenever practical, appropriate terminology shall be used to explain tactics/techniques and specific areas of the body affected.

2. The mere touching or handcuffing of an individual being placed under arrest, the use of light handed control to guide or direct an individual, the display of weapons such as O.C. spray, baton, handgun (without pointing), or applying restraints to assist with a medical transport will not normally require written documentation.
3. Specifically, the Department requires that any officer who uses force under any of the following circumstances will complete a Subject Management Report:
  - A. Uses any force which causes any visible or apparent physical injury or complaint of injury, or which results in medical treatment for the individual or the officer.
  - B. Uses any object, including but not limited to, a baton, hand, fist, or foot, to strike or attempt to strike a blow to a subject.
  - C. Uses a baton in any manner to control a resistant subject – this includes strikes and blocks as well as control holds utilizing the baton.
  - D. Uses force in such a way as to cause a subject to suffer a blow to the head, even if that blow to the head is accidental.
  - E. Uses O.C. spray or any other chemical agent.
  - F. Discharges a firearm under circumstances that are outlined in this General Order and General Order “Firearms.”
  - G. Uses force during or after which a subject loses consciousness.
  - H. Points a firearm at any person.
  - I. Displays and/or discharges a taser (including stun drives).
4. A supervisor has the discretion to require that an officer complete a Subject Management Report if that supervisor believes it is in the best interest of the Department, the officer, and/or the public, to do so.
5. All employees are required to immediately report to a supervisor when another employee is using or has used force that appears, from a reasonable standard, to be inappropriate or excessive.

**E. Taser Reporting:**

1. Display: the visible presence of a Taser (including holding it at “low ready”), and the pointing of a Taser at a subject, shall be considered a “display;” in which case the officer completes the “Display of Firearm” Part I of the Subject Management Report.
2. Discharge: the delivering of an electrical energy charge via probes or Drive Stun shall be considered a Taser “discharge.” Officers discharging a Taser must complete both an Incident Report, detailing the actions of the officer and the suspect, and a Subject Management Report.
3. Taser data will be downloaded after each discharge by a supervisor, or his designee, prior to re-issuance, and included in the Subject Management Report. Officers should review the downloaded data with the Supervisor, or the designee, prior to completing all required written reports.

**F. Off-Duty Action:**

1. While off-duty and out of uniform, officers should refrain from taking overt police action except under circumstances that threaten life and/or seriously threaten public safety. Before taking overt police action while off-duty and out of uniform, officers will carefully consider the risk to themselves and to others that may be caused by a sudden confrontation with criminals, suspects or other law enforcement officers who may not readily identify them as police officers. Dependent on the circumstances posed by the threat, off-duty personnel who take overt action will **visually and verbally** identify themselves as law enforcement officers as soon as appropriate and practical. Officers will attempt to seek the assistance of on-duty personnel if possible prior to initiating overt action dependent on the circumstances of the situation and in every case immediately after the situation has stabilized.
2. Under circumstances that do not require immediate police intervention, officers who are off-duty and out of uniform will request the presence of an on-duty officer. Prior to the on-duty officer’s arrival, the off-duty officer will monitor the situation until the on-duty officer arrives, and intervene only when necessary.
3. Any force that is used by an officer during an incident that occurs while he is off-duty will be reported in accordance with this Order.

### **G. Medical Treatment of Injured Persons:**

1. While the objective of any force application by an officer is not to inflict injury, but rather to control or obtain compliance from a suspect, the Department recognizes that injuries may result from the application of force. Additionally, the Department realizes that discomfort and/or the complaint of pain can be by-products of certain techniques (pain compliance, O.C. spray, etc.) and that this type of discomfort may initially be interpreted by the individual as an actual injury. Supervisors and officers are occasionally called upon to determine whether an individual's complaint of pain is merely discomfort or is, in fact, an injury that requires medical treatment. The Department relies on the good judgment of its supervisors to distinguish between the two. However, in the event that any person complains of injury and requests medical attention, **medical attention will be sought for the person.**
2. In some instances, a subject may refuse medical treatment following a use of force incident. Should this occur, the supervisor will document the refusal in their report. If the injury appears to be more serious that first aid would treat, the subject will be transported to a medical facility and evaluated by medical personnel.
3. In the event that an individual is injured or complains of being injured during the application of force and/or during an arrest, the officer using the force and/or making the arrest will promptly notify his supervisor or the on-duty supervisor. If the injury is obvious to the officer on the scene, medical treatment will be obtained immediately.
4. The type of treatment, the location of the treatment, and the name of the medical professional providing the treatment will be documented in the Subject Management Report. If possible and practical, a photograph of the visible injuries will be taken and included with the report. Copies of pertinent medical records will also be submitted with the Subject Management Report if available. If circumstances warrant, supervisors may confer with medical personnel and include their observations in the report.
5. The treatment and reporting of injuries to an officer(s) will be handled in accordance with the existing procedures and will, in addition, be documented in the Subject Management Report, and photographed if practical.

### **H. Subject Management Report/Investigation:**

1. Any sworn officer involved in an incident involving the use of deadly force shall immediately notify his/her supervisor and the Chief of Police.

2. Any sworn officer who witnesses or has knowledge of a sworn officer being involved in an incident involving the use of deadly force shall immediately notify their supervisor and the Chief of Police.
3. Any incident involving the accidental/negligent discharge of a weapon, on or off-duty shall immediately be reported to their supervisor and the Chief of Police.
  - a. Personnel involved in accidental/negligent discharges of a weapon, if capable, shall submit a complete report of the incident to their supervisor before the end of their tour of duty, or in the case of an off-duty incident, within 24 hours of its occurrence.
  - b. A complete investigation into the accidental/negligent discharge shall be conducted by the member's supervisor and submitted through the chain of command to the Chief of Police.
4. Personnel authorized to carry firearms will submit a written explanation in the form of a detailed report to their supervisor each time a firearm is discharged. The detailed report shall obtain all specific facts and circumstances relating to the incident, and will be submitted before the close of the tour of duty in which it occurred. In an instance where the member is injured, incapacitated or otherwise unable to prepare a detailed report, the specific facts and circumstances surrounding the incident will be summarized by the supervisor from facts obtained through investigation. The involved member will, when capable, submit the required report or sign a transcript of verbal information. Unless otherwise directed by their supervisor, any member who discharges a firearm on an approved firing range will not be required to report such activity. Any member who discharges a firearm to kill an animal need only submit an incident report.
5. All reports on investigations into firearm discharges will be forwarded to the Chief of Police for disposition.
6. Personnel involved in shooting incidents or any use of deadly force incidents shall refrain from discussing the incident with anyone other than their supervisor, Chief of Police, the investigators assigned to conduct the criminal and administrative investigations, or their selected counsel, until authorized to do so by their supervisor or higher authority.
7. Department personnel involved in any shooting incident or any use of deadly force incidents shall be afforded their rights as provided by law. Particular attention will be paid to ensuring that involved personnel are allowed legal representation should it be desired. Personnel involved in an incident resulting in death or serious injury will be required to meet with a designated psychologist as soon as practical after the incident.

## I. Subject Management Report:

1. Shall be completed when any Department personnel:
  - a. “Displays” a firearm while acting in an official capacity and thereafter its use either explicitly or implicitly to one or more persons; in which case the officer completes the “Display of Firearm” Part I of the Report.
  - b. Employs the use of force, in which case the officer completes Part II of the report to include:
    - i. Discharging a firearm, other than training or destroying an animal.
    - ii. Taking an action that results in, or is alleged to have resulted in, injury or death of another person.
    - iii. Applying force through the use of lethal or less lethal weapons.
    - iv. Applying weaponless physical force upon another to the extent it is likely to cause or lead to unforeseen injury, claim of injury, or allegations of excessive force.
2. Subject Management Report must be completed by any officer who uses any reportable force, or who is otherwise directed to do so by a supervisor. This report will include information identifying the officer and suspect and a series of check-off boxes to summarize the incident. Also included in the report is a narrative to be completed by the officer setting out **in detail** the circumstances that resulted in force being used. Officers are required to specifically describe the resistance and/or force used against them by a subject as well as what force was used to overcome the resistance and accomplish their lawful purpose. NOTE: A recitation of the elements of criminal charges are not required on the Subject Management Report unless they have a bearing on the justification for the use of force.
3. In the event that multiple officers use force requiring a Subject Management Report against a single subject, each officer will submit a Subject Management Report detailing only the specific force he used during the incident. Conversely, if an officer uses force requiring a Subject Management Report on multiple subjects during a single incident, that officer will complete one report for each person.

4. The only exception to this reporting procedure will be if the only force used is the pointing of a firearm at an individual(s). In that case, the officer who initiates the stop will complete one Subject Management Report detailing which officers pointed firearms and identifying all subjects at whom firearms were pointed. If additional force is used in the incident, the officer(s) who used the additional force will be required to complete the appropriate reporting. **Identification of all subjects on which force was used MUST include the full name, race, ethnicity, sex, and date of birth, as available.**
5. Part III is to be completed by the supervisor and forwarded through the chain of command for review.
6. All Subject Management Reports shall contain:
  - a. The date, time, and place the use of force occurred;
  - b. The names, addresses of all persons who witnessed or were involved in the incident;
  - c. A detailed description of the type and amount of force used, and by whom;
  - d. A description of the incident and relevant events that led up to and followed the incident;
  - e. A description of the injuries sustained by any and all parties to the incident;
  - f. The signature of the officer completing the report;
  - g. A description of all steps the supervisor took in conducting the review and insuring that the information provided in the review was complete and accurate, including but not limited to:
    - 1) Interview with:
      - The officer involved
      - Witnesses involved
    - 2) Written statements by:
      - 3) The officer involved
      - 4) Witnesses involved

5) Photographs of injuries

6) collection of relevant physical evidence

**J. The Subject Management Report shall include one of the following in the supervisor's assessment section of the report:**

1. The use of force/display of weapon was necessary and appropriate.
2. The use of force/display of weapon was legitimate, but an alternative approach to the situation may have been employed.
3. The use of force/display of weapon was not consistent with Office policy.

Whenever a supervisor or administrator has been involved in the use of force incident being reported, the "Supervisor Assessment" of Part III Review will not be completed. Instead, the word, "involved" will be entered in the signature area, along with the supervisor's or administrator's signature. If necessary, additional explanation can be provided in an endorsement to the report.

All Subject Management Reports and Subject Management Notification Reports will be submitted to the supervisor for review prior to the end of the shift, unless extraordinary circumstances prevent the timely completion of the report **and** the supervisor approves the delay.

All such reports shall be forwarded to the Chief with the chain of command assessment review completed.

The Subject Management Report for all incidents of force or display or weapons shall be in addition to any other reports related to the original incident.

The Chief of Police will conduct an annual analysis of all use of force/display of weapon incidents and identify any problems or trends that indicate specific training needs, equipment upgrades, and/or policy modifications.

**K. Administrative Review:**

1. The Chief of Police will be the central repository for all information concerning the use of force and the use of deadly force.
2. Every discharge of a firearm by members of this Department in the performance of their duties is subject to administrative review to determine

whether such action was in conformance with Department policies and procedures. Additionally, the review will determine whether there are policy, training, weapon/equipment, or discipline issues which should be addressed.

3. Unless indicated elsewhere in this General Order, the member's supervisor, when notified of the firearm discharge, use of force or use of deadly force, will immediately contact the Chief of Police. The Chief of Police will designate who will conduct the criminal investigation and the administrative investigation. The investigative report will include a recommended finding that the incident conformed or did not conform with Department policies and procedures.

**L. Relief from Field Duty:**

1. When death or serious injury has resulted from the use of force by a member of the Thurmont Police Department, that member will be relieved from field duty by the supervisor pending a full investigation into the incident.
2. During the period of time an investigation into the incident is being conducted, the Chief may, at his option, assign the member involved to administrative duties. Such a relief from duty will not be considered a suspension or disciplinary action taken against the member, but rather an administrative course of action for the purpose of relieving the member from field duties while undergoing the extreme emotional stress of having used deadly force, and permitting time to conduct an objective investigation.
3. The period of time spent on administrative leave or inside duty will be determined by the Chief.
4. An officer placed on Administrative leave will be responsible for advising the Chief of Police of his/her whereabouts in order that contact may be made when necessary.
5. At the time of the incident, the supervisor will take custody of the firearm(s) from the involved officer(s), as well as ammunition in his/her possession, and explain that a replacement will be issued as soon as is practical. At no time will the officer's firearm be taken in the presence of the suspect or news media. The involved firearm will not be opened, unloaded or tampered with in any manner.
6. The firearm and ammunition will be given to the appropriate investigator. The firearm will be unloaded and rendered safe at the direction of the investigator in charge of the investigation.

7. Arrangements will be made for a prompt and immediate escort to headquarters for those officers whose firearms have been seized. If more than one officer is involved, they should be separated but not isolated. The escort officer should not be involved in the incident and will not question the involved officer(s). He/she will remain with the involved officer(s) to provide support as needed until relieved.
8. The Chief will notify promptly and personally the officers family, or will permit the involved officer(s) to contact his/her family prior to any media release or coverage.
9. The Chief or designee will advise the involved officer(s) that they may experience the symptoms of post shooting trauma and the Department will be making arrangements for officer(s) to meet with appropriate professional personnel. Encouragement may also be made for the officer(s) to seek consultation with another professional person of the officers' choosing.
10. The Chief or designee will ensure a replacement firearm is issued as appropriate.

**ATTACHMENTS:**

APPENDIX A – Subject Management Report (TPD Form 1.3A)

**DOCUMENT DATES:**

*Amended Date:*

*Review Date:*

*Review Date:*

*Rescinds:*

*Order Written by: Chief Gregory L. Eyer*

*Order Edited and Approved by: Chief Gregory L. Eyer, Thurmont Town Attorney's Office*

*CALEA Standards included in this Order  
1.3.1-1.3.13*