



# City of Virginia Beach

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DEPARTMENT OF POLICE  
OFFICE OF INTERNAL AFFAIRS  
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2509 PRINCESS ANNE ROAD  
VIRGINIA BEACH, VA 23456-9064

June 12, 2015

Ms. DeRay McKesson  
DEPT MR 18489 PO Box 55819  
Boston, MA 02205-5819

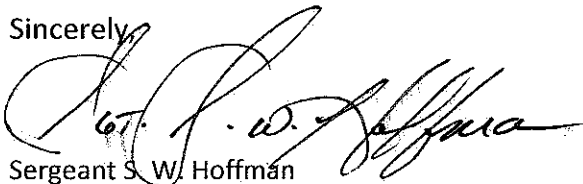
RE: Freedom of Information Act Number: FOI2015-763

Dear Ms. McKesson,

Enclosed are the documents that you have requested. As the recipient of this information, you are responsible for secondary dissemination.

Should you have any questions or need further information, I can be reached at (757) 385-4145.

Sincerely,



Sergeant S. W. Hoffman

Custodian of Records

Cc: File

Freedom of Information request may also be requested by clicking the below link and submitting your request.

<http://www.vbgov.com/government/departments/police/profstanddiv/Pages/foia-form.aspx>

## Shawn Hoffman

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**From:** Police Web Inquiries  
**Sent:** Friday, June 12, 2015 7:54 AM  
**To:** H. J. Beasley  
**Cc:** Shawn Hoffman  
**Subject:** FW: Freedom of Information Request: Use of Force Policy (Virginia Beach Police Department)

Please see email below. Thanks

**From:** [18661-27504164@requests.muckrock.com](mailto:18661-27504164@requests.muckrock.com) [mailto:[18661-27504164@requests.muckrock.com](mailto:18661-27504164@requests.muckrock.com)]  
**Sent:** Thursday, June 11, 2015 6:42 PM  
**To:** Police Web Inquiries  
**Subject:** Freedom of Information Request: Use of Force Policy (Virginia Beach Police Department)

June 11, 2015  
Virginia Beach Police Department

To Whom It May Concern:

Pursuant to Virginia Freedom of Information Act, I hereby request the following records:

All current policies maintained by the department regarding use of force.

The requested documents will be made available to the general public, and this request is not being made for commercial purposes.

In the event that fees cannot be waived, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 5 business days, as the statute requires.



Sincerely,

DeRay Mckesson

Filed via [MuckRock.com](http://MuckRock.com)  
E-mail (Preferred): [18661-27504164@requests.muckrock.com](mailto:18661-27504164@requests.muckrock.com)

For mailed responses, please address (see note):  
MuckRock News  
DEPT MR 18661  
PO Box 55819  
Boston, MA 02205-5819

PLEASE NOTE the new address as well as the fact that improperly addressed (i.e., with the requester's name rather than MuckRock News) requests might be returned by the USPS as undeliverable.

	Operational General Order	5.01 Use of Force	PAGE 1 OF 5
	SUBJECT		EFFECTIVE DATE
	<b>Virginia Beach Police Department General Order</b> <b>Chapter 5 – Use of Force</b>		<b>05/15/2014</b>
			ORIGINATOR/REVIEW
DISTRIBUTION		CALEA: 1.3.1, 1.3.3, 1.3.4, 1.3.5, 1.3.6, 1.3.7, 1.3.8 1.3.13, 1.3.8	
ALL			
BY THE AUTHORITY OF THE CHIEF OF POLICE:			

**Purpose**

To ensure that all department members understand and comply with the department’s philosophy and provisions regarding force and the use of force in accomplishing their law enforcement mission.

**Policy**

**Definitions**

Force - Any physical effort that is used to seize, control, or repel another individual.

Reasonable Belief - A belief, based on specific and articulable facts which taken together with the rational inferences from those facts, reasonably warrant an officer’s actions.

Objectively Reasonable Force - The legal standard used to determine the lawfulness of a use of force is the Fourth Amendment to the United States Constitution. See *Graham v. Connor*, 490 U.S. 386 (1989). *Graham* states in part, “The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The force must be reasonable under the circumstances known to the officer at the time the force was used.

Serious Bodily Injury - Maiming, disfiguring, or disabling.

Deadly Force - Any use of force that is reasonably likely to cause death.

**Use of Force (CALEA 1.3.1)**

It is the policy of the Virginia Beach Police Department to treat all members of the public with dignity, respect, and in adherence with the rights and liberties afforded by the United States Constitution and the Constitution and laws of the Commonwealth of Virginia. The department respects and values all human life and it recognizes that the application of deadly force will only be used consistent with this policy.

In the course of their duties, officers of the Department may find it necessary to use force to defend themselves, defend others, affect an arrest or detention, prevent escape or overcome resistance, and to protect property. In any encounter where the use of force becomes necessary, only objectively reasonable force will be used. Under no circumstances will the force used be greater than necessary to achieve lawful objectives and to conduct lawful public safety activities.

In determining the appropriate level of force, officers shall evaluate each situation in light of facts and circumstances of each particular case. Those factors may include, but are not limited to:

- The severity of the crime at issue
- The level of threat or resistance presented by the subject

- Whether the subject was posing an immediate threat to officers or danger to the community
- The potential for injury to citizens, officers, or subjects
- The risk or apparent attempt by the subject to escape
- The conduct of the subject being confronted
- The time available to an officer to make a decision
- The availability of other resources
- The training and experience of the officer
- The proximity or access of weapons to the subject
- Officer versus subject factors such as age, size, relative strength, skill level, injury/exhaustion and number officers versus subjects
- The environmental factors and/or other exigent circumstances

### **Deadly Force (CALEA 1.3.2, 1.3.3)**

An officer may employ deadly force when the officer has a reasonable belief that his/her life or that of another is in imminent danger of death or serious bodily injury based on the totality of the circumstances known to the officer at the time he/she employs the deadly force. When feasible, a verbal warning such as "Police, stop or I'll shoot," should be utilized.

The use of deadly force cannot be used solely to prevent the escape of an unarmed felon or suspected felon. Deadly force may be used to prevent escape when the officer has a reasonable belief that the suspect poses a significant threat of death or serious physical injury to the officer or others.

Chokeholds or neck restraints are not authorized unless the use of deadly force is appropriate.

Firing warning shots from a weapon is prohibited.

Officers may aim or point their firearm when there is a reasonable belief of a threat to the safety of the officer or other person(s). In all cases the officer must be prepared to provide an explanation of the incident. The officer shall submit a Use of Force report via the chain of command to the Commanding Officer of the Office of Internal Affairs.

### **Firing Weapons at a Moving Vehicle**

Shooting at a moving vehicle is generally dangerous to both officers and others. Additionally, shooting at a moving vehicle is generally ineffective. The substantial risks generated by the use of gunfire against moving vehicles, in combination with the likelihood that such gunfire will fail to achieve its goal, demand that officers resort to firing only in the most extreme and exceptional circumstances.

Firing a weapon at a moving vehicle is prohibited, except when the officer reasonably believes that:

1. An occupant of a vehicle is using or threatening to use deadly force by means other than the vehicle; or
2. A vehicle is operated in a manner deliberately intended to strike an officer and/or citizen and all other reasonable and available means of defense have been exhausted (including moving out of the path of the vehicle) and the safety of innocent persons would not be unduly jeopardized by the officer's actions. Officers shall not intentionally stand and/or step into the path of a vehicle, creating circumstances where the use of deadly force becomes necessary.

- A. Officers shall take into account the potential risks to vehicular and pedestrian traffic, and to any other bystanders, before making the decision whether to fire at or from a moving vehicle.

The reasonableness of an officer's actions when firing a weapon at a moving vehicle will be examined from all the objective facts surrounding the incident. The sole fact that a vehicle's driver is attempting to avoid apprehension will not justify use of a firearm to attempt to stop the vehicle.

#### **Less Lethal Force (CALEA 1.3.4)**

Consistent with the Virginia Beach Police Department's philosophy of using reasonable force, the department authorizes and/or issues a variety of weapons to sworn officers for use in those situations where a firearm would not be considered a reasonable use of force.

Weapons authorized for use and categorized as less lethal are delineated in General Order 5.02, Weapons.

#### **Medical Assistance (CALEA 1.3.5)**

Medical assistance shall be obtained as soon as is practical for persons who have sustained injury, express any complaint of injury, been rendered unconscious, or that the officer has reason to believe has been injured as the result of any use of force incident. In the event that a suspect is injured, officers have a duty and obligation to provide medical treatment while the suspect is in custody. Any injured person shall be treated with dignity and respect and shall be properly cared for while awaiting the arrival of emergency services personnel. Officers should consider the medical condition and/or any resistance being used by the injured person before using restraining devices such as handcuffs.

#### **Administrative Assignments/Counseling (CALEA 1.3.8)**

All department personnel directly involved in a use of force incident, accident, or any other actions taken in an official capacity which results in serious injury or death shall be placed on administrative assignment for a period of time designated by the Chief of Police or his designee pending an administrative review. This assignment will not result in loss of pay or benefits pending the results of an investigation and will not be in a position or role that will expose the employee to contact with the public. The assignment shall not be interpreted to imply or indicate that the department member acted improperly.

All department personnel directly involved in a use of force incident which results in serious injury or death may receive counseling as soon as practical after the incident and at no cost to the officer(s). Follow-up counseling will be at the discretion of the officer(s) involved. The officer's immediate supervisor shall be responsible for ensuring that such counseling is provided. Prior to returning to active duty, the officer will be screened by a mental health professional. The Officer's supervisor will arrange for the screening, which will be coordinated by the City of Virginia Beach Occupational Health Services.

#### **Training**

Sworn members will receive basic training on the use of force by law enforcement personnel in the Virginia Beach Police Academy as part of basic police training. Additionally, officers will receive annual refresher training on the use of force as part of the annual firearms qualification.

Recruits and newly hired state certified officers will receive copies of the Use of Force Policy and Weapons Policy prior to firearms qualifications. Recruits and state certified officers will receive specific instructions on the policies and will be tested on the contents of the policies.

During scheduled firearms re-qualifications, officers will receive a briefing by the firearms instructors concerning the department's policies on use of force, firearms, and authorized ammunition.

**Use of Force Reporting (CALEA 1.3.6, 1.3.7, 1.3.13)**

Officers will make immediate verbal notification to their supervisor whenever force is used in the performance of an official police duty, or when exercising their law enforcement authority. This applies to all force, weapons, less than lethal or weaponless physical force. Such notification is required whether the officer is on or off duty. In situations where an officer takes action that involves the use of force in another jurisdiction, the officer will immediately notify the appropriate law enforcement agency in that jurisdiction and contact an on-duty supervisor in this department as soon as practical.

When an officer discharges his/her firearm not in the line of duty, including accidental discharges, he or she will immediately advise the E911 Emergency Communications & Citizen Services (ECCS) of the incident and request that an on duty supervisor be notified. The officer should secure the area of the shooting, if possible, and await the arrival of the supervisor. The supervisor will conduct an investigation as if a weapon was discharged within the officer's official capacity. If the supervisor determines that the discharge was accidental, resulting in no injury or property damage belonging to anyone other than that officer involved, the officer will provide a memorandum containing the facts of the incident to the investigating supervisor. In those cases where the on duty supervisor determines that the incident was an accidental discharge, that supervisor shall complete an investigation, document the event on a memorandum and forward the results and all attachments (to include the officer's memorandum) to the Commanding Officer of the Office of Internal Affairs. The Commanding Officer of the Office of Internal Affairs will ensure that a copy is forwarded to Professional Development and Training as soon as practical (See Administrative Field Guide for guidelines on the proper method for completing the investigative memo). All accidental discharge events will also result in the Office of Internal Affairs completing a firearms discharge investigation. The investigative memorandum generated by the on scene supervisor will be the primary source for the IA Investigator's firearms discharge investigation. The investigation conducted by the on scene supervisor is separate from the IA firearms discharge investigation. In those cases involving injury or damage to property that does not belong to the officer involved, the supervisor will handle the scene as if a discharge occurred within the officer's official capacity and make the appropriate notifications to ensure that the appropriate criminal and administrative investigations are initiated.

An investigation will **not** be required for an accidental discharge if it occurred during authorized Virginia Beach Police Department firearms training, and when the accidental discharge occurs on the firing line where the round is fired safely downrange. When such discharge occurs, the range officer will appropriately address the matter as a training issue. If, however, the accidental discharge occurs off the firing line or if the round is fired in a direction that places others in danger, the range supervisor will ensure that an investigation is completed (See Administrative Field Guide for guidelines on the proper method for completing the investigative memo).

Additionally, Officers will submit a Use of Force report to their supervisor to be forwarded through the appropriate chain of command to the appropriate Deputy Chief of Police. The Use of Force report will be completed by all sworn personnel under the following circumstances:

1. The purposeful and intentional discharge of a weapon for other than recreational or training purposes;
2. Takes any action that results in, or is alleged to have resulted in the injury or death of another person;
3. Applies force through the use of a lethal or less lethal weapon;

4. Uses hands-on or greater physical force to seize, control, or repel any individual that demonstrates non-compliant behavior or is perceived by the officer to otherwise pose a threat or harm to himself or others;
5. When an officer(s) point their weapon at others. In situations such as a hostage situation, a drug raid, or when more than one officer would have his weapon pointed at an individual, the on-scene supervisor will complete a single Use of Force report documenting the incident.

Use of Force reports will be completed utilizing the "BlueTeam" software program prior to the officer's end of shift. Supervisors will review reports and ensure the report is clear and contains all required data and attachments. After the review, the supervisor shall either return the report for corrections or forward the report through their chain of command to the Office of Internal Affairs. When forwarding reports, supervisors at each level will make a recommendation as to whether the force used was permissible under department policy. Additionally, supervisors will ensure that any injuries to either the officer or citizen are properly documented and reported. Any photographs, TASER video or other relevant documents shall be attached to the "BlueTeam" report electronically; where the file size is too large to attach, a disc shall be created and forwarded to the Office of Internal Affairs along with a hard copy of the "BlueTeam" generated report. Use of Force reports shall be submitted by commands to the Office of Internal Affairs no later than thirty (30) days after the incident occurred.

The Office of Internal Affairs will review each report received from commands for content, clarity and compliance to this General Order. The Office of Internal Affairs will finalize the report and capture the data in the IAPro Data Base.

At the conclusion of each calendar year, the Commanding Officer of the Office of Internal Affairs or his designee shall prepare an analysis for the Chief of Police on the use of force by personnel, and recommend any necessary training, equipment, or policy modifications.

### **Intervention**

Departmental supervisors, and departmental members in the absence of a supervisor, shall immediately intervene if they reasonably believe another department member or members are using force that is not objectively reasonable or is inconsistent with this policy. In addition, all members witnessing such an incident shall immediately notify his/her supervisor and follow up with a memorandum. An internal investigation by Internal Affairs after such a reported incident will ensue.