I. POLICY

In making arrests, or effecting investigative detentions, the degree of force that may be applied by an officer must be objectively reasonable, based upon the totality of the circumstances, in self-defense, to prevent escape, to overcome actual physical resistance or to prevent physical violence to person or property. It is the policy of this department to value and preserve human life. Any force beyond what is objectively reasonable, based upon the particularity of the situation, is excessive. While the officer is required to be as considerate in making an arrest as circumstances will permit, he/she is also a representative of the law, with whose lawful demand all must comply. As such, the officer is charged with the duty and armed with the legal authority to require such compliance.

Whenever force is applied through the use of deadly, less lethal or impact weapons, or force beyond empty hand control techniques, it is incumbent upon the officer to well-articulate the circumstances and justification for the action taken through timely use of force reporting procedures outlined herein. The best way for the Department to evaluate the objective reasonableness of a particular use of force from the perspective of the officer on scene is to have the most thorough, clearly articulated report possible.

Since any unreasonable use of force may violate the law, place the city in a position of civil liability and the officer in jeopardy of civil and criminal liability, it is prohibited by these policies.

An officer is accountable for his/her actions, and is subject to internal disciplinary action up to and including dismissal for violations of the use of force policy. In addition, where the use of force is alleged to be unlawful, the department shall review the circumstances surrounding the incident to determine if criminal prosecution is appropriate.

In any event where death or serious physical injury results from an officer’s actions or use of force, in an official capacity, the officer shall be removed from line-duty assignment, pending administrative review of the incident.

Should an injury result from any use of force, appropriate first aid treatment shall be applied and/or proper medical attention requested. Acceptance or refusal of medical treatment by the injured person shall be reported promptly to the supervisor and documentation made in the written report.
Due to the importance of this policy, all sworn Police, Animal Services and auxiliary officers shall be issued a copy and receive annual training concerning its contents. Additionally, officers shall receive appropriate training prior to deploying or using the methods, devices, tools or techniques described in this policy.

II. DEFINITIONS

A. **Serious physical injury** includes permanent disfigurement or long-term loss or impairment of the function of any body member or organ.

B. **Objectively reasonable** is the facts and circumstances known or perceived by an officer that would cause an ordinary and prudent officer to act or think in a similar manner under similar circumstances.

C. **De-escalation** is taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary. De-escalation may include the use of such techniques as command presence, advisements, warnings, verbal persuasion, tactical repositioning, and control techniques.

III. LEVELS OF USE OF FORCE

The use of force levels are a conceptual model that requires selection of the most objectively reasonable means, relative to the situation. The department's use of force levels include the following:

A. **Presence.** The officer is on the scene, identifying himself/herself by presenting their badge of authority and other identification, utilizing proper stance, posture, exhibiting command presence. The manner in which officers approach and present themselves may sometimes resolve a situation without having to progress to a higher level of force. Officers who present themselves in a manner showing confidence and professionalism may be successful in de-escalating potential confrontations without the additional use of force.

B. **Verbal Control.** Each officer should make every reasonable attempt to make his/her contact one which generates cooperation and a feeling of good will between the citizens and the Department. The use of clear, concise verbal commands by the officer may successfully reduce the potential for a confrontation. Verbal control includes advice, persuasion, admonitions, or orders. The volume and tone of the officer's speech may also contribute to gaining control and compliance without having to resort to another method of force. Officers shall refrain from using profanity, making disrespectful or inappropriate comments, or presenting an argumentative demeanor when dealing with the public.

C. **Control and Restraint Techniques.** When the subject fails to respond to de-escalation techniques or resists in a defensive manner, the officer may seek compliance by the use of physical means.
The objective of this level of force is to gain control and obtain the suspect's compliance while minimizing the risk of injury to officers, bystanders, or the person being placed in custody.

D. **Control and Compliance Tools.** This level directs the use of more aggressive techniques against the subject's resistance. The subject has become an aggressor, attacks the officer, or there is fear for the safety of the officer and others.

Lower level techniques have been exhausted or would be ineffective. The use of a chemical agent or Conducted Electrical Weapon (CEW) is appropriate at this level.

1. **Chemical Agents.** The only chemical weapon authorized for sworn personnel (who are not assigned to the SWAT Team) is Oleoresin Capsicum (OC) “pepper” spray. OC spray shall be issued to officers only after completing required training given by a certified instructor. Chemical agents shall be used only to the extent necessary to overcome the resistance of the suspect.

   a. Chemical sprays shall not be used to elicit information; nor shall they be used on people who are properly secured and non-aggressive.

   b. Apply spray to individuals in accordance with training and manufacturer’s recommendations. Keep the application to the minimum required to effectively control the subject(s).

   c. Personnel are responsible for treatment of subjects exposed to OC spray, including decontamination, monitoring or medical treatment, if needed.

      1) The preferred method of decontamination is allowing the subject access to plenty of water and fresh air.

      2) No toweling or rubbing of the eyes should be allowed.

      3) If contact lenses were contaminated the suspect should be advised that secondary exposure may result should they be reused.

      4) No creams, salves or ointments should be provided.

      5) Washing the facial skin with mild soap is allowable; however, nothing but fresh water should be used in the eyes.

      6) The person exposed shall be advised that medical treatment is available. Medical treatment should be given if requested by the subject, if signs of respiratory or other types of distress are noted, or if recovery from exposure warrants medical attention. Acceptance or refusal of medical treatment by person(s) exposed to chemical sprays shall be reported promptly to the supervisor and documentation made in the written report.

      7) Should the person be taken to jail, jail personnel shall be advised that the individual was exposed to OC spray.
2. CEW Conducted Electrical Weapon (CEW). CEW’s may be issued to select supervisory personnel and officers who have been properly trained and certified in their use.

All officers shall receive training in recognizing and reacting to the condition known as Excited Delirium Syndrome (ExDS) and the role it plays in sudden/unexplained in-custody death.

The CEW may be used to overcome resistance from a subject the officer reasonably believes presents an imminent, credible threat to the safety of the officer(s) and/or the public. After assessing the totality of the circumstances, an officer may also use the CEW when the officer reasonably believes that a subject poses an imminent, credible threat to their own safety. Finally, the CEW may be used if the officer is justified in a fourth amendment seizure and, after assessing the totality of the circumstances, determines and can articulate that the use of the CEW would cause less injury than all other justified levels of force. Officers should consider the nature of the offense suspected, and the risk of danger to others if the person is not apprehended immediately.

NOTE: Courts have determined that deploying a CEW is a "serious use of force." It is incumbent upon the officer to well-articulate the circumstances and justification for the action taken.

a. Officers shall not intentionally aim for the head, neck, or groin.

b. Officers shall not deploy the CEW at or from any moving vehicle.

c. At no time is an officer to draw both the CEW and his/her firearm.

d. Mere flight from an officer, without additional justification, is not an appropriate reason to use a CEW.

e. The CEW shall not be used when it is unsafe for officers to approach within contact range of the subject, if an alcohol-based chemical agent has been deployed, or in potentially flammable or explosive environments.

f. A CEW should not be used when a subject is in a location where a fall may cause substantial injury, death, or drowning. Officers should consider the type of area (i.e. asphalt, railroad tracks, grass, etc.) prior to deploying the CEW.

g. Should it become apparent that the officer may eventually have no choice but to utilize the CEW to gain control of the subject, every effort should be made to have Emergency Medical Services standing by at or near the scene prior to deployment of the CEW to medically intervene, if necessary.
h. Prior to the use of the CEW, an announcement shall be made on the scene that the device is being deployed by using a verbal notification of “Taser – Taser – Taser” unless to do so would place any other person at risk. The verbal or other warning compliance or non-compliance shall be documented in any related reports.

i. When deploying the CEW, officers should use it for one standard cycle of five (5) seconds and stop to evaluate the situation. If subsequent cycles are necessary, the number and duration of those cycles must only be the minimum necessary to place the subject in custody. If it is evident that additional cycles are ineffective, officers should resort to alternate methods of compliance.

j. The air cartridge and probes shall be retained and submitted as evidence in any case where the CEW is used.

k. Officers issued the CEW shall carry it on the support side of the belt in the issued and authorized holster while on duty.

l. Treatment of persons subjected to CEW deployment:

(1) If ExDS symptoms are identified by responding officers, EMS personnel shall be requested prior to deployment of the CEW to allow immediate treatment, as circumstances allow.

(2) Medical assistance shall be requested immediately following all incidents of CEW use on a subject.

(3) Properly trained officers shall remove probes caught on clothing and probes that have pierced skin unless one or more of the probes have pierced a sensitive or higher injury area (neck, face, throat, groin, female breast, etc.), or, one or more of the probes will not easily dislodge or a part has broken off in the skin.

(4) If the officer is not able to remove the probes, on scene EMS personnel will assess and advise.

(5) City Jail personnel must be advised if an arrestee has been exposed to a CEW. If the probes have pierced the subject’s skin, he/she must be transported to the hospital and be medically released before they will be accepted into the Jail.

E. Defensive and Offensive Techniques (Striking Tactics). When the above listed techniques are ineffective, impractical, or the subject becomes more aggressive, the officer may seek compliance by additional physical means. The officer may employ the methods sanctioned through Chesapeake Police Department training.
When an officer uses physical force, the officer shall exert only that amount of force reasonably necessary to affect a full custody arrest or compliance with his/her lawful orders.

F. **Impact Weapons.** This level directs the officer to use more aggressive techniques as well as other defensive weapons against the subject's resistance.

1. **Expandable Baton.** It is the policy of the Chesapeake Police Department that the approved expandable police baton is the less lethal weapon issued to Department personnel for use in situations where other issued equipment is not effective and/or not practical to use.
   
   a. Since the improper or unreasonable use of this weapon may cause serious injury and even death, the baton shall be used only in those instances where lesser means of restraint or protection have failed or appear inappropriate.
   
   b. Officers shall refrain from strikes to the head, neck, spine, sternum or groin, unless the officer can articulate and justify the use of deadly force.

2. **Less Lethal Munitions (Bean Bag Projectile).** Less lethal projectiles may be utilized by trained personnel after the officer on scene assesses the situation. A field supervisor shall be notified as soon as possible of the use of the less lethal projectile(s).
   
   a. Prior to the deployment of the "less lethal" projectiles, an announcement shall be made to officers on the scene that "less lethal" projectiles are going to be utilized. Another officer must be on scene, prepared to utilize deadly force if necessary.
   
   b. Medical assistance shall be requested immediately following an incident in which any person has been struck by less lethal projectiles.

G. **Deadly Force.** Firearms are the most commonly utilized means of deadly force, but are certainly not the exclusive means. Officers shall only draw or display their Department-approved firearm when circumstances cause the officer to reasonably believe that it may be necessary to use the weapon, such as, building searches, confronting armed suspects, felony vehicle stops, or any other situation where the officer or others are in a situation where they reasonably believe there to be an imminent threat of death or serious bodily harm.

**Any** use of force that constitutes deadly force may only be used under the following circumstances:

1. In defense of the officer or others from what is reasonably believed to be an imminent threat of death or serious bodily harm.
2. To prevent the escape of a fleeing felon whom the officer has probable cause to believe will *pose a significant, imminent threat to human life should escape occur*.
   
   a. No other reasonable means of capture must be available to the officer in this case without endangering the officer's life or the life of another person.
   
   b. In evaluating a "significant threat," the officer must reasonably believe that the person has either used deadly force in the commission of a crime or may inflict death or serious harm to the officer or others if apprehension is delayed.

3. In addition to the above situations, the use of a firearm is also authorized for the following:
   
   a. To kill seriously injured or dangerous animals when no other disposition is reasonably practical. A supervisor's approval should be sought, when possible.
   
   b. In routine firearms training or practice at an approved range

*Note:* Where feasible, officers shall identify themselves and give a verbal warning before shooting at a person.

### IV. LIMITATIONS ON USE OF FORCE

The following are prohibitions placed upon use of force in addition to those already stated above:

A. When a person is complying with an officer's verbal commands

B. Firing a weapon into a crowd

C. Firing of warning shots

D. Firing or deployment of any weapon at or from any moving vehicle, unless the officer reasonably believes that the vehicle is operated in a manner deliberately intended to strike an officer or citizen, all other means of defense have been exhausted, and the safety of innocent persons would not be unduly jeopardized by the officer's action.

E. In retaliation for physical or nonphysical abuse toward an officer

F. As a threat to make a person comply with an officer's verbal order

G. As a threat to elicit information from any person

H. On any person secured and properly in custody

I. Playful, careless, or unauthorized use of any weapon
V. REPORTING

A. Officers shall document any application of force which goes beyond restraint or causes injury, except for those arising in training or departmental demonstrations.

B. Use of Force reporting shall be appropriately documented. This includes, but is not limited to, the following:

1. Accidental discharges of a firearm
2. Whenever an action results in, or is alleged to have resulted in, injury or death of another person
3. Whenever force is applied through the use of deadly, less lethal or impact weapons, and/or anything beyond empty hand control techniques.
4. Any use of CEW in the application of force or unintentional or negligent discharge
5. Use of leg restraints
6. The notification of Jail personnel about a subject’s exposure to chemical agents or CEW
7. Any request for medical attention (required for ALL CEW uses): when the request was made and whether the subject refused or accepted treatment
8. The criminal offense(s) the subject was charged with or reason for the encounter

C. If multiple officers are involved in a use of force incident, only the primary officer shall be required to submit a Use of Force Report. Other officers involved in the incident shall each submit a letter detailing their actions describing the force used in the incident. The reviewing supervisor shall ensure all necessary documentation is attached before approving the report.

D. Use of Force reports will be completed in Blue Team prior to the officer going off-duty. Supervisors shall review reports for completeness. When approving and forwarding the report, each supervisor in the officer’s chain of command shall indicate whether or not any policy violation occurred. If so, indicate their recommendations and/or any corrective action taken.

VI. OFFICER INVOLVED SHOOTING INVESTIGATIONS

A. If an incident does not involve the shooting of or at a person:

1. The officer who discharges the firearm will notify his/her supervisor.
2. The supervisor will respond immediately and investigate the circumstances surrounding the discharge.
3. The officer involved will submit a departmental Firearms Use Report, via Blue Team, describing the incident and forward to their immediate supervisor for review.

4. The supervisor will review the officer's Firearms Use Report in Blue Team, add their findings to the report and submit it to the Ethics and Conduct Unit.

5. The Ethics and Conduct Unit will submit a report of findings to the Chief of Police that include the relevant facts and circumstances surrounding the incident and a conclusion as to whether the discharge violates department policy.

6. If the facts of the incident support a conclusion that the discharge of a firearm was the result of negligence, the officer may be required to undergo remedial firearms certification training and may be subject to appropriate personnel action.

B. When an officer discharges a firearm at a person:

1. The officer involved will notify his/her supervisor immediately.

2. The supervisor notified will respond immediately to the scene of the incident, take responsibility for the scene, and begin a review of the circumstances surrounding the incident.

3. Through the chain of command, via telephone or other secure means of communication, the Command Duty Officer, the Commanding Officer of Criminal Investigations and the Ethics and Conduct Unit Commander will be notified of the incident by the on-scene supervisor/commander.

4. The officer involved will submit a departmental Firearms Use Report, via Blue Team, describing the incident and forward to immediate supervisor for review.

5. The supervisor will review the officer's Firearms Use Report in Blue Team, add their findings to the report and submit to the Ethics and Conduct Unit.

6. Written reports will be submitted to the Ethics and Conduct Unit, prior to going off-duty or within a reasonable period of time following the incident upon approval of the Ethics and Conduct Unit Commander.

C. When a police officer discharges a firearm that involves an injury or death:

1. The officer will notify his/her supervisor immediately.

2. The supervisor will respond immediately, take responsibility for command of the scene and the protection of evidence.

3. Through the chain of command, via telephone or other secure means of communication, the Command Duty Officer, the Commanding Officer of Criminal Investigations, and the Ethics and Conduct Unit Commander will be notified of the incident by the on-scene supervisor/commander.
4. Officers at the scene of the incident, whether involved or not, will remain at the scene until the arrival of Criminal Investigations Section and Ethics and Conduct Unit personnel.

5. The supervisor will:
   
a. 
   
b. 
   
c. 
   
d. 
   
e. Be available for inquiry, as directed by Criminal and Ethics and Conduct Unit detectives.
   
f. Ensure the effected bureau/section commander is briefed as soon as the situation will allow.
   
g. Submit a written report to the Criminal Investigations Section and review the officer’s Use of Firearm Report in Blue Team.
   
h. When appropriate, or as directed, have the officer involved submit a written report to the Criminal Investigations Section and the Ethics and Conduct Unit.
   
i. Written reports will be submitted prior to going off-duty, or within a reasonable period of time following the incident unless otherwise directed and approved by the Ethics and Conduct Unit Commander.

6. Designated personnel assigned to the Ethics and Conduct Unit, Criminal Investigations Section, and the Forensics Unit will respond to the scene of the incident immediately upon notification. The Commander of the Criminal Investigations Section will be in command of the investigation, unless otherwise directed by the Chief of Police.

   a. Criminal Investigations Detectives:
      
      1) 
      2) 
      3) 
      4) 
      5) Submit a written report to the Ethics and Conduct Unit for review.
      6) Follow normal criminal investigative procedures.
b. Ethics and Conduct Unit Detectives:

1) Work in harmony with criminal investigators.
2) Observe the investigative process.
3) Ensure compliance with department policy.
4) After review, submit a written fact finding report to the Chief of Police which will include the relevant facts and circumstances surrounding the incident and a conclusion as to whether the discharge violates department policy.

c. Forensics Unit:

1) Secure weapon(s) discharged by officer(s) involved, recording the user of each weapon.
2) Process the scene as required or instructed.
3) Prepare appropriate written reports.
4) Forward written reports to the Ethics and Conduct Unit and the Criminal Investigations Section.
5) Ensure safekeeping and transfer of recovered evidence.

d. Criminal Investigations Section Commander or Officer-In-Charge:

1) Ensure that all investigative requirements are met.
2) If the use of force resulted in death, the officer(s) will be removed from duty status.
3) If the use of force resulted in serious physical injury, the officer(s) may be removed from duty status.
4) If the use of force resulted in an injury or an alleged injury, determine the duty status of the officer(s), pending administrative review.
5) If removed or relieved from duty, instruct the officer(s) when to report to the Chief of Police.

D. Investigations:

1. Advising of rights, reassignment, or suspension pending review, under this investigative procedure is not intended to indicate or infer that the officer acted improperly.

2. Removal of an officer from line-duty protects the community's interest when the officer may have exceeded the scope of his/her authority and shields the officer who has not exceeded the scope of his/her authority from possible confrontations with the community.
VII. USE OF NON-LETHAL WEAPONS

A. Use of the Police Baton

Whenever the baton, or other non-lethal weapon is used by an officer in the application of force:

1. The officer will notify his/her supervisor immediately.
2. The supervisor will respond immediately and investigate the circumstances surrounding the discharge.
3. The officer will submit a written report of the incident (Use of Force Report) via Blue Team and an incident report.
4. The supervisor notified will determine if any additional reports and/or investigation are required.
5. The supervisor will review the officer’s Use of Force Report in Blue Team, add their findings to the report and submit to the Ethics and Conduct Unit.
6. Any medical reports will be included as a part of the supervisor’s report.
7. The supervisor will provide notification of the incident via chain of command.
8. If the officer’s actions or alleged actions resulted in serious injury or death, the procedure as outlined for lethal force in Section VI, paragraph C of this policy will be followed.
9. After review by the Ethics and Conduct Unit, a written report of findings will be submitted to the Chief of Police that includes the relevant facts and circumstances surrounding the incident.

B. Use of Chemical Agent (Cayenne Pepper Base)

A Use of Force Report will be completed and forwarded through the chain of Command via Blue Team. Supervisors will determine if additional reports and/or investigations are required.

C. Use of Physical Force

When physical force is applied beyond the amount of restraint, the report and review procedures will be the same as outlined in the use of the Police Baton (above).