



Hagerstown Community College Campus Police Use of Force Policy



The Hagerstown Community College Campus Police Department was created to serve the College community; safeguard life and property, enforce state and local laws and to preserve the peace and protect the rights of all citizens, on the campus. Members of the Campus Police are committed to the sanctity of life and respect the value of every human life. Deadly force should only be used in extreme circumstances and when reasonably necessary. The HCC Campus Police Department adheres to the standards set forth by the Maryland Police and Corrections Training Commission. In addition to this, the HCC Campus Police Department has updated their use-of-force policy to meet the requirements, set forth by the U.S. Department of Justice and the Presidential Executive Order on Safe Policing for Safe Communities (Executive Order 13929).

USE OF FORCE

- A. Policy: HCC Campus Police shall establish policy governing the use of force, escalation of the use of force, reporting use of force incidents, use of firearms and departmentally issued/sanctioned weapons and necessary training.
- B. Definitions
 1. Use of Force: the amount of physical effort required by Law Enforcement to compel compliance by, or control of, an unwilling subject or to defend oneself or others against an attack.
 2. Non-Deadly Force: is an amount of force that is unlikely to cause serious bodily injury, harm or death to another person. Also referred to as non-lethal force.
 3. Deadly Force: is an amount of force that is likely to cause serious bodily injury, harm or death to another person. Also referred to as lethal force.
 4. Serious Bodily Harm: relative to use of force, is that bodily harm or injury that creates a high probability of death, serious, permanent disfigurement, or permanent or protracted loss or impairment of any bodily member or organ.
 5. Passive Resistance: Where a subject is not actively resisting or being physically or verbally aggressive; however, the individual is not complying with the legal orders of the officer.
 6. Active Resistance: Where a subject is displaying physically evasive movements, or verbal communications or other behaviors intended to defeat the officer's attempt to arrest or gain control. Physically evasive movements, verbal communications or other behaviors may include, but are not limited to: physically bracing, twisting, pulling, holding onto objects, fighting words, or assuming a stance reasonably perceived by an officer to be posturing or fleeing.
 7. Active Aggression: A threat or overt act, hostile, or attacking movement by a subject, coupled with the present ability and opportunity to carry out the threat or assault and where a reasonable officer would believe the threat or assault may cause injury to the officer or other individuals. This aggression may include, but is not limited to: punching, kicking, biting or pushing.
 8. Jeopardy: The physical or verbal act by an individual which is reasonably perceived by a deputy to indicate intent and a present ability and opportunity to place the deputy or a third party at risk of injury, peril or danger.
 9. Imminent Jeopardy: The physical or verbal act by an individual which is reasonably perceived by a deputy to indicate intent and a present ability and opportunity to inflict an impending serious bodily harm on the officer or third party. Imminent jeopardy may be present even if a subject is not at that instant pointing a weapon at the law enforcement officer, but is carrying a weapon and poses an articulable imminent threat.

10. **Approved Weapon:** a device or instrument which a officer has received permission from the agency to carry and use in the discharge of that officer's duties, and for which the officer has obtained training in the technical, mechanical and physical aspects of the device, and developed a knowledge and understanding of the law, rules and regulations regarding the use of such weapons.
11. **Weapons of Opportunity:** If the officer or a third person is in jeopardy or imminent jeopardy, any weapon of opportunity can be used to prevent injury and preserve that life (ink pen, broom handle, flashlight). These weapons of opportunity should not be used in place of existing tools (OC, baton, etc.) if tactically practical, but as last resort to preserve life and prevent injury.
12. **Emergency Medical Professional:** An emergency medical professional is defined as a person certified, at a minimum, as an EMT through the Maryland Institute of Emergency Medical Services.
13. **Excited Delirium:** State of extreme mental and physiological excitement, characterized by behaviors and symptoms such as extreme agitation, elevated body temperature (hyperthermia), watering eyes, hostility, exceptional strength, and endurance without fatigue. The subject should be seen by emergency medical professionals as soon as tactically possible.
14. **Intermediate Weapons:** Intermediate Weapons for purposes of this policy, may be defined as those issued or approved weapons that are generally considered, when used in accordance with departmental policy and training, to be non-deadly.
15. **Escape:** A person who has been lawfully arrested and has knowingly departed from custody without the authorization of a law enforcement or judicial officer.
16. **Fresh Pursuit:** Fresh pursuit is pursuit by a law enforcement officer (with or without a warrant) for the purpose of preventing the escape or effecting the arrest of any person who is suspected of committing or having committed, a misdemeanor or felony. Fresh pursuit implies pursuit without unreasonable delay, but need not be immediate pursuit. It can also refer to chasing a suspect or escaped felon into a neighboring jurisdiction in an emergency, without time to alert law enforcement people in that area.
17. **Oleoresin Capsicum (OC):** An inexpensive, low level, less lethal force option that is derived from the pepper plant. It is classified as an inflammatory and can be deployed by spraying.

USE OF FORCE POLICY STATEMENT

- A. It is the policy of the Hagerstown Community College Campus Police to accomplish its mission as efficiently as possible, with the highest regard for human life and dignity. The use of any type of force will be restricted to that force which is objectively reasonable in the situation to accomplish lawful goals, objectives and to restore order and control. The HCC Campus Police Department's mission will be accomplished with minimal reliance upon the use of force.
- B. This order establishes departmental policy for the appropriate use of force. HCC Campus Police Officers will use only that force, which is objectively reasonable in the light of the facts and circumstances confronting the officer at the scene. The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, and its calculus must embody an allowance for the fact that law enforcement officers are often forced to make split-second decisions about the amount of force necessary in a particular situation.
- C. Good judgment and circumstances of each situation will dictate the necessary force to be used. Officers using any type of force will be held accountable for its use. An officer may repel force with the appropriate level of force. A prudent officer, in making an arrest, will consider the severity of the crime in question, the character of resistance faced, and use the reasonably necessary force to overcome the resistance and make the arrest.
- D. All personnel shall review this order before being authorized to carry any departmentally issued/approved weapon. Officers will be instructed and trained on this policy before being authorized to carry weapons and prior to being placed in an active duty status.

- E. Officers will not wear, carry, use, or otherwise possess, while on or off duty, any item which is in violation of any Federal, State, or local law. Officers will not wear, carry, use, or otherwise possess, while on duty, any item that could be construed as a defensive/offensive weapon that is not issued by the Hagerstown Community College Campus Police Department.

The only exception is a multipurpose tool or knife, in any configuration, which may be carried by law enforcement personnel.

If an HCC Campus Police Officer chooses to carry a knife, it will not be used as an offensive/defensive weapon except in situations where deadly force is authorized by law and only when all other reasonable means have been exhausted, ineffective or not available.

- F. Officers shall wear, carry, and use authorized and issued weapons in accordance with agency approved training and policy.
- G. Force will not be used maliciously to cause harm or as a form of punishment.
- H. If an HCC Officer observed another officer clearly using force that is beyond what is objectively reasonable under the circumstance shall intercede, where feasible, to prevent the use of such excessive force, so long as it does not pose a safety risk. HCC officers shall promptly report these observations to the HCC Sergeant, the Chief of Campus Police or to a member of the HCC Human Resources Office.

TYPES OF FORCE

A. Non-Deadly Force

Officers of this department may use non-deadly force in the performance of their lawful duties in the following circumstances:

1. To protect oneself from injury.
2. To protect another person from injury.
3. To prevent the commission of a crime.
4. To prevent another person from injuring himself.
5. To effect a lawful arrest or detention.
6. To prevent escapes.
7. To prevent property damage or loss.

B. Deadly Force

Officers of this department may use deadly force in the performance of their lawful duties in the following circumstances:

1. When the officer has an objectively reasonable belief such action is immediately necessary to protect the officer or another person from imminent danger of death or serious bodily harm.
2. An officer may use deadly force to prevent the escape of a fleeing suspect (Tennessee v Garner):
 - a. Whom the officer has probable cause to believe has committed an offense in which the suspect caused or attempted to cause death or serious bodily harm; and who will pose an imminent danger of death or serious bodily harm should the escape succeed; and
 - b. When the benefits of deadly force outweigh the risk to innocent persons; and
 - c. If tactically appropriate, an officer should identify himself/herself and state his/her intention to shoot before using a firearm.
3. Restrictions on the Use of Deadly Force
 - a. An officer is under no obligation to retreat or desist when resistance is encountered or threatened. However, an officer shall not resort to the use of deadly force if the officer reasonably believes that an alternative to the use of deadly force will avert or eliminate an imminent danger of death or serious bodily harm, and achieve the purpose at no increased risk to the officer or another person.
 - b. An officer shall not use deadly force to subdue persons whose actions are only destructive to property.

- c. Deadly force shall not be used against persons whose conduct is injurious only to themselves.
- d. Officers shall not discharge a firearm from a moving vehicle or at the driver or occupant of a moving vehicle unless the officer has an objective reasonable belief:
 - 1. There exists an imminent danger of death or serious bodily harm to the officer or another person; and
 - 2. No other reasonable means are available at that time to avert or eliminate the danger.
 - 3. A law enforcement officer shall not fire a weapon solely to disable moving vehicles without the existence of imminent jeopardy.
 - 4. Firearms use is prohibited:
 - a. As a warning shot.
 - b. As a level of force when a life threatening/serious injury situation does not exist and to do so would constitute a misuse of force.
 - c. At any time as a result of a careless or negligent act or when unnecessary to do so.

USE OF FORCE OPTIONS

- A. Physical Presence/Verbal Persuasion
 - 1. An officer's physical presence and verbal communications are not in and of themselves a use of force. It is imperative that a subject would reasonably be made aware that the person that is present and communicating with them is a police officer. This would be accomplished by way of uniform and/or badge/ insignia and, if tactically practical, verbal communication.
 - 2. An officer should utilize advice, persuasion, or warnings before resorting to the actual use of force when tactically practical. Simple directions resulting in compliance should be the immediate objective before progressing to the higher levels of force when tactically practical.
- B. Empty Hand Physical Force
 - 1. As it refers to this policy, empty hand physical force is any force used to control, subdue or arrest that uses only the human body.
 - 2. This would include anti-joint techniques, punching, kicking, stunning or diversionary techniques or any other physical contact that would be used against a person displaying any form of resistance or aggression.
 - 3. Empty Hand Physical Force may be used to prevent a person from self-harm.
 - 4. Agency personnel are strictly prohibited from using a **chokehold**/vascular neck restraint on an individual who is not actively posing a threat that would just Deadly Force as defined in this policy.
- C. OC Aerosol and CS Chemical Agent
 - 1. OC aerosol may be used in, but not limited to, the following situations:
 - a. To subdue a person resisting arrest after the person fails to comply with clear and specific verbal instructions to submit.
 - b. To quell a violent situation after clear and specific verbal instructions have failed.
 - c. To protect the life/safety of oneself or a third party.
 - d. OC may be used to prevent a person from self-harm if less forceful means are tactically inappropriate.
 - e. OC aerosol may be used against animals for defensive purposes only; i.e., if the animal is threatening the life or safety of personnel or civilian.
 - f. An officer may also deploy OC if the officer has a reasonable belief, based upon articulable facts, that it may be unsafe or present a tactical disadvantage to the officer to attempt to physically engage the individual prior to its use.
 - 2. Verbal instructions/warnings should be given before using OC when tactically practical.
 - 3. Proper decontamination procedures per training shall follow each exposure as soon as tactically practical.
 - 4. HCC Campus Police Officers will wear their OC while in uniform.
 - 5. OC will only be used by certified personnel as trained.
 - 6. In an unlawful assembly or civil disturbance event, OC may be used as a force option, after the proper orders to cease and desist have been given.

D. Baton

1. Baton would include the use of any type of baton, whether expandable, fixed or riot.
2. While in uniform, sworn personnel must have at least one form of less-lethal force option. The expandable baton or OC spray are two options for HCC Campus Police Officers.
3. The baton may be used to manipulate a suspect that is passive into a position of control.
4. An officer may deploy a baton by way of a strike if a subject is displaying, at a minimum, active resistance, with appropriate articulation.
5. A baton may be used to prevent a person from self-harm if less forceful means are tactically inappropriate.
6. Batons will only be used by certified personnel as trained.

E. Weapons of Opportunity

1. Weapons of opportunity are defined as any object available to be used for an officer for self-defense, defense of a third party and control. Although officers are issued many tools that would be used for self-defense, defense of a third party and control (i.e., OC Spray and Baton) there could realistically be moments, in the heat of the battle, whereas these tools have been exhausted, ineffective or not available (i.e., off-duty, malfunction, extended encounter, etc.).
2. Weapons of Opportunity could include but are not limited to:
 - a. Handcuffs
 - b. Chair
 - c. Flashlight
 - d. Knife

F. Firearms

1. Discharge of a firearm is permitted as in the following situations:
 - a. As defined in this order, when deadly force actions are justified in defense of oneself or others. The use of a firearm must be considered a deadly force option. It will not be used in an attempt to wound only. Personnel must be aware at all times, to the extent humanly possible, of the potential risks to innocent people if firearms are used, and govern their actions accordingly.
 - b. To kill an animal that is jeopardizing the safety of oneself or others.
 - c. To kill an injured animal (with consent of the owner if a domestic animal and the owner can be located in a reasonable amount of time).
 - d. On a firing range.

FORCE OPTIONS RELATIVE TO LEVELS OF RESISTANCE

- A. Different levels of resistance will be met with appropriate and congruent force options.
- B. The officer will use reasonable force and never use a level of force that “shocks the conscience” (*Rochin v California*). The four-part test will be used to ensure the appropriateness of the use of force in each case as follows (*Johnson v Glick*):
 1. The need for the application of force.
 2. The relationship between the need and the amount used.
 3. The extent of the injury inflicted.
 4. Whether the force was applied in good faith to maintain or restore discipline (order), or maliciously and sadistically for the very purpose of causing harm.
- C. An officer must articulate the amount of force used relative to the amount needed and must meet the “Objective Reasonable” standard. This standard was brought forth in *Graham v Connor*. The reasonableness of an officer's use of force must be determined by reference to the particular facts and circumstances including:
 1. The severity of the crime at issue.
 2. Whether the suspect poses an immediate threat to the safety of the officers or others.
 3. Whether the suspect actively resists arrest or attempts to evade arrest by flight.

- D. Passive resistance will typically be met with verbal commands and empty hand physical force. Not every touch, push or shove is considered a use of force. Typically, a minor manipulation of a person to handcuff or move a person to afford the safety to the general public and to gain control is, and of itself, not considered a reportable use of force.
- E. Active resistance could warrant a higher force option including, but not limited to, empty hand physical force, OC, and baton.
- F. Active aggression must be met with a level of force that ensures the safety of the officer and any third party.
- G. Deadly force assault can be met with deadly force. No HCC Campus Police officer is obligated to use a less lethal option prior to using deadly force in a deadly force situation.
- H. Deadly force will not be used against a person that is only causing harm to themselves and not a threat to others.
- I. When time, circumstances and safety permit, HCC officers should take steps to gain compliance and de-escalate the conflict without using force. The use of advisements, warning, and persuasion; attempts to slow down or stabilize the situation so that more time, options and resources are available. Consideration should be given to determine if the subject's lack of compliance is a deliberate attempt to resist or is caused by an inability to comply.

POST USE OF FORCE MEDICAL ATTENTION

- A. After a use of force, officers will immediately evaluate the situation to ascertain if the person that force was used upon or others need any medical treatment. Medical treatment will be provided or requested if the person is obviously injured or requests medical treatment.
- B. Appropriate action will include providing first aid supplies for minor cuts, abrasions, etc. If the injuries require treatment beyond the capability of departmental personnel, Emergency Medical Services will be notified to evaluate the arrestee or others in need.
- C. The HCC supervisor will be notified of any substantial injuries sustained through the use of force as soon as tactically practical. The supervisor will ensure serious or life-threatening injuries are reported to the Chief of HCC Campus Police immediately. The Chief of Police will then notify the Executive Director of Human Resources.
- D. The officer on scene will follow any medical recommendations made by emergency medical professionals. If an arrestee refuses medical treatment, and an emergency medical professional recommends that the arrestee be transported to a medical facility, that recommendation will be followed.
- E. Refusal of medical treatment by the injured party will be documented in the Use of Force Memo to the Chief of Campus Police.
- F. Photographs of all injuries will be taken as soon as tactically practical.
- G. An arrestee will be given medical attention by an emergency medical professional after a use of force in the following circumstances:
 1. When any life-threatening situation/injury exists.
 2. When any obvious injury exists.
 3. After the deployment of baton strike (not manipulation).
 4. After the deployment of a less lethal impact munition.
 5. If any signs of excited delirium are evident.
 6. When obligated to do so prior to entry into the Washington County Detention Center based on their Orders and protocol.
 7. As long as the officer follows proper decontamination protocol per training, medical attention is not necessary after an OC exposure, except when life threatening situations accompany the exposure (i.e. allergic reaction).

RESPONSIBILITIES OF RESPONDING PERSONNEL TO THE SCENE OF A DEADLY FORCE INCIDENT

- A. The first officer to arrive at the scene of a deadly force incident (where death occurred or appears to be likely or imminent), involving departmental personnel, will take, (but not be limited to), the following actions, as soon as tactically practical:
 - 1. Render/secure medical assistance to injured parties.
 - 2. Inform Communications of the situation and request specific assistance, as necessary.
 - 3. Secure any suspects/witnesses, secure information on any suspects/witnesses that must be transported to hospital.
 - 4. Secure any evidence and protect the scene.
 - 5. Request assistance from the Washington County Sheriff's Office to investigate the incident.
- B. If a weapon or firearm was used during the incident:
 - 1. In any deadly force incident, all evidence must be preserved, including any weapon used during the incident.
 - 2. If the weapon or firearm is not in the possession of the officer (secured in a holster), the weapon would be treated like any other evidence at the crime scene. It should not be handled except by crime scene technicians at the direction of the lead investigator from the Washington County Sheriff's Office.
 - 3. If the weapon must be handled for tactical or safety reasons prior to the lead WCSO investigator arriving on the scene, the condition and any evidence on the weapon will be noted and passed on to the lead investigator. The weapon will be handled in such a manner that will minimize disturbing any evidence on the weapon (fingerprints, DNA, body fluids, etc.).
 - 4. If a firearm must be retrieved for evidentiary purposes from an officer, the weapon will be retrieved in a secure, private location, until disposition is made on the circumstances of the event. This will only take place at the direction of the lead investigator.
 - 5. The officer will be issued another weapon as soon as possible after the incident and will not be left "weaponless" without proper safety considerations while on duty and in uniform.

MISUSE OR EXCESSIVE FORCE

- A. Misuse or excessive force will not be tolerated in any form by The Hagerstown Community College Campus Police Department.
- B. Force will only be used in good faith to enforce laws and compel compliance and control of an unwilling subject and/or to protect oneself or a third party from injury or death. Force will never be used maliciously to cause harm.
- C. The unlawful use of physical force may constitute a criminal act. When a use of force is applied maliciously to cause harm, the offending officer will face departmental disciplinary charges, along with the possibility of criminal/civil actions.
- D. Any member of the department witnessing or having knowledge of another member being involved in a use of force incident resulting in death, injury, or the inappropriate use of force will immediately make the HCC Sergeant and/or Chief of Campus Police aware of the situation as soon as tactically practical. The Chief of Campus Police will notify the Executive Director of Human Resources of any and all complaints made against an HCC Police Officer.

USE OF FORCE REPORTING

- A. Officers using force will notify the HCC Sergeant or Chief of police and make them aware of the incident as soon as tactically practical.
- B. Personnel involved in a use of force incident will document the circumstances on the Use of Force Memo to the Chief of Campus Police.

- C. The officer(s) will provide specific detail in the Use of Force Memo relative to the force used. Each officer involved in the use of force shall complete a memo, to the Chief of Campus police, detailing their involvement in the incident. Officers involved in the Use of Force must complete a Use of Force Memo by the end of their shift, unless they are disabled as a result of the Use of Force.
- D. In those instances where an officer is involved in a use of force cannot complete the required report due to injuries or other extenuating circumstances, the HCC Campus Police Sergeant will collect all available information and complete a Use of Force Memo. The HCC Sergeant will be responsible for obtaining a detailed account from the officer(s) involved to supplement the Use of Force Memo as soon as circumstances allow. This should occur within 48 hours of the incident, whenever possible.
- E. The HCC Sergeant will review and make comments/endorsements on the Use of Force Memo and then forward on to the Chief of Campus Police. Depending on the circumstances, the case can be sent to an outside agency for independent review on the tactics and techniques used during the incident. A certified instructor, with an allied law enforcement agency, can help provide input on whether or not the Use of Force was within the training guidelines.
- F. After an independent review/comments and signature, the Use of Force file will then be forwarded to the HCC Executive Director of Human Resources for review. The report can then be forwarded to the College President for further review and considerations.
- G. Upon being notified of a use of force incident involving death or serious injury, or when a firearm has been discharged as a means of force, the HCC officer will immediately notify the HCC Sergeant, who will notify the Chief of Campus Police. The Chief will make appropriate notifications to the College administration and request the assistance from the Washington County Sheriff's Office.
- H. Any person in the review chain of the Use of Force Report may require additional information for clarification.
- I. A Use of Force memo will be completed any time deadly force is used on an animal if it is a domestic animal or likely legally owned by a person.
- J. The following chart will be used to determine when and which documents are to be submitted following a use of force incident:

Type of Force	Use of Force Memo	Supervisor Notified	Report
Police Presence & Dialog	No	No	No
Light-Handed Control -Minimal touching to guide, direct, or steer an individual in a given direction	No	No	No
Display of Handgun	No	Yes	Supervisor's discretion
Empty-hand control - Includes control holds, pain compliance, take-downs, pressure points, baton manipulation, OC aerosol, chemical agents.	Yes	Yes - As soon as practical if no injury, immediately if there are any injuries or complaints of injuries	Yes
Active counter - measures, strikes, and kicks	Yes	Yes - Immediately	Yes
Baton Strikes	Yes	Yes - Immediately	Yes
Firearms/Deadly Force	Yes	Yes - Immediately	Yes

REVIEWING USE OF FORCE INCIDENTS

- A. Physical Force/OC/baton/firearm: The review process to determine if use of force was necessary and proper, will consist of the initial review by the HCC Sergeant at the time of the incident or soon thereafter.
- B. If the actions taken by the HCC police officer are determined to be grossly negligent or outside the training guidelines, the Chief of Campus Police can request an independent review, from an outside law enforcement agency. The Chief can request an allied law enforcement agency or the Maryland Police & Corrections Training Commission to review the actions taken by the HCC police officer. A lead instructor in the weapon/technique that was used (i.e. defensive tactics, OC, baton, and firearms) can review the use of force to determine if proper techniques were applied during the use of force.
- C. Personnel involved in a deadly force incident will be afforded all rights as specified by law. The Law Enforcement Officers' Bill of Rights will be adhered to throughout any administrative and criminal investigation, and Constitutional Rights will be rigorously protected during any criminal investigation; i.e., right to counsel, custodial Miranda warnings.
- D. A Use of Force Review Board can be convened, at the request of the HCC Chief of Campus Police. The Chief can request a Review Board to meet and conduct an annual review of all of the use of force activities, policies and practices. The board will board will be determined by the Chief of Campus Police after consulting with the Executive Director of Human Resources and the College President.
- E. The board shall forward a short synopsis of each incident and their comments/recommendations to the College President within five (5) business days of the review.
- F. The Board shall review all uses of force occurring since the last review for indications of any patterns of misuse of force, need for retraining, or a need for policy changes.
- G. The Chief of Campus Police shall maintain a record of the reviews for three (3) years past the date of the incident.

ADMINISTRATIVE ACTIONS REVIEW AND EVALUATION

- A. Personnel involved in deadly force or serious injury incidents, including the discharge of a firearm as a means of force, will be placed in an administrative status pending review at the discretion of the Chief of Police. Such an assignment is not disciplinary in nature, but rather an action for the purpose of relieving the member from routine police duties while undergoing the extreme emotional stress of having used deadly force or causing death or serious physical injury. The length of the administrative assignment will be determined by the Chief of Campus Police.
- B. Personnel involved in deadly force incidents or whose actions led to death or serious physical injury, will be required to meet with an agency designated psychologist as soon as practical after the incident.