

# USE OF FORCE

OH020

Effective Date: March 28, 2005  
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OH020

## POLICY

[See also: OH010 – Firearms, OH030 - Tasers]

### Use of Force

1. Police officers (Members) in the Greater Vancouver Transportation Authority Police Service (GVTAPS) are authorized by law to use force in the execution of their duties, Members must use the minimum level of force necessary, guided by, and complying with, provision of the Criminal Code of Canada (CCC), and the Use of Force Regulation (B.C. Reg. 203/98) passed pursuant to the Police Act.
2. The Member who uses force in the execution of their lawful duties is criminally responsible for any excess thereof according to the nature and quality of the act that constitutes the excess. Members may be required to justify the level of force used in various legal forums, including criminal court, civil court, and Police Act proceedings.

### Definitions

“Lethal Force” means any use of force that is likely to cause death or serious bodily harm.

“Less-Lethal Force” means any use of force other than that which is considered Lethal Force.

“Intermediate Weapon” means Electro-Muscular Disruption (EMD) device, Oleoresin Capsicum (OC) Spray, or a Baton. Intermediate weapons fit into the Force Options Context between Empty Hand Control Tactics and Lethal Force. The primary objective of intermediate weapons is to create temporary motor dysfunction of a resistive subject, in order to gain control.

“Taser” means an Electro-Muscular Disruption device using propelled wires, or direct contact, to conduct energy to affect the sensory and motor functions of the nervous system, causing involuntary muscle contractions, resulting in temporary incapacitation.

“Taser Probes” means the metal darts propelled by compressed nitrogen from a Taser Cartridge when activated, which are intended to transit an electrical current throughout the contact area of the body or clothing.

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## **Force Options**

3. The following levels of response, which fit within the National Use of Force framework, are recognized by this Service:
  1. Presence (e.g., appearance, numbers),
  2. Dialogue (e.g., tactical communication),
  3. Empty Hand Compliance (e.g., arms locks, joint manipulation, pressure points),
  4. Intermediate Weapons,
  5. Lateral Neck Restraint, and
  6. Lethal Force.

## **Off Duty**

4. Members will carry their issued firearms or use of force tools only when on assigned duty and will not do so at any other time, except for training purposes or as otherwise authorized by the Chief Officer.

**[See also: OD270 – Threats to Members]**

## **Inspections**

5. A gunsmith or police armourer will conduct an inspection of the Service firearms every two years or sooner if deemed necessary by the Chief Officer or his designate.
6. A police armourer is a police officer or another person certified in the inspection or repair of Service firearms.

## **REASONS FOR POLICY**

7. The reasons for this policy are to:
  1. provide direction on the use of lethal and less-lethal force by GVTAPS Members vested with the lawful authority to use that force in the protection of the public welfare,
  2. establish the limitations of use of force,
  3. establish the responsibility and accountability of Members using force,
  4. provide direction on the authorization, use and control of GVTAPS issue firearms and weapons, and
  5. ensure accountability regarding the use of force, the use of a weapon and/or the discharge of a firearm.

# PROCEDURES

## Parameters for Use of Lethal Force (Refer to Part I CCC)

8. Members may discharge their firearms only when such action is required to defend themselves or protect a citizen from being killed or from suffering grievous bodily harm, and this cannot be accomplished by less violent means.
9. The seriousness of the offence does not in itself justify the use of firearms in the pursuit of a suspect who takes flight, unless:
  1. the Member has been, is being, or is about to be fired upon, or the suspect has already killed or wounded someone, and
  2. the Member is satisfied that nothing less than lethal force will stop the suspect, or prevent the suspect's escape, and
  3. the lives or safety of innocent persons will not be jeopardized.
10. Members will not discharge a firearm at a vehicle in an attempt to disable it. As police officers, Members are justified in using an appropriate level of force, including lethal force, against occupant(s) of a vehicle if it is to prevent grievous bodily harm or death to the police officer, or another person, and it is the least violent means available.
11. The discharge of a firearm as a warning shot is not permitted.
12. A Member may also discharge a firearm under the following circumstances:
  1. during range practice or competitive sporting events, or
  2. to destroy an animal that represents a threat to public safety, or
  3. as a humanitarian measure where the animal is seriously injured, subject to Supervisor authorization.
13. Members will adhere to the following restrictions when their firearms are drawn:
  1. Except for maintenance, loading/unloading, storage, or training purposes, a Member will not draw or exhibit a firearm except in a potentially dangerous situation where it may be necessary to use the firearm in conformance with the law and this procedure. In situations where a Member has reasonable grounds to believe that there may be armed criminals, drawing the firearm and having it "at the ready" is completely acceptable.

**Parameters for Use of Less-Lethal Force**

(Refer to Part I CCC)

14. Where lethal force is not justified, Members will assess the incident in order to determine which less-lethal technique or weapon will best de-escalate the incident and bring it under control in a safe manner.
15. The Service supports the use of intermediate weapons by Members qualified to use them when lower levels of force (including other specific intermediate weapons) have been ineffective, or are inappropriate, and the use of higher levels of force (including other specific intermediate weapons) may not be justified or appropriate. Members may use these intermediate weapons for resolution of an incident as follows:
  1. to protect themselves or others from physical harm,
  2. to restrain or subdue a non-compliant, suicidal, potentially violent, or violent individual, or
  3. to bring an unlawful situation safely and effectively under control.

**Oleoresin Capsicum (OC) Aerosol**

16. OC Aerosol may be utilized by Members when the following conditions are present:
  1. the situation demands control over a non-compliant suicidal, potentially violent, or violent individual, and
  2. lower force options were ineffective in controlling the individual or were inappropriate given all the circumstances.
17. Once a subject has been sprayed and controlled with OC Aerosol, Members will follow these procedures, where appropriate and reasonable:
  1. tell the subject they have been sprayed with OC Aerosol and the effects are short term,
  2. monitor the subject to ensure their safety,
  3. as soon as is practicable, allow the subject to de-contaminate using fresh water, and
  4. provide proper medical attention to subjects who show no signs of improvement.

**Taser**

18. The Taser may be utilized by Members when the following conditions are present:
  1. the situation demands control over a non-compliant, suicidal, potentially violent, or violent individual,
  2. lower force options were ineffective in controlling the individual, or were inappropriate given all the circumstances,
  3. lethal overwatch is present,
  4. the warning "Taser Up" is given to other police officers at the scene prior to deployment, and

5. consideration has been given to the proximity of flammable substances and the uniqueness of the GVTAPS operational environments.
19. Once the subject has been controlled by the application of the Taser, the Member will follow these procedures, where appropriate and reasonable:
1. notify Emergency Health Services (EHS) to attend, and have EHS personnel determine if the subject should be transported to a hospital, and, if not, have the EHS personnel remove the probes if the skin has been punctured,
  2. notify the patrol Supervisor as soon as is practicable, and
  3. complete the appropriate use of force report, and other reports required or applicable.

#### **Lateral Neck Restraint**

20. The Lateral Neck Restraint will only be used by a Member when the following conditions are present:
1. the situation demands immediate control over a violent person,
  2. lower force options were ineffective in controlling the individual or were inappropriate given all the circumstances,
  3. there is no reason to believe that the person will suffer injury as a result of the restraint hold.
21. The Lateral Neck Restraint will not be used to:
1. subdue a subject who is merely uncooperative, or
  2. as a "come-along" hold.
22. If the application of the Lateral Neck Restraint renders a subject unconscious, the following procedure is to be followed:
1. place in a  $\frac{1}{4}$  prone, recovery position and monitor breathing and pulse,
  2. if no response and recovery appears abnormal, request EHS to attend.

#### **Reporting Use of Force**

23. A written report will be submitted by the Members involved immediately after the following circumstances:
1. an intermediate weapon has been used,
  2. Lateral Neck Restraint applied, or
  3. whenever a Member applies force to a person and an injury occurs as a result of the force used.

24. The Member involved will submit a report to their immediate Supervisor for signature, along with any other reports required or applicable. The report will then be forwarded through the chain of command to the Deputy Chief Officer.

#### **Discharge of Firearm**

25. In every incident where a Member discharges a firearm in the course of their duty, excluding training, whether or not a person is injured or killed as a result, they will comply with the Police Act – Use of Force Regulation, and this includes:

1. notification of their immediate Supervisor,
2. submitting a detailed written report through their Supervisor, and
3. surrendering their firearm, ammunition and used casings to their Supervisor.

26. A substantive Supervisor, not involved in the incident, will:

1. immediately notify the Deputy Chief Officer, Chief Officer and the Jurisdictional Police Department (JPD),
2. fully investigate the reason for discharging the firearm,
3. seize the Member's firearm, ammunition and used casings to be sent to the designated Crime Lab for ballistics testing. If the Crime Lab is closed, the firearm, ammunition and casings should be tagged in a temporary exhibit locker to be dealt with on the next working day,
4. obtain detailed report from all police officers involved in the incident, turn the investigation over to the Deputy Chief Officer,
5. submit a detailed report to the Deputy Chief Officer, with a copy to the Chief Officer, including recommendations as necessary, and
6. Subsections 3, 4, and 5 do not apply when a Supervisor has pre-authorized a Member to shoot a wounded animal for humanitarian purposes.

27. The Deputy Chief Officer will assign the personnel who will be responsible for the investigation and supervision of the investigation, and forwarding a complete report, with recommendations, to the Deputy Chief Officer.

#### **Administrative Review**

28. The Deputy Chief Officer, unless otherwise directed by the Chief Officer, will review the investigative report and recommendations.

29. The Deputy Chief Officer review will include the following:

1. Purpose (brief introduction),
2. Summary of incident details,
3. Analysis (immediate and contributing factors), and

4. Recommendations.

30. This review will be forwarded within ten (10) days to the Chief Officer. The Deputy Chief Officer may comment as necessary on the investigation, recommendations and review.
31. The Chief Officer will assess the review and either confirm the final recommendations, amend them as necessary, or return the file for additional investigation. A copy of the review will be forwarded to the appropriate administration file.
32. The Chief Officer will notify the Deputy Chief Officer (and any other appropriate Supervisors) of the final disposition of the review.
33. The Deputy Chief Officer will notify the Members directly involved in the incident of the results of the final disposition.
34. Pursuant to the Police Act - Use of Force Regulation, where a police officer kills or injures another person by the discharging of a firearm or the use of an intermediate weapon, the Chief Officer will submit the investigation report to the Police Board Chair and notify the Director of the Police Services Division, Ministry of Public Safety and Solicitor General. The Chair will review the report and make further inquiries into the incident that the Chair considers necessary.

**Service Response – Lethal Force Incident**

35. Where a Member's use of force causes death, the Member may be provided with appropriate leave from duty for the purpose of receiving Post Critical Incident counseling from an appointed psychologist.
36. Prior to return, the Member will be examined by an appointed medical practitioner, and obtain a certificate verifying the Member's fitness to return to active duty.
37. Where the use of force results in death or grievous bodily harm:
  1. the Chief Officer may provide administrative leave to the Member(s) involved,
  2. the Chief Officer may appoint a qualified medical practitioner, who is agreed to by the Member involved, to make a recommendation on whether the Member is physically or psychologically fit for duty, or fit for re-assignment to the Member's previous position,
  3. the Chief Officer will immediately determine if retaliation is possible on the Member or others of significance to the Member, and
  4. if retaliation is likely, steps will be taken to protect the Member or others of significance to the Member, and
  5. once the Chief Officer is satisfied that the Member is medically fit for duty, and retaliation is unlikely, the Member may be re-assigned to previous duties or other duties consistent with the recommendation of the medical practitioner.

## Code 5 Incidents and Apprehensions - No Charges

38. There are occasions when Members are involved in Code 5 incidents, such as apprehensions or takedowns, and the person subjected to the Code 5 procedure is later released without charges. A Code 5 apprehension or takedown may be intimidating and even frightening to the person subjected to it, and it is understandable that a citizen might be traumatized as a result.
39. For the purposes of this section, a Code 5 incident includes:
1. approaching and/or apprehending a person at gunpoint, and
  2. removing occupants of a vehicle at gunpoint or through use of force.
40. In order to ensure that persons who have been the subject of Code 5 incidents but who have subsequently been released without charges are dealt with appropriately, the following procedures will be followed:
1. Whenever a Code 5 incident occurs and no charges arise in relation to the person who was the subject of the Code 5 procedure, a Supervisor will attend the scene, assess the situation and take all reasonable steps to ensure that the reason for the Code 5 procedure is adequately explained.
  2. The attending Supervisor will ensure that:
    - a. any trauma experienced by the person who was the subject of the Code 5 procedure is addressed by available resources,
    - b. any concerns regarding damage to property caused by the police action are addressed,
    - c. evidence is gathered and properly processed,
    - d. photographs are taken, if appropriate,
    - e. witnesses are interviewed and written statements obtained,
    - f. all Members submit detailed reports outlining their actions,
    - g. the Member who formed the grounds to support the use of the Code 5 procedure includes in their report a detailed description of those grounds, and
    - h. appropriate explanations are provided when required.
  3. The attending Supervisor will ensure that all reports are completed prior to the end of the Member' shift, complete a covering report and ensure that copies of all reports are forwarded to the Inspector Operations and Deputy Chief Officer.
41. Members should recognize that a timely and sincere explanation as to why the police used Code 5 procedure will often be sufficient to satisfy citizens who initially feel aggrieved by police actions.

## **Reporting**

42. The use of the Taser will be documented on the designated forms.
43. In the event that the Taser is used, the advanced weapon management technology system records data consisting of date, time and duration of usage, which is to be downloaded by the Inspector Support Services or their designate to track usage patterns and prevent allegations of excessive force.

## **Use of Force Training**

44. Only Members trained and demonstrating proficiency in the use of Service authorized weapons are allowed to carry and use such weapons.
45. Minimum qualifying standards in the use of intermediate weapons and other authorized weapons will be the same as those endorsed by the JIBC Police Academy.

## **Firearms Qualification**

46. In addition to the Police Act Firearms Regulations requirements, a Member required to carry a firearm will attend at a designated place and time for the purpose of the annual firearms qualifications. Firearms qualification standards, as set by the Police Services Division and the BC Police Academy, will be used for this purpose. The Firearms Officer must forward a signed record of qualification (pass/fail) to the Training Officer for inclusion into the Member's service record.
  1. Members are encouraged to remain familiar and competent in the use of their issue firearm.
  2. Ammunition will be supplied to a Member that needs remedial firearms training, upon the instructions of the Range Officer or a Supervisor.
  3. Only Members trained and demonstrating proficiency in the use of Service authorized firearms are allowed to carry and use such firearms.

## **Training and Qualifications - Lethal Weapons**

47. Members will carry only authorized firearms and ammunition.
48. Members will receive firearms training on an annual basis and be required to qualify.
49. The GVTAPS firearms qualification process is as follows:
  1. A GVTAPS Member will be required to pass the Provincial Qualification Course of Fire on one "cold" attempt.
  2. Any Member who fails to qualify will receive immediate mandatory remedial training.

3. After remedial training has been complete, the Member will be given a maximum of two more attempts to qualify. If the Member qualifies, a conditional pass will be given. The Member must then satisfy the "cold" qualification requirement within the following 90-day period or before the end of the calendar year, whichever is sooner.
4. Any Member who fails to qualify after three attempts will have their firearm seized and the Member will be reassigned to the Training Unit for immediate remedial training, until they have successfully completed the qualification period. Once the qualification process has been completed, a conditional pass will be issued as in section 3 of the firearms qualification process above.
5. Any Member who has been given a conditional pass who fails to qualify within the 90-day period will have their firearm sized and the Member will be reassigned to non-operational duties, until they have successfully completed the qualification process.
6. Any Member who receives three conditional passes in a 12 month period will be enrolled in a 3-day intensive remedial training program to be conducted a specific times throughout the year.
7. All practice sessions will be strictly used for the purpose of practicing marksmanship skills and not for qualification. Any Provincial Qualification Courses of Fire shot on these days must be preceded by practice drills and scores will be recorded only as practice scores.
8. Effective upon approval, when a Member is absent due to illness or injury for a period exceeding 30 days, the Human Resources Section will conduct a case review, and where appropriate, request the Member's Supervisor recover the Member's firearm for security purposes. The firearm will be surrendered to the Firearms Training Officer until the Member returns to duty. When the Member returns to duty the firearm will be returned to the Member provided that:
  - a. approval has been received from the Human Resources Section, and
  - b. the Member is currently qualified.

#### **Training and Qualifications - Less-Lethal Force Weapons and Methods**

50. A Member is not permitted to use a less-lethal weapon unless certified.
51. Training days for Members will be provided at least every two years in the following areas:
  1. Empty Hand Compliance Techniques,
  2. Intermediate Weapons, and
  3. Lateral Neck Restraint.

52. At the conclusion of each training session, participating Members will demonstrate the acquired skill to the satisfaction of the instructor, and successfully complete a written exam for certification, if required.

**Range Procedure**

53. When at the Range, Members will adhere to policies and procedures of the specific range facility and as otherwise instructed by the Range Officer.