

## How does our Agency line up with the policy suggestions outlined in 8cantwait.org?

The City of Fairfax Police Department has received multiple emails inquiring about how the police department policies align with the recommendations articulated by the 8cantwait.org /campaign zero.

8cantwait advocates police agencies implement eight specific policies to reduce police violence – and that doing so could reduce violent police encounters by 72 percent. These eight policies include the following; banning chokeholds and strangleholds, requiring de-escalation training, requiring a warning before deploying their firearm, exhausting all reasonable means before deploying their firearm, implementing a duty to intervene policy, banning shooting at moving vehicles, utilizing a use of force continuum, and requiring comprehensive reporting.

The following is a summary of our policies as they relate to the 8cantwait campaign. It should be noted that our policies align very closely with the 8cantwait recommendations.

### 1. We do NOT authorize or teach chokeholds.

Any restraint that has a tendency to restrict a person's flow of blood is **not** authorized unless it is a deadly force scenario. Officers only receive training on the lateral vascular neck restraint so they can recognize it and escape from it should a suspect apply it to an officer to try to kill or incapacitate them. Officers are not authorized to use, nor are they trained on applying, the restraint as a less lethal force option.

Use of Force Policy (City of Fairfax General Order 4-11) Section III: Parameters for Use of Less Lethal Force:

*“Any physical restraint technique which may have a tendency to restrict the suspect's ability to breath or which may restrict the flow of blood to a suspect's brain, have a high potential for injury and are, therefore, not authorized as less-lethal force options.”*

More information on our policies can be found at:

<https://www.fairfaxva.gov/government/police/about-our-department/department-general-orders>

## **2. We require De-escalation training.**

Use of Force Policy (City of Fairfax General Order 4-11) Section IV: De-Escalation:

*“De-escalation is an attempt to achieve a positive outcome, where neither the officer nor the subject is injured, through the utilization of communication, empathy, instinct, and sound officer safety tactics skills. In keeping with Graham v. Connor 1989, officers must constantly weigh the proportionality of their actions against threats or resistance of others during an incident. It must be understood that officers are sometimes forced to intervene quickly to ensure the safety of others. However, officers must ensure that they utilize tactically sound techniques and actions in order to bring an incident to a safe conclusion. At times, it may be necessary for the officer to create distance and utilize cover to slow down situations in which there is not an immediate threat to others. This also allows time for other officers to respond to the scene to assist. As time allows, officers should collect information, assess the situation’s threats and risks, consider legal matters, and reflect on agency policies. Additionally, options can be identified and a best course of action can be determined. As the situation unfolds officers should continue to review and reassess information, threats, legal matters, and policies and remain flexible should new information dictate a different course of action.”*

*“Officers trained in crisis intervention may be beneficial during critical incidents. Creating more time through the utilization of communication, empathy, instinct, and sound officer safety tactics affords supervisors the opportunity to respond and provide guidance over the situation. Whenever possible, officers should seek to utilize de-escalation strategies to prevent situations from deteriorating to the point where they would need to use force. Officers should attempt to gain voluntary compliance and reduce the level of force required in a situation through verbal communication efforts. When force is applied, officers will adjust the amount of force used to overcome an individual’s resistance and to gain control.”*

*“De-escalation techniques should be included in all departmental use of force training and documented appropriately in all submitted lesson plans”.*

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## **3. We require a warning before shooting.**

Officers are taught from the United States Supreme Court case, Tennessee vs. Garner (1985). Under these guidelines, police may use deadly force to protect their lives or the life of other from death or serious bodily injury. In addition, police may use deadly force when the officer has probable cause that a suspect poses an ongoing threat of death or serious bodily injury, there were no other reasonable options, and when feasible a verbal warning MUST be issued to the suspect.

Use of Force Policy (City of Fairfax General Order 4-11) Section II: Parameters for Deadly Use of Force:

*“Before discharging a firearm, police officers should identify themselves and give a command to halt (such as: Police Don’t Move / Police Get Down / Police Drop the Gun/ Police Drop the Knife / Police Put Your Hands Up), or other appropriate commands and state their intent to shoot, when feasible.”*

*“In any case where deadly force is used the officer will summon immediate emergency medical personnel to the scene, as soon as it is safe to do so, for the treatment of any person injured. Officers should always render aid to all injured persons when safe to do so. Supervisors are to ensure that all medical aid requirements are met and documented.”*

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**4. We teach officers to exhaust all other reasonable means before shooting.**

However, if there is an ***imminent threat of death or serious bodily injury*** to the officer or members of the public, the officer must decide on the appropriate amount of ***objectively reasonable force*** based on the situation they are faced with in the moment.

**5. We have a policy that mandates an officers’ duty to intervene.**

Rules and Regulations Policy (City of Fairfax General Order 2-1) CONDUCT TOWARDS PRISONERS:

*“Officers having custody of prisoners shall observe all laws and written directives concerning this activity. Prisoners shall be kept secure, treated humanely, and shall not be subjected to unnecessary restraint or force. Profane or abusive language directed at prisoners is prohibited. Any member who has knowledge of any violation of this rule or is aware of misconduct in any form toward a prisoner shall immediately report this knowledge to their supervisor, a senior ranking officer or the Chief of Police. The bypassing of the chain of command is justified in this circumstance.”*

PRISONER SAFETY:

*“The arresting officer is responsible for the custody and safety of their prisoner until custody is relinquished by competent authority and the arresting officer no longer has constructive control over the prisoner. This responsibility extends or transfers to any officer involved in transporting a prisoner and includes the prevention of acts by any other officer or person which violates the law or department directives.”*

## REPORTING VIOLATIONS:

*“Any employee who has knowledge of other employees, individually or collectively, who are knowingly or unintentionally violating any laws or statutes, ordinances, or rules and regulations of the department, or who disobey orders, shall immediately bring any and all facts pertaining to the matter to the attention of a supervisor or command officer. The supervisor or command officer shall then take appropriate action in accordance with existing laws and regulations. The failure of a member to report known violations and/or misconduct may subject that member to disciplinary action as a violation of this regulation.”*

### **6. We ban shooting at moving vehicles.**

Shooting at moving vehicles is **prohibited** unless there is IMMEDIATE threat of death or bodily injury to the officer or the public.

### **7. We utilize a use of force model that allows for de-escalation.**

The Northern Virginia Criminal Justice Training Academy (NVCJTA) trains on a use of force model that is fluid in nature and allows room for de-escalation or escalation of force options based on the amount of force that is objectively reasonable in the moment. This training module aligns with the International Association of Chiefs of Police (IACP) publication of the National Consensus Policy and Discussion Paper on Use of Force. This publication also addresses the distinction between a use of force model and use of force continuum:

*“The variety of compliance options available to law enforcement officers in a confrontational setting can be referred to as a force model. Using the variety of different options found in this model, officers are expected to employ only a degree of force that is objectively reasonable to gain control and compliance of subjects. Some agencies may refer to this as the use-of-force continuum. However, the use of the term “continuum” is often interpreted to mean that an officer must begin at one end of a range of use-of-force options and then systematically work his or her way through the types of force that follow on the continuum, such as less-lethal force options, before finally resorting to deadly force. In reality, to maintain the safety of both the officer and others, an officer might need to transition from one point on the continuum to another, without considering the options in between in a linear order. For instance, when faced with a deadly threat, it is not prudent to expect an officer to first employ compliance techniques, followed by an electronic control weapon, and only then use his or her firearm. For this reason, the use of a continuum is strongly discouraged. Instead, force models are preferred that allow officers to choose a level of force that is based on legal principles, to include the option of immediately resorting to deadly force where reasonable and necessary.”*

Officers are trained on appropriate uses of force, however; not on a “continuum.” Officers must make a decision on the appropriate amount of **objectively reasonable force** based on the situation at hand.

Use of Force Policy (City of Fairfax General Order 4-11)

*“Where deadly force is not authorized, but force is required, officers must 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 the safest manner.”*

*“Officers are only authorized to use an objectively reasonable amount of force to overcome resistance when taking lawful action. Officers are expected to assess each incident, based on policy, training, and experience, when determining which use of force options may be appropriate in bringing the incident to a safe conclusion. In determining whether force is objectively reasonable, officers must pay careful attention to the totality of circumstances in each particular case including but not limited to:*

- 1. Whether the individual poses an immediate threat to the officer or others*
- 2. The severity of the crime*
- 3. Whether the individual is actively resisting or attempting to evade arrest*
- 4. Weapons involved*
- 5. Presence of other officers or individuals*
- 6. Training, age, size and strength of the officer*
- 7. Training, age, size and perceived strength of the individual*
- 8. Environmental conditions”*

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## **8. We require comprehensive reporting.**

Case Report/Incident Report (City of Fairfax General Order 4-3)

*“Accurate reporting by all department members of actions performed in the line of duty is necessary to create and maintain police records required by law and to properly document the essential details of crimes, violations, incidents, or other information of department concern. Where a Case Report is required, it shall document all the elements of a crime, the identifying information of all persons involved in an incident, all persons with relevant information, and the actions of the officers involved. Case Reports documenting other significant incidents shall also be sufficiently detailed. “*

*“Incident Report classifications are approved for those events and circumstances in which a full Case Report is not necessary. Officers are strongly encouraged to add a brief statement of facts and actions as part of the Incident Report to document their*

*findings. Incident Reports are not intended to be the same as a Case Report; rather, they are intended to serve as an alternative to the field notebook to capture names and other data, brief details about the officer's actions, and other information that may be useful at a later time. An Incident Report can also be used to capture field contact information."*

Rules and Regulations Policy (City of Fairfax General Order 2-1) Documentation of Force:

*"All full custody arrests or transports shall be documented by an "In-Custody Report" (PD-120), regardless of the amount of force used, if any. Any force used on a suspect or person not subsequently arrested shall be documented in the form of a "Case Report," i.e., suspect struck with baton eludes apprehension. Any arrest or incident causing injury/illness to either a prisoner or any officer shall be fully documented and investigated by a superior officer. The accidental or intentional discharge of a police firearm shall be reported according to procedure."*

Reports:

*"Reports submitted by members shall be truthful and complete. No officer/employee shall knowingly enter or cause to be entered any inaccurate, false, or improper information on official reports or documents. No member shall advise, counsel, order or otherwise dissuade any other member from submitting any lawful report. Unsafe acts or unsafe conditions shall be immediately reported to a supervisor."*