




WINCHESTER POLICE DEPARTMENT OPERATION ORDER

NOTE: This policy is for internal use only, and does not enlarge an employee’s civil liability in any way. It should not be construed as the creation of a higher standard of safety or case in an evidentiary sense, with respect to third party claims. Violation of this policy, if proven, can only form the basis of a complaint by this Department, and then only in a non-judicial administrative setting.

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| Number 2-4A | | Effective Date February 1, 2008 | Review Date | Reviewing Division Administration |
| Subject Limitations on Use of Force | <input type="checkbox"/> New Policy <input checked="" type="checkbox"/> Replaces: WPD GO 2-4 <input type="checkbox"/> Revised: | | This policy shall apply to personnel assigned to the following divisions: <input type="checkbox"/> All Personnel <input checked="" type="checkbox"/> Patrol Division <input checked="" type="checkbox"/> Administration Division <input checked="" type="checkbox"/> Investigation Division | |
| References VLEPSC: ADM.05.01-.04, ADM.06.01 CALEA | | | | |
|  _____ Chief of Police or Designee | | _____ March 23, 2023 Date | | |

I. PURPOSE

The purpose of this policy is to establish guidelines governing the limitations on the use of force.

II. POLICY

It is the policy of this Department that officers are expected to act within their training and must be able to clearly articulate the reasons for using force. Officers are regularly confronted with situations requiring the use of force to affect an arrest or ensure public safety. The application of any degree of force is justified only during certain circumstances described in this policy. The Department expects officers to employ the minimum force reasonably necessary to accomplish a legal purpose. Officers may resort to more higher levels of force to overcome either increasing resistance or an increasingly dangerous threat to public safety. The escalation in the use of force typically follows a pattern: officer presence, verbal control, control techniques, chemical weapons, impact weapons, and ultimately deadly force. The objective of the use of any force is to overcome the suspect’s resistance to an officer’s lawful purpose.

III. DEFINITIONS

A. Deadly Force

Any force applied in any manner by any means that could reasonably be expected to cause death or serious physical injury. Serious physical injury means bodily injury which creates a substantial risk of death or which is likely to cause serious

permanent disfigurement or loss, or extended impairment of the function of any bodily organ.

B. Force

Any physical strike or instrumental contact with an individual, or any significant physical contact that restricts an individual's movement. Force does not include leading or handcuffing an individual who is exhibiting minimal or no resistance. Merely placing an individual in handcuffs as a restraint in arrest or transport activities, officer presence or verbal commands does not constitute a reportable action.

C. Less Lethal Force

Force employed which is neither likely nor intended to cause death or serious physical injury.

D. Serious Physical Injury

A physical injury, which creates a substantial risk of death, or which causes death or serious and protracted disfigurement or impairment of the function of any bodily organ.

IV. PROCEDURES

A. Limitations on the Use of Force

The following acts associated with the use of force are prohibited:

1. Firing into crowds;
2. Firing a warning shot;
3. Firing from a moving vehicle except when exigent circumstances exist such as the officer or individuals being fired upon.
4. Firing at a moving vehicle except where the officer reasonably believes that an occupant of the other vehicle is using or threatening to use deadly force by a means other than the vehicle, or a vehicle is operated in a manner deliberately intended to strike an officer or a citizen and all other reasonable means of defense have been exhausted or are not present, including moving out of the path of the vehicle, and the safety of innocent persons would not be unduly jeopardized by the officer's action;
5. Firing at or in the direction of a vehicle that no longer poses an immediate threat;

6. Firing into a building or through doors when the person fired at is not clearly visible, unless officers are being fired upon from such building or through such door;
7. Firing at a suspect when lesser force could be used and the officer believes that the suspect can be apprehended reasonably soon thereafter without the use of deadly force, or when there is any substantial danger to innocent bystanders;
8. The application of choke hold or carotid control holds, except when the officer reasonably believes such holds are the only means of protecting him or herself or another person from an imminent threat of serious physical injury or death;
9. The use of flashlights as batons. An officer may use a flashlight or other object designed for a use other than as a weapon only to defend him or herself or another person from imminent serious physical injury or death, and then only if Department approved methods are not available or are impractical. The use of a flashlight under such circumstances may be deemed an application of deadly force;
10. The use of deadly force against unarmed, non-dangerous fleeing felons, fleeing misdemeanants, or traffic offenders;
11. Any use of force not reasonably necessary in the light of the circumstances confronting the officer; and
12. Any forcible enforcement action when off duty, except in circumstances which seriously threaten life, valuable property, or public order.

B. Less Lethal Force

The Department trains officers in the use of force continuum, which emphasizes the recognition of, and response to increasing levels of threat. Most instances in which force is applied are non-deadly. Officers shall assess the incident to determine which technique will best bring the situation under control. Following the application of any method of force, once the situation is contained, officers shall provide or arrange to provide medical help as necessary. The following are key principles regarding the use of force:

1. **Verbal Control:** Verbal control refers to the manner in which the officer speaks to a person, which alone can manage a situation. Verbal control includes advice, persuasion, admonitions, or orders. The volume and tone of the officer's speech may also contribute to control without having to resort to another method of force. The Department expects the use of verbal commands without the use of profanity or disrespectful or argumentative behavior.
2. **Compliance Techniques:** At times, uncooperative suspects who refuse to be taken into custody may only respond to a combination of strength, leverage,

take-downs, control holds, or come-alongs with sufficient force to make the lawful arrest without aggravating a suspect's combativeness. The object of this level of force is to gain control and enforce the suspect's compliance, while minimizing the risk of injury to officers, bystanders, or the person being placed in custody. Where lesser levels of force appear ineffective, officers may employ hands, fists, feet, knees, etc. in striking an adversary, according to methods sanctioned through training.

3. Chemical Weapons: The use of chemical weapons is restricted to situations where higher levels of force are unnecessary and lesser levels of force are inappropriate or ineffective. Only chemical weapons approved by the Department are authorized for use by Department personnel. Chemical weapons shall be used only to the extent necessary to overcome the resistance of the suspect within training standards. Specialized weapons such as light and sound devices, distraction devices, or chemical agent canisters or launchers shall be used only by personnel trained in their application, and then only under direct orders of the on-scene supervisor or upon consultation with the Chief of Police or his/her designee if practical. Although a chemical weapon, the Pepperball system has its own policy and procedures which can be found under General Order 2-4f.
 - a. Chemical weapons shall not be used to threaten or elicit information, nor shall they be used on people who are handcuffed and properly in custody.
 - b. Officers shall keep the application of chemical weapons to the absolute minimum required to effectively control the suspect.
 - c. Officers shall not use chemical weapons on persons who are visibly sick or who are not in possession of their normal protective reflexes such as being able to turn away from the applied spray. Applying a chemical agent to such persons can result in injury out of proportion to the threat they may present.
 - d. If the on-scene supervisor authorizes the use of specialized chemical weapons, the following shall be noted:
 - Chemical weapon canisters or launchers are used primarily in dealing with unruly crowds and armed barricaded subjects.
 - Chemical weapon canisters may be used to disperse unruly crowds and induce the surrender of barricaded subjects when reasonable effort has been made to notify the subject of the chemical weapon impending use.
 - A chemical agent launcher is used to fire projectiles into the area of an armed, barricaded suspect when the use of hand tossed canisters is unsafe or impractical.

4. Impact Weapons: The Department authorizes the carrying and use of the Asp and side handle baton, as the only striking weapon for officers. All other forms of striking or punching weapons are prohibited for carrying or use. Officers who carry the Asp or side handle baton shall be trained and certified in their use. The weapon may be used in quelling confrontations involving physical violence where higher levels of force are unnecessary or inappropriate and lesser levels are inappropriate or ineffective. Impact weapons will not be used to strike handcuffed individuals or to threaten people.
5. Electronic Control Devices: See sub-policy under this General Order.
6. Kinetic Energy Impact Weapon: See sub-policy under this General Order.
7. Pepperball® System: See sub-policy under this General Order.
8. Officers will adhere to their training in regard to lethal coverage during use of less lethal weapons. When an officer presents the use of an Electronic Control Device, Kinetic Energy Impact Weapon, or the Pepperball® System, another officer may need to provide lethal coverage.

C. Deadly Force

1. Deadly force may be used in defense of the officer or others from what is reasonably believed to be an immediate threat of death or serious bodily harm.
2. Officers shall not use deadly force to apprehend a fleeing misdemeanor. Officers may use deadly force to apprehend a fleeing felon whom the officer has probable cause to believe will pose a significant, immediate threat to human life should escape occur. 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. 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. Officers may be required to use deadly force on seriously injured or dangerous animals when no other disposition is reasonably practical. A supervisor's approval should be sought when possible.
4. Before using a firearm to shoot an individual, officers shall identify themselves and state their intent to shoot, when feasible.