

Wheaton Police Department

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# DEPARTMENT ORDER

**TO:** All Department Personnel

**FROM:** William Murphy, Chief of Police

**SUBJECT:** Use of Force

## **PURPOSE**

The purpose of this order is to establish department policy and procedure regarding a police officer's use-of-force in accordance with Illinois statutory law and federal constitutional parameters. This order should be used as a guideline for sworn personnel for incidents involving any use of actual, constructive or coercive force.

## **POLICY**

The Wheaton Police Department values the safety of the public and its officers. With this in mind, officers shall use only that force which is **reasonable** and **necessary** to effectively bring an incident under safe control, while protecting the safety of the citizen(s) and/or officer(s). The Wheaton Police Department shall use 720 ILCS 5/7-5: Peace Officer's Use of Force (Illinois Statute) and *Graham v. Connor*, U.S.S.Ct. (1989) as its foundation in training and reviewing any Use of Force incident involving a Wheaton Police Officer.

## **DEFINITIONS**

- **Actual Force:** Physical Force applied to the body sufficient to take control of a resistive subject.
- **Constructive Force:** Verbal and/ or non-verbal control sufficient to overcome the will of a subject and with the objective of gaining a subject's compliance.
- **Coercive Force:** The act of pointing a firearm directly at a subject.
- **Deadly Force:** Force which is likely to cause death or great bodily harm.

- **Forcible Felony:** Treason, first and second degree murder, aggravated criminal sexual assault, criminal sexual assault, robbery, burglary, residential burglary, aggravated arson, arson, aggravated kidnapping, kidnapping, aggravated battery resulting in great bodily harm or permanent disability or disfigurement and any other felony which involves the use or threat of physical force or violence against any individual.

## PROCEDURES

### Use of Deadly Force

- A police officer is justified in using force which is likely to cause death or great bodily harm only when he **reasonably** believes that such force is **necessary** to prevent death or great bodily harm to himself or another person, or when he reasonably believes both that:
  1. Such force is necessary to prevent an arrest from being defeated by resistance or escape; **AND**,
  2. The person to be arrested has committed or attempted a forcible felony which involves the infliction or threatened infliction of great bodily harm or is attempting to escape by use of a deadly weapon or otherwise indicates that he will endanger human life or inflict great bodily harm on another unless arrested without delay.
- **Specific Acts Restricted**
  1. Generally, officers shall not discharge warning shots.
  2. Generally, officers shall not discharge a firearm into a crowd.
  3. Generally, officers shall not fire into buildings or through doors, windows, walls or other openings when the person lawfully fired at is not clearly visible to the officer using deadly force.  
Generally, firing at or from moving vehicles is prohibited.
- **Justification Limited to Facts Known to Officer**
  1. Justification for the use of force must be limited to what reasonably appears to be the facts known or perceived by an officer at the time he/she decides to use force.

### Use of Force; Generally

- Officers are authorized to use department-approved control techniques and authorized weapons for the resolution of incidents, as follows:
  1. To stop potentially dangerous and unlawful behavior.

2. To protect the officer and/or any other person from injury.
  3. To protect persons from injuring themselves.
  4. To affect a lawful seizure when the detainee or arrestee refuses to comply.
- Officers must assess each incident to determine the level of control that is reasonably necessary. Force that an officer may use to gain control over a resistive subject's actions and/or stop the physical threat from a subject include:
    1. Verbal/ non-verbal control (Constructive Force);
    2. Soft and hard empty hand control;
    3. Oleoresin Capsicum (O.C.) spray;
    4. Electronic Control Device (ECD) control;
    5. Soft and hard intermediate impact weapons
    6. Deadly force
  - In the event that Actual force is necessary, the officer must exercise reasonable discretion and decide which control technique(s) and/or authorized weapon(s) will reasonably bring it under control and/or stop the physical threat.
    1. **Escalation/De-Escalation:** Officers should utilize escalation and de-escalation of force tactics when reacting to any given threat. These tactics include tactical positioning, verbal and non-verbal control skills.
  - When physical force is used on a subject, medical attention will be summoned if:
    1. The subject requests medical attention; and/or,
    2. The subject complains of an injury or pain; and/or,
    3. An officer observes an injury or suspects that the subject is, in fact, injured; and/or,
    4. In the event that medical attention is provided to a subject, information including, but not limited to, the specific injury, the time the injury was reported or observed, the time medical assistance was summoned, the attending paramedics, and the location where the subject was transported to, if transported, will be included in the report filed by the officer.

## Reporting Use of Force

- A supervisor shall be notified and shall respond to the scene and complete a Use of Force Review **whenever a control technique is used by an officer to control a physically resistive subject.**
- Any officer who uses force which results in death or injury to any person shall immediately determine the physical condition of any injured person and render first-aid when appropriate. The officer shall as soon as is reasonably practical: (1) request necessary medical aid; (2) request the presence of a supervisor; (3) remain at the scene (unless injured) until the arrival of the supervisor; and, (4) protect his/her weapon for examination. The officer shall cooperate by providing whatever information is requested concerning the incident by the authorized personnel investigating the incident.

## Authorized Weapons

- Officers are authorized to carry only department-issued or approved weapons for which they have demonstrated the required level of proficiency as established by the Department.
- The following weapons are authorized for use under appropriate circumstances following demonstration by the officer of minimum acceptable proficiency level(s) as established by the Department.
  1. Any department approved handgun
  2. Department approved impact weapon
  3. Oleoresin Capsicum spray
  4. 12 gauge shotgun.
  5. Department approved rifle
  6. Department approved multi-launch impact weapon
  7. Electronic Control Device (i.e. TASER)

## Levels of Resistance

- For purposes of reporting use-of-force incidents, officers shall acquaint themselves with the following terminology and use these terms in written reports and statements when describing the level of resistance demonstrated by the subject:
  1. **Psychological Intimidation:** Non-verbal communication offered by the subject that indicates a resistive attitude.

2. **Verbal Non-Compliance:** Verbal communication offered by the subject which indicates the subject's intent to resist or harm the officer or others.
3. **Passive Resistance:** The subject does not comply with the demands of the officer, but does not attempt to defeat the officer's arrest procedures or harm the officer.
4. **Defensive Resistance:** The subject attempts to defeat the officer's arrest procedures by pulling away. There is no attempt to harm the officer.
5. **Active Aggression:** The subject attempts to defeat the arrest procedure by physical attack or threat of attack.
6. **Deadly Force Resistance:** The subject attempts to defeat the arrest procedure by threatening or applying deadly force against the officer.

### Use of Force Control Options

- **Command Presence:** Officers should attempt to use their physical presence and non-verbal communication skills to take control and avoid escalation of the incident. In the event that officer's presence does not inhibit or decrease the amount of resistance or the continuation of the unlawful activity, the officer must be prepared to use another lawful use of Force Control technique.
- **Verbal Direction:** A majority of situations can be resolved with good communication skills. Verbal direction, combined with a strong command presence, will many times diffuse even violent or potentially violent incidents. However, if verbal direction does not cause the resistance or breaking of laws to cease, the officer must be prepared to use another Use of Force Control technique.
- **Empty Hand Control:** Soft and Hard empty hand control techniques are techniques that do not employ any of the approved Use of Force Control weapons and attempt to minimize the chance of injury. These techniques include the use of joint locks, pressure points, and strikes to physically control a resistive subject and gain compliance.
  1. **Handcuffs:** Empty hand control includes the use of handcuffs or flexcuffs. Handcuffs should be used to restrain the movements of a subject. Handcuffs should be used under the following circumstances:
    - a. Any subject who has been placed under arrest should be handcuffed behind his back. Exceptions to this procedure include if the subject has an injury or other physical limitation which would be aggravated by handcuffing behind the back.
    - b. Officer Safety: When an officer can articulate a significant officer safety

concern from a subject (i.e. suspected weapon, emotional instability, etc.) an officer may handcuff the subject while the subject is being detained and the officer is investigating a crime. Once the officer safety concern has been dispelled by the officer, the officer shall immediately un-handcuff the subject.

- c. Whenever handcuffs are applied, the officer will ensure that the handcuffs are double-locked. If the arrest environment is such that double locking the handcuffs is tactically unsafe, the officer will double lock the handcuffs at the earliest safe opportunity.
- **Chemical Sprays:** Oleoresin capsicum (pepper spray) is the only authorized chemical spray for officers to carry and use. Officers should consider using pepper spray when the officer can articulate a physical threat from a resistive subject.
- **Electronic Control Device:** An Electronic Control Device is a weapon that uses an electric current to create pain and motor dysfunction in a resistive subject (i.e. TASER). Officers should consider using an Electronic Control Device when the officer can articulate a physical threat from a resistive subject.
- **Impact Weapon Control:** An Impact Weapon is any department approved weapon that is used to control or strike a resistive subject to create pain and motor dysfunction (i.e. ASP expandable Baton). Officers should consider using an Impact Weapon when they can articulate a physical threat from a resistive subject.
- **Non-Deadly Force** – This category of control includes any department approved Non-Deadly Force. (i.e. shotgun Bean Bag Round/SAGE SL-6). Officers should consider using Non-Deadly Force when they can articulate a physical threat from a resistive subject.
- **Deadly Force**
  1. Any Force likely to cause death or great bodily harm.
  2. Officers are justified to use any of the authorized above-named authorized weapons to inflict deadly force under circumstances when deadly force is reasonable.

Officers should consider using the above-noted Use of Force Control Options to take control of any subject the officer is justified to seize. The options are not in any order that the officer must follow and are listed as options the officer can choose from when making a Use of Force decision.

## Use-of-Force Incident Review

- All Use-of-Force incident reports (i.e. arrest reports, supervisory reviews) shall be investigated, documented and forwarded through the chain of Command for final review by the Chief of Police.
  1. The immediate supervisor of the involved officer(s) shall investigate and review the use of force incident. The immediate supervisor shall prepare a Use of Force Review which includes: Facts and Circumstances, an analysis of the necessary and reasonable use of force used by the officer, a recommendation as to whether the force used was reasonable or unreasonable, and any further recommendation pertinent to the incident.
  2. Supervisors completing the Use of Force Review shall use the *Graham v. Connor* Objective Reasonableness Balancing Test in their analysis. Factors to be considered by the supervisor are:
    - a. The crime being investigated;
    - b. The threat to the officer;
    - c. The resistance being demonstrated by the offender;
    - d. The exigency in which the officer had to make a “force” decision.
- Reports shall be reviewed to ensure that:
  1. All department rules, policies, procedures and training were followed;
  2. Department training in the relevant use-of-force area is contemporary and adequate.
- Any and all findings of order violations or training inadequacies shall be reported through the chain of command to the appropriate Operations or Support Deputy Chief for final closure.