

WOODLAND PARK POLICE DEPARTMENT STANDARD OPERATING PROCEDURE



SUBJECT: USE OF FORCE

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BY THE ORDER OF:
Chief of Police Anthony Galietti

PURPOSE The purpose of this standard operating procedure is to establish procedures regarding the lawful use of force and to maintain compliance with guidelines and directives promulgated by the New Jersey Attorney General, the Passaic County Prosecutor, and existing statutory and case law.

POLICY It is the policy of the Woodland Park Police Department that officers hold the highest regard for the dignity and liberty of all persons and place minimal reliance upon the use of force. This department respects and values the sanctity of human life and the application of deadly force is a measure to be employed only in the most extreme circumstances.

Law enforcement officers have been granted the extraordinary authority to use force when necessary to accomplish lawful ends. That authority is grounded in the responsibility to comply with the laws of the State of New Jersey regarding the use of force and to comply with the provisions of this SOP. In situations where officers are justified in using force, the utmost restraint should be exercised. The use of force should never be considered routine. In determining whether to use force, officers shall be guided by the principle that the degree of force employed in any situation should be only that, which is reasonably necessary. Officers should exhaust all other reasonable means before resorting to the use of force. It is the policy of the State of New Jersey and the Woodland Park Police Department that officers will use only that force that is objectively reasonable and necessary when force is necessary to accomplish lawful objectives.

This SOP reinforces the responsibility of law enforcement employees to take those steps possible to prevent or stop the illegal or inappropriate use of force by other employees. Employees are encouraged to do whatever they can to interrupt the flow of events before other agency employees do something illegal and before any official actions are necessary.

Officers whose actions are consistent with the law and the provisions of this SOP will be strongly supported by the law enforcement community in any subsequent review of their conduct regarding the use of force. Conversely, officers whose actions are contrary to law and the provisions of this SOP may be subject to disciplinary action, up to and including criminal prosecution and/or termination.

PROCEDURES

I. DEFINITIONS

A. Use of Force Options:

1. Constructive authority does not involve actual physical contact with a subject, but involves the use of officers' authority to exert control over a subject.
 - a. Examples include verbal commands, gestures, warnings, and unholstering a weapon.
 - b. Pointing a firearm at a subject is an element of constructive authority to be used only in appropriate situations.
2. Physical contact involves routine or procedural contact with a subject necessary to effectively accomplish a legitimate law enforcement objective. Examples include, guiding a subject into an agency vehicle, holding the subject's arm while transporting, handcuffing a subject and maneuvering or securing a subject for a frisk.
3. Physical force involves contact with a subject beyond that which is generally utilized to effectuate an arrest or other law enforcement objective. Physical force is employed when necessary to overcome a subject's physical resistance to the exertion of an officer's authority or to protect persons or property. Examples include, wrestling a resisting subject to the ground, using wrist locks or arm locks, striking with the hands or feet, or other similar methods of hand-to-hand confrontation.
4. Mechanical force involves the use of some device or substance, other than a firearm, to overcome a subject's resistance to the exertion of an officer's authority. Examples include the use of a baton or other impact weapon, canine physical contact with a subject, or chemical or natural agent spraying.
5. Enhanced mechanical force Is an intermediate force option between mechanical force and deadly force requiring a greater level of justification than that pertaining to physical or mechanical force, but a lower level of justification than that required for the use of deadly force. Enhanced mechanical force is applied using less-lethal ammunition and/or a conducted energy device.
6. Deadly force is force which officers use with the purpose of causing, or which an officer knows to create a substantial risk of causing, death or serious bodily harm.
 - a. Purposely firing a firearm in the direction of another person or at a vehicle, building or structure in which another person is believed to be constitutes deadly force.

- b. A threat to cause death or serious bodily harm, by the production of a weapon or otherwise, so long as the purpose is limited to creating an apprehension that deadly force will be used, if necessary, does not constitute deadly force.
- B. Chokehold is a weaponless control technique designed to interfere with the normal breathing of another by manually constricting his/her windpipe. Chokeholds are prohibited unless this SOP otherwise authorizes deadly force.
- C. Employee shall mean all employees of the Woodland Park Police Department regardless of sworn status, job title, or assignment.
- D. Imminent danger describes threatened actions or outcomes that may occur during an encounter absent action by officers. The period of time involved is dependent on the circumstances and facts evident in each situation and is not the same in all situations. The threatened harm does not have to be instantaneous. For example, imminent danger may be present even if a subject is not at that instant pointing a weapon at officers, but is carrying a weapon and running for cover.
- E. Law enforcement officer (officer) is any employee sworn to enforce the criminal laws of the State of New Jersey, who is certified by the Police Training Commission, or is currently employed by the Woodland Park Police Department and is authorized to carry a firearm under N.J.S.A. 2C: 39-6.
- F. Meaningful review is a formal documented process to determine whether policy, training, equipment or disciplinary issues need to be addressed.
- G. Reasonable belief is an objective assessment based upon an evaluation of how reasonable officers with comparable training and experience would react to, or draw inferences from, the facts and circumstances confronting and known by the officers at the scene.
- H. Resisting arrest refers to the act of a person who purposely prevents a law enforcement officer from affecting an arrest, to include such things as threatening to use physical force or violence against the law enforcement officer or use of any other means to create a substantial risk of causing physical injury to a law enforcement officer when acting under the color of his official authority (N.J.S.A. 2C: 29-2).
- 1. Active resistance refers to a person who uses or threatens to use physical force or violence against the law enforcement officer or another, or uses any other means to create a substantial risk of causing physical injury to the public servant or another.
 - 2. Passive resistance refers to a person who doesn't obey a command to submit to an arrest (e.g., a person refuses a police command to exit a vehicle and grabs on to the steering wheel to prevent being removed by physical force, refuses to get on the ground, etc.)
- I. Serious bodily injury means bodily injury, which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

- J. Substantial risk: Any discharge of a firearm entails some risk of an unintended outcome. A substantial risk exists when officers disregard a foreseeable likelihood that innocent persons will be endangered. For example, firing a weapon into a confined space (room, vehicle, etc.) occupied by innocent persons exposes those persons to a substantial risk of harm.
- K. Vascular restraint is a weaponless control technique designed to restrict a person's normal blood flow to the brain by constricting his/her carotid arteries with a chokehold or other manual pressure. Vascular restraints are prohibited unless this SOP otherwise authorizes deadly force.

II. AUTHORIZATION AND LIMITATIONS

- A. Use of physical and mechanical force (general):
 - 1. Officers may use physical force or mechanical force in the performance of their duties when they reasonably believe that the use of force is immediately necessary in the following situations:
 - a. To protect themselves or others against the use of unlawful force by another person and the officer's immediate intervention is necessary, or;
 - b. To prevent another from committing suicide or inflicting serious bodily harm upon oneself, or;
 - c. To prevent the commission or consummation of a crime or offense involving or threatening bodily harm, damage to or loss of property or a breach of the peace, or;
 - d. To prevent the escape of an arrested person from custody, or;
 - e. To effectuate the lawful arrest of any person for an offense or crime under the laws of the State of New Jersey. The use of physical force or mechanical force to make an arrest however is not justifiable unless;
 - 1) The arrest is lawful, and the officers make known the purpose of the arrest or reasonably believe that their identity and purpose are otherwise known by or cannot reasonably be made known to the person to be arrested, and;
 - 2) When the arrest is made under a warrant and the warrant is valid or reasonably believed by the officer to be valid.
 - 2. Once all resistance and/or physical force being used to resist or prevent officers from carrying out their duties have ceased, use of further force on the officer's part shall cease.
 - 3. When the officer reasonably believes that less lethal force is immediately necessary, the officer should assess the totality of the circumstances and apply the minimum force necessary to overcome resistance when an individual is using or threatening to use force unlawfully, and bring the situation under control in the safest manner possible.

- B. Due to the potential for unintended serious injury or death, the use of chokeholds and other similar neck/vascular restraint techniques are not authorized unless deadly force is authorized (see subsection II.D of this SOP).
- C. Use of mechanical force:
1. Oleoresin capsicum (OC) spray:
 - a. OC is permitted in situations where the use of force is necessary and justified to apprehend or control an individual, and the use of the OC will facilitate the arrest with the minimum chance of injury to the officer, the arrestee, or innocent bystander.
 - b. OC must not be handled by children or unauthorized individuals.
 - c. OC has been found to be generally ineffective in controlling persons who are under the influence of alcohol and/or narcotics, persons highly agitated or motivated and those who are mentally unbalanced. The effects of OC vary with different types of individuals. Therefore, officers must be continually alert to the possibility that other means may be necessary to subdue a resistive or noncompliant subject or attacker.
 - d. OC has been found to be useful against aggressive animal attack and may also work well against attacking dogs. Caution must be used when repelling dogs trained to attack and/or those who are extremely motivated. OC exposure to animals may not be effective and may cause the animal to be even more aggressive.
 - e. OC should be sprayed directly into the target's face with the spray being directed to the eyes, nose, and mouth from as close as safely possible. OC should always be used in the upright position with short one-half to one-second bursts.
 - f. Once resistance ceases, the further application of OC shall cease.
 - g. Noncompliance with an officer's verbal commands may be considered justification for deployment where force is otherwise authorized.
 - h. OC shall not be used in the immediate vicinity of infants or the elderly unless absolutely necessary.
 - i. All persons who have been exposed to OC will at the earliest practicable time, be allowed to flush the affected area with cold/cool water,
 - j. OC shall not be used on the operator of a motor vehicle unless the motor vehicle is first disabled (e.g. removal of keys from the ignition).

D. Use of Deadly Force

1. An officer may use deadly force when he/she reasonably believes such action is immediately necessary to protect him/herself or another person from imminent danger of death or serious bodily harm.
2. Officers may use deadly force to prevent the escape of a fleeing suspect:
 - a. Whom officers have probable cause to believe has committed an offense that the suspect caused or attempted to cause death or serious bodily harm; and
 - b. Who will pose an imminent danger of death or serious bodily harm should the escape succeed; and
 - c. When the use of deadly force presents no substantial risk of injury to innocent persons.
3. If feasible, officers should identify themselves and state their intention to shoot before using a firearm.

E. Restrictions on the use of deadly force:

1. Officers shall not use deadly force to subdue persons whose actions are only destructive to property.
2. Deadly force shall not be used against persons whose conduct is injurious only to them.
3. Officers are under no obligation to retreat or desist when resistance is encountered or threatened. However, officers shall not resort to the use of deadly force if they reasonably believe 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 law enforcement purpose at no increased risk to themselves or another person.
4. Officers shall not discharge a weapon as a signal for help or as a warning.
5. While any discharge of a firearm entails some risk, discharging a firearm at or from a moving vehicle entails an even greater risk of death or serious injury to innocent persons. The safety of innocent people is jeopardized when a fleeing suspect is disabled and loses control of their vehicle. There is also a substantial risk of harm to occupants of the suspect vehicle who may not be involved, or involved to a lesser extent, in the actions that necessitated the use of deadly force. Due to this greater risk, and considering that firearms are not generally effective in bringing moving vehicles to a rapid halt, officers shall not fire from a moving vehicle or at the driver or occupant of a moving vehicle unless they reasonably believe:
 - a. There exists an imminent danger of death or serious bodily harm to themselves or another person; and
 - b. No other means are available at that time to avert or eliminate the danger.

6. Officers shall not fire a weapon solely to disable moving vehicles.
7. Officers shall normally not fire a weapon into buildings, doors, windows, or other openings when the person being fired upon is not clearly visible unless extraordinary circumstances necessitate officers to engage the subject in order to protect the lives of injured persons requiring immediate rescue and evacuation from an area in which a subject's continued actions pose an imminent threat of death or serious bodily harm.
8. Destroying an animal is justified only in the following circumstances:
 - a. Officers may use a firearm to destroy an animal where the animal poses a imminent threat of significant bodily harm to human life; or
 - b. Officers may use a firearm to destroy an animal that is so badly injured that humanity requires its relief from further suffering and animal control has been notified and either cannot or is unable to respond. If the injured animal is domesticated, personnel make every reasonable effort to notify an owner. The firearm discharge shall create no substantial risk to personnel or third parties and must be approved by the shift commander or other supervisor.
 - 1) Officers shall be mindful that some animals have insufficient body mass to prevent a bullet from passing completely through their bodies. Therefore, officers must be cognizant of surrounding conditions, such as the composition of the material behind or below the animal, and nearby persons or structures that could be affected by a ricochet or deflection.
 - 2) When there is suspicion that the animal may be rabid, the point of aim should be the front shoulder area and not the head.
 - 3) Officers shall not touch an animal without first protecting themselves from blood borne pathogens.
 - 4) Officers shall protect any area contaminated with animal body fluids for cleansing by animal control personnel.

III. EXHIBITING A FIREARM

- A. Officers shall not unholster or exhibit a firearm except under any of the following circumstances:
 1. For maintenance of the firearm;
 2. To secure the firearm;
 3. During training exercises, practice or qualification with the firearm;
 4. When circumstances create a reasonable belief that it may be necessary for the officer to use the firearm;

5. When circumstances create a reasonable belief that the display of a firearm as an element of constructive authority helps establish or maintain control in a potentially dangerous situation in an effort to discourage resistance and ensure officer safety;
6. To destroy or condition an animal;
7. When so ordered by a supervisor or other lawful authority.

IV. AFTER ACTION REQUIREMENTS

- A. Following the use of force, officers shall immediately evaluate the need for medical attention or treatment for the person upon whom the force was used and provide first aid to the extent of their training except where the application of first aid will expose the officer to immediate danger.
 1. In any instance where deadly force is used, officers shall summon EMS and paramedics as soon as possible. While EMS and paramedics will not be permitted to enter an area that is not tactically secure, they should still be summoned to a secure area near the scene to expedite treatment for the person(s) once the scene is secure.
 2. Be alert for signs of potential excited delirium:
 - a. Officers should check the subject's pulse and respiration on a continuous basis until transferred to EMS personnel. Officers shall ensure the airway is unrestricted and be prepared to administer CPR or an automated external defibrillator (AED) if the subject becomes unconscious.
 - b. Whenever possible, an officer should accompany the subject to the hospital for security purposes and to provide assistance as necessary.
 3. Following the use of OC, officers shall sit the subject upright and decontaminate the subject as soon as practicable. Personnel shall monitor subjects who had been exposed to OC staying alert to any obvious changes in condition or breathing and shall immediately summon medical assistance if the subject appears to be in need of medical aid.
 4. Decontamination procedures for exposure to OC consist of:
 - a. Once subjects have been secured, have ceased resisting, and are no longer a threat to officers, themselves, or others, every reasonable effort will be made to relieve discomfort.
 - b. Expose the subject(s) to fresh air as soon as possible and have them remain calm.
 - c. Have the subject flush the affected areas with large amounts of fresh water.
 - d. Have subject remove contact lenses and contaminated outer clothing; have the subject wash these items prior to reuse.

- e. Do not apply salves, creams, oils, lotion, grease, or bandages to the exposed area. These remedies can trap the OC against the skin or mucus membranes and cause irritation.
 - f. Summon medical assistance if the subject has medical problems and/or continues to have difficulty after the decontamination procedures.
 - g. Officers shall be on constant alert for medical problem(s) or difficulty that the exposed subject may experience. Officers shall also monitor for positional asphyxiation.
 - h. If the affected area(s) remain inflamed or discomfort continues beyond 45 minutes, arrangements may be made for medical treatment if necessary.
- B. Any person requesting and/or deemed in need of medical attention shall be transported to the nearest available emergency medical treatment center or hospital. Personnel shall contact EMS to request such transportation assistance.
- 1. Personnel should not ordinarily transport the subject in a Woodland Park Police Department vehicle.
 - 2. The extent of the injury and the treatment offered/provided shall be documented in the body of the investigation report.
- C. Under no circumstances shall agency employees sign or endorse the medical authorization for any person under arrest or in custody indicating that the Borough of Woodland Park is the responsible billing party.
- D. Unless unavailable, the shift commander should respond to the scene of any use of force incident where, as the result of the application of force, officers, bystander, or the detainee/prisoner are injured, complain of injury or discomfort and require medical attention. Minimally, the shift commander shall be notified. The shift commander shall:
- 1. Ensure that affected persons receive the necessary assistance, including medical attention;
 - 2. Remove the officer as soon as possible from the scene of the incident where serious injury or death resulted during any confrontation.
 - 3. When necessary, notify the appropriate support staff, e.g. Chief of Police, command staff, Passaic County Prosecutor's Office, and/or internal affairs officer, who should respond to the scene and cause the appropriate level of investigative and support services. When an injury or complaint of pain exists, officers should obtain photographic documentation to the extent possible.
- E. Any employee whose action(s) or use of force in an official capacity results in death or serious bodily injury to any person shall be removed from line-duty assignment pending a meaningful review.

1. The meaningful review shall normally be conducted by the patrol commander and shall determine whether policy, training, equipment or disciplinary issues should be addressed.
2. Any meaningful review resulting from the application of deadly force must occur regardless of the outcome of the prosecutor or attorney general's investigation.
3. The Chief of Police may assign the meaningful review to another supervisor at his/her discretion.
4. Employees should be afforded the appropriate level of critical incident stress debriefing or counseling in comportment with agency policy.
5. The employee may be assigned to administrative duties or placed on administrative leave as soon as practicable following the incident pending a complete investigation and review of the incident.
 - a. This reassignment is not considered a disciplinary action.
 - b. If a weapon is taken, another weapon should be issued to the officer unless circumstances dictate otherwise.
 - c. If any weapon(s) had been taken, the weapon(s) will be reissued once the Passaic County Prosecutor's Office or the Attorney General adjudicates the case. Reissuing of duty weapons should be completed as soon as practicable after the incident has been cleared.
6. The Chief of Police or designee may cause the employee to undergo a psychiatric/psychological evaluation and/or counseling by a mental health professional.

V. NOTIFICATION AND INVESTIGATION REQUIREMENTS

- A. The Chief of Police, patrol commander, internal affairs officer, and the Passaic County Prosecutor's Office shall be immediately notified when the use of any force results in death or serious bodily injury, or when an injury of any degree results from the use of a firearm by agency personnel.
- B. The Prosecutor's Office will conduct the investigation into the use of force in accordance with the *New Jersey Attorney General's Supplemental Directive Amending Attorney General's Directive 2006-5* whenever an incident occurs that involves a member of this department that has employed force that results in serious bodily injury or death. The Prosecutor's Office is also responsible for the necessary notifications to the Division of Criminal Justice. DCJ may supersede the investigation where there may be a conflict or if the matter is better handled at the state level.
 1. The internal affairs officer or his/her designee shall take charge of the scene as soon as practicable.

2. Unless otherwise directed by the Passaic County Prosecutor's Office, the Passaic County Prosecutor's Office is responsible for all phases of the investigation including photography, evidence gathering and statements.
3. The internal affairs officer shall only investigate any administrative matters surrounding the incident. If an employee's actions are of a criminal nature, the administrative internal investigation must cease.
4. Copies of any reports associated with such application of force shall not be distributed to anyone unless authorized by the Chief of Police or the Passaic County Prosecutor's Office.

VI. ARRESTS REQUIRING THE USE OF FORCE

- A. Except when dealing with an emotionally disturbed person, whenever a person being arrested resists the officer's action and force is used, one of the following charges (whichever is applicable) should be made against the subject. This charge is in addition to the charges that precipitated the arrest.
 1. N.J.S.A. 2C: 29-2a(1) – a person is guilty of a disorderly persons offense if he purposely prevents a law enforcement officer from affecting a lawful arrest; or
 2. N.J.S.A. 2C: 29-2a (2) – a person is guilty of a crime of the fourth degree, if by flight, he purposely prevents or attempts to prevent a law enforcement officer from effectuating an arrest.
 3. N.J.S.A. 2C: 29-2a (3) – a person is guilty of a third degree crime if he used, or threatened to use, physical force or violence against the law enforcement officer or another; or, (2) subject used any other means to create a substantial risk of causing physical injury to the public servant or another.

VII. REPORTING REQUIREMENTS

- A. In all instances when physical, mechanical, enhanced mechanical, or deadly force is used, whether on or off duty, each employees who had employed such force shall complete and submit
 1. *A Use of Force Report*;
 2. The *Investigation Report* made necessary by the nature of the underlying incident; except:
 - a. In accordance with *New Jersey Attorney General's Supplemental Directive Amending Attorney General's Directive 2006-5*, supervisors shall not require officers deploying force, which results in death or serious bodily injury, being investigated by the Passaic County Prosecutor's Office or Division of Criminal Justice to submit investigation reports. Only the Passaic County Prosecutor's Office or Division of Criminal Justice can order such reports.
 - b. Officers are still required to submit *Use of Force* reports.

- c. Such officers' statements to the Passaic County Prosecutor's Office or Division of Criminal Justice may suffice as their report of the incident.
 - d. Officers not directly involved in the application of such force, but who may have indirect involvement (e.g., secondary responders, assisting responders, witnesses, etc.) may be required to submit investigation/supplemental reports upon approval of the lead investigating agency (i.e., Passaic County Prosecutor's Office or Division of Criminal Justice).
- B. In all instances where constructive authority results in the pointing of a firearm at another person, the facts and circumstances shall be reported in an investigation report.
- C. Regardless of whether the officer is on duty or off duty, an investigation report is also required:
 1. In all instances whenever an employee discharges a firearm for other than training or recreational purposes and in all cases when a firearm is unintentionally discharged for any reason.
 - a. The employee shall first make a verbal report to the shift commander.
 - b. In the event of an accidental/unintentional discharge, the shift commander shall also notify the internal affairs officer, who may initiate an investigation.
 - c. On duty personnel shall submit the investigation report prior to the conclusion of the shift on which the incident occurred.
 - d. Off duty personnel shall submit this report as soon as circumstances permit, but in no event shall the time exceed more than 16 hours after the incident occurred.
 2. In all instances where an employee takes an official action that results in, or is alleged to have resulted in death or injury to another person.
- D. The shift commander shall review these reports for accuracy and completeness and shall promptly address any issues as they may pertain to policy changes, training, weapons or equipment, or discipline.
 1. Recommendations to modify policy, apply remedial training beyond what can be performed by the supervisor, change weapons, equipment, or tactics, or apply discipline shall be thoroughly documented and forwarded through the chain of command to the Chief of Police.
 2. If a supervisor uses force, the next higher level in the chain of command shall conduct the meaningful review.
 3. If the Chief of Police uses force, the internal affairs officer shall conduct the initial review or may contact the Passaic County Prosecutor's Office for guidance.

- E. The applicable tour commander shall also review these incidents to determine whether:
 - 1. The relevant SOP was clearly understandable and effective to cover the situation;
 - 2. Department equipment is adequate;
 - 3. Department training is currently adequate;
 - 4. Departmental rules, policy or procedures were followed.
- F. Use of force reports are subject to discovery and access through OPRA. In indictable cases, these reports should be forwarded to CJP with the complaints, police reports, and other case documents. In non-indictable cases, the use of force reports should be made a part of the case file and included in the discovery package provided in municipal court.
- G. All use of force reports shall be retained as required by the New Jersey Division of Revenue and Enterprise Services, Bureau of Records Management (BRM) records retention schedules.
- H. The detective commander or his/her designee is responsible for completing the annual use of force summary reports in a manner prescribed by the Passaic County Prosecutor.

VIII. TRAINING

- A. All officers authorized to carry agency lethal and mechanical force weapons shall be issued copies of, and be instructed in, this SOP prior to being authorized to carry a weapon. The issuance and instruction shall be documented. This issuance and documentation can be accomplished electronically.
- B. Use of force training shall be conducted concurrent with the semiannual firearms training and qualification sessions. This training must reflect current standards established by statutory and case law, as well as state and county policies, directives, and guidelines.
 - 1. The training program will include the use of force in general, the use of physical, force, mechanical force, the use of deadly force, decision making skills, the limitations that govern the use of physical force, mechanical and deadly force; and all applicable aspects of agency SOPs.
 - 2. All use of force training shall be documented. This training and documentation can be accomplished electronically.