



Wilmington Police Department

Directive: .05.01 Use of Force



CALEA Standards: 1.2.2, 4.1.1, 4.1.2, 4.1.3, 4.1.4, 4.1.5, 4.1.6, 4.1.7, 4.2.1, 4.3.1, 4.3.2, 4.3.3, 4.3.4, 41.2.2, 41.2.3

NCLEA Standards: 2.01, 2.02, 2.03, 5.01, 5.02, 5.03, 5.04, 5.06, 5.07, 5.09, 6.08



I. Purpose

The purpose of this directive is to describe the confines, regulations, and justification for officers to use force. NCGS 15A-401 specifically describes the legal justifications, and nothing set forth here is intended to supersede state law.

Officers of the Wilmington Police Department will use the minimum amount of force that is reasonably necessary to achieve the desired legal objective and apply de-escalation techniques when possible. Officers must value human life and respect the dignity of each individual.

II. Definitions

- A. Reasonable Belief - defined in law as equal to probable cause. A set of facts and circumstances that would lead a reasonable and prudent person to believe that something is more probable than not.
- B. Serious Bodily Injury - bodily injury that creates a substantial risk of death, or that causes serious, permanent, or protracted condition that causes extreme pain, or the impairment of the function of any bodily member or organ, or that results in prolonged hospitalization.
- C. Imminent - about to happen; impending; hovering threateningly

III. Procedures

A. USE OF FORCE

In accordance with North Carolina General Statute 15A-401 (d), a Wilmington police officer is justified in using force against another person when and to the extent that they reasonably believe it necessary:

1. To prevent the escape from custody or to effect the arrest of a person who they reasonably believe has committed a criminal offense, unless they know the arrest is unauthorized; or
2. To defend themselves or a third person from what they reasonably believe to be the use or imminent use of physical force while effecting

or attempting to effect an arrest or while preventing or attempting to prevent an escape.

3. Annually, as part of the classroom portion of firearms and less-lethal weapons training, WPD officers will be trained in the legal use of force. This training will consist of a statutory review, an in-depth review of all applicable WPD policies, a question and answer session and video review and discussion of a use of force scenario.
4. Officers of the Wilmington Police Department shall only use force implements which they have been trained on, demonstrated proficiency with, and are certified to use.
5. Prior to the issuance and authorization to carry any lethal or less lethal weapon, agency personnel shall:
 - a) Receive instruction on all departmental use of force policies.
 - b) Receive training on the proper use, care, and maintenance of each weapon.
 - c) Demonstrate the legal use and proficiency with the weapon.

Policy receipt and curriculum delivery shall be documented by the Training Division.

6. All agency personnel authorized to use any of the following less-lethal/intermediate weapons, shall be trained annually and demonstrate the legal use and proficiency with the weapon:
 - a) TEW
 - b) Less lethal munitions
 - c) Pepper spray or any other chemical agent
 - d) Impact weapons (baton/PR24/riot baton)

Training shall be conducted by instructors trained and/or certified to teach the specific devices used by the agency.

7. All certified law enforcement officers are required to attend firearms in-service training and qualify at least once each calendar year with the firearm(s) they are issued. The qualification will be conducted by an officer who holds a "Specialized Instructor Certification – Firearms" issued by the NC Department of Justice Criminal Justice Education and Training Standards Commission.
8. When any level of force has been used upon a person, **Officers shall immediately render appropriate medical aid once the situation is under control.** Appropriate medical aid may be basic first aid by the officer, summoning paramedics, or transportation to an emergency

medical facility. The level of aid required will be determined by the nature of the injury.

Officers will seek immediate medical aid (EMT or Physician) for prisoners who meet any of the following criteria:

- a) Any obvious injury related to Airway/Breathing/Circulation problems that cannot be rectified using basic first aid skills (severe lacerations/gunshot wounds/respiratory arrest/cardiac arrest).
 - b) Apparent or suspected fractured bones.
 - c) Gagging or breathing difficulties persisting beyond 2-4 minutes.
 - d) Loses consciousness, sweats profusely without reason, appears very sick.
 - e) Suffers from the effects of Spray/Taser/Baton more than 45 minutes after use.
 - f) Complaint of abnormal chest pains
 - g) Any obvious injury or complaint of injury
9. Prisoners who are known to meet any of the following criteria must be closely monitored for at least 45 minutes or until turned over to jail personnel. "Closely monitored" means the prisoner should not be left alone for any significant period of time, and the physical and mental condition of the prisoner should be observed:
- a) Old or frail persons, diabetics, asthmatics; or
 - b) Have known history of heart or lung problems, seizure disorders; or
 - c) Are substantially impaired by drugs or alcohol; or
 - d) Are breathing very rapidly, sweating heavily, or exhibiting pale skin; or
 - e) Engaging in deranged or irrational conduct or speech; or are very obese; or
 - f) Complaint of dizziness or being lightheaded.
10. All applications of force on a person shall be reported and reviewed as described in section III, C, 1 of this policy.

B. USE OF DEADLY FORCE

NCGS 15A-401(d)(2) authorizes Wilmington Police Officers to use **deadly force** upon another person only when it appears to be reasonably necessary thereby:

1. To defend themselves or a third person from what they believe to be the use or imminent use of deadly physical force;
2. To effect the arrest or to prevent the escape from custody of a person who they reasonably believes is attempting to escape by means of a deadly weapon, or who by their conduct or any other means indicates that they present an imminent threat of death or serious physical injury to others unless apprehended without delay.

3. Prior to using deadly force, officers must give a verbal warning, if feasible. The firing of "warning shots" is strictly prohibited.
4. The use of forcible stopping techniques and intentional vehicle contact shall be considered the application of deadly force and will require prior authorization from a Watch Commander or higher authority.
5. The use of any chokehold (a physical maneuver that restricts an individual's ability to breathe for the purposes of incapacitation) or vascular neck restriction (restricting the intake of oxygen for the purpose of gaining control of a subject) technique is prohibited, except in those situations where the use of deadly force is allowed by law. Neither technique shall be utilized for the purpose of preventing the destruction of evidence.
6. Officers shall report any intentional or unintentional discharge of a firearm, not inclusive of training scenarios or approved humane life-termination of injured animals.

C. DOCUMENTING USE OF FORCE

1. Use of Force Form (WPD-151)

This form will only be used to report the force used against a person(s). All applications of force used against an individual will be reviewed and investigated by Internal Affairs. Other uses of force (i.e. forced entry into a vehicle, forced entry into a residence/business, etc.) shall be documented in an Incident Report, After Action Report, or other similarly required departmental report and reviewed by the officer's supervisor.

- a) Officers will report ALL usages of Soft/Open Hand, Hard/Closed Hand, and "Other".
- b) Officers will report ALL usages of Chemical Agents.
- c) Officers will report ALL usages of Impact Weapons, Launchable Specialty Impact Munitions.
- d) Officers will report ALL usages of TEW's.
- e) Officers will report ALL "direct pointing" at persons of Firearms.
- f) Officers will report ALL usages of Deadly / Lethal Force.
- g) K9 Officers will report ALL K9 Physical Apprehensions, whether or not physical injury results from the Physical Apprehension.
- h) **"Display Only"** DOES NOT require completion of a WPD-151 report.
"Display Only" includes holding a firearm or TEW in a ready position but not actively pointing it at an individual, holding or pointing a weapon that is not a firearm or TEW at an individual, and using a K9, or the threat of a K9, to obtain compliance without releasing the K9 to bite.

2. Humane life-termination of injured animals shall be documented in an incident report as "Injured Animal Life Termination" and shall be reviewed by the officer's supervisor.
3. Intentional or unintentional discharges of any service weapon, on or off-duty, inside or outside of the Wilmington City Limits, that are not uses of force against a person(s), training, or the humane life-termination of injured animals shall be reported to the officer's direct supervisor. A Supervisory Investigation shall be conducted in accordance with WPD Written Directive .03.01 – Discipline, Internal Investigations & Employee Rights, in addition to any other investigation that may occur (depending upon the jurisdiction where the discharge occurs). The service weapon that was discharged shall be inspected by the WPD Lead Armorer for malfunctions prior to any further usage by the officer or the agency.
4. Photographing
 - a) Photos will be taken to document the Use of Force reported on WPD-151 to demonstrate the **affected contact point(s)** on all parties (Officer, Suspect, etc.).
 - b) Photographs MAY be taken of injuries to juveniles, but such photos may ONLY be used for documentation of Use of Force and may NOT be used in any way as part of a criminal prosecution against the juvenile or as part of a mental commitment or other administrative proceeding involving the juvenile. All photos of a juvenile that are taken to document use of force on a juvenile must remain confidential and be kept with the use of force documentation and then destroyed when the rest of the use of force documentation is destroyed by the agency.
5. Supervisor Responsibilities
 - a) The reporting officers' supervisor will review incident & WPD-151 forms to ensure reporting accuracy and proper procedure. An INK signature, approving the report, is required before immediately forwarding the report to Internal Affairs for review.
 - b) Any notable concerns identified during the supervisor review of use of force incidents will be communicated to Internal Affairs.

D. RESPONSE TO RESISTANCE OR AGGRESSION

Depending upon the situation, the officer is trained to use the least amount of force necessary to overcome resistance and accomplish legal objectives. If the situation should worsen or improve, the officer will re-evaluate the situation and select a more appropriate force option based on the officer's knowledge, skills and ability to justify the force. This list **is not** a continuum, as force options are based entirely upon perceived threats. Levels can be skipped when the circumstances dictate. The following list represents force options that are available to aid the officer's response/decision making process to resistance or aggression:

1. PROFESSIONAL PRESENCE/APPEARANCE: This reflects the officer's demeanor, attitude, and the legal right to be there.
2. VOICE/TACTICAL COMMUNICATION SKILLS: This requires a show of authority by communication with verbal and non-verbal dialogue. The subject must be informed of what is required and given a chance to comply. Non-verbal dialogue includes assuming an empty hand defensive position as well as the **display of a defensive weapon**.
3. SOFT CONTROL (OPEN HAND) TECHNIQUES: When the subject fails to respond to verbal direction, or resists in a defensive manner, the officer seeks compliance using physical means. This could include empty hand control, pressure compliance holds, blocking, arm bars, restraining, controlling, or escorting holds.
4. CHEMICAL AGENT: This option directs the use of more aggressive techniques as well as using defensive weapons against the subject's resistance. The subject has become an aggressor, attacks the officer, or there is fear for the safety of the officer and others. The preceding options have been exhausted or would be ineffective.
5. HARD CONTROL (closed hand and kick tactics) TECHNIQUES: When the above listed techniques are/would be ineffective, or the subject becomes more aggressive, the officer seeks compliance by additional physical means. This could include strikes, kicks, stuns, or takedowns.
6. TASER ENERGY WEAPON (TEW): This is a non-lethal option used to control dangerous or violent subjects when deadly force does not appear to be justified and where a subject presents an imminent physical threat to an officer, themselves, or another person.
7. IMPACT WEAPONS: This option directs the officer to use more aggressive techniques as well as other defensive weapons against the subject's resistance. The officer may respond with non-lethal or lethal force, depending on the situation. In an urgent situation it is possible for many things to be used as an impact weapon.

The Collapsible Baton and the PR-24 are preferred since their designs and training renders them defensive weapons, much less likely to be used for head strikes, more versatile and less likely to be seized by an opponent. In exigent circumstances any hard object may become an impact weapon. As with the Collapsible Baton and the PR-24, any object used to exert physical force upon a person must be justified. Riot batons are not authorized for normal day-to-day use in the field and should only be utilized, when authorized, for crowd control or civil unrest situations.

8. LAUNCHABLE SPECIALTY IMPACT MUNITIONS: This option is only available to SWAT and MFFD and officers must receive approval from the Incident Commander prior to deployment.

9. LETHAL FORCE: The final option or situation requires the use of additional tactics, tools, or weapons against armed subjects who possess guns, knives, or other instruments/deadly weapons; or any subject capable of inflicting serious bodily injury or death.

E. DEADLY FORCE AGAINST THE OPERATOR OF A MOVING VEHICLE

1. Shooting at or from a moving vehicle for the sole purpose of stopping or disabling a vehicle is prohibited by the Wilmington Police Department. Shooting at a moving vehicle is rarely effective at stopping a moving vehicle and can create other hazards to the public.
2. Wilmington Police Officers should not fire shots at the operator of a moving vehicle unless it reasonably appears that failing to do so would result in death or serious bodily injury to officers or the public. Officers are expected to move out of the path of any approaching vehicle.
3. This Policy is not intended to restrict an officer's right to use deadly force directed at the operator of a vehicle when it is reasonably perceived that the vehicle is being used as a weapon against the officers or others. Officers must not deliberately place themselves in the path of moving vehicles. It is the officers' first responsibility to move from the path of the moving vehicle and/or seek cover. In most instances, this option will provide the safest alternative for the officer.
4. Officers should use their training and safe positioning to minimize the danger presented by the occupied vehicle.
5. Nothing in this subdivision constitutes justification for willful, malicious or criminally negligent conduct by any person which injures or endangers any person or property, nor shall it be construed to excuse or justify the use of unreasonable or excessive force

F. APPROVAL OF WEAPONS

The Chief of Police will approve all lethal and less lethal weapons to include type, manufacturer, model and brand prior to any weapon purchase for use by the employees of the police department.