




**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.

<b>Number</b> 2-4		<b>Effective Date</b> June 9, 2022	<b>Review Date</b> June 6, 2022	<b>Reviewing Division</b> Administration
<b>Subject</b> <b>USE OF FORCE</b>		<input type="checkbox"/> New Policy <input type="checkbox"/> Replaces: <input checked="" 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
<b>References</b>  VLEPSC: ADM.05.01-.04, ADM.06.01  CALEA				
 <hr/> Chief of Police or Designee		<hr/> March 23, 2023 Date		

**I. PURPOSE**

The purpose of this policy is to establish guidelines governing the use of force, its limitations, and to describe prohibited activities.

**II. POLICY**

It is the policy of this Department that officers hold the highest regard for the sanctity of human life, dignity, and liberty of all persons. The degree of force used depends on what the officer perceives as reasonable and necessary under the circumstances at the time the officer decides to use force. Facts or circumstances unknown to the officer shall not be considered in later determining whether the force was justified. The Department expects officers to employ the minimum force reasonably necessary to accomplish a legal purpose. Officers must understand how to recognize increasing or decreasing levels of threat and respond appropriately. In all situations, officers are expected to act within their training and must be able to clearly articulate the reasons for using force. Officers shall avoid unnecessary or excessive applications of force and shall not unreasonably or unnecessarily endanger themselves or the public when applying force.

**III. DEFINITIONS**

A. Canine Handler

An officer who is trained and certified in an approved basic canine school and is assigned to work with a specific patrol canine.

B. 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 body member or organ.

C. De-escalation

Reducing the need for force by use of effective communication, tact, empathy, and instinct while exercising sound officer safety.

D. Electronic Control Weapon (ECW)

Electronic Control Weapon: A device which disrupts the sensory and motor nervous system of an individual by deploying battery-powered electrical energy sufficient to cause sensory and neuromuscular incapacitation.

E. Excessive Force

Force is excessive when its application is inappropriate to the circumstances and determined to be objectively unreasonable.

F. Firearms

Any handgun, shotgun, or rifle from which a projectile is forcibly ejected by an explosion of combustible material. For the purpose of this policy definition, an impact system does not constitute a firearm.

G. 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.

H. Kinetic Energy Impact System

Any device designated to fire, launch, or otherwise propel a less lethal impact projectile for the purpose of encouraging compliance, overcoming resistance, or preventing serious injury without posing a significant potential of causing death

I. Less Lethal Force

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

J. Pepper Ball System

A high-pressure air launcher that delivers projectiles from a distance. Typically, the projectile contains powder which is similar to Oleoresin Capsicum.

K. Reasonable Belief

When facts or circumstances the officer knows, or should know, are such as to cause an ordinary and prudent officer to act or think reasonably in a similar way under similar circumstances.

L. 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 or limb.

#### IV. PROCEDURES

A. De-Escalation

When possible, officers should seek to utilize de-escalation techniques to prevent use of force. Officers should attempt to gain voluntary compliance and reduce the level of force through verbal communication efforts.

B. Duty to Intervene

Any officer present and observing another officer, no matter what agency, using force that is clearly beyond that which is reasonably necessary shall, when in position to do so, safely intercede to end and prevent the further use of such excessive force. In addition, officers shall immediately render aid if there are injuries and notify an on-duty supervisor.

C. Resistance and Levels of Control

1. Types of Resistance:

- a. **Passive Resistance:** When an individual poses no immediate threat to an officer but is not complying with lawful orders and is taking minimal physical action to prevent an officer from taking lawful action.
- b. **Active Resistance:** When an individual's verbal and/or physical actions are intended to prevent an officer from taking lawful action, but are not intended to harm the officer.
- c. **Aggressive Resistance:** When an individual displays the intent to cause injury, serious injury or death to others, an officer, or themselves and prevents the officer from taking lawful action.

2. Levels of Control in Response to Resistance:

To determine which force options are appropriate for the situation to safely bring a person under control, officers will understand the level of resistance presented by the individual and assess each incident based on policy, training and experience.

D. Objective Reasonableness

In determining whether force is objectively reasonable, as decided in *Graham v. Connor*, an officer will consider the totality of circumstances to include:

1. Whether the individual poses an immediate threat to him/herself, the officer, or others;
2. The severity of the crime;
3. Whether the individual is actively or aggressively resisting or attempting to evade arrest;
4. The involvement of weapons;
5. The surroundings to include: presence of other individuals or officers and environment;
6. Training, age, size, and strength of the officer, other officers, or individual.

E. Less Lethal Force

1. Only the level of less lethal force that is objectively reasonable shall be used to gain control and compliance of an individual.
2. Less lethal force may also be used against an animal that is attacking or threatening to attack a human or another animal.
3. The following are approved less lethal force options:
  - a. Defensive tactics such as strikes, kicks and takedowns;
  - b. Oleoresin Capsicum
  - c. Baton
  - d. Electronic Control Weapon
  - e. Patrol Canine
  - f. Pepper Ball System

g. Kinetic Energy Impact System

F. 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.

G. Training and Qualification

1. Training on this policy and all sub-policies found within General Order 2-4 shall be completed at a minimum annually, unless otherwise specified.
2. No officer shall carry or use any weapon unless they have received training and demonstrated proficiency in the use of such weapon or device as required by the Department of Criminal Justice Services (DCJS).
3. Officers who fail to pass the required firearms qualifications shall be relieved of their police powers and immediately reassigned to non-enforcement duties.
4. Officers who have taken extensive leave or suffered an illness or injury that could affect the use of less lethal or deadly weapons will re-qualify before returning to enforcement duties.