

USE OF FORCE

2/120.00

I. PURPOSE

The purpose of this policy is to provide Franklin Police Department officers with guidelines in determining the proper use of force, as required by §66.0511(2) of the Wisconsin State Statutes. This will be based upon the standards provided by the State of Wisconsin Department of Justice Law Enforcement Training and Standards Bureau and provided to each officer through training.

II. POLICY

The Franklin Police Department recognizes and respects the value of human life. Officers have the privilege to use force when it becomes necessary in the performance of their official duties. It is the policy of the Franklin Police Department that officers will use only that amount of force that is reasonably necessary to effectively bring an incident under control, while protecting their lives and the lives of others. The decision to use force and the amount of force to be used will be based on the totality of the circumstances of the incident.

The preferred method to attempt and maintain control is through the use of presence and dialogue. In instances where physical level(s) of force is used to control a subject, that level of force will be dictated by the subject's actions, the facts of that incident, and the responding officer's assessment of the scene. It is not the intent of this policy to direct officers that they must attempt each of the modes of the Intervention Options before escalating/de-escalating the level of force. Proper assessment of each situation will dictate which option an officer will use. Nothing in this policy should be interpreted to mean that an officer is required to engage in prolonged hand-to-hand confrontation before resorting to a level of force that will more quickly, reasonably and safely bring a resistive person under physical control.

Wisconsin State Statutes §939.45; Privilege and §939.48; Self-defense and defense of others, establish standards for police use of force. The department trains officers to use force consistent with these standards.

III. DEFINITIONS

- A. Choke Hold- The intentional and prolonged application of force to the throat, windpipe, or carotid arteries that prevents or hinders breathing or blood flow, reduces the intake of air, or reduces blood flow to the head.
- B. De-escalation / De-escalate- The reduction of an application of force. De-escalation is a concept that involves an officer's use of time, distance and relative positioning in combination with Professional Communication Skills to attempt to stabilize a situation and reduce the immediacy of threat posed by an individual. De-escalation may not be a viable option in every situation as there are many factors that influence its applicability. An officer must have the position of advantage to apply the concept of de-escalation.
- C. Great Bodily Harm – As defined in §939.22(14) of the Wisconsin State Statutes: Bodily injury which creates a substantial risk of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily injury.
- D. Use-of Force Incident- Use-of-force incident means any of the following:
 - 1. Any incident involving the discharge of a firearm by a law enforcement officer at or in the direction of a civilian.
 - 2. Any incident involving the discharge of a firearm by a civilian at or in the direction of a law enforcement officer.
 - 3. Any incident in which an action taken by a law enforcement officer as a response to an act of resistance results in great bodily harm or death.
 - 4. Any incident in which an act of resistance taken by a civilian against a law enforcement officer results in great bodily harm or death.

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IV. PROCEDURES

- A. In determining the amount of force that is reasonably necessary to make an arrest, the officer, based upon their training and experience, must consider the guidelines set by the State of Wisconsin Department of Justice Training and Standards Board in the Disturbance Resolution Model.
- B. In serving the community, law enforcement officers shall make every effort to preserve and protect human life and the safety of all persons. Law enforcement officers shall also respect and uphold the dignity of all persons at all times in a nondiscriminatory manner.
- C. When using force, a law enforcement officer is required to act in good faith to achieve a legitimate law enforcement objective. A law enforcement officer is authorized to use force that is objectively reasonable based on the totality of the circumstances, including:
 1. The severity of the alleged crime at issue.
 2. Whether the suspect poses an imminent threat to the safety of law enforcement officers or others.
 3. Whether the suspect is actively resisting or attempting to evade arrest by flight.
- D. A law enforcement officer may use deadly force only as a last resort when the law enforcement officer reasonably believes that all other options have been exhausted or would be ineffective. A law enforcement officer may use deadly force only to stop behavior that has caused or imminently threatens to cause death or great bodily harm to the law enforcement officer or another person. If both practicable and feasible, a law enforcement officer shall give a verbal warning before using deadly force.
- E. Where deadly force is not authorized, officers may use only that level of force that is objectively reasonable to bring an incident or subject(s) under control. Once the incident or subject(s) have been controlled, officers will de-escalate their level of force to only what is needed to maintain control. This is a fluid concept and needs to be constantly re-evaluated based on the facts presented at the time of the incident. Force should never be used as punishment. Rather, it is a method to gain or maintain control of a subject(s) that has displayed a level of resistance or assaultive behavior.
- F. Officers are authorized to use force to:
 1. Achieve and maintain control of resistive subjects.
 2. Detain persons reasonably suspected of criminal behavior.
 3. Make lawful arrests.
 4. Defend themselves or others.
 5. Prevent escape.
- G. When an officer uses force as part of his/her legitimate law enforcement duties, the force used must fit into one of the following three (3) categories:
 1. It must be a trained technique, or
 2. A dynamic application of a trained technique, or
 3. Not a trained technique but justified under the circumstances.
- H. The use of chokeholds is prohibited, except in life-threatening situations or in self-defense.

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I. Responsibilities After using Force

1. Officers have responsibilities after using force. When an officer has used force to establish control over a subject, the officer must stabilize the subject by application of restraints (if necessary), monitor the subject and, do an initial medical assessment. The initial medical assessment must be conducted as follows:
 - a. Use professional communication skills to calm and reassure the subject.
 - b. Determine the level of consciousness, using verbal or physical stimulus.
 - c. Check airway, breathing and circulation.
 - d. Perform a body check for injuries – severe bleeding, gross deformities, etc.
 - e. Provide any necessary medical treatment to your level of training.
 - f. If necessary and/or the subject requests it, activate the Emergency Medical System (EMS).
 - g. Continue to monitor and remain with the subject until he or she is turned over to someone of equal or greater responsibility. Find out if there is a need for long-term monitoring of the subject because of special medical or mental health needs.
 - h. Be cognizant of the position that the subject is placed into, especially if restrained. Do not create a positional asphyxia situation.

J. Reporting Use of Force

1. A supervisor will be immediately summoned to the scene and will comply with investigative procedures as required by the department in all use-of-force incidents.
2. A Franklin Police Department Use of Force Report prepared according to departmental procedures will be required in the following situations:
 - a. Any incident involving the discharge of a firearm by a law enforcement officer at or in the direction of a civilian.
 - b. Any incident involving the discharge of a firearm by a civilian at or in the direction of a law enforcement officer.
 - c. Any incident in which an action taken by a law enforcement officer as a response to an act of resistance results in great bodily harm or death.
 - d. Any incident in which an act of resistance taken by a civilian against a law enforcement officer results in great bodily harm or death
3. A Franklin Police Department Use of Force Report will include all of the following information:
 - a. The gender, race, ethnicity, and age of each person who was shot at, injured, or killed.
 - b. The date, time, and location of the incident.
 - c. The reason for the law enforcement officer's initial contact with the civilian.
 - d. Whether any civilian involved in the incident was armed and, if he or she was armed, the type of weapon that the civilian had.
 - e. The type of resistance used against the law enforcement officer by the civilian, the type of action taken in response by the officer, and if applicable, the types of weapons used.
 - f. The number of law enforcement officers involved in the incident.
 - g. The number of civilians involved in the incident.
 - h. A brief description regarding any acts of resistance that precipitated the incident and the circumstances surrounding the incident, including perceptions on behavior or mental disorders.
 - i. Any other information that is required to comply with the reporting standards of the National Use-Of-Force Data Collection system administered by the federal bureau of investigation.
4. No later than the 15th of each calendar month, a report documenting Use of Force, as defined by and in accordance with the Federal Bureau of investigations (FBI), will be reported to the State of Wisconsin. If there are no Use-of-Force incidents, the report must indicate zero (0). This will be completed by the Chief of Police or his designee.

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K. Duty to Report Noncompliant Use of Force

1. A law enforcement officer who, in the course of his or her law enforcement duties, witnesses another law enforcement officer use force that does not comply with the standards of this policy in the course of that law enforcement officer's official duties shall report the noncompliant use of force as soon as is practicable after the occurrence of the use of such force.

L. Duty to Intervene

1. A law enforcement officer will, without regard for chain of command, intervene to prevent or stop another law enforcement officer from using force that does not comply with the standards of this policy in the course of that law enforcement officer's official duties if all of the following apply:
 - a. The law enforcement officer observes the use of force that does not comply with the standards under this policy.
 - b. The circumstances are such that it is safe for the law enforcement officer to intervene.
2. A law enforcement officer who intervenes will report the intervention to his or her immediate supervisor as soon as is practicable after the occurrence of the use of such force.

M. Whistleblower Protection

1. No law enforcement officer may be discharged, disciplined, demoted, or denied promotion, transfer, or reassignment, or otherwise discriminated against in regard to employment, or threatened with any such treatment, because the law enforcement officer reported, or is believed to have reported, any noncompliant use of force, or intervened to prevent or stop a noncompliant use of force.



FRANKLIN POLICE DEPARTMENT

USE OF FORCE REPORT

Date of Incident:		Time:		Case #:	
Location of Incident:					
Officer(s) Involved:					
TYPE OF FORCE USED					
A firearm was discharged at or in the direction of a person.					
The use of force resulted in serious injury. (i.e. bodily injury that involves a substantial risk of death, unconsciousness, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty)					
The incident involved the death of a subject.					
INJURIES					
Injuries	Yes	No			
Officer	Yes	No	Describe		
Subject	Yes	No	Describe		
Witnesses	Yes	No	Describe		
SIGNATURES					
Officer's Signature				Date	
Sergeant's Signature				Date	
DISPOSITION					
Captain's Recommendation		No Further Action		Further Investigation	Remedial Training
Captain's Signature				Date	
Assistant Chief's Signature				Date	
Chief's Signature				Date	

WISCONSIN LAW ENFORCEMENT ACCREDITATION GROUP
Challenging Wisconsin's Law Enforcement Agencies to Pursue Excellence



U.S. Department of Justice's Standards for Certification on Safe Policing for Communities.

December 21, 2020

Dear Chief Rick Oliva,

On behalf of the Wisconsin Law Enforcement Accreditation Group, this letter confirms we are certifying that the Franklin Police Department meets certain eligibility requirements, set forth by the U.S. Department of Justice, for discretionary federal grants. The Franklin Police Department is qualified to receive federal grants for three years from the date of this letter.

Pursuant to Section 2 of the Presidential Executive Order on Safe Policing for Safe Communities, dated June 16, 2020, Executive Order No. 13929 (the "Executive Order on Safe Policing"), the U.S. Department of Justice's discretionary grant funding is only available to state, local, and university or college law enforcement agencies that have obtained (or are in the process of seeking) credentials certifying that they meet certain standards on use of force. The Executive Order on Safe Policing empowers the U.S. Attorney General to designate independent credentialing bodies — including the Wisconsin Law Enforcement Accreditation Group — to certify that a law enforcement agency meets the conditions of eligibility for federal grants.

Following our review, we have determined that the Franklin Police Department meets the mandatory conditions for certification. Accordingly, the Wisconsin Law Enforcement Accreditation Group will include your agency going forward within our database of certified law enforcement agencies. On or before January 31st of each year, we will provide the name of each certified law enforcement agency to the Director of the COPS Office.

If you would like to discuss further, please do not hesitate to contact me either by email at m.ferguson@glendalewi.gov or by phone at (414) 228-1753.

Respectfully,

A handwritten signature in black ink, which appears to read "Mark Ferguson".

Chief Mark Ferguson, Glendale Police Department
President, Wisconsin Law Enforcement Accreditation Group