



GENERAL ORDER

OAK BROOK POLICE DEPARTMENT

OAK BROOK, ILLINOIS

Title: RESPONSE TO RESISTANCE	Number: FOR-500
Author: Deputy Chief Jason Cates	Page: 1 of 10
Effective Date: 02-16-1996	Revised Date: 06-30-2021

4.1.1

500.1 Policy

It is the policy of the Oak Brook Police Department to utilize a reasonable level of force in achieving a lawful objective as provided by the 4th Amendment to the Constitution of the United States of America, which states:

“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

The force used by any member of the Oak Brook Police Department shall adhere to the requirements set forth in 720 ILCS 5/7, other related statutes, applicable case law, department general orders and training. We value the life of every person and consider life to be the highest value. The application of de-escalation techniques when possible should be considered.

Oak Brook Police Department personnel will use that level of force which is objectively reasonable and necessary to accomplish a lawful objective. Examples of those objectives include:

- a. Defend themselves from bodily harm.
- b. Defend another from bodily harm.
- c. Protect property.
- d. Effect an arrest.
- e. Prevent escape.
- f. Effect the protective custody or involuntary admission of a subject pursuant to the Mental Health Act.

When determining the level of force used the department member must consider:

- a. The severity of the crime.
- b. The immediacy of the threat.
- c. Whether the suspect is actively resisting arrest or attempting to flee.

The force used by any department member will only be that which is required to overcome the resistance being offered by an offender.

500.2 Purpose

The purpose of this policy is to provide Officers with guidelines on the use of deadly and non-deadly force that are consistent with applicable law. This order is intended for internal department use only and should not be construed as the creation of a higher standard of safety or care in any civil or criminal procedure with respect to third party claims.

500.3 Definitions

Physical Force: Actual contact with a subject beyond that which is generally utilized to make an arrest or achieve a law enforcement objective.

Mechanical Force: Mechanical force involves the application of a device or substance, other than a firearm, to make an arrest or achieve a law enforcement objective.

4.1.2

Deadly Force: Any use of force that creates a substantial risk of causing death or serious bodily injury, including but not limited to the discharge of a firearm, or which creates some specified degree of risk that a reasonable and prudent person would consider likely to cause death or serious physical injury. Examples of those acts as specified in the Illinois Compiled Statutes, 720 ILCS 5/7-8, are as follows:

- a. "The firing of a firearm in the direction of a person to be arrested, even though no intent exists to kill or inflict great bodily harm; and,
- b. The firing of a firearm at a vehicle in which the person to be arrested is riding."

The threat to cause death or serious bodily harm, by the production of a weapon or otherwise, so long as the officer's purpose is limited to creating the apprehension that deadly force will be used if necessary, does not constitute deadly force.

Active Pointing: The actual pointing of a firearm or mechanical force option at another person to gain compliance or affect a lawful arrest. The act of un-holstering or carrying a firearm for the purpose of conducting a building search or providing general security is not considered active pointing.

Serious Physical Injury/Great Bodily Harm: A bodily injury that creates a substantial risk of death, causes serious permanent disfigurement, or results in long-term loss or impairment of the function of a bodily member or organ.

Chokehold: Applying any direct pressure to the throat, windpipe, or airway of another. Does not include any holding involving contact with the neck that is not intended to reduce the intake of air such as a headlock where the only pressure applied is to the head.

Unnecessary Force: Force that is uncalled for and that serves no legitimate purpose, or force that goes beyond that amount of force that is objectively reasonable under the circumstances.

Imminent Threat: When based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the Officer or another

person. An imminent harm is not merely a fear of future harm, no matter how great the fear and not matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed.

Reasonable Belief: The facts and circumstances known to the Officer, which are such as to cause an ordinary and prudent person with the knowledge, training and experience of a Police Officer to act or think in a similar manner under similar circumstances.

Forcible Felony: “Forcible felony” means treason, first degree murder, 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.

Totality of the Circumstances: All facts known to the Officer at the time, or that would be known to a reasonable officer in the same situation, including the conduct of the officer and the subject leading up to the use of deadly force.

Police Officer: A Peace Officer as defined by Illinois Statutes, 720 ILCS 5/ 2-13.

Duty: Is meant to mean anytime an Officer is officially assigned to perform within the scope of law enforcement to include voluntary duty assignments.

Off-Duty: Is anytime an Officer is not acting within the scope of law enforcement duties. Officers of the Oak Brook Police Department are not required to carry a weapon while off-duty.

Less Lethal Ammunition: Ammunition designed to disable or control an individual without creating the likelihood of death or great bodily harm.

500.4 Use of Non-Deadly Force

The use or attempted use of non-deadly force on another person is not unlawful when used in compliance with Chapter 720 ILCS, Act 5/ Article 7:

- a. Section 1. Use of Force in Defense of Person. When an Officer believes that force is necessary to defend themselves or another against an imminent use of unlawful force.
- b. Section 2. Use of Force in Defense of Dwelling. When an Officer believes such force is necessary to prevent or terminate such other’s unlawful entry into or attack upon a dwelling.
- c. Section 3. Use of Force in Defense of Other Property. Whenever used by an Officer in preventing or attempting to prevent an offense against a malicious trespass or other malicious interference with real (other than a dwelling) or personal property that the Officer has a legal duty to protect.
- d. Section 5. Use of Force in Making Arrest. An Officer, or any person whom he has summoned or directed to assist them, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. An Officer is justified in the use of force that the Officer reasonably believes, based on the totality of the circumstances, to be necessary to affect the arrest and of any force

which he reasonably believes, based on the totality of the circumstances, to be necessary to defend themselves or another from bodily harm while making the arrest.

- e. Section 9. Use of Force to Prevent Escape. A Police Officer who has an arrested person in his custody is justified in the use of force, except deadly force, to prevent the escape of that person from custody as he would be justified in using if he were arresting such person. Deadly force shall not be used to prevent escape under this Section unless, based on the totality of the circumstances, deadly force is necessary to prevent death or great bodily harm to themselves or such other person.
- f. When used to restrain a mentally ill, mentally incompetent or mentally disabled person:
 - 1. Who is resisting efforts to be subdued for their own protection
 - 2. To prevent the individual from committing an act dangerous to themselves
 - 3. From committing an act dangerous to an Officer or others

A Community Service Officer, as defined in OPR-320, is only authorized to use force in self-defense or defense of another.

Force shall not be used in a punitive manner and department members will discontinue the use of lawful force whenever the offender ceases efforts to resist.

4.3.1a

500.5 Mechanical Force Options

An Officer or Community Service Officer is not permitted to use a mechanical force option unless:

- a. The use of the device is approved by the Chief of Police.
- b. Formally trained by a certified instructor, and is qualified in its proficient use as determined by training procedures.

Officers and Community Service Officers will receive a minimum of biennially retraining with authorized mechanical force options.

- a. The Support Services Division Commander will arrange for all defensive tactics and mechanical force options training on a periodic basis.
- b. Retraining documentation shall be recorded and maintained in accordance with departmental training procedures and policy.

Community Service Officers are not permitted to utilize less lethal impact munitions or conducted electrical weapons.

The use of a mechanical force option will be documented in the appropriate case report, including the detailed outcome of the incident.

The carrying or use of any force option not specifically authorized or issued by the Oak Brook Police Department is prohibited. Violators shall be subject to disciplinary action. Examples of unauthorized force options include, but are not limited to:

- a. Blackjacks
- b. Saps

- c. Sap-weighted gloves
- d. Nun-chukkas
- e. Brass or other metal knuckles
- f. Dirks, daggers or switchblades
- g. Tranquilizer guns
- h. Any other weapons or instruments of a like character as listed above.
- i. Firearms will not be used as bludgeons
- j. Flashlights or any other instruments not authorized for use as an impact baton will not be used unless the department member has no other reasonable recourse. Under those circumstances, the instrument is to be used in a manner consistent with training received in use of expandable impact batons.

4.3.1a

The following mechanical force options are authorized:

- a. A department issued Expandable Impact Baton when used in accordance with department policy, FOR-504.
- b. Oleoresin Capsicum (OC) when used in accordance with department policy, FOR-505.
- c. Department issued Less Lethal Munitions used in accordance with department policy, FOR-502.
- d. Conducted Electrical Weapon (CEW) used in accordance with department policy, FOR-503.

Canines, under certain conditions in accordance with department policy, OPR-311, may be deployed as a less lethal force option.

500.6 Use of Deadly Force

4.1.2

Officers are justified in using force likely to cause death or great bodily harm only when they reasonably believe, based on the totality of the circumstances, that such force is necessary to prevent death or great bodily harm to themselves or such other person, or when they reasonably believe, based on the totality of the circumstances, both that:

- a. Such force is necessary to prevent an arrest from being defeated by resistance or escape; and the officer reasonably believes that the person to be arrested is likely to cause great bodily harm to another, and
- b. The person to be arrested 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 unless arrested without delay.

Officers shall use deadly force only when reasonably necessary in defense of human life. In determining whether deadly force is reasonably necessary, officers shall evaluate each situation in light of totality of the circumstances of each case including but not limited to the proximity in time of the use of force to the commission of a forcible felony, and the

reasonable feasibility of safely apprehending a subject at a later time, and shall use other available resources and techniques, if reasonably safe and feasible to a reasonable officer.

An Officer is not justified in using force likely to cause death or great bodily harm when there is no longer an imminent threat of great bodily harm to the officer or another.

Where feasible, a peace officer shall, prior to the use of force; make reasonable efforts to identify themselves as officers and to warn that deadly force may be used.

An Officer shall not use deadly force against a person based on the danger that the person poses to themselves if a reasonable officer would believe the person does not pose an imminent threat of death or great bodily harm to the officer or to another person.

4.1.3 The discharge of a firearm for the purpose of a warning shot is prohibited under any circumstances, without exception.

Officers will not discharge a firearm from a moving vehicle, or at a moving vehicle or its' occupants unless:

- a. The suspect is using deadly force and it is a necessary measure of self-defense or defense of another.
- b. The totality of the circumstances, as reasonably known to the Officer, justifies the use of deadly force and are so compelling that the Officer reasonably believes that the risk of injury to the Officer or another person outweighs the risk of an Officer not firing from or at a moving vehicle.

500.7 Prohibited Use of Force

4.1.7 Officers, or any other person acting under the color of law, shall not use a chokehold or restraint above the shoulders with risk of asphyxiation in the performance of their duties, unless deadly force is justified.

Officers, or any other person acting under the color of law, shall not use a chokehold or restraint above the shoulders with risk of asphyxiation, or any lesser contact with the throat or neck are of another, in order to prevent the destruction of evidence by ingestion.

500.8 Safe Restraint

In every instance in which an individual is restrained in conjunction with the application of force, the department member shall:

- a. Watch for a sudden change in behavior (i.e. violent to tranquil).
- b. Assess statements/complaints of physical distress.
- c. Keep the airway open and free from obstruction.
- d. Monitor breathing (labored or agonal breathing).
- e. Watch for excessive sweating or hot to the touch.
- f. Assess for obvious injuries.
- g. Communicate your status, the status of the individual in custody, your observations and any additional assistance needed.

4.1.5

500.9 Medical Aid After Use of Force

After any application of force against an individual, if a department member observes the individual is clearly injured, the individual complains of being injured or the member reasonably believes the person is injured or is in need of medical attention, once it is safe and appropriate to do so the member shall:

- a. Render appropriate first aid within the limits of the member's training and available equipment.
- b. Immediately summon the fire department for medical assistance or make arrangements for the carrying of such person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that treatment is necessary, or if such carrying is requested by the injured person.
- c. Notify the on-duty Supervisor.
- d. Complete the appropriate incident reports regarding the injury and the circumstances.
- e. If possible, photograph the injured area (with and without scale of reference).

1.2.10

500.10 Duty to Intervene

An Officer, or any other person acting under the color of law, shall have an affirmative duty to intervene to prevent or stop another officer in their presence from using any unauthorized force or force that exceeds the degree of force permitted, if any, without regard for chain of command.

An Officer, or any other person acting under the color of law, who intervenes as required by this Section shall report the intervention to their supervisor as soon as possible. The report required by this Section must include the date, time, and place of the occurrence; the identity, if known, and description of the participants; and a description of the intervention actions taken and whether they were successful. In no event shall the report be submitted more than 5 days after the incident.

500.11 Firearms

An Officer shall not unholster or exhibit a firearm except under the following circumstances:

- a. Maintenance of the firearm.
- b. Securing the firearm.
- c. Training, practice or qualification with the firearm.
- d. Destruction of a sick or injured animal.
- e. When circumstances create a reasonable belief that it may be necessary for the Officer to utilize deadly force.
- f. When circumstances create a reasonable belief that the display of a firearm as an element of constructive authority will establish or assist in maintaining control in a

potentially dangerous situation when done so in an effort to discourage resistance and ensure Officer safety.

Any discharge of law enforcement firearms, with the exception of training, practice or approved recreational purposes, whether intentional or accidental, on or off-duty, within or outside of the departments geographical jurisdiction, and whether or not personal injury or property damage results, shall immediately be brought to the attention of the Shift Supervisor by the Officer responsible for the firearm discharge. This requirement applies to any Officer aware of the firearm discharge, not only to the Officer responsible for firing the weapon.

In those instances where the discharge was unintentional, negligent or accidental the Shift Supervisor shall immediately initiate an investigation and shall complete a report with the pertinent facts, including names and addresses of witnesses. The report shall be submitted to the Chief of Police via the chain of command.

If any significant property damage resulted from the unintentional, negligent or accidental discharge the Chief of Police will be notified immediately in accordance with department policy, OPR-333, Special Notifications.

Whenever a firearm is discharged, whether accidentally or intentionally, and results in either an injury or a death, the Shift Supervisor shall immediately notify the following, regardless of the hour:

- a. Division Commanders
- b. Deputy Chief
- c. Chief of Police
- d. Illinois State Police Investigation Team
- e. State's Attorney's Office
- f. Coroner's Office (death only)

The discharge of a firearm in relation to a use of force will be investigated in accordance with department policy, FOR-501, Investigating Response to Resistance Incidents.

500.12 Reporting Procedures

An Incident Report and the Response to Resistance Report Form (Attachment A) must be completed whenever an Officer:

- a. Actively points a mechanical or lethal force option.
- b. Applies weaponless physical force beyond that which is normally needed to make an arrest.
- c. Applies force upon another through the use of lethal or mechanical means.
- d. Uses force that results in or is alleged to have resulted in the injury or death of another.
- e. Uses deadly force.
- f. Is directed to do so by a Supervisor.

A copy of the Incident Report and the Response to Resistance Report Form shall be forwarded to the Chief of Police through the chain of command.

The Deputy Chief shall report the following types of force incidents to the FBI in accordance with the National Use-of-Force Data Collection Project:

- a. When a fatality to a person occurs connected to use of force by a law enforcement officer
- b. When there is serious bodily injury to a person connected to use of force by a law enforcement officer
- c. In the absence of either death or serious bodily injury, when a firearm is discharged by law enforcement at or in the direction of a person.

Data provided in accordance with the National Use-of-Force Data Collection Project shall be submitted electronically through <https://www.fbi.gov/services/cjis/leep> .

4.3.4

500.13 Written Directives

Prior to carrying any weapons, Officers will be issued copies of and will be instructed in the policies regarding the use of force necessary to accomplish lawful objectives and rendering appropriate medical aid after the use of that force.

500.14 Review

In an effort to reveal patterns or trends that could indicate training needs and/or policy modifications, the Deputy Chief of Police shall conduct an annual analysis of all use of force incident reports. That analysis will be forwarded to the Chief of Police for review.

500.15 Issuing Authority

This General Order will supersede any directives or understandings in conflict.

By order of:



James R. Kruger Jr., Chief of Police

Revisions		
01-02-2013	Attachments	Changed ECD to CEW on Attachment A.
08-27-2015	Attachments	Revised Attachment A
01-04-2016	500.7	New Section: Prohibited Use of Force
11-21-2018	Attachment A	Added 'Failure to Obey Lawful Order'.
12-05-2018	500.10	"forwarded to the Chief of Police through the chain of command"
12-05-2018	500.10	National Use-of-Force Data Collection Project
07-07-2020	500.8	Added 500.8 Safe Restraint. Adjusted subsequent section numbers.

09-28-2020	500.1	Added last sentence to the third paragraph of this section.
05-05-2021	200.1	Added 'apply de-escalation techniques when possible' to policy.
05-05-2021	All	CALEA 6 th Edition numbering changes.
06-30-2021	Multiple	Multiple changes in compliance with SAFE-T Act.
06-30-2021	500.10	Added section 'Duty to Intervene'.