



# GENERAL ORDER

## BERWYN POLICE DEPARTMENT

### BERWYN, ILLINOIS

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### **500.1 Policy**

It is the policy of the Berwyn Police Department to provide sworn personnel with guidelines detailing the use of force, the documentation of the use of force and the investigation of the use of force. This policy is derived from constitutional law, as interpreted by the courts in such cases like *Graham v. Connor* (490 U.S. 386(1989)) and *Tennessee v. Garner* (471 U.S. 1 (1985)), and Illinois statute. The Berwyn Police Department will utilize a reasonable level of force in achieving a lawful objective as provided by the 4<sup>th</sup> 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 Berwyn 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. Berwyn 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. But are not limited to:

- 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.



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- 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. Violation of this policy will only form the basis for departmental administrative discipline. Violation of law will form the basis for civil and/or criminal proceedings in a recognized judicial setting.

#### **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.

Deadly Force: Any use of force that is likely to cause death or great bodily harm, 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.

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.



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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 infliction or threatened infliction of death or great bodily harm.

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 Berwyn 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 Peace Officers Use of Force**

The justification for the use of any force shall be governed by Illinois Statute 720 ILCS 5/7-5 – Police Officer’s Use of Force in Making an Arrest:

(a) A peace officer, or any person whom he has summoned or directed to assist him, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. He is justified in the use of any force which he reasonably believes, based on the totality of the circumstances, to be necessary to effect the arrest and of any force which he reasonably believes, based on the totality of the circumstances, to be necessary to defend himself or another from bodily harm while making the arrest. However, he is justified in using force likely to cause death or great bodily harm only when: (i) he reasonably believes, based on the totality of the circumstances, that such force is necessary to prevent death or great bodily harm to himself or such other person; or (ii) when he reasonably believes, based on the totality of the circumstances, both that:

1. Such Force is necessary to prevent the 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
2. 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.

A peace 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.



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(a-5) Where feasible, a peace officer shall, prior to the use of force, make reasonable efforts to identify himself or herself as a peace officer and to warn that deadly force may be used.

(a-10) A peace officer shall not use deadly force against a person based on the danger that the person poses to himself or herself if a reasonable officer would believe the person does not pose an imminent threat of death or great bodily harm to the peace officer or to another person.

(1-15) a peace officer shall not use deadly force against a person who is suspected of committing a property offense, unless that offense is terrorism or unless deadly force is otherwise authorized by law.

- (b) A peace officer making an arrest pursuant to an invalid warrant is justified in the use of any force which he would be justified in using if the warrant were valid, unless he knows that the warrant is invalid.
- (c) The authority to use physical force conferred on peace officers by the Article is a serious responsibility that shall be exercised judiciously and with respect for human rights and dignity and for the sanctity of every human life.
- (d) Peace 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 the totality of 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.
- (e) The decision by a peace officer to use force shall be evaluated carefully and thoroughly, in a manner that reflects the gravity of that authority and the serious consequences of the use of force by peace officers, in order to ensure that officers use force consistent with law and agency policy.
- (f) The decision by a peace officer to use force shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time of the decision, rather than with the benefit of hindsight, and that the totality of the circumstances shall account for occasions when officers may be forced to make quick judgements about using force.
- (g) Law enforcement agencies are encouraged to adopt and develop policies designed to protect individuals with physical, mental health, developmental, or intellectual disabilities, or individuals who are significantly more likely to experience greater levels of physical force during police interactions, as these disabilities may affect the ability of a person to understand or comply with commands from peace officers.
- (h) As used in this section:
  - 1. "Deadly Force" means any use of force that creates a substantial risk of causing death or great bodily harm, including, but not limited to, the discharge of a firearm.



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2. A threat of death or serious bodily injury is “imminent” 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 great bodily harm to the peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed.
3. “Totality of the circumstances” means all facts known to the peace 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 force.

A peace officer making an arrest pursuant to an invalid warrant is justified in the use of any force which he would be justified in using if the warrant were valid, unless he knows that the warrant is invalid.

Information to be considered when determining if a use of force was reasonable includes, but is not limited to questions such as:

- Was the force being used to accomplish a lawful objective?
- What is the severity of the crime?
- What information was known to the officer at the time of the use of force?
- What was the immediacy and severity of the threat perceived by the officer at the time of the use of force against themselves or another?
- What were the actions of the suspect; were they actively or passively resisting, attempting escape, or assaulting?
- What were the physical factors of both the suspect and the officer, including age, size, strength, skill, sustained injuries, exhaustion or fatigue and mental state?
- What was the suspect’s proximity to or use of weapons or other dangerous devices?
- What was the number of officers present? Were other unsuccessful efforts used by the officer to gain compliance?
- What was the likelihood of the force used to cause injury?
- What was the relationship between the likelihood of the suspect’s actions causing harm versus the likelihood of the injury caused by the officers use of force?

Although this list of questions is lengthy, it is by all means not comprehensive and many factors must be taken into consideration when looking at the totality of circumstances when force is used.

#### **500.5 Types of Force**

Nothing in this list should prohibit an officer from the use of force necessary to mitigate a threat in an emergency situation. This list is not meant to be a ranking of types of force based on their seriousness, but rather just a list of typical types of force.



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The typical types of force used in the control of a suspect's behavior are as follows:

1. Officer Presence
2. Verbal Direction
3. Empty Hand Controls
4. Physical Subject Restraint / Holds
  - a. Pressure Point Applications / Joint Manipulations
  - b. Takedowns / Strikes
5. Intermediate Weapons / Mechanical Force Options
6. Lethal Force
  - a. Any force like to cause great bodily harm or death

#### **500.6 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. A Police Officer need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. He is justified in the use of any force which he reasonably believes, based on the totality of the circumstances, to be necessary to effect the arrest and of any force which he reasonably believes, based on the totality of the circumstances, to be necessary to defend himself 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 such force to prevent the escape of that person from custody as he would be justified in using if he were arresting such person.
- f. When used to restrain a mentally ill, mentally incompetent or mentally disabled person:
  - i. Who is resisting efforts to be subdued for their own protection
  - ii. To prevent the individual from committing an act dangerous to themselves
  - iii. From committing an act dangerous to an Officer or others



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A Community Service Officer or Auxiliary Officer 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.

#### **500.7 Mechanical Force Options**

An Officer, Auxiliary Police 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. The user is formally trained by a certified instructor, and is qualified in its proficient use as determined by training procedures.
- c. Exemptions: In extreme circumstances related to deadly force incidents, and as a last resort, weapons of opportunity/last resort may be utilized.

Officers, Auxiliary Police Officers will receive a minimum of biennially retraining with authorized mechanical force options.

- a. The Training Coordinator 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 Berwyn Police Department is prohibited. Violators shall be subject to disciplinary action.

Firearms will not be used as bludgeons. 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.

The following mechanical force options are authorized:

- a. Expandable Impact Baton, fixed baton, or PR24 when used in accordance with department policy.
- b. Oleoresin Capsicum (OC) when used in accordance with department policy.
- c. Department issued Less Lethal Munitions used in accordance with department policy.
- d. Pepper ball projectile
- e. Conducted Electrical Weapon (CEW) used in accordance with department policy.
- f. Canines, under certain conditions in accordance with department policy may be deployed as a less lethal force option.



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#### **500.8 Use of Deadly Force**

Officers are authorized to use deadly force only when they reasonably believe that the level of force is necessary to prevent:

- a. Imminent death or serious physical harm to either themselves or another person.
- b. The arrest of a suspect from being defeated by resistance or escape; and
1. Is attempting to escape by use of a deadly weapon and indicates that they will endanger human life or inflict great bodily harm unless arrested without delay.

The Officer must give some warning of the imminent use of deadly force, when feasible. The discharge of a firearm for the purpose of a warning shot is prohibited under any circumstances, without exception.

720 ILCS 5/7-8(a)(2) indicates that force likely to cause death or great bodily harm includes the discharge of a firearm at a vehicle in which the person to be arrested is riding. Officers will not discharge a firearm from a moving vehicle, or at a moving vehicle or its' occupants unless:

The operator or occupant poses an immediate threat of death or serious bodily injury to the public or an officer by means other than the vehicle

- 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.

The use of deadly force in extraordinary situations by means of discharge of a firearm that is unreasonably used when attempting to prevent an escape or active commission of a forcible felony where the imminent safety of the greater good of the general public is compromised will be investigated. An Officer's actions cannot put the public in more danger than the alleged offender. If determined that the use of force was prohibited, it will be pursued as such, based on the overall circumstances surrounding the incident.

#### **500.9 Prohibited Use of Force by a Peace Officer (720 ILCS 5/7-5.5)**

Department members shall not use certain types of force as defined by legislation in 720 ILCS in the performance of their duties, unless deadly force is justified. Department members shall not;

1. Use a chokehold or restraint above the shoulders with risk of asphyxiation in the performance of his or her duties, unless deadly force is justified.
2. A peace officer shall not use a chokehold or restraint above the shoulders with risk of asphyxiation, or any lesser contact with the throat or neck area of another, in order to prevent the destruction of evidence by ingestion.





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- a. Chokehold means applying any direct pressure to the throat, windpipe, or airway of another.
  - b. Restraint above the shoulders with the risk of positional asphyxiation, means a use of a technique used to restrain a person above the shoulders, including the neck or head in a position which interferes with the person's ability to breathe after the person no longer poses a threat to the officer or any other person.
3. Use force as punishment or retaliation;
  4. Discharge kinetic impact projectiles and all other non-or less-lethal projectiles in a manner that targets the head, pelvis, or back;
  5. Discharge firearms or kinetic impact projectiles indiscriminately into crowds; Or,
  6. Use chemical agents or irritants, including pepper spray and tear gas, prior to issuing an order to disperse in a sufficient manner to ensure the order is heard and repeated if necessary, followed by sufficient time and space to allow compliance with the order.

#### **500.10 Duty to Intervene**

Any officer who observes another officer using force that is beyond that which is objectively reasonable or that is prohibited under the circumstances shall, when in a position to do so, intervene to prevent the use of unreasonable or prohibited force, without regard for chain of command. Any officer who observes another officer using force that is beyond that which is objectively reasonable or that is prohibited under the circumstances shall report it to a supervisor immediately. The report shall 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 Regulations**

An officer should attempt all reasonable use of force tactics from a continuum perspective to address a situation, but there may be times that they must not have to try every available use of force option until they reach one that works. They may choose to use whatever proportional level of force that is both reasonable and effective based on the totality of the circumstances at the time. Department members will use only the amount of force required under the circumstances to serve a lawful purpose. When determining the appropriate level of force, officers shall, when feasible, balance the severity of the offense committed and the level of resistance based on the totality of the circumstances known to or perceived by the officer at the time. It is particularly important that officers apply proportionality and critical decision making when encountering a subject who is armed with a weapon other than a firearm. When or if the subject offers less resistance or terminates resistance however, the officer will decrease the amount or type of force or terminate use of force accordingly.

It is imperative that officers realize that a use of force situation is a fluid and dynamic situation. The type and level of force used on a suspect may vary several times during an incident and an officer must be able to recognize this need as it happens. An officer's use of force must be in response to the factors and circumstances present at that time and must be able to change as those



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factors and circumstances change. All reasonable attempts to de-escalate a situation should be used when encountered with these situations.

Members will use de-escalation techniques to prevent or reduce the need for use of force when it is safe and feasible to do so based on the totality of the circumstances. This includes continually assessing the situation and modifying the use of force as circumstances change and in ways that are consistent with officer safety, including stopping the use of force when it is no longer necessary. Examples of de-escalation techniques include, but are not limited to:

- a. Providing a warning and exercising persuasion and advice prior to the use of force.
- b. Determining whether the member may be able to stabilize the situation through the use of time, distance, or positioning to isolate and contain a subject.
- c. Requesting additional personnel to respond or make use of specialized units or equipment including crisis intervention team trained officers, as necessary and appropriate.

A subject may not be capable of understanding the situation because of a medical condition, mental, physical or hearing impairment; language barrier, drug interaction, or emotional crisis and have no criminal intent. These situations may not make the subject less dangerous, but understanding a subject's situation may enable officers to calm the subject and allow officers to use de-escalation techniques while maintaining public and officer safety. Officers who act to de-escalate an incident, which can delay taking a subject into custody, while keeping the public and officers safe, will not be found to have neglected their duty. They will be found to have fulfilled it.

When possible, a suspect should not be allowed to initiate a confrontation and gain an advantage over an officer. A reasonable use of force prior to a suspect's initiation may prevent injury or the need for more serious uses of force. Verbal warnings: If feasible, and if doing so would not increase the danger to the officer or others, an officer shall give a verbal warning to submit to the authority of the officer before discharging a firearm or using other deadly force. Prior to and continually during any use of force, an officer should give verbal warnings and directions when it is feasible and safe to do so. Warning or signal shots are **NOT** allowed by members of the department. Force may be used against animals that pose imminent danger or that need to be humanely euthanized. This force is not documented as a standard use of force against another person.

#### **500.12 Use of Force to Prevent Escape**

Any employee assigned to duties which make them responsible for the transportation, custody, or care of an arrestee shall govern themselves according to 720 ILCS 5/7-9 Use of force to prevent escape.

A peace officer or other person who has an arrested person in his custody is justified in the use of force, except deadly force, to prevent the escape of the arrested 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 himself or such other person.



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#### **500.13 Hand Restraints**

The use of handcuffs and restraints is considered a use of force. Subjects under arrest should be handcuffed behind their back unless impractical due to injury or physical limitations/conditions. When used, the handcuffs must be double locked when it is safe to do so. The use of handcuffs and restraints should be documented in the incident report of an arrest, including double locked and position, but does not require a use of force report as long as no other physical force was used during their application.

#### **500.14 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.

#### **500.15 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.
- 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

Medical attention is mandatory for any subject that OC (Pepper Spray), Taser, Baton, Extended Range Kinetic Energy Impact Munitions or Deadly Force have been deployed on.

#### **500.16 Officer Responsibilities**

While on any scene where there has been a use of force, officers will first ensure that the scene is safe and that any suspects are properly restrained to help prevent further uses of force. Once the



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scene is safe, officers shall request medical care for any party involved that requires medical attention or is requesting it. Any use of physical force used during an arrest, above simply applying handcuffs, must be reported to a shift supervisor as soon as it is feasible to do so. Officers on scene will attempt to locate and identify any witnesses to the incident and take steps to preserve anything of evidentiary value, not only to the criminal case but also to the use of force. Officers will relay all the gathered information, witness information, and evidentiary information to the responding supervisor for their use of force investigation. The arresting officer will complete the original incident report and any other officer who used force must complete a supplemental report. Other sworn officers on scene will only be required to complete a supplemental report if they have first person information pertinent to the investigation that is not already covered in other reports. Civilian employees who are involved in use of force incidents will be interviewed by a sworn officer who will investigate the incident.

#### **500.17 Firearms**

An Officer shall not un-holster 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 contact the on call Division Commander and 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 on call Division Commander. If any significant property damage resulted from the unintentional, negligent or accidental discharge the on call Division Commander will be notified immediately in accordance with department policy. The discharge of a firearm in relation to a use of force will be investigated in accordance with department policy associated with the investigation and response to resistance incidents.



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#### **500.18 Reporting Procedures**

An Incident Report and/or supplemental report in addition to the Use of Force Report Form (see 501.5) must be completed whenever an Officer:

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

An email must be submitted to the on call Division Commander by the reviewing supervisor on the same date that a use of force has occurred. This email will include the report number associated with the use of force along with the confirmation that the Use of Force Report Form has at least been started by all officers involved.

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>

Reports should have all the elements of the incident to which the officers initially responded, or the crime with which the suspect is being charged. Additionally, reports should also have information in pertaining to the use of force which includes, but is not limited to questions such as:

- a) The relevant facts known to the officer at the time of the use of force.
- b) The articulable and specific behaviors and actions of the suspect before, during, and after the use of force.
- c) The specific force used and the result/effect of that force.
- d) Any injury, reported or observed, present before the use of force, caused during the use of force or caused after the use of force.
- e) Any weapons present in the vicinity, implied by the suspect (either through statements, behavior or prior activity) or actually used by a suspect in a use of force incident.
- f) Any witnesses present or evidence pertaining to the use of force.



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Any officer who is the victim of a serious assault, or who uses force during an incident that results in the significant injury or death of an officer, a suspect, or another person, shall not be required to complete any incident reports. The report writing will be assigned to another officer or investigator on scene by the supervisor.

#### **500.19 Special Assignment or Off Duty Use of Force**

For the purposes of this section a special assignment means any officer assigned to an Organization, Team, Unit or Task Force as a part of their normal duties (NIPAS, FBI, DEA, County, etc.).

The Berwyn Police Department recognizes that officers may sometimes become involved in use of force situations while working special assignment or off duty. The following procedures will be followed in the event of a use of force in those situations:

The officer involved will immediately report the incident to the organization they are working with or the police department with jurisdiction over where the incident happened.

If the use of force happened within the City of Berwyn, the use of force investigation shall follow departmental procedures according to policy.

The on call Division Commander will be notified as soon as possible.

The Watch Commander will gather as much information as possible from the officer involved about the incident and the location. For critical incident situations this may be as simple as the location, type of incident and whether or not the officer was injured. A To-From memorandum containing all the information gathered will be completed by the Watch Commander and turned over to the Division Commander on-call.

For all special assignment or off duty uses of force that happen outside of the City of Berwyn, the Watch Commander will also notify the on-call Division Commander immediately after their notification.

That Division Commander will make any further notifications, as well as coordinate any further response that is needed based on the severity and the location of the incident.

The internal investigation of a use of force outside the City of Berwyn will be conducted by the Chief of Police or their designee.

#### **500.20 Non Sworn Employee Use of Force**

Non sworn employees who believe that a crime has been, is being, or is about to be committed are expected to immediately notify a sworn member of the police department to take the appropriate action.

In exigent circumstances where a non sworn employee is presented with an unavoidable circumstance where force is used, they are only authorized to use a private person's use of force in making an arrest in accordance with 720 ILCS 5/7-6 - Private person's use of force in making an arrest as follows:

- a. A private person who makes, or assists another private person in making a lawful arrest is



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justified in the use of any force which he would be justified in using if he were summoned or directed by a peace officer to make such arrest, except that he is justified in the use of force likely to cause death or great bodily harm only when he reasonably believes that such force is necessary to prevent death or great bodily harm to himself or another.

A private person who is summoned or directed by a peace officer to assist in making an arrest which is unlawful, is justified in the use of any force which he would be justified in using if the arrest were lawful, unless he knows that the arrest is unlawful.

#### **500.21 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.

#### **500.22 Use of Force Training Review Board**

This establishes a Use of Force Training Review Board (UOFTRB) to review all use of force incidents Involving Police Department Officers and/or Employees in order to identify organizational and individual training needs.

The Berwyn Police Department will objectively evaluate all use of force incidents involving its Officers/Employees to ensure that any applied force is consistent with established use of force guidelines, department authorized training and reasonable best practices.

A Use of Force Training Review Board will be established to review all use of force reports on a monthly basis or as needed to meet department needs. The Use of Force Training Review Board's review of Officer/Employee involved use of force incidents will be conducted independently and not related to any other internal or external administrative investigation. The Use of Force Training Review Board shall consider use of force trends, as well as the individual Officer/Employee and departmental training needs.

The Use of Force Training Review Board will be made up of the following Berwyn Police Department members:

- Two (2) Division Commanders or Department Administration designees
- Two (2) Supervisors from Department Supervisory Staff
- One (1) Patrol Officers from Department Patrol Division

The Use of Force Training Review Board will meet monthly to review all use of force incident reports and referrals. The UOFTRB will be allowed access to all police incident reports, witness statements and audio/video recordings associated with the use of force incident under review. The Police Department will use these use of force reviews and referrals to help shape departmental training priorities and content. The UOFTRB will also attempt to identify any individual Officer/Employee training needs.

The UOFTRB will summarize findings from their monthly meetings and include any Officer/Employee with any training recommendations in a written memorandum to the Chief of



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Police and Deputy Chief of Police.

If an individual Officer/Employee training need is identified during a use of force incident review, the board will identify the deficiency and recommend remedial training if they feel it is needed. The UOFTRB will submit additional training recommendations to the Chief of Police and Deputy Chief of Police for review and approval. Additional training recommendations are not meant to be punitive or disciplinary in nature. Any additional training recommendations is meant to enhance and improve Officer Safety, awareness and performance if justified then review methods for training, if not justified refer to Deputy Chief for internal affair and discipline.

In the event of a Citizen Complaint; the Chief of Police or Deputy Chief of Police may refer a use of force related complaint to the Use of Force Training Review Board for additional or remedial training, if they determine the Officer complaint was generated from a specific training need and is best resolved through additional training rather than discipline. The UOFTRB will work to identify the involved Officer/Employee's training need and submit a written recommended remedial training plan to the Chief of Police and Deputy Chief of Police for review and approval.

In the event of an Internal Affairs Division investigation; the Use of Force Training Review Board's incident review will run separately and independently of any internal or external IAD Investigation. If the UOFTRB identifies any training related issues during their evaluation, they will include training recommendations in their findings to the Chief of Police and Deputy Chief of Police.

In the event of a Deadly Use of Force related incident; the Use of Force Training Review Board may be required to hold off on a timely review of the incident, depending on the availability of reports and/or information.

If a Deadly Use of Force incident or any other Use of Force incident is being investigated by the Illinois State Police Public Integrity Unit or any other external Agency, the Use of Force Training Review Board will receive direction and authorization for incident review from the Chief or his designee.

Any Police Department Supervisor may refer an incident to the Use of Force Training Review Board for review. The referral does not require that an active use of force report be associated with it if the referring Supervisor identifies a use of force related training need. All Supervisor referrals should be sent to the Division Commander of Field Operations who will distribute the information to the Use of Force Training Review Board for review.

#### **500.23 Issuing Authority**

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

By order of:





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A handwritten signature in black ink, appearing to read "Michael D. Cimaglia". The signature is fluid and cursive, with the first name being the most prominent.

Michael D. Cimaglia, Chief of Police