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SUBJECT: <b>USE OF FORCE</b>			Pages: 23

## I. PURPOSE

To provide officers with guidelines and limitations concerning the appropriate and acceptable use of deadly and less-lethal force, and to provide for the reporting, reviewing and evaluating of all use of force incidents. Uses of objectively unreasonable force by police officers violate the Fourth Amendment and this policy.

## II. CORE PRINCIPLES

- A. This agency recognizes and respects the value and special integrity of each human life. Investing officers with the lawful authority to use force to protect the public welfare requires a careful balancing of all human interests. Therefore, it is the policy of this agency that officers shall use only that force that is objectively reasonable, in order to effectively bring an incident under control, effect an arrest, overcome resistance to arrest, or defend themselves or another from harm.
- B. Force may be in the form of physical contact, use of less-lethal weapons or the use of deadly force.
- C. Prior to using force, the officer shall, if at all practical, use de-escalation techniques that may reduce or eliminate the need to use force in a given incident. De-escalation techniques are actions used by officers that seek to minimize the likelihood of the need to use force during an incident and increase the likelihood of voluntary compliance.
- D. In certain circumstances, there may be good tactical reasons to disengage from the subject or crowd; wait for back-up; contain the area; set up surveillance; or take other actions to gain a tactical advantage. Disengagement allows time to call in reinforcements or specialized units, if appropriate, that may be better equipped and/or trained for the situation.
- E. Whenever possible, individuals should be allowed to submit to arrest before force is used.
- F. Officers must weigh the circumstances of each individual case and employ only that amount of force which is objectively reasonable to control the situation or person(s) in light of the known circumstances, including, but not limited to: the severity of the crime; whether the subject is an immediate threat to the safety of officer(s) or others; whether the subject is

actively resisting arrest or seizure; and whether the subject is attempting to evade arrest or seizure by flight.

- G. In no instance will officers use any force in excess of that which is objectively reasonable.
- H. Uses of objectively unreasonable force shall subject officers to discipline, possible criminal prosecution, and/or civil liability.
- I. In dealing with people each officer must attempt to inspire, respect and generate cooperation and approval of the public. The manner in which an officer speaks can be an effective means of exerting verbal direction in order to control a situation.
- J. Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force.

Every officer SHALL report, to an uninvolved supervisor, any incident perceived to be excessive regardless of intervention. This reporting SHALL be made immediately or as soon as practical after the incident occurs.

### III. DEFINITIONS

#### A. ACTIVE RESISTANCE

A subject attempts to attack or does attack an officer; exhibits aggressive behavior (e.g., lunging toward the officer, striking the officer with hands, fists, kicks or any instrument that may be perceived as a weapon such as knife or stick); or exhibits defensive resistance (e.g., attempts to leave the scene, flee, hide from detection, or pull away from the officer's grasp). Verbal statements, bracing, or tensing alone do not constitute active resistance. Noncompliance alone does not indicate active resistance.

#### B. CANINE APPREHENSION

When a canine is deployed and plays a clear role in the capture of a person. The mere presence of a canine at the scene of an arrest or use of a canine solely to track a subject will not count as canine apprehension.

#### C. CHOKER HOLD

Includes the following holds: (1) bar-arm control hold- any technique that inhibits breathing by compression of the airway in the neck; or (2) carotid restraint hold- any technique that inhibits blood flow by compression of the blood vessels in the neck. A choke hold shall be considered deadly force.

D. CRITICAL FIREARMS DISCHARGE

A discharge of a firearm by a Warren Police Department officer, including accidental discharges; discharges at animals, other than to euthanize an animal under controlled circumstances; and discharges at persons where no one is struck, with the exception of recreational activities; range activities; discharges into weapons clearing traps; discharges for the purposes of ballistics testing/comparison; and training discharges that do not endanger a person's life or result in a person being struck.

E. CRITICAL INCIDENT

Any incident that involves:

1. A use of deadly force;
2. A use of force resulting in death;
3. A use of force resulting in serious physical injury; or
4. An in-custody death

F. DEADLY FORCE

Any use of force that is likely to cause death or serious physical injury, including, but not limited to, the discharge of a firearm, strikes to the head or neck with an impact weapon and/or choke holds.

G. DE-ESCALATION

Techniques used by officers that seek to eliminate the need to use force, or reduce the level of force used, during an incident and increase the likelihood of voluntary compliance.

H. DE-MINIMIS FORCE

Physical interactions meant to guide and/or control a subject that do not constitute reportable force (e.g., use of control holds that do not cause pain and are not reasonably likely to cause pain; using hands or equipment to stop, push back, separate, or escort a person in a manner that does not cause pain, and is not reasonably likely to cause any pain).

I. IN-CUSTODY DEATH

The death of an individual while in custody or while attempts to effect custody are being made.

J. IMMEDIATE SUPERVISOR

The lowest ranking supervisor that oversees all lower grade officers assigned to his/her span of control during the assigned working turn within the assigned Department Division.

K. FORCE

Means the following actions by an officer: any physical strike, (e.g., punches, kicks), any intentional contact with an instrument, or any physical contact that restricts movement of a subject. The term includes, but is not limited to the use of firearms, Electronic Control Weapons (ECW's), ASP, chemical spray, hard empty hands, or the taking of a subject to the ground. Reportable force includes the pointing of a firearm at or in the direction of another person and canine apprehensions. Reportable force does not include escorting or handcuffing a subject, with no more than minimal resistance or uses of de-minimis force.

L. LESS-LETHAL FORCE

Any use of force other than that which is considered deadly force. This includes any physical coercion used by an officer against another individual. The term shall not include ordinary, un-resisted handcuffing. The term shall include, but not be limited to: the use of strikes, punches, take downs, or physical pressure other than simple guidance for the safety or direction of the subject; the use of any intermediate weapon including, but not limited to, electronic control weapons, chemical irritants, telescoping baton; the deployment of a K-9; or the pointing of a firearm at or in the direction of another person.

M. LEVELS OF FORCE

Level 1 Use of Force: Force that is reasonably likely to cause only transient pain and/or disorientation during its application as a means of gaining compliance, including pressure point compliance and joint manipulation techniques, but that is not reasonably expected to cause injury, does not result in an actual injury and does not result in a complaint of an injury. It does not include escorting, touching, or handcuffing a subject with no or minimal resistance. The pointing of a firearm at or in the direction of another person is reportable as a Level 1 use of force. A canine apprehension without contact is a Level 1 use of force. Use of RIPP restraints is a Level 1 use of force.

Level 2 Use of Force: Force that causes an injury, could reasonably be expected to cause an injury, or results in a complaint of an injury, but does not rise to the level of a Level 3 Use of Force. Level 2 includes the use of an ECW, including where an ECW is intentionally fired at a human but misses; OC Spray application; weaponless defense techniques (e.g., elbow or closed-fist strikes, kicks, leg sweeps, and takedowns); use of an impact weapon, except for a strike to the head, neck or face with an impact weapon; any canine apprehension that involve contact; or upon the receipt of an allegation of objectively unreasonable force.

Level 3 Use of Force: Force that includes uses of force resulting in hospital admission due to a use of force injury; canine bite; more than three applications of an ECW on an individual during a single interaction, regardless of the mode or duration of the application, and regardless of whether the applications are by the same or different officers; an ECW application for longer than 15 seconds, whether continuous or consecutive; and any Level 2 use of force against a handcuffed subject.

Critical Incident: See definition in Section III. E. above

N. MEDICAL PERSONNEL

Refers to non-WPD personnel qualified to provide medical care or provide medical judgments, including, but not limited to, licensed emergency medical technicians, physicians, and nurses.

O. OBJECTIVELY REASONABLE FORCE

The degree of force that may be used in effecting an arrest, investigatory stop or other seizure. The reasonableness of each particular use of force will be judged from the perspective of a reasonable officer on the scene, based on the facts and circumstances known and confronting the officer at the time. (See Graham v. Connor, 490 US 386 (1989)). In determining the necessity for force and the appropriate level of force, officers shall evaluate each situation in light of the unique facts and circumstances of each case, including, but not limited to: the severity of the crime or suspected offense; whether the subject is an immediate threat to the safety of officer(s) or others; whether the subject is actively resisting arrest or seizure; and whether the subject is attempting to evade arrest or seizure by flight.

If the force is being used solely to render emergency medical aid or treatment (the subject has not committed a crime, is not resisting arrest and is not directly threatening the officer), the force shall be evaluated by assessing: 1.) whether the person experiencing a medical emergency that rendered him or her incapable of making a rational decision under

circumstances that posed an immediate threat of serious harm to self or others; 2.) whether some degree of force was reasonably necessary to ameliorate the immediate threat; 3.) whether the force used was more than reasonably necessary under the circumstances (i.e. was it excessive?)(see, Estate of Hill by Hill v. Miracle, 853 F.3d 306(2017)).

P. OFFICER

A sworn member of the Warren Police Department who has been awarded a certificate by the Ohio Peace Officer Training Commission attesting to the satisfactory completion of an approved peace officer basic training program, who has satisfactorily met the employment requirements of the Warren Police Department, and who, upon being hired as an employee, has then sworn the oath of office as a law enforcement officer as defined by the ORC 2901, with subsequent duties and powers as defined by the ORC 2935 as well as the codified ordinances of the City of Warren.

Q. PROBABLE CAUSE

Where known facts and circumstances, of a reasonably trustworthy nature, are sufficient to justify a person of reasonable caution or prudence in the belief that a crime has been or is being committed.

R. SERIOUS PHYSICAL INJURY

Bodily injury that creates a substantial risk of death, causes serious or permanent disfigurement, unconsciousness, or long-term loss or impairment of the functioning of any bodily member or organ.

S. SUBJECT MATTER EXPERT

Includes anyone who has special knowledge or training regarding a topic or matter related to policing.

T. SUPERVISOR

An officer who is of Sergeant, Lieutenant or Captain rank.

U. TURN COMMANDER

An officer who is a Lieutenant rank that oversees all lower grade officers assigned to his/her span of control during the assigned working turn within the assigned Department Division.

V. USE OF FORCE REVIEW BOARD

A group consisting of the Division Commanders, Director of Training, a non-voting, advisory member of the City of Warren Law Department and any other member(s) assigned by the Chief of Police. Subject matter experts may be utilized at the discretion of the Chief of Police. The function of the Use of Force Review Board is to review all use of force investigations for accuracy and completeness, assess whether the force was within WPD policy, assess training needs, evaluate relevant policies, and evaluate tactics and equipment. All findings or recommendations of the Board will be based upon a majority vote of the Board members. The Chief of Police has sole authority to approve or disapprove each of the reviews and/or recommendations.

#### **IV. USE OF FORCE**

##### **A. USE OF DE-ESCALATION TECHNIQUES**

1. When safe and feasible under the totality of circumstances, officers shall attempt to de-escalate an incident and gain voluntary compliance of a subject before threatening force or resorting to force.
2. De-escalation techniques include:
  - a. The use of distance, cover and time. Officers should attempt to create a safe distance between themselves and the subject, using barriers if needed and available. Officers should use this strategy to, among other things, assess the situation and weigh options, to include bringing additional resources to the scene. Officers should avoid a physical confrontation if possible. Creating distance from the subject may also allow the subject time to regain composure.
  - b. Verbal communication. Officers should verbalize, in a calm manner, all options available to the subject, and explain to the subject what the officer can and will do to help the individual. Officers should attempt to engage the subject in conversation rather than issuing orders if possible. When possible and appropriate, officers should give subjects the opportunity to comply with directives.
  - c. Additional resources. Officers should consider requesting backup officers and a supervisor for assistance.

##### **B. USE OF LESS-LETHAL FORCE**

1. Less lethal force that is objectively reasonable may be used to:
  - a. Protect the officer or another person from physical injury;
  - b. Lawfully restrain or subdue an individual; and/or
  - c. Bring an unlawful situation safely and effectively under control.
2. When officers utilize striking techniques, i.e. hands, feet, tactical baton, etc., they shall direct the strikes toward large muscle mass areas whenever practical. Strikes to the head, neck, sternum, and groin should be avoided unless no other reasonable options are available. Strikes to the head or neck with an impact weapon are only authorized when deadly force is justified.
3. Departmentally issued chemical agents, ASP Tactical Baton (ASP), Electronic Control Weapon (ECW), and Warren Police Department K-9 dogs are the only less-lethal weapons authorized for use by this department. Less-lethal weapons must not be used against subjects who are handcuffed except in extreme circumstances to prevent the subject from causing serious physical injury to themselves or others and where lesser attempts at control have been ineffective.
4. Officers shall only use any other objects as less-lethal weapons when departmentally authorized less-lethal weapons have been rendered inoperable or are beyond an officer's grasp, and the use of the alternate weapon is objectively reasonable and necessary to protect the officer or another person.
5. Officers must be aware of the risks of positional asphyxiation. While a prone position of a suspect is a useful technique for officer safety and subject control, officers shall not restrain an individual in a prone position for a prolonged period of time. If a subject in a prone position shows signs of, or complains of, belabored breathing, the subject shall be repositioned immediately and provided medical attention if necessary. Any time an officer has a subject in a prone position, the officer must monitor the subjects breathing.

Officers shall not create asphyxiating conditions by putting substantial or significant pressure, such as body weight, on the back of a subject who is restrained and under control.

## C. USE OF LESS-LETHAL WEAPONS

### 1. AUTHORIZED LESS-LETHAL WEAPONS

- a. WPD officers shall only carry weapons for which they have received departmental training and certification. WPD must also approve the carrying and use of the weapons.
- b. WPD shall train all officers on the proper use of departmentally-issued ASP at least once per year. All officers must demonstrate proficiency with proper use of an ASP. Upon the completion of training and qualification, each officer shall carry a departmentally-issued ASP when on duty. The Chief of Police may exempt officers from carrying a departmentally-issued ASP only while on plain-clothed assignment. No officer shall carry or use any impact weapon other than a departmentally-issued ASP while on duty. See Policy 12-004, ASP Tactical Baton.
- c. WPD shall train all officers on proper use of departmentally-issued chemical agents, e.g., pepper or O.C. spray, at least once per year. All officers must demonstrate proficiency with proper use of chemical agents. Upon the completion of training and qualification, each officer shall carry a departmentally-issued chemical agent when on duty. The Chief of Police may exempt officers from carrying a departmentally-issued chemical agent only while on plain-clothed assignment. No officer shall carry or use any issued chemical agents other than departmentally-issued chemical agents while on duty. See Policy 12-003, Oleoresin Capsicum Spray.
- d. WPD shall train all officers to whom WPD has assigned an ECW on proper use of departmentally-issued ECW at least once per year. All officers assigned an ECW must demonstrate proficiency with proper use of a ECW. Upon the completion of training and qualification, each officer assigned an ECW shall carry a departmentally-issued ECW when on duty. The Chief of Police may exempt patrol officers from carrying a departmentally-issued ECW only while on plain-clothed assignment. No officer shall carry or use any ECW other than a departmentally-issued ECW while on duty. See Policy 02-003, Electronic Control Weapons.

## 2. AUTHORITY TO USE LESS-LETHAL WEAPONS

- a. The use of less-lethal weapons is restricted to situations where the subject is actively resisting; AND

- b. The use of such force in the particular situation is objectively reasonable as defined in this policy.

#### D. USE OF DEADLY FORCE

1. An officer may use deadly force when necessary to defend themselves or others when the officer has an objectively reasonable belief that imminent danger of death or serious physical injury exists.
2. An officer may use deadly force to prevent the escape of a fleeing violent felon, pursuant to the Fleeing Felon Rule, only when: (1) threatened with a weapon or where there is probable cause to believe the suspect poses an immediate threat of serious physical injury to the officer or another or there is probable cause to believe the subject has committed a crime involving the infliction or threatened infliction of serious physical injury; (2) deadly force is necessary to prevent escape; and (3) the officer provides a warning before using deadly force, if feasible. See Tennessee v. Garner, 471 U.S. 1 (1985).
3. Deadly force is permissible only for as long as the threat remains.
4. Warren Police Officers shall NOT use choke holds or employ strikes to the head or neck with an impact weapon, except where deadly force is authorized.

#### V. USE OF FIREARMS

- A. Unnecessarily or prematurely drawing and displaying a firearm limits an officer's alternatives in controlling a situation, creates unnecessary anxiety on the part of members of the public, and may result in an unwarranted or unintentional discharge of the firearm.
- B. Officers should not point a firearm at or in the direction of any person unless the circumstances surrounding the incident create an objectively reasonable belief that it may be necessary to use the firearm.
- C. When officers are about to invoke deadly force, they will, whenever possible or practical, issue a verbal warning to the subject. In this warning, officers will identify themselves as police and instruct the subject to stop the action.
  1. Officers will not discharge a firearm at or from a moving vehicle except when all other reasonable means have been exhausted and the officer has objectively reasonable cause to believe that the

suspect poses a significant threat of death or serious physical injury to the officer or others. The moving vehicle itself shall not presumptively constitute a threat that justifies an officer's use of deadly force. An officer threatened by an oncoming vehicle shall, if possible, move out of its path instead of discharging a firearm at it or any of its occupants.

2. When officers are about to discharge their firearms they must be cognizant of their field of fire and must not unnecessarily create a substantial risk of injury to innocent persons. Officers will not discharge a firearm at a threat unless it is visible except when exigent circumstances require doing so for the protection of life and the officer's discharge does not create an unnecessary risk of injury or death to uninvolved persons or bystanders.
  3. Officers may not discharge their firearms for purposes of warning shots.
- D. In order to avoid accidental discharges, officers shall avoid physically engaging with a subject while holding their firearm. Officers shall holster their firearm prior to physically engaging with a subject, whenever possible. Officers shall not hold both a firearm and the ECW at the same time.
- E. Firearms shall not be carried by any officer who has consumed any alcoholic beverage or taken any drugs, including current prescription medication(s), which may adversely affect the officer's senses or judgment.
- F. Officers may discharge their firearms to destroy animals in accordance with Warren Police Department Policy 12-002 Animal Control.

## **VI. MEDICAL TREATMENT AFTER USE OF FORCE**

- A. Officers will make medical treatment available to all persons who request it or exhibit evidence of injury following any use of force.
1. If a subject is injured or claiming injury, but is not seriously physically injured or claiming serious physical injury, the subject maybe transported to the hospital emergency room by one or more officers at the discretion of the immediate supervisor. A police vehicle with a prisoner transport cage may be used for this transportation if needed.
  2. If a subject is seriously physically injured or claims serious physical injury, medical personnel will be called to the scene. If medical

personnel remove the subject to the hospital, officers may accompany them at the discretion of the immediate supervisor. If possible, one officer should ride in the medic unit if the subject is still resisting and/or combative.

3. Subjects being transported to the hospital for treatment will be secured with handcuffs or other restraints to the extent that their injury(s) permits.

## **VII. USE OF FORCE REPORTING AND INVESTIGATIONS**

All uses of force, other than de minimis force (as defined in Section III. H of this policy), shall be reported and investigated in accordance with the procedures set forth below. Critical incident (as defined in Section III. E of this policy) reporting and investigation procedures are set forth in the Critical Incident Policy, 18-001.

If any investigating supervisor determines that an incident may involve criminal conduct on the part of the involved officer, the supervisor will notify the Chief, via the chain of command, who will determine whether the incident will be bifurcated into criminal and administrative investigations. The Chief's determination of appropriate investigative process shall be made in accordance with the guidelines set forth in 18-001.

### **A. LEVEL 1 USE OF FORCE**

#### **1. OFFICERS' USE OF FORCE REPORTING**

- a. Officer(s) will complete a use of force report for all uses of Level 1 force. Each officer shall include the following:
  - i. A narrative description of the events preceding the use of force and indicating each and every type of force he or she used;
  - ii. Where there are multiple applications of force, each application shall be clearly described and justified;
  - iii. Any efforts he or she took to de-escalate the encounter; and
  - iv. The identity of all officers and any witnesses who were involved in the incident or were on the scene when it occurred. Civilian witness statements are not necessary for the pointing of a firearm.

- b. Officer(s) who witnessed the use of force, but did not use force, shall complete a narrative detailing their actions and observations during the incident. Witness officer(s) shall indicate any efforts that any officer took to de-escalate the encounter.
- c. If required to complete a use of force report or a witness narrative, the officer(s) shall complete and submit all reports by the end of the shift on which the use of force occurs.
- d. Supervisors shall ensure that officers do not see one another's statements prior to submission of their own statement.

## 2. SUPERVISORS' INVESTIGATIONS

- a. There is NO requirement that the immediate supervisor respond to the scene of a Level 1 use of force incident; furthermore, there is NO requirement that the immediate supervisor conduct tasks on scene and complete a narrative such as during a Level 2 use of force incident.
- b. The Turn Commander shall be responsible for reviewing the use of force reports and officer witness statements on all Level 1 uses of force. The Turn Commander shall review any paperwork and material(s), including any Mobile Video Recordings (MVR) and any other evidence related to the use of force incident, prior to completing their written comments on the use of force report.
- c. Any supervisor involved in a use of force incident or allegation of objectively unreasonable force (i.e., used force during the incident, engaged in conduct that led to an injury, authorized conduct leading to the use of force or allegation of objectively unreasonable force, or witnessed the incident) will not be eligible to review the incident and the review shall be completed by the Turn Commander on the incoming shift.
- d. Turn Commanders shall make written comments, including a detailed description of the facts and circumstances surrounding the use of force incident, within seven (7) working days addressing the following:
  - i. Evaluate each officer's use of force report and officer witness statements for any deficiencies;

- ii. Whether or not any MVR was reviewed (If there was no MVR for the incident, the Turn Commander will state in his or her comments the reason(s) why);
  - iii. A determination of whether or not the officer's actions were within Warren Police Department policy;
  - iv. Whether or not the force used was objectively reasonable (see definition of objectively reasonable in Section III); and
  - v. Whether the Turn Commander has any recommendations regarding WPD policies, training, equipment, or tactics.
- e. Turn Commanders reviewing use of force reports shall ensure all of the following:
- i. That all officers who were involved in the incident or were on the scene when it occurred have been identified; and
  - ii. That a use of force report was completed by all officers involved in the incident, and that a witness narrative was completed by officers who were on the scene when it occurred.
- f. Turn Commander's written review shall be completed and forwarded to the Division Commander within seven (7) working days from the time of the use of force. An extension of this time requirement may be given by the Division Commander when requested by the Turn Commander. The Turn Commander shall make a written request for the extension of time and state the reason the extension is requested.
- g. The use of force report, along with any related material, will then be sent to the officer's appropriate Division Commander who will also review them prior to submitting his or her comments on the use of force report.
- h. The Division Commander shall review every Turn Commander review of a Level 1 use of force. The Division Commander shall address within seven (7) working days after receipt of the Turn Commander review, the following:

- i. Evaluate each officer's use of force report, officer witness statement, and Turn Commander's review for any deficiencies;
  - ii. Whether the force was analyzed as the correct level of force;
  - iii. A determination of whether or not the officer's actions were within Warren Police Department policy;
  - iv. Whether or not the force used was objectively reasonable (see definition of objectively reasonable in Section III); and
  - v. Acceptance, rejection and/or any implementation (if any) of recommendations made by the Turn Commander.
- i. Upon completion, the Division Commander shall forward his/her findings to the Use of Force Review Board unless the Division Commander concludes that deficiencies exist in the report.
  - j. Should the Division Commander conclude that deficiencies exist, the Division Commander shall require supervisors to correct the deficiencies as soon as practical in a period not to exceed 7 days from the date the supervisor receives notice from the Division Commander.
  - k. Once the Division Commander has concluded that all deficiencies have been appropriately addressed, the Division Commander shall document his/her evaluation of the use of force incident. Said evaluation shall be completed and forwarded to the Use of Force Review Board within 7 days of receipt of the corrected deficiencies.
  - l. An extension of these time requirements may be given by the Chief of Police when requested by the Division Commander. The Division Commander shall make a written request for the extension of time and state the reason the extension is requested.

**B. LEVEL 2 USE OF FORCE**

**1. OFFICERS' USE OF FORCE REPORTING**

- a. Officers shall notify their immediate supervisor following all uses of Level 2 force or upon the receipt of an allegation of objectively unreasonable force. This notification shall be made immediately after the incident or allegation.
- b. Officer(s) will complete a use of force report for all uses of Level 2 force. Each officer shall include the following:
  - i. A narrative description of the events preceding the use of force and indicating each and every type of force he or she used;
  - ii. Where there are multiple applications of force, each application shall be clearly described and justified;
  - iii. Any efforts he or she took to de-escalate the encounter;
  - iv. The identity of all officers who were involved in the incident or were on the scene when it occurred; and
  - v. A description of the medical care provided after the force was used, if any, and whether the subject refused medical treatment.
- c. Officer(s) who witnessed the use of force, but did not use force, shall complete a narrative detailing their actions and observations during the incident. Witness officer(s) shall indicate any efforts that any officer took to de-escalate the encounter.
- d. If required to complete a use of force report or a witness narrative, the officer(s) shall complete and submit all reports by the end of the shift on which the use of force occurs.
- e. Supervisors shall ensure that officers do not see one another's statements prior to submission of their own statement.

## 2. SUPERVISORS' INVESTIGATIONS

- a. Upon notification of a Level 2 use of force, immediate supervisors shall promptly respond to the scene of the incident.

- b. Upon arrival at the scene, the immediate supervisor shall do the following:
  - i. Examine the subject for injury;
  - ii. Photograph any visible injuries, both before and after treatment, if possible;
  - iii. Ensure that the subject receives needed medical attention; and
  - iv. Subject to appropriate *Miranda* Warnings, interview the subject and all available witnesses, including officers who were on scene.
- c. A narrative will be completed by the responding immediate supervisor, which will include a detailed description documenting all actions taken and any recommendations regarding WPD policies, training, equipment, or tactics. This narrative shall be completed by the end of the immediate supervisor's shift on which the use of force occurred and forwarded to the Turn Commander for review.
- d. When the immediate supervisor is involved in a use of force or an allegation of objectively unreasonable force (i.e., used force during the incident, engaged in conduct that led to an injury, authorized conduct leading to the use of force or allegation of objectively unreasonable force, or witnessed the incident), the Turn Commander on duty shall serve as both the immediate supervisor and Turn Commander for the purposes of the investigation. When the Turn Commander is involved in a use of force or an allegation of objectively unreasonable force, the review shall be completed by the Turn Commander on the incoming shift.
- e. If the Turn Commander was involved in the use of force incident, and there are no other supervisors on duty to respond to the incident, the Turn Commander shall conduct the described duties of the immediate supervisor (see Section VIII, B, 2 & 3) but shall not complete the Turn Commander review. The Turn Commander on the incoming shift shall be responsible for completion of the Turn Commander review.
- f. Any supervisor involved in a use of force incident or allegation of objectively unreasonable force (i.e., used force

during the incident, engaged in conduct that led to an injury, authorized conduct leading to the use of force or allegation of objectively unreasonable force, or witnessed the incident) will not be eligible to review the incident.

- g. No supervisor who is investigating a use of force incident shall ask officers or witnesses leading questions that improperly suggest legal justifications for officers' conduct.
- h. All supervisors reviewing a use of force shall consider all relevant evidence including circumstantial, direct and physical evidence, as appropriate, and make credibility determinations, if feasible, and make all reasonable efforts to resolve material inconsistencies between witness statements.
- i. The Turn Commander shall be responsible for reviewing the use of force reports and officer witness statements on all Level 2 uses of force. The Turn Commander shall review any paperwork and material(s), including any Mobile Video Recordings (MVR) and any other evidence related to the use of force incident, prior to completing their written comments on the use of force report.
- j. Turn Commanders shall make written comments, including a detailed description of the facts and circumstances surrounding the use of force incident, within seven (7) working days addressing the following:
  - i. Evaluate each officer's use of force report, officer witness statements, and immediate supervisor report for any deficiencies;
  - ii. Whether or not any MVR was reviewed (If there was no MVR for the incident, the Turn Commander will state in his or her comments the reason(s) why);
  - iii. A determination of whether or not the officer's actions were within Warren Police Department policy;
  - iv. Whether or not the force used was objectively reasonable (see definition of objectively reasonable in Section III); and
  - v. Whether the Turn Commander approves or disapproves the recommendations of the immediate

supervisor or makes any additional recommendations regarding WPD policies, training, equipment, or tactics.

- k. Turn Commanders reviewing use of force reports shall ensure all of the following:
  - i. That all officers who were involved in the incident or were on the scene when it occurred have been identified;
  - ii. That a use of force report was completed by all officers involved in the incident, and that a witness narrative was completed by officers who were on the scene when it occurred;
  - iii. That the immediate supervisor's report indicates whether an injury occurred, whether medical care was provided, and whether the subject refused medical treatment; and
  - iv. That all reports include photographs taken of all injuries at the earliest practicable opportunity, both before and after any treatment, if feasible and applicable.
- l. Turn Commander's written review shall be completed and forwarded to the Division Commander within seven (7) working days from the time of the use of force. An extension of this time requirement may be given by the Division Commander when requested by the Turn Commander. The Turn Commander shall make a written request for the extension of time and state the reason the extension is requested.
- m. The use of force report, along with any related material, will then be sent to the officer's appropriate Division Commander who will also review them prior to submitting their comments on the use of force report.
- n. The Division Commander shall review every Turn Commander review of a Level 2 use of force. The Division Commander shall address within seven (7) working days after receipt of the Turn Commander review, the following:

- i. Evaluate each officer's use of force report, officer witness statement, immediate supervisor's report and Turn Commander's review for any deficiencies;
  - ii. Whether the force was analyzed as the correct level of force;
  - iii. A determination of whether or not the officer's actions were within Warren Police Department policy;
  - iv. Whether or not the force used was objectively reasonable (see definition of objectively reasonable in Section III); and
  - v. Acceptance, rejection and/or any implementation (if any) of recommendations made by the Turn Commander.
- o. Upon completion, the Division Commander shall forward his/her findings to the Use of Force Review Board unless the Division Commander concludes that deficiencies exist in the report.
  - p. Should the Division Commander conclude that deficiencies exist, the Division Commander shall require supervisors to correct the deficiencies as soon as practical in a period not to exceed 7 days from the date the supervisor receives notice from the Division Commander.
  - q. Once the Division Commander has concluded that all deficiencies have been appropriately addressed, the Division Commander shall document his/her evaluation of the use of force incident. Said evaluation shall be completed and forwarded to the Use of Force Review Board within 7 days of receipt of the corrected deficiencies.
  - r. An extension of these time requirements may be given by the Chief of Police when requested by the Division Commander. The Division Commander shall make a written request for the extension of time and state the reason the extension is requested.

**C. LEVEL 3 USE OF FORCE**

All Level 3 Use of Force reporting and investigation requirements are the same as Level Two use of force reporting and investigation except that the immediate supervisor and the Turn Commander SHALL NOTIFY the Chief of Police by the end of the supervisor's shift on which the use of force occurred.

**VIII. FIREARMS DISCHARGE REPORT**

- A. Officers and Supervisors shall comply with the following procedures in all

firearms discharges that **DO NOT** constitute a critical incident (as defined in Section III). Critical incident reporting and investigation procedures are set forth in the Critical Incident Policy 16-002.

- B. Each officer will be responsible for submitting a Firearms Discharge Report whenever he/she has engaged in a critical firearms discharge. The officer will verbally report the incident to the immediate supervisor or Turn Commander as soon as is practical after the incident. The Firearms Discharge Report shall be submitted to the officer's immediate supervisor by the end of their shift. The immediate supervisor shall review the Firearms Discharge Report for completeness and accuracy, and will determine whether the officer's discharge was consistent with WPD Policies and Procedures. The Firearms Discharge Report will then be forwarded to the Turn Commander who shall also review the Firearms Discharge Report for completeness and accuracy, and will determine whether the officer's discharge was consistent with WPD Policies and Procedures. The Firearms Discharge Report will then be forwarded to the Division Commander for final approval. Each review, prior to the Division Commander's review, must take no more than three working days.
- C. If the officer responsible for the firearms discharge is unable to submit said report due to incapacitation or other exigent circumstances, then the officer's immediate supervisor shall submit the Firearms Discharge Report. The report will likewise be forwarded through the chain of command with notations as to why he/she has completed said report for the officer.
- D. For each Firearms Discharge Report, the officer's Division Commander shall:
  - 1. In a timely manner, evaluate each Firearms Discharge Report and the subsequent supervisors' reviews. The Division Commander shall review the reports for any deficiencies in a period not to exceed seven days. Should the Division Commander conclude that no deficiencies exist, the Division Commander shall document his/her evaluation, to include the additional determinations per subparagraph 3, below, within the same seven day period. Upon completion, the Division Commander shall forward his/her findings to the Use of Force Review Board.
  - 2. Should the Division Commander conclude that deficiencies exist, the Division Commander shall require supervisors to correct the deficiencies as soon as practical, in a period not to exceed 14 days.
  - 3. Once the Division Commander has concluded that all deficiencies have been appropriately addressed, the Division Commander shall

document his/her evaluation and findings of the use of firearms review. The Division Commander shall:

- a. Make a recommendation as to whether a criminal or administrative investigation of the incident should take place;
  - b. Determine whether the discharge was consistent with WPD Policies and Procedures;
  - c. Make a recommendation as to whether training or changes in policy are needed; and
  - d. Said evaluation shall be completed and forwarded to the Use of Force Review Board within seven days of receipt of the corrected deficiencies.
4. An extension of these time requirements may be given by the Chief of Police when requested by the Division Commander. The Division Commander shall make a written request for the extension of time and state the reason the extension is requested.

#### **IX. Use of Force Review Board**

- A. Upon completion of all use of force investigations and all use of firearms reviews, the Division Commander shall immediately forward all completed investigations and reviews, as well as any concerns or recommendations, to the Use of Force Review Board.
- B. Within ten days of receipt the Use of Force Review Board shall:
  1. Ensure that the use of force investigations and Firearms Discharge Reports have been completed according to the provisions of this policy. If the investigations and reports have not been completed according to the provisions of this policy, the Use of Force Review Board shall return the investigations and reviews to the Division Commander for appropriate follow-up, to be returned to the Review Board within ten days. The Review Board will then have an additional ten days to complete its review.
  2. Determine whether the involved officer(s)' actions were within WPD policy. Whether or not the involved officer(s)' actions were within WPD policy, the Use of Force Review Board shall also:
    - a. Determine the need for additional training;
    - b. Determine the need for policy revisions;

- c. Determine the need for changes to WPD tactics or equipment; and
  - d. Determine whether the incident may involve criminal conduct by the involved officer(s) or administrative violations.
3. Forward to the Chief of Police for final review. The Chief has sole authority to approve or disapprove each of the reviews and/or recommendations. Such review must take place within ten days. Upon review, the Chief must approve or disapprove, in writing, each finding or recommendation, and will forward any findings or recommendations to the appropriate WPD entity for implementation or further action.
- C. The final, completed review will be forwarded to and retained by Internal Affairs.

**END Use of Force Policy 96-007**

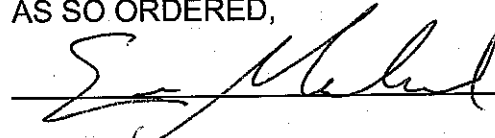
The aforementioned rules, regulations, policies, and procedures, to wit: PO/PR 96-007 is and the same are ratified prescribed, adopted, approved, made and promulgated, by me, on this 21<sup>ST</sup> day of AUG, 2023, at 1:00 AM/PM.

AS SO ORDERED,

  
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Eddie L. Colbert  
Director of Public Safety & Service

The aforementioned rules, regulations, policies, and procedures, to wit: PO/PR 96-007 is and the same are ratified prescribed, adopted, approved, made and promulgated, by me, on this 21<sup>ST</sup> day of AUG, 2023, at 1:00 AM/PM.

AS SO ORDERED,

  
\_\_\_\_\_  
Eric J. Merkel  
Chief of Police