

<b>Directive</b>	<b>Less than Lethal Response to Aggression</b>	<b>500-3</b>	<b>1 of 6</b>
<b>Effective Date</b>	<b>January 1, 2010</b>		



## **Wilkesboro Police Department**

### **Electronic Written Directives Document**

#### **I. PURPOSE**

The purpose of this policy is to provide officers of the Wilkesboro Police Department with guidelines for the use of less than lethal response to aggression.

#### **II. POLICY**

- A. Response to aggression is governed by North Carolina General Statute 15A-401 (d). It is the policy of the Wilkesboro Police Department to use only the response to aggression reasonable and necessary to accomplish lawful objectives and goals.
- B. Wilkesboro Police Officers are justified in responding to aggression upon another person when and to the extent that he/she reasonably believes it necessary to:
  - 1. To prevent the escape from custody or to effect the arrest of a person who the officer reasonably believes has committed a criminal offense, unless the officer knows that the arrest is unauthorized; or
  - 2. To defend himself/herself or a third person from what the officer reasonably believes to be the use or imminent use of physical force while attempting to arrest or while preventing or attempting to prevent an escape.

#### **III. DEFINITIONS**

- A. Imminent: An event that is about to occur at any moment.
- B. Reasonably Necessary: Facts and circumstances, including reasonable inferences drawn there from, known to an officer at the time he/she uses less than lethal response, which would cause a reasonable officer to believe that less than lethal response is appropriate.
- C. Less than Lethal Response: Any physical exertion or device that is used to restrain or control another which is not reasonably likely to cause death or serious injury, including, but not limited to Oleoresin Capsicum (OC spray), conducted energy weapons (Tasers), and bean bag rounds.

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IV. PROCEDURES FOR THE USE OF LESS THAN LETHAL RESPONSE

A. Oleoresin Capsicum (OC Spray)

1. OC Spray will only be issued to and used by officers who have successfully completed a basic course in its use and in proper decontamination procedures. The Wilkesboro Police Department shall adopt a policy of mandatory exposure to the product by the officer.
2. The use of OC is authorized before any attempt to handcuff a noncompliant suspect unless the officer is fully confident the suspect can be safely controlled by open hand techniques. For individuals that are passively resisting, the officer should call for and await the arrival of a back-up officer. A minimum of two verbal warnings must be given before the passive noncompliant suspect is sprayed/ unless an immediate response is required during an active aggression or flight.
3. Defensive spraying against an attacking suspect does not require warning or waiting before spraying. However, when multiple officers are involved or spectators and by-standers are nearby a verbal warning is preferred.
4. The OC shall be administered in one-second burst aimed at the face of the suspect. On some occasions a second burst may be needed.
5. There should be no need to use more than two bursts on an individual. (Multiple officers should refrain from every officer spraying the subject with OC). Once the subject is compliant there should never be a need to use less than lethal weapons. The use of less than lethal weapons on subjects that have been restrained should be a last resort. The use of less than lethal weapons on restrained subjects requires detailed reporting explaining the officer's actions and justifications for using less than lethal weapons. Pepper spray cannot be used to punish a prisoner who presents no threat.

B. Conducted Energy Weapons (TASERS)

1. Tasers will only be issued to and used by officers who have successfully completed the Taser training program and have shown proficiently in the use of the weapon. Trained officers must go through in-service retraining at least every year in order to continue to carry and use the device.

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2. The X26 Advanced Taser is to be used only for controlling combative or resistive subjects.
3. Officers issued the X26 Advanced Taser will carry the device in the issued holster on their weak side in accordance with X26 Advanced Taser training.
4. Officers issued the X26 Advanced Taser are responsible for ensuring that the device is fully operational at all times. This includes ensuring that the unit is fully charged, the Air Cartridge has not expired, and all components are fully operational.
5. The X26 Advanced Taser can also be used by removing the air cartridge, applying the device directly to the combative or resistant subject and activating.
6. The device should be aimed by splitting the hemispheres of the body as directed in training and should not be aimed directly at the chest of the intended target. The device should also not be deliberately aimed at the face, neck or groin area.

C. Considerations

1. The X26 Advanced Taser has the ability to ignite flammable liquids. The device is not to be deployed at subjects who have come into contact with flammable liquids or in environments where flammable liquids are obviously present.
2. Officers should not deploy the Taser upon a subject while he or she is on an elevated structure over five feet off of the ground unless precautions have been placed to ensure the subject will not strike his or her head on any object by falling from the elevated surface; or the use of deadly response is authorized.
3. Consideration should be given and care taken in situations where the targeted subject is likely to experience a fall on sharp objects likely to penetrate the body.

D. Less than Lethal Options

1. Officers with specialized training who are authorized and trained in the use of specialized equipment may use that issued equipment pursuant to a standard operating procedure approved by the Chief of Police, or designee.

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2. The use of less lethal options is not considered deadly force.
  
3. Approved less lethal equipment currently includes, but is not limited to:
  - a. Chemical Irritants
  - b. Conducted Energy
  - c. Bean Bag Rounds
  - d. 40mm Sponge or Foam Rounds
  - e. Other equipment as approved by the Chief of Police that is designed to incapacitate, but not designed to deliver deadly force.

D. Officers will not use these tactics unless lethal response is reasonably necessary:

1. Any hold with or without a device that restricts a person's airway.
2. Any strike with an impact weapon or object to a person's head or neck.
3. Any other tactic that is reasonably likely to result in death or serious injury unless deadly force was reasonably necessary.

## V. PROCEDURES AFTER THE USE OF LESS THAN LETHAL RESPONSE

### A. Medical Aid

Every officer that uses any force to gain control of a situation must assess the person(s) involved in the incident for signs of injury or trauma. If medical assistance is required the officer will immediately notify the Communications Center and request Emergency Medical Service Personnel (EMS). The officer must assist the injured person(s), unless he/she is unable or has been relieved by another officer or EMS Personnel.

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After requesting the appropriate medical aid, the officer will take any appropriate measure they are trained and certified to take. Those actions may include:

1. Increased observation of the subject to detect obvious changes in condition;
2. Apply any first aid they are trained and certified to apply; and,
3. Secure the scene to protect the subject from any further injury.
4. Officers will remove the probes that have penetrated the subject's skin in accordance with Taser Training, except when the probes enter sensitive areas then EMS will be requested (see below). The probes will be considered contaminated sharps and disposed of accordingly.
5. EMS personnel will be requested to remove the probes that have penetrated sensitive areas of the body such as the face, neck, groin, female chest, or buttocks.

**B. Duty to report Use of Less than Lethal Response**

1. Any officer who uses lethal response, or witnesses another officer use of lethal response, will immediately contact his/her supervisor.
2. The subject and any marks left by the X26 Advanced Taser probes will be photographed. This may be done at the scene, medical facility or the Detention Center.
3. The Air Cartridges will be collected and stored by the Deputy Chief of Police and retained until the case is disposed.
4. Following Deployment of the X26 Advanced Taser data may be downloaded from the device for documentation purposes by the IT Section with the results being submitted to the Chief of Police. The data report will be stored with the response to aggression packet.

**C. Modified Assignment**

An officer directly involved in an incident involving the response to aggression *that results in serious physical injury or death* will be placed on modified assignment or leave with pay until:

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1. The administrative review or internal investigation shows that the response to aggression was justified and in compliance with State law and departmental policy and procedures and;
2. A department-approved psychologist has examined the officer and determined that the officer is fit for duty.

This action is taken in order to protect the interests of the individuals involved and the Department while an investigation is being conducted, and does not imply or indicate that the officer acted improperly. Officers placed on modified assignment or leave shall not engage in secondary employment.

The leave status may change to a disciplinary status if the investigation proves that the officer acted with criminal intent or in a willful, wanton, and reckless manner with disregard for the safety of others.

An officer on modified leave will remain available for departmental interviews and will be subject to recall to duty at any time after the officer is declared fit for duty and the response to aggression is determined to be justified and in compliance with policy. Upon returning to duty, the officer may be assigned to an administrative or light duty assignment for a period of time determined appropriate by the Chief of Police.

## VI. REFERENCES

N.C. General Statute 15A-401(d)  
 Directive 500-2 Lethal Response to Aggression  
 CALEA 1.3.1; 1.3.4; 1.3.10; 1.3.11