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Effective Date	January 1, 2010		



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 deadly 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. Lethal Response: Any response that is reasonably likely to cause death or serious injury. Response that is not likely to cause death or serious injury, but unexpectedly results in death or serious injury is not considered lethal response. The discharging of a firearm is always considered lethal response except when an officer is discharging a less-than-lethal option pursuant to this policy.
- B. Imminent: An event that is about to occur at any moment.
- C. Reasonably Necessary: Facts and circumstances, including the reasonable inferences drawn there from, known to an officer at the time he/she uses lethal response, that would cause a reasonable officer to believe that lethal response is appropriate.

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IV. PROCEDURES FOR THE USE OF LETHAL RESPONSE

- A. Wilkesboro Police Officers are justified in using **lethal** physical response upon another person **only** when it is or appears to be reasonably necessary:
1. To defend himself/herself or a third person from what the officer reasonably believes to be the use or imminent use of Lethal aggression; or
 2. To make an arrest or to prevent the escape from custody; or
 3. The age and/or gender of the aggressor will not be considered a limiting factor for the officer who is threatened with death or serious physical injury.
 4. Justification for the use of lethal response must be limited to the facts known to the officer or perceived by the officer at the time of the decision. Only facts known to the officer at the time of the incident are to be considered in determining justification for the use of lethal response.
- B. An officer will not discharge his/her firearm under the following circumstances:
1. As a means of a warning or frightening a person.
 2. At or from a moving vehicle except as an ultimate measure of self-defense or in the defense of another person when the suspect or violator is using the vehicle or weapon in a manner to cause serious injury or death to another person.
 3. When it appears likely that an innocent person may be injured, except as an ultimate measure of self-defense or in the defense of another person when the suspect or violator is using lethal response.
 4. The use of lethal response against a fleeing felon who does **not** pose a significant and imminent threat of death or serious physical injury to the officer or others **is prohibited.**
- C. Pointing a Firearm at an Individual

An officer may point their firearm at another person if he/she reasonably believes that lethal response may become necessary. An officer need not wait until the threat becomes imminent before pointing his/her firearm at a person. However, an officer must be able to articulate why he/she believes that lethal

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response may become necessary. Nothing in this section is intended to take away from an officer, the ability to defend him/herself or another person from serious bodily injury or death.

V. PROCEDURES FOLLOWING THE USE OF 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.

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.

B. Duty to Report Use of Lethal Response

Any officer who uses lethal response, or witnesses another officer's use of lethal response, will immediately contact his/her supervisor.

C. Immediate Supervisor

Whenever an officer uses lethal response, the officer's immediate supervisor will ensure that the on call Division Commander is notified and dispatched to the scene.

D. Division Commander

The Division Commander will be responsible for notifying the State Bureau of Investigations who will conduct a post shooting investigation. He will also ensure that all other notifications are made i.e. Internal Affairs, Chief of Police etc.

E. Internal Affairs

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Whenever an officer uses lethal response, the Internal Affairs Unit will be responsible for conducting an administrative investigation.

F. Modified Assignment or Leave

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:

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 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 assignment or 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)
 CALEA 1.3.1; 1.3.2; 1.3.3; 1.3.5; 1.3.8.