

DEKALB POLICE DEPARTMENT

Subject: **Use of Force**

Policy #: **103.3**

Effective Since: 8-21-03

Originally Issued As: P-11 and General Order # 10 of 5-25-95

Revision Effective: 6-16-20

Reference Material: ILCS; IACP Research Papers; State of Illinois FTO Training Task: # 8, # 12
"Evaluation of Guidelines for Use of Force Training" Manual

ILEAP Standards Covered: ADM.05.01, 05.02, 05.03

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PURPOSE: The purpose of this policy is to outline the department's use of force guidelines, the reporting of the use of force, and the investigation of deadly force incidents.

POLICY: It is the policy of the department to follow state and federal guidelines when applying use of force. Generally, officers are authorized to use only that force which is reasonably necessary to overcome resistance or escape by an offender; or to prevent injury, great bodily harm, or death to self or others.

DEFINITIONS:

Arrest: 725 ILCS 5/102-5 defines arrest as "taking of a person into custody." 725 ILCS 5/107-5(a) says that "an arrest is made by actual restraint of the person or by his submission to custody."

Deadly Force: that force which is likely to cause death or great bodily harm.

Non-deadly Force: any use of force other than deadly force; any physical effort used to control or restrain another, or to overcome the resistance of another.

Reasonable Force, or Force Reasonably Necessary: this term or phrase means that when an officer is determining the necessity for force and the appropriate level of force, the officer has evaluated the situation in light of the known circumstances, including, but not limited to: the seriousness of the crime, the level of threat or resistance provided by the subject, and the level of danger to the officer, others, and the community.

Great Bodily Harm: broken bones, large gaping wounds, loss of organs, or injuries that could cause death or permanent disabilities.

STATE STATUTES:

Use of Force in Defense of Person, 720 ILCS 5/7-1: "A person is justified in the use of force against another when and to the extent that he reasonably believes that such conduct is necessary to defend himself or another against such other's imminent use of unlawful force. However, he is justified in the use of force which is intended or likely to cause death or great bodily harm only if he reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or another, or the commission of a forcible felony."

Use of Force in Defense of Dwelling, 720 ILCS 5/7-2: "A person is justified in the use of force against another when and to the extent that he reasonably believes that such conduct is necessary to prevent or terminate such other's unlawful entry into or attack upon a dwelling. However, he is justified in the use of force which is intended or likely to cause death or great bodily harm only if (a) the entry is made or attempted in a violent, riotous, or tumultuous manner, and he reasonably believes that such force is necessary to prevent an assault upon, or offer of personal violence to, him or another then in the dwelling, or (b) he reasonably believes that such force is necessary to prevent the commission of a felony in the dwelling."

Peace Officer's Use of Force in Making an Arrest, 720 ILCS 5/7-5(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 to effect the arrest and of any force which he reasonably believes to be necessary to defend himself or another from bodily harm when making the arrest. However, he is justified in using 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 such other person, or when he reasonably believes both that: (1)

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such force is necessary to prevent the arrest from being defeated by resistance or escape; and (2) the person to be arrested has 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."

Force Likely to Cause Death or Great Bodily Harm, 720 ILCS 5/7-8(a): "Force which is likely to cause death or great bodily harm includes (1) the firing of a firearm in the direction of the person to be arrested, even though no intent exists to kill or inflict great bodily harm; and (2) the firing of a firearm at a vehicle in which the person to be arrested is riding."

Use of Force to Prevent Escape, 720 ILCS 5/7-9(a): "A peace officer or other person who has an arrested person in his custody is justified in the use of such force to prevent the escape of the arrested person from custody as he would be justified in using if he were arresting such person."

Forcible Felonies, 720 ILCS 5/2-8: "Forcible felony means treason, first degree murder, second degree murder, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, robbery, burglary, residential burglary, aggravated arson, arson, aggravated kidnapping, kidnapping, aggravated battery resulting in great bodily harm or permanent disability or disfigurement and any other felony which involves the use or threat of physical force or violence against any individual."

PROCEDURES:

I. Use of Force:

- A. Only the amount of force reasonably required to affect an arrest, control a person, or otherwise accomplish lawful objectives shall be used. [ILEAP ADM.05.01(a)]
- B. Officers will adhere to the objective reasonableness standard as defined in *Graham vs. Connor* in use of force in responding to perceived threats with all lethal or non-lethal weapons authorized by the agency. [ILEAP ADM.05.01(b)]
- C. The force used by an officer should only be that required to overcome the resistance being offered by the offender. The Illinois Law Enforcement Training and Standards Board publishes a Use of Force Continuum that establishes use of force criteria for various levels of resistance. See Annex A.
- D. Officers are authorized to use appropriate weaponless physical control measures when the level of resistance offered by the offender justifies such use or application.
- E. Prior to being authorized to carry a firearm, an officer must be issued a copy of this policy and be trained regarding its contents. [ILEAP ADM.05.02(a)]
- F. Prior to being authorized to carry less lethal weapons, an officer must be issued a copy of this policy and be trained regarding its contents. [ILEAP ADM.05.02(b)]
- G. Officers will receive additional instruction in use of force topics within every calendar year. [ILEAP ADM.05.02(c)]
- H. Standard less lethal weapons authorized by the department are:
 - 1. Approved straight stick or collapsible asp; 21" to 26" black expandable baton.
 - 2. CAPSTUN or OC spray (see Policy 406.3, CAPSTUN Use).
 - 3. Tasers (see Policy 304.9, Taser Use).

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4. Less lethal shotgun with related beanbag or other approved ammunition.
5. Crowd control batons; may be carried or used only when authorized by a supervisor.
- I. Standard authorized less lethal weapons may be used when:
 1. The officer has received the requisite training in the use of the weapon;
 2. The officer uses the less than lethal weapon with techniques of its intended use;
 3. The level of resistance offered by the offender justifies the use of the weapon.
- J. Other less lethal or improvised weapons may be used only when necessary in exigent situations.
- K. Use of force, other than mere presence by the officer and verbal commands, shall be documented on the case report of the incident. Reports shall specify the actions of the suspect that necessitated the use of force; the officer's use of force, whether weaponless, using weapons of less than deadly force, or deadly force; any offender's or other person's injuries or complaints of injury, medical treatment offered or received, or refusal of medical treatment.
- L. Any actual or reported injuries to officers, offenders, or others shall receive appropriate medical aid as soon as practically possible following the use of force incident. Minor first aid provisions, such as providing an ice pack or bandage, can be performed by agency personnel. Medical aid, if deemed necessary, will be provided in most cases by the DeKalb Fire Department paramedics.
- M. Persons who were at the scene of a use of force incident that complain about inappropriate or excessive uses of force must have their observations and complaint documented in the case report and reported to a supervisor as soon as **possible**. **Persons wishing to make a formal complaint shall not be denied the ability to report the incident. The supervisor will review the information and report the situation to the Division Commander.**
- N. Supervisors will investigate any suspected or reported inappropriate uses of force and forward the findings of the investigation to the appropriate Division Commander for review, training issues, or necessary disciplinary action.
- O. Officers are to use deadly force only in compliance with 720 ILCS 5/7-5(a):
 1. "Only when he reasonably believes that such force is necessary to prevent death or great bodily harm to himself or such other person, [ILEAP ADM.05.01(c)] or
 2. When he reasonably believes both that: (1) such force is necessary to prevent the arrest from being defeated by resistance or escape; and (2) the person to be arrested has 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." [ILEAP ADM.05.01(d)]
(See the Definitions and other State Statutes listed in this policy.)
- P. When feasible, the officer should engage an offender with verbal commands prior to the use of deadly force.
- Q. The use of firing "warning shots" is prohibited. [ILEAP ADM.05.01(e)]
- R. Whenever an officer discharges a firearm for any reason, other than firearms training, he shall direct a written report of the circumstances surrounding the incident to the Chief of Police through the chain of command. Any accidental

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discharge situation, including during any training exercise, will likewise be reported.

- S. The use of any "choke hold," lateral vascular technique, any type of forcible neck restraint, or other means of attempting to gain compliance by impairing breathing or restricting blood flow to the brain shall only be permitted where deadly force **would otherwise be authorized. The use of any neck obstruction shall not be** permitted to prevent evidence destruction by ingestion.
- T. Duty to Intervene: 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, intervene to prevent the use of unreasonable force. An officer who observes another employee use force that exceeds the degree of force permitted by law shall immediately report these observations to a supervisor.

II. Investigating Deadly Force & Serious Use of Force Incidents

A. Handling of Officers at Scene of Deadly Force or Serious Use of Force Incident

B.

1. A serious use of force incident is defined as one where the officer's actions or use of force resulted in significant or serious physical injury to another person, including the officer's involvement in a motor vehicle accident where someone is killed or seriously injured.
2. Officers must immediately report all such incidents to their supervising officer. A supervisor shall be dispatched to the scene of the incident and shall assume primary responsibility in caring for involved personnel.
3. The supervisor shall make appropriate arrangements for all necessary medical treatment, if not already done by officers at the scene.
4. During any period where the involved officer is required to remain on the scene, but has no immediate duties to fulfill, the officer should be taken to a quiet area away from the scene of the incident. An officer or other supportive person should remain with the officer but should be advised not to discuss details of the incident. The supervisor should arrange for the officers directly involved in the incident to leave the scene as soon as possible and be taken to a secure setting.
5. The supervisor should contact the Chief and the Patrol and Investigations Commander.
6. Where possible, the supervisor shall briefly meet with the involved officers.
 - a. No medication or other stimulants or depressants should be given to the officers unless administered by medical personnel.
 - b. Only minimal, preliminary questions should be asked about the incident. The officers should be advised that a more detailed debriefing will be conducted at a later time.
 - c. Any standard investigations that will occur concerning the incident should be discussed with the officers, including the provisions in Section III of this policy.
 - d. The officers should be advised that they may seek legal counsel.
 - e. The officers should be advised not to discuss the incident with anyone except a personal or agency attorney, union representative, or assigned investigator, until the conclusion of the preliminary investigation.

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7. The supervisor shall determine whether the circumstances of the incident require that the weapon the officer used be taken for laboratory analysis or other investigative reasons. Where the weapon is taken, the supervisor shall:

- a. Take custody of the officer's weapon in a discreet manner; and
- b. Coordinate with command staff to replace it with another weapon or advise the officer that it will be returned or replaced at a later time, as appropriate.

8. Involved officers should notify their families about the incident as soon as possible. Where an officer is unable to do so, an agency official shall personally notify his family, and arrange for any necessary transportation.

9. If an officer is killed or injured, the department will assign an officer to remain with and assist the victim officer's family as long as needed. (See Policy 202.5 for additional information on policies regarding deceased officers.)

10. At all times, when at the scene of the incident, the supervisor should handle the officer and all involved personnel in a manner that acknowledges the stress caused by the incident.

[ILEAP ADM.05.03(a)]

C. Post-Incident Procedures

D.

1. Involved personnel shall be removed from patrol or investigation duties pending an incident investigation, officer evaluation, and approval for return to duty by the Chief. Involved personnel shall remain available for any necessary administrative investigations. Personnel should be advised that their removal from duty is not an indication of suspected wrong-doing, but a protective measure for all that includes preserving the officer's dignity and privacy. [ILEAP ADM.05.03(b)]

2. All officers directly involved in a deadly force incident shall be required to contact an agency-designated specialist for counseling and evaluation as soon as practical after the incident. Involved support personnel should also be encouraged to contact such specialists after a shooting incident.

3. After the counseling sessions, the specialist shall advise the agency:

- a. Whether it would be in the officers' best interest to be placed on administrative leave or light duty, and for how long;
- b. Where the officers were relieved of their duty weapons after an incident, at what point the weapon(s) should be returned;
- c. What will be the best continued course of counseling.

4. The department strongly encourages the families of the involved officers to take advantage of available counseling services.

5. The department will conduct a thorough review of every deadly force circumstance. The official investigation of the incident shall be conducted as soon and as quickly as practical; the Illinois State Police will be contacted to conduct an independent investigation in most cases.

6. The agency should brief other agency members concerning the incident so that rumors are kept to a minimum. Agency members are encouraged to show the involved officers their concern.

7. All personnel involved in a deadly force or serious use of force incident should be advised that they are not permitted to speak with the media about the incident. Officers shall refer inquiries from the media to a designated agency

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spokesperson, unless otherwise authorized to release a statement pertaining to the incident.

8. In order to protect against media inquiries or abusive calls, officers should be advised to have phone calls answered by another person for several days if their names are released to the public.

9. Officers directly involved in a shooting incident shall be required to re-qualify as soon as practical.

10. Any investigation of the death of an individual that allegedly results directly from an action or direction from an intentional omission of a law enforcement officer who is on duty, acting within the scope of his or her employment, or off duty but performing law enforcement activities, including but not limited to: a) unreasonable delay involving a person in custody; b) intentional failure to seek medical attention when the need for treatment is apparent; c) death resulting from a motor vehicle accident where the law enforcement officer was engaged in law enforcement activities involving the decedent or the decedent's vehicle; or, d) death resulting from a motor vehicle accident where the law enforcement officer was in the process of apprehending or attempting to apprehend the decedent or the decedent's vehicle, shall be processed in accordance with supplemental policy outlined in Section III of this policy and the Police and Community Relations Act, 50 ILCS 727/1-1, et. seq.

E. Stress Recognition

F.

1. As post-traumatic stress disorders may not arise immediately, or the officers may attempt to disguise or deny the problem, each supervisor should monitor the officer's behavior for symptoms of a stress disorder.

2. A command staff officer may order an officer to seek assistance or counseling from a mental health specialist upon a reasonable belief that stress may be disrupting the officer's job performance.

3. The agency will provide the officer with training pertaining to post-traumatic stress disorders if necessary or requested.

III. **Investigation of Any Officer -Involved Death**

A. Any death involving or relating to a law enforcement officer who is either on duty, or acting within the scope of his or her employment, or off duty but performing law enforcement activities that are within the scope of his or her employment, shall be immediately reviewed pursuant to the Police and Community Relations Improvement Act (50 ILCS 727/1-30) and this policy is required. Such processing shall be required where the death:

1. Results directly from an action or intentional omission of a law enforcement officer;
2. Results from the unreasonable delay in seeking medical treatment for a person in custody where the need for treatment is apparent;
3. Results from the intentional failure to seek medical treatment for a person in custody where the need for treatment is apparent;
4. Results from a motor vehicle accident in which a law enforcement officer was involved while engaged in law enforcement activities involving the decedent or the decedent's vehicle; or,

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5. Results from a motor vehicle accident in which a law enforcement officer was engaged in the process of apprehending or attempting to apprehend the decedent or the decedent's vehicle.
 6. Any death which is within these circumstances shall require an "Investigation" as defined herein.
- B. Any Investigation under this policy shall comply with the following requirements as required by state statute:
1. The Investigation shall be conducted by at least two investigators or an entity or agency comprised of at least two investigators. One investigator shall be deemed lead investigator and shall be certified by the Illinois Law Enforcement Training Standards Board (ILETSB) as a Lead Homicide Investigator (or shall have other training approved by the ILETSB or the Department of State Police, or similar training provided by an ILETSB certified school). No investigator involved in the Investigation shall be employed by the City of DeKalb. [50 ILCS 727/1-10(b)]
 2. If the Investigation involves a motor vehicle accident, at least one of the investigators shall be certified as an ILETSB Crash Reconstruction Specialist (or shall have other training approved by the ILETSB or the Department of State Police, or similar training provided by an ILETSB certified school). In Investigations involving motor vehicle accidents, the motor-vehicle accident investigation certified Investigator may be employed by the City of DeKalb. [50 ILCS 727/1-10(c)]
 3. The investigators shall thoroughly conduct the Investigation in an expeditious manner and shall provide a complete report of their investigation to the DeKalb County State's Attorney, or the State's Attorney of the county where the death occurred. [50 ILCS 727/1-10(d)]
 4. If the States Attorney determines that there is no basis to prosecute the law enforcement officer or if the law enforcement officer is not otherwise charged or indicted, the investigators shall publicly release a report of such decision. [50 ILCS 727/1-10(e)].
- C. Nothing contained within this policy shall prohibit or impair the ability of the Police Department to conduct an internal investigation of the incident, provided that such internal investigation does not interfere with the investigation required in 50 ILCS 727/1-10. [50 ILCS 727/1-15]
- G. Drug and Alcohol Testing: Following an officer-involved shooting when an officer discharges his or her firearm, causing injury or death to a person or persons, during the performance of his or her official duties or in the line of duty, the officer shall submit to drug and alcohol testing as soon as practical but no later than the end of the involved officer's shift or tour of duty. [50 ILCS 727/1-25] Such testing will be performed as discreetly as possible in a clinical setting.
- H. As noted previously, any officer involved in an officer-involved shooting or other deadly force incident shall immediately report such to a supervisor. The department will conduct a thorough review of any officer-involved shooting or

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other deadly force incident. This policy is available for release under FOIA without exemptions. [50 ILCS 727/1-30].

Policy originally issued 8-21-03; this revision becomes effective on 1-1-19 by authority of the Chief of Police .

NOTE: This policy and procedure summarizes the department's position on this specific matter. This policy is for general direction and guidance primarily designed for use by the department's members. This policy is for internal use only and does not create or enlarge an officer's liability in any way. This policy shall not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this policy, if proven, can only form the basis of an internal departmental complaint and then only in a non-judicial administrative setting.

ANNEX A FOLLOWS: Use of Force Classifications and Continuum

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Use of Force Classifications & Potential for Injury

1. **Cooperative Person** : a person who is, or can be developed into, a cooperative individual.
Injury Potential to Officer: Little or no injury potential to the officer exists if the person remains cooperative.
Injury Potential to a Person: Injury potential exists in every arrest; however, little injury is present to the person if he remains cooperative. Restraining device injury includes: abrasions/scratches; minor bruising
2. **Passive Resister** : a person who exhibits no resistive movement to verbal and other direction. A passive resister may merit an active resister response when presenting a credible threat to the officer or resister through: an agitated demeanor, verbal threats or words signifying an intent or ability to use violence or resistance.
Injury Potential to Officer or Others: The potential to create injury by a passive resister is mainly attributed to the resister having to be lifted or moved around by the officer. The officer may experience any of the following: muscular injury; joint injury; ligament injury; abrasions/scratches
Injury Potential to a Resister: While the possibility of soft tissue damage does exist, it is remote. Injuries could include: muscular injury; joint injury; ligament injury; abrasions/scratches
3. **Active Resister**: a person who exhibits resistive movement to avoid physical control or presents a credible threat to the officer through: an agitated demeanor, verbal threats or words signifying an intent or ability to use violence or resistance.
Injury Potential to Officer or Others: The potential to create injury by an actively resistant subject is greatly increased. This is due to the nature of the person's actions, which are in effect attempts to avoid control. This could be attempted by mere muscular tension or actual movement, such as slight evasive movement of the arm, flailing, or full flight. An active resister could create the same types of injuries as a passive resister. However, the likelihood of injury is greatly increased, due to the dynamic movement involved: muscular injury; joint injury; ligament injury; abrasions/scratches; lacerations
Injury Potential to a Resister: The extent of injuries that could possibly result from the application of these techniques is similar to the injuries possible at the passive resister level. The likelihood of injuries is increased because of the dynamics nature of the techniques incorporated. Special attention and aftercare should be given to resisters after the deployment of Tasers. Injuries could include: muscular injury; joint injury; ligament injury; abrasions/scratches; lacerations; effects of chemical agents; some potential for serious bodily injury if resister is under the influence of alcohol/drugs or compounded by mental illness while exhibiting excited delirium.
4. **Aggressive/Assailant** : a person that performs physical actions, without weapons, that are aggressive and demonstrates behavior that is likely to cause physical injury.
Injury Potential to Officer or Others: The potential for the person to cause injury is very likely at this level of resistance. Proximity of the person to the officer and the person's highly agitated or combative state are contributing factors to the increased potential for injury to all parties involved. As a result of striking or wrestling with the officer, injury could result. The resulting injuries could include: lacerations; minor broken bones; chipped teeth; connective tissue damage; bruising
Injury Potential to an Assailant: The resulting injuries could include: lacerations; minor broken bones; chipped teeth; connective tissue damage; bruising

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5. **Deadly Force Assailant** : a person whose actions will probably cause death or great bodily harm.

Injury Potential to Officer or Others: Resistance of this type has the likelihood of creating the most severe injuries of all resistance categories. The resulting injuries could include: death; great bodily harm: major broken bones, large gaping wounds, loss of organs, or injuries likely to cause death or permanent disability

Injury Potential to an Assailant: Same as injury potential to an officer as listed above.

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Use of Force Continuum; Officer Response & Control Tactics

Force Option :

Level of Resistance :

Officer Presence	Cooperative
Verbal Control	Cooperative
Restraint Devices	Cooperative
Joint Manipulations	Passive Resister
Pressure-sensitive Area Techniques	Passive Resister
Appropriate Compliance Techniques	Passive Resister
Chemical Agents	Passive Resister, based on totality of circumstances, and Active Resister
Stunning Techniques	Active Resister
Take-downs	Active Resister
Control Instrument Techniques	Active Resister
Canine Deployment	Active Resister
Taser	Active Resister
Punches, kicks, and other striking techniques	Aggressive/Assailant
Impact Weapons	Aggressive/Assailant
Take-downs directed at skeletal structure	Aggressive/Assailant
Non-lethal Weapons	Aggressive/Assailant
Firearms	Deadly force assailant
Other measures which cause death or great bodily harm, including a choke hold or intentionally striking with a vehicle	Deadly force assailant

SOURCE: Illinois Law Enforcement Training and Standards Board, Evaluation of Guidelines for Use of Force Training, referenced December 2019.