5.6 – Policy on Use of Force

**Purpose**

To establish a policy at Wesley College (“Wesley” or the “College”) on the use of force by Constables employed on campus.

**Applicability**

This policy only applies to Constables working on campus who have been issued Wesley College weapons for the use of protecting the campus and surrounding areas as appropriate.

**Policy**

A. Members of the Wesley College Office of Public Safety will use only the force necessary to affect lawful objectives. Constables obtain the right to use force, including deadly force, in certain situations as defined by Title 11, Delaware Code, Section 467. All Constables shall completely familiarize themselves with this section of the law.

B. Constables, prior to being issued firearms, shall receive and be instructed in the Policy on Use of Force and the Policy on Use, Care and Maintenance of College-owned firearms. The Office of Human Resources shall retain records of the issuance of such policies and the instructions pertinent to those policies in the employee’s file.

C. A Constable will use only the force necessary to affect lawful objectives. All Constables are issued pepper spray, handcuffs and firearms for those who qualify to assist in making a lawful arrest when resistance is encountered, to prevent an escape or for the purpose of protecting themselves or a third party from bodily harm.

D. Whenever a Constable employs deadly force, there should be no question as to the person(s) the deadly force is being directed against or that the Constable has a legal right to employ such force. In all cases, the Constable should believe the force employed creates no substantial risk of injury to innocent persons. The Constable must have a clear line of fire to discharge the firearm.

**Use of Aerosol Pepper Spray**

A. The canister must be held in an upright position in either hand using the index finger or thumb to aim and dispense the spray.

B. Constables will not remove the identification and instructional label from the canister.

C. The Constable should spray using one- to two-second bursts, aiming directly at the person’s face (eyes, nose and mouth.) The effective range of the spray is 6 to 8 feet. Avoid spaying at distances less than three feet, unless circumstances are unavoidable.

D. Avoid discharging the spray into a headwind, which could cause the Constable to be contaminated.

E. Once the person has been incapacitated, the officer should restrain the person by using handcuffs or other restraining devices to prevent secondary injury.
1) Any affected area should be flushed with water to remove the influence of the irritant.
2) Although medical treatment is not required, it should be afforded, if requested.

**Use of Deadly Force**

A. The Constable believes the person to whom deadly force is being directed is causing or is about to cause death or serious physical injury to another individual.

1) Definition: REASONABLE BELIEF – The facts or circumstances the officer knows, or should know, are such as to cause an ordinary and prudent person to act or think in a similar way under similar circumstances.
2) Definition: SERIOUS PHYSICAL INJURY – That which creates a substantial risk or death, or which causes serious and prolonged disfigurement, prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ.

B. The Constable has a reasonable belief that the person to whom deadly force is being directed is about to inflict death or serious physical injury upon the Constable.

C. The use of deadly force against a “fleeing felon” must only be used when the Constable believes that the person to whom deadly force is being directed is causing or is about to cause death or serious physical injury to the Constable or another individual.

D. If during the use of deadly force, or less than deadly force, any person(s) is injured, they shall be taken to the appropriate medical facility for treatment, if necessary. Constable present shall render any necessary first aid until the arrival of emergency medical personnel.

E. All Constables will submit an Incident/Force/Injury Report anytime the Constable:

1) Discharges a firearm for other than training purposes.
2) Takes any action that results in or is alleged to have resulted in injury or death of another person.
3) Applies any force as defined by Departmental Directives.
4) Takes any person into custody that has a prior injury.

F. All Incident/Force/Injury Reports, along with the corresponding Incident Report and a recommendation for appropriate disciplinary action, if applicable, will be reviewed by the Constable’s immediate supervisor and then forwarded to the Chief Financial Officer for final approval, in consultation with the Director of Human Resources. All reports will be maintained in the Office of Public Safety and the corresponding personnel file.

G. Constables are prohibited from discharging their firearms in the following instances:

1) When it appears likely an innocent person will be struck.
2) When in a crowded area.
3) At a suspect who is holding an innocent person hostage, when firing would endanger the hostage or any other innocent person.
4) At a motor vehicle and/or the occupants therein, unless as a last resort and only when the operator of the vehicle is directing the vehicle as deadly force against the Constable or other innocent persons, and the Constable believes employing deadly force creates no substantial risk of injury to innocent persons.

5) When the Constable does not have a clear line of fire.

6) Warning shots are prohibited.

Reporting

A. Firearm

1) Whenever a Constable discharges his/her department-issued firearm, either accidentally or in the performance of duty, except at an approved range, the supervisor on duty will immediately be notified.

2) Those involved will immediately submit an Incident/Use of Force/Injury Report detailing the circumstances.

3) If the facts of the incident support a conclusion that the weapon discharge was the result of negligence, the Constable shall be required to undergo firearm re-certification.

B. Other Force (i.e. Physical/Vehicular)

1) Whenever a Constable uses another type of deadly force other than a firearm, the supervisor on duty will immediately be notified.

2) The member involved will immediately complete and submit an Incident/Force/Injury Report detailing the circumstances.

C. Incidents Involving use of Force Other than Deadly

1) Constables will submit an Incident/Force/Injury Report detailing the force used and the investigation of the crime and the circumstances leading up to its use, as well as what medical treatment was given to the subject, if any.

2) Constables will attach copies of hospital release forms to the Incident Report.

3) Whenever the aerosol pepper spray projector or other use of force (i.e. hands, other object, etc.) is used in the performance of law enforcement duty, the Constable will notify their immediate supervisor and complete an Incident/Force/Injury Report.

   a) The Incident/Force/Injury Report will also be used if the person is injured, regardless of Constable involvement, as a result of:

      1) Accidental injury
      2) Self-inflicted injury
Incident Psychological Review and Support

A. At an appropriate time, subsequent to the deadly force incident, the Chief Financial Officer or is/her designee, shall schedule the involved Constable for an evaluation with a Psychologist.

B. When a Constable uses force that results in serious physical injury or death, the Chief Financial Officer or the Director of Human Resources will immediately place the Constable on suspension with pay until the completion of the investigation.