



**NAACP** CHAMPAIGN  
COUNTY



**ACLU**

AMERICAN CIVIL LIBERTIES UNION  
of CHAMPAIGN COUNTY

January 11, 2021

Dear Mayor Marlin and Council Members,

Champaign County ACLU and NAACP Champaign County Branch are deeply disappointed in the Urbana Police Department's draft for a new use of force policy. The new policy does have one significant addition which is an improvement: it now contains a section on de-escalation. This is an important policy update. Nevertheless, overall, this policy fails to accomplish the purpose of protecting the public from excessive use of force or other misconduct by police officers. Nor is it designed to substantially diminish the number of incidents in which force is used.

This is a policy for the 20th century, not the 21st. The criteria used to decide whether police use of force was reasonable is whether it was "reasonable from the perspective of a reasonable officer on the scene at the time of the incident." This is policing stuck in an old conception of public safety built on structural racism and the premise that the police are always right. This policy does not fit Urbana, Illinois, in 2021.

We cannot go into every concern about the new policy here, especially since we have had only one weekend to examine it. But let's start with the definition of "force" and "deadly force."

The new policy defines "force" as "the application of physical techniques or tactics, chemical agents, or weapons to another person." First, it is unclear what "application" means in this context.

Second, we believe force should be defined as: "any effort to control, restrain, compel, or overcome the resistance of another person, including the use of physical force and suggested use of force such as unholstering or brandishing a weapon at another person."

The new policy defines "deadly force" as "Force reasonably anticipated and intended to create a substantial likelihood of causing death or very serious injury."

The definition of deadly force should not include intent. Deadly force can turn out to be deadly whether intended to be or not.

We believe "deadly force" should be defined as "any use of force that creates a substantial risk of causing death or serious bodily injury to another, including, but not limited to the discharge of a firearm or any weapon that, in the manner of its use, is capable of causing death or serious bodily injury."

Section 300.2.1 addresses the duty to intercede and report when one officer observes another using disproportionate force for the circumstances. The new UPD policy establishes that

an officer shall intervene " when in a position to do so" and when they observe another officer "using force that is clearly beyond that which is objectively reasonable..."

We disagree. Any new policy should "require a duty to intercede and report force that is not objectively reasonable, necessary, and proportional under the circumstances." It should also establish accountability for officers who fail to intercede or report excessive force.

Section 300.3 states that tactical de-escalation should be used whenever feasible. The use of "whenever feasible" is too restrictive.

Instead, officers should be required "to continue to use de-escalation techniques after they have initiated a use of force, including by continually assessing the situation and modifying the use of force as circumstances change and in ways that are consistent with the officer's and person's safety." Also, officers should "immediately reduce the level of force as the threat diminishes, including by stopping force altogether."

Section 300.3 does note that "the ultimate objective of every law enforcement encounter is to avoid or minimize injury" but it puts this idea in a dependent clause rather than requiring it or making clear that this is an important Urbana Police Department value and policy. It would be better to explicitly state that "officers shall ensure that force is used in a way that minimizes injury to others, including the person against whom force is used and bystanders."

Most importantly, the new policy relies throughout on the standard of what an officer believes is "reasonable" rather than ensuring that force is used only when "necessary." Of course every officer must use their own judgment in difficult situations. But they need consistent guidelines and we recommend that the policy guidelines stress that force must always be "objectively reasonable, necessary, and proportional."

In addition, we suggest the following language:

- a. An officer, or any person whom the peace officer has summoned or directed to assist them, shall apply nonviolent means to resolve and de-escalate incidents before resorting to any use of force, and at all times shall limit the use of force in a manner consistent with the sanctity of human life.
- b. An officer may use force only if all other objectively reasonable non-violent means would be ineffective and there is a basis for a lawful arrest, or the use of force is necessary to prevent imminent threat of bodily injury to another person.
- c. In determining whether force should be used and, if necessary, the amount of force appropriate to use, an officer shall consider whether a person's conduct is the result of a medical condition, mental impairment, developmental disability, physical limitation, language barrier, drug or alcohol impairment, or other factor beyond the person's control.

Section 300.3.4 should be entirely deleted because it suggests that force is appropriate to seize evidence. This suggests that force is appropriate in many incidents in which force is not necessary.

Finally, the new policy in the first paragraph of 300.3 does suggest that "use of force should be reasonable and proportional to the force/resistance encountered" and "that officers shall use only that amount of force that appears necessary given the facts and circumstances." These are criteria that we agree with. But the concepts of "objectively reasonable," "necessary" and "proportional" are not reiterated consistently every time the use-of-force standard is referenced. This can create confusion for the department and suggest that a less stringent standard is acceptable.

The local chapter of the ACLU and the local NAACP branch appreciate the way the Urbana Police Department has previously responded to our requests for information. Amid the pandemic, the city and the Police Department found a safe way to hold the "10 Principles" event the NAACP suggested and we congratulate them on that successful effort. However, they have not yet engaged with us in a serious dialogue about a new use of force policy.

The use of force policy could not be more important. It lays out the standards to which officers must adhere and the criteria by which their actions will be judged. It is also a statement about culture, values, and respect for human life. It should align with the values of Urbana.

Research shows that stricter use-of-force policies correlate with fewer civilian deaths and that officers in departments with restrictive policies are less likely to be killed or assaulted in the line of duty. In response to a survey conducted last week in Illinois, 80% of Illinois voters surveyed said establishing clear and consistent statewide limits around the use of force should be a major priority.

Mayor Marlin, we urge you to postpone approving this new policy and extend this process in order to develop a new use of force policy that clearly and consistently expresses the professional values and policies the Urbana community wants its police department to embrace and adhere to. The ACLU and NAACP leadership look forward to meeting with you for a more substantive exchange on the details. Thank you.

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