

Policy – Wauwatosa Police Department

POLICY: Use of Force

DISTRIBUTION: All Sworn Personnel

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I. INTRODUCTION

The City of Wauwatosa Police Department has adopted the Wisconsin system of Defensive and Arrest Tactics (DAAT), which was developed for the State of Wisconsin Law Enforcement Standards Board. The DAAT system is a system of verbalization skills coupled with physical alternatives.

The nature of police work at times requires an officer to use force to perform his/her duties. The purpose of this policy is to provide our officers with guidelines on the use of deadly and non-deadly force. The Disturbance Resolution model guides how officers should deal with situations in which they must intervene to resolve a disturbance.

It is the policy of the Wauwatosa Police Department that police officers use only the amount of force reasonable and necessary to arrest, apprehend or control any person, or situation.

The decision to use force is based on the facts and circumstances known to the officer at the time the decision to use force was made.

This policy rescinds policy # 16-12.

II. DEFINITIONS

1. Deadly Force – The intentional use of a firearm or other instrument, the use of which would result in a high probability of death.
2. Justification of Deadly Force- Behavior which has caused or imminently threatens to cause Death or Great Bodily Harm to you or another person/s.
3. Non-deadly Force – That amount of force, which is unlikely to cause death.
4. Reasonable Belief – Facts or circumstances known to the officer such as to cause an ordinary and prudent officer to act or think in a similar way under similar circumstances.
5. Objectively Reasonable – Relevant factors in assessing whether force used was objectively reasonable: (Graham v. Connor)
 - (a) The severity of the alleged crime at issue.
 - (b) Whether the suspect poses an immediate threat to the safety of the officers or others; and;
 - (c) Whether the suspect is actively resisting or attempting to evade arrest by flight.
6. Great Bodily Harm – Bodily injury, which creates a substantial risk of death, or which, causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily injury.
7. Bodily Harm – Physical pain or injury, illness, or any impairment of physical condition.
8. Active Resistance – When an officer encounters behavior which physically counteracts his or her attempt to control and which creates risk of bodily harm to the officer, subject, and/or other person.
9. Passive Resistance – When a subject refuses to comply with a directive from a law enforcement officer but does not attempt to engage in physical action likely to cause bodily harm to the officer or to another person.

III. PROCEDURES

Disturbance Resolution:

1) Approach Considerations:

Decision-making	Justification Desirability
Tactical Deployment	Control of distance Relative Positioning Relative Positioning with Multiple Subjects Team Tactics
Tactical Evaluation	Threat assessment opportunities Officer/subject factors Special circumstances Level/stage/degree of stabilization

2) Intervention Options:

<u>Mode</u>	<u>Tactic</u>	<u>Purpose</u>
A. Presence	Professional Presence	To present a visible display of authority
B. Dialog	Tactical Communication	To verbally persuade
C. Control Alternatives	Escort Holds	To safely initiate physical contact
	Compliance Holds	To overcome passive resistance
	Control Devices (O.C.Spray, ECD's)	To overcome active resistance or its threat
	Passive Countermeasures	To decentralize
D. Protective Alternatives	Active Countermeasures	To create dysfunction

	Incapacitating Techniques	To cause the immediate, temporary cessation of violent behavior
	Intermediate Weapons Weapon	To impede a subject
E. Deadly Force	Firearm	To stop the threat

3) Follow-Through Considerations:

A. Stabilize	Application of restraints, if necessary
B. Monitor/Debrief	
C. Search	If appropriate
D. Escort	If necessary
E. Transport	If necessary
F. Turn-over/Release	Removal of restraints, if necessary

It is not the intent of this policy to direct officers to try each option of force before escalating, nor prevent the officer from initiating physical force first. The ultimate goal of any force used is to gain control.

A. Use of Force - General

1. Officers use force for the specific purpose of achieving and maintaining control of a resistive subject.
2. The level and amount of force must be reasonably necessary to accomplish your objective of control under the particular circumstance.
3. The type of force necessary to control a subject is based upon the threat level and officer/ subject factors presented to the officer.
4. Once control has been achieved an officer will de-escalate to a use of force sufficient to maintain control.

5. Officers may use force in the accomplishment of legitimate law enforcement objectives, which include:
 - (a) Lawful arrest for violation of Federal, State Laws or Municipal ordinances:
 - (b) To prevent a person from injuring himself/herself.
 - (c) In self-defense or defense of another;
 - (d) Controlling an unruly, abusive, or combative person.
6. Officers are not trained in the use of chokeholds or strangleholds. Officers shall not use a chokehold or similar technique, or any other untrained deadly force application, unless the officer has reasonable belief the subject poses an **imminent** threat of death or great bodily harm to the officer or others.
7. Officer override is a trained concept that means officers have the proactive responsibility to intervene in a situation if another officer is behaving inappropriately or otherwise not handling the situation effectively.

B. Oleoresin Capsicum Spray (O.C. Spray)

1. Use of O.C. Spray.
 - (a) O.C. Spray is an option when the officer receives what is reasonably believed to be active resistance or its threat from a subject. Use of O.C. Spray may depend upon:
 - 1) Threat assessment factors (i.e. attack posture; muscle tension)
 - 2) Officer /subject factors (i.e. age; relative strength; skill level; size, multiple subjects)
 - 3) Special circumstances (i.e. previous contacts/knowledge of subject; reasonable perception of threat, sudden assaults, officer's physical positioning, injury or exhaustion, availability of backup.)
2. Deadly force in response against O.C. Spray

- a) Due to the incapacitating nature of O.C. Spray against an officer, deadly force may be justified as a final escalation of force if the officer reasonably believes he/she or another person is facing the imminent threat of death or great bodily harm. This perception must be based on the totality of circumstances including threat assessment opportunities, officer/subject factors and special circumstances.

3. Medical Attention

- (a) Officers will provide opportunities for self-flush to all sprayed subjects.
- (b) If the subject has an unusual reaction, or if the person is unable to recover after exposure medical attention will be summoned

C. Electronic Control Devices (Taser)

1. Use of the Electronic Control Device.

- (a) Electronic Control Device is an option when the officer receives what is reasonably believed to be active resistance or its threat from a subject. Use of the Electronic Control Device may depend upon:
 - 1) Threat assessment factors (i.e. attack posture; muscle tension)
 - 2) Officer /subject factors (i.e. age; relative strength; skill level; size, multiple subjects)
 - 3) Special circumstances (i.e. previous contacts/knowledge of subject; reasonable perception of threat, sudden assaults, officer's physical positioning, injury or exhaustion, availability of backup.)
- (b) Electronic Control Device **may** be used in situations of passive resistance considering the totality of circumstances (i.e. threat assessment, officer subject factors, special circumstances, severity of the offense etc.) these instances are few and need to be thoroughly articulated by the officer.

2. Deadly force in response against the Electronic Control Device

- (a) Due to the incapacitating nature of the Electronic Control Device against an officer, deadly force may be justified as a final escalation of force if the officer reasonably believes he/she or another person is facing the imminent threat of death or great bodily harm. This perception must be based on the totality of circumstances including threat assessment opportunities, officer/subject factors and special circumstances.

3. Medical Attention

1. The TASER darts shall be removed from the subject after being restrained following the procedures outlined in training.
2. When the device has been used operationally, the officer will collect the cartridge, wire leads, and darts.
3. Should one or more of the following behaviors manifest, the subject **will** require as soon as practical evaluation Wauwatosa Fire Department personnel:
 - a. Probes struck subject to the neck, head, face, or groin
 - b. Subject is pregnant
 - c. Officer has first hand knowledge that the subject may be under the influence of cocaine
 - d. Signs of overheating such as a naked person in a public or cold place
 - e. Self-mutilation
 - f. Bizarre or extremely violent behavior
 - g. Disturbances in breathing patterns or loss of consciousness
 - h. Use of more than 3 “shocks” on a subject
 - i. If determined by a supervisor

D. Baton – Intermediate Weapon

1. The police baton is to be used as a defensive or control weapon by an officer when it is reasonably believed that a lesser degree of force would be inadequate to control the subject. The baton is to be used:
 - (a) To defend the officer or another from physical assault;
 - (b) When the potential for physical assault immediately exists;
 - (c) The subject violently resists arrest.

E. Deadly Force

1. The use of deadly force is authorized as follows:
 - (a) To protect the officer or others from what is reasonably believed to be an imminent threat of death or great bodily harm.
 - (b) When it is necessary to prevent the escape of a fleeing violent felon whom the officer has reasonable belief poses an **imminent** threat of death or great bodily harm to the officer or others.
2. If feasible the officer must give some verbal warning prior to the use of deadly force.
3. Preclusion is a factor in deadly force decision making. Deadly force is used as a last resort. Before deadly force is used, other readily available force options should have been exhausted or considered as ineffective.
4. Police officers may also discharge a weapon under the following circumstances:
 - (a) During departmental training or competitive shooting events.
 - (b) To destroy an animal for humanitarian reasons or that is a threat to public safety.
5. Officers shall adhere to the following restrictions:
 - (a) Warning shots are prohibited
 - (b) Officers shall not fire their weapons at or from a moving vehicle, except to prevent **imminent** death or great bodily harm to himself/herself or another.
 - (c) Firearms should not be discharged when it appears likely that an innocent person may be injured, unless the officer reasonably believes failing to fire will result in a greater threat to life than firing.

Whenever an officer uses deadly force, or when the use of any level of force results in great bodily harm or death, the Chief of Police or his designee and the Investigative Bureau Lieutenant shall be notified. An Administrative Review/Investigation shall be conducted or directed by one of these individuals consistent with our Investigation of Law Enforcement Involved Fatalities / Great Bodily Harm Policy.

F. Responsibility of Officer After Use of Force – Follow Through Considerations

1. Handcuffing.

(a) It is the general policy of this department to handcuff and search all persons arrested and taken into custody. This procedure will best ensure the safety of the officer, the arrested subject, and the public.

2. After the situation has stabilized and the subject is under control, the officer shall:

(a) Check for injuries and render first aid, if necessary;

(b) Call for appropriate medical aid, if necessary;

(c) Keep in close physical contact with subject to monitor condition while in police custody;

(d) Notify supervisor of any injuries to officers;

(e) Notify supervisor of any injuries to subject.

G. Reporting Procedures

1. Officers using deadly force, baton, ECD, less lethal, O.C. spray, or physical force to control a subject will inform the immediate supervisor or Shift Commander of the incident. It is not necessary to notify a supervisor when handcuffing or controlling a subject in situations where little or no resistance is encountered.

2. When the incident report is submitted, all details regarding the use of force will be in the report and include:

(a) Reason for contact with the subject.

(b) Officer's evaluation of the situation.

(c) Steps of escalation leading to the level of force used

(d) Care or treatment given to subject after use of force.

3. Each officer who uses force shall submit a separate written report detailing the use of force.
4. The Shift Commander or Supervisor will review all reports to ensure compliance with the policy.

H. Training

1. Officers shall receive agency authorized training designed to simulate actual physical confrontations and conditions and, as otherwise necessary to enhance officers' discretion and judgement in using deadly and non-deadly force in accordance with this policy.

I. Probationary Officer Weapon Prohibition

1. Probationary Officers are prohibited from carrying a department-issued firearm either openly or in a position of concealment during off-duty hours until he/she is certified as a law enforcement officer by the State of Wisconsin, and has successfully completed Step 4 of the Department's Field Training Program.

Barry Weber
Chief of Police