

	Policy and Procedure Wisconsin Dells Police Department		5.01
Subject:	USE OF FORCE	Issued:	5/8/14
Scope:	All Sworn Personnel	Effective:	8/1/14
Distribution:	Policy & Procedure Manual	Rescinds:	
Reference:	WI State Statutes: 66.0511(3), 939.45, 939.48, and Chapter 941; DAAT Incident Response and Disturbance Resolution Model	Amends:	
WILEAG Standards:	5.1.1, 5.1.2, 5.1.3, 5.1.4		

Notes:	

Index As:	Control Devices Deadly Force Firearms Less than Lethal Non-Deadly Force Ramming with Police Vehicles Use of Less Lethal Weapons & Non-Deadly Force Use of Non-Deadly Force Warning Shots Weapons Pre-Authorization	
Purpose:	The purpose of this Policy & Procedure is to establish policies and procedures regarding the use of force, and to identify the responsibilities of officers when using force or after it has been used.	
Approval:	Chief Jody Ward	Date: 05/01/14

This Policy & Procedure consists of the following numbered sections:

- I. POLICY
- II. DEFINITIONS
- III. DEFENSIVE AND ARREST TACTICS (DAAT)
- IV. USE OF DEADLY FORCE
- V. USE OF FIREARMS
- VI. USE OF VEHICLES - BLOCKADES, BARRIERS, AND RAMMING
- VII. USE OF NON-DEADLY FORCE

I. POLICY

A. The Wisconsin Dells Police Department recognizes and respects the value and special integrity of each human life. In vesting police officers with the lawful authority to use force to protect the public welfare, a careful balancing of all human interests is required. Therefore, it is the policy of this Department that police officers shall use only force that is reasonably necessary to effectively bring an incident under control, while protecting the lives of the officer or another. Deadly force shall never be resorted to until every other reasonable means of apprehension or defense has been exhausted or there is no other reasonable recourse.

II. DEFINITIONS

DEADLY FORCE: The intentional use of a firearm or other instrument, the use of which would result in a high probability of death.

NON-DEADLY FORCE: That amount of force which does not meet the definition of deadly force, but which is an amount of force which, in normal circumstances, can cause bodily harm.

REASONABLE FORCE: That force which an ordinary, prudent, and intelligent person with the same knowledge of the particular situation as the officer would deem necessary.

LATERAL VASCULAR NECK RESTRAINT (LVNR): Neck restraint used to obtain and maintain control of persons exhibiting active resistance or their threats by compression of the carotid arteries on both sides of the neck.

CONDUCTED ELECTRICAL WEAPON (CEW): A non-lethal force weapon that causes neuro-muscular incapacitation (NMI) to a combative, violent, or potentially combative, violent subject. The use of this device is intended to incapacitate the subject with a minimal potential for causing death or great bodily harm.

DEFENSIVE AND ARREST TACTICS (DAAT): A system of verbalization skills coupled with physical alternatives.

POST TRAUMATIC STRESS DISORDER: An anxiety disorder that can result from exposure to short-term severe stress, or the long-term buildup of repetitive and prolonged milder stress.

III. DEFENSE AND ARREST TACTICS

A. The Wisconsin Dells Police Department adopts the Defensive and Arrest Tactics System. This is a system designed for all police officers for the primary purpose of self-defense. This system includes the Incident Response and Disturbance Resolution Models which provide general guidelines that define the degree and type of force to be used in controlling suspects. All Wisconsin Dells Police Officers shall be trained in the DAAT system per State Training and Standard Bureau standards.

1. An officer shall only use that amount of force which is necessary and reasonable in the performance of his/her law enforcement duties.
2. Under no circumstances shall an officer continue to use force (except mere physical restraint) against an individual who has ceased to resist.
3. When an individual only offers passive resistance to arrest, the officer shall bodily remove and transport such an individual with as much regard to the individual's safety and welfare as reasonable, practical, and possible.
4. When utilizing the Disturbance Resolution Model, the officer must use the minimum necessary force in reacting to other people's behavior by escalating or de-escalating through the Intervention Options.

5. Use of Force Training will be conducted annually and will include various control techniques.

B. Incident Response Model: The following is the Incident Response Model adopted by the State of Wisconsin DAAT Advisory Committee 01-16-02.

INCIDENT RESPONSE

- R Report
 - *Become aware
 - *Plan response
 - *Arrive/Assess
 - *Alarm/Inform

- E Evaluate
 - *Look for dangers
 - *Determine backup needs
 - *Enter when appropriate/tactically sound

- S Stabilize
 - *Subject(s)
 - *Scene

- P Preserve
 - *Life
 - Conduct an initial medical assessment (as trained)
 - Treat to level of training
 - Continue to monitor the subject(s)
 - *Evidence

- O Organize
 - *Coordinate additional responding units (if necessary)
 - *Communicate with dispatch and others
 - *Organize the collection of evidence (if appropriate)

- N Normalize
 - *Provide long-term monitoring (as appropriate)
 - *Restore scene to normal
 - *Return radio communications to normal

- D Document/Debrief
 - *Debrief self, other responding personnel, subject(s), other persons
 - *Document incident appropriately

C. Disturbance Resolution Model: The following is the Disturbance Resolution Model adopted by the State of Wisconsin DAAT Advisory Committee 04-19-05.

1. APPROACH CONSIDERATIONS

- a) Decision-making
 - Justification
 - Desirability
- b) Tactical Deployment
 - Control of distance
 - Positioning
 - Team Tactics
- c) Tactical Evaluation
 - Threat assessment opportunities
 - Officer/subject factors
 - Special circumstances
 - Level/stage/degree of stabilization

2. INTERVENTION OPTIONS

- a) Which mode you choose in a given situation depends on your tactical evaluation and threat assessment. Note that the same tactic may, depending on the circumstances and the purpose for which it is used, fall into more than one mode. The criterion is whether the level and degree of force is objectively reasonable. Five fundamental principles apply:
 - (1) The purpose for use of force is to gain control in pursuit of a legitimate law enforcement objective. If verbalization is effective in gaining control, it is always preferable to physical force.

- (2) You may initially use the level and degree of force that is reasonable through the Intervention Options. As the situation dictates, you may move from any mode to any other if you reasonably believe that a lower level of force would be ineffective.
- (3) At any time, if the level of force you are using is not effective to gain control, you may **disengage** and/or **escalate** to a higher level of force.
- (4) Once you have gained control of a subject, you must **reduce** the level of force to that needed to maintain control.
- (5) You should maintain a position of advantage when possible.

b) The five modes each serve a different purpose and include different tactics and techniques.

Mode	Purpose
A. Presence	To present a visible display of authority
B. Dialog	To verbally persuade
C. Control Alternatives	To overcome passive resistance, active resistance, or their threats
D. Protective Alternatives	To overcome continued resistance, assaultive behavior, or their threats
E. Deadly Force	To stop the threat

A. Presence: The first mode, Presence, reflects the fact that sometimes all that is needed to control a situation is the presence of an officer. The purpose of this mode is to “present a visible display of authority.” Much as drivers are careful not to exceed the speed limit when they share the road with a marked squad, the simple presence of an officer in uniform or otherwise identified is enough to prevent people from starting or continuing to behave aggressively or otherwise create a disturbance.

B. Dialogue: The second mode, Dialogue, covers the range of tactical communication from very low-level questioning to very directive commands. The purpose of dialogue is to persuade subjects to comply with an officer's lawful directives. The specific techniques used are covered extensively in Professional Communication Skills.

C. Control Alternatives: The third mode, Control Alternatives, includes a wide range of tactics and tools for controlling subjects. These are divided into four groups: escort holds, compliance holds, control devices, and passive countermeasures. This mode includes both empty-hand techniques such as applying an escort hold or directing a subject to the ground and tools such as Oleoresin Capsicum (OC) spray, commonly called "pepper spray," and conducted electrical weapons (CEWs). The common thread is that all these tactics and tools are used to control subjects who are resisting or threatening to resist.

The mode of Control Alternatives includes four tactics/tools:

- Escort Holds
- Compliance Holds (includes LVNR levels 1 and 2)
- Control Devices (OC spray, CEW's)
- Passive Countermeasures

The goal of control devices (OC spray and CEW's) is to overcome active resistance or its threat. Active resistance, unlike passive resistance, involves a subject who is physically counteracting an officer's control efforts under circumstances in which the behavior itself, the environment in which the behavior occurs, or officer/subject factors create a risk of bodily harm.

The Lateral Vascular Neck Restraint (LVNR) may be used by officers when encountering Active Resistance, Continued Resistance Assaultive Behavior and/or their threats as defined in the DAAT system. LVNR Considerations:

- 1) Officers authorized to use the LVNR will successfully complete a basic user course, and receive annual recertification training.
- 2) Level One and Level Two application of the LVNR may be used in gaining compliance of actively resistive subjects and has been placed within the Control Alternatives Mode of the Intervention Options.

- 3) Level Three application of the LVNR may only be used in overcoming continued resistance, assaultive behavior or their threats unless officer subject factors or special circumstances are an over-riding factor. The Level Three application of the LVNR has been placed within Protective Alternatives Mode of the Intervention Options.
- 4) The application of the LVNR on females who are known to be pregnant, elderly, obvious juveniles, persons who are frail or have obvious medical issues, and subjects sprayed with Oleoresin Capsicum (OC) should generally be avoided unless the totality of the circumstances indicate that other available options appear ineffective, or would present a greater danger to the officer, subject or others and the officer reasonably believes that the need to control the individual outweighs possible risks of applying the LVNR.
- 5) Following an application of the LVNR the subject will be closely monitored while in custody for a minimum two hours. Medical attention shall be summoned for subjects who were rendered unconscious, complain of injury or show signs of injury or distress.

The criterion of active resistance or its threat means that in general, control devices would not be appropriate to use against verbal aggression, against people who are running away, against children and older persons, and against persons engaged in peaceful civil disobedience-unless reasonably justified by the circumstances covered in Approach Considerations.

Verbal Aggression - Verbal aggression occurs when a suspect is being argumentative, and/or confrontational with an officer. While this behavior alone can be difficult for an officer to deal with, Professional Communication skills are the preferred method. However, if arbitration is unsuccessful (REACT), and an officer/ subject factor comparison dictates lesser levels of force would be ineffective, then a control device could be a viable alternative.

People who are running away - Before deploying a control device (in this case, a CEW would be a better choice than OC spray) during a foot pursuit, ask yourself, "what will the suspect force me to do when I catch him?" If the subject would force you to decentralize him or her during initial physical contact, using a CEW might be a better choice, as the risk of injury to the officer and subject would be less with a CEW as opposed to a passive countermeasure. On the other hand, if you don't think the subject would require you to immediately take him or her to the ground, then a CEW would probably not be the best choice. In that case you could safely respond with a lower level of force.

Another way to think about the situation is to apply the three criteria from *Graham v. Connor* to determine whether using a control device would be reasonable:

- The severity of the alleged crime at issue: Is it a retail theft or a substantial battery?
- Whether the suspect poses an imminent threat to the safety of officers and/or others: What is the suspect doing when you decide to use force?
- Whether the suspect is actively resisting or attempting to evade by flight. Is the suspect able to offer active resistance and/or flee?

D. Protective Alternatives: Protective Alternatives is the fourth mode in Intervention Options. As the name implies, these interventions are designed to protect officers in situations when they face subjects continuing to resist or threatening to assault.

The overall purpose is to overcome continued resistance, assaultive behavior or their threats. Continued resistance means that an individual is maintaining a level of counteractive behavior that is not controlled with the officer's current level of force. Assaultive behavior occurs when an individual's direct action generates bodily harm to the officer(s) and/or another person(s).

The mode of Protective Alternatives includes three tactics:

- Active Countermeasures
- Incapacitation Techniques
- Intermediate Weapon

Note that these tactics may also be used as control alternative, depending on the situation. For example, a jab with a baton (an intermediate weapon) may be used to prevent a person from pushing into a room while officers are interviewing a victim of domestic violence. In that situation, the baton would be used as a Control Alternative rather than a Protective Alternative. Remember that Intervention Options are just that – options. You will choose the appropriate option depending on the totality of the circumstances.

Active Countermeasures – The purpose of active countermeasures is to create a temporary dysfunction of an actively resistive or assaultive subject. The goal is to interrupt the subject to the ground for stabilization, handcuffing, and other follow-through procedures.

Active countermeasures include two categories of techniques:

- Vertical stuns
- Focused strikes

Incapacitating Techniques – The goal of incapacitating techniques is to cause the immediate, temporary cessation of violent behavior. One such technique is taught in the DAAT system: the Diffused Strike. Like the Vertical Stun, the Diffused Strike disrupts nerve impulses to the brain. Unlike the Vertical Stun, however, the effect is usually greater, rendering the subject temporarily unconscious.

Level Three application of the LVNR may only be used in overcoming continued resistance, assaultive behavior or their threats unless officer subject factors or special circumstances are an overriding factor. The Level Three application of the LVNR has been placed within Protective Alternatives Mode of the Intervention Options.

Intermediate Weapon – The goal of using intermediate weapons is to impede a subject, preventing him or her from continuing resistive, assaultive, or otherwise dangerous behavior.

Intermediate weapons include a variety of impact and other weapons designed to impede subjects. The intermediate weapon included in the DAAT program is the straight baton. The baton-either a wood or plastic fixed-length baton or a metal expandable baton-is an impact weapon.

While Wisconsin law (WI. Statute 939.45) affords officers the protection of privilege “when the actor’s conduct is a reasonable accomplishment of a lawful arrest,” the conduct must be reasonable-using deadly force in the absence of significant threat would not be reasonable. Further, Wisconsin law specifically limits the use of deadly force in self-defense (WI. Statute 939.48(1)) as follows:

“the actor may not intentionally use force which is intended or likely to cause death or great bodily harm unless the actor reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or herself.”

The same limitation is extended to use of force to defend a third person, in WI. Statute 939.48(4).

The statutes and this Policy & Procedure specifically prohibit use of deadly force to prevent suicide or solely to protect property.

E. Deadly Force: The fifth mode, Deadly Force, represents the highest level of force available to law enforcement officers. The power to use deadly force is the most awesome responsibility given to law enforcement officers.

IV. USE OF FIREARMS

A. Sworn personnel are authorized to carry and use weapons under the authority and powers granted to them by Wisconsin State Statutes and exemptions granted under various statutes found in WI. Statutes: Chapter 941. Officers must also follow the requirements set forth in firearms policy.

B. Officers may display Department authorized firearms when they have reasonable suspicions to believe that the use of deadly force may be necessary. Officers need not be under attack, but only be reasonably apprehensive that the situation may lead to circumstances outlined in the Use of Deadly Force section of this Order. Department authorized firearms should not be displayed under any other circumstances.

1. This section is intended to allow the officer to have the firearm ready in circumstances such as answering a silent alarm or confronting a suspect whom there is reasonable suspicions to believe may be armed, or any other situation which may cause the officer to have reasonable fear for his/her life.

C. Whenever safety permits and time allows, officers shall identify themselves and state their intent to shoot prior to using a firearm. Officers are to fire their weapons to stop an assailant from completing a potentially deadly act. The primary target is the central nervous system, to stop the threat and to minimize danger to innocent bystanders.

D. Firearms shall not be discharged when it appears likely that an innocent person may be injured unless failure to discharge will result in the greater danger exception. The greater danger exception allows you to shoot without target isolation if the consequence of not stopping the threat would be worse than the possibility of hitting an innocent person.

E. A warning shot shall not be fired under any circumstances.

- F. Officers should not discharge a firearm at or from a moving motor vehicle except as the last measure of self-defense of oneself or another, and only then if the officer believes that the suspect has or is intent upon causing death or great bodily harm to oneself or another person. If this decision is made, consideration must be given to the safety of innocent bystanders and possible innocent passengers in the vehicle.
- G. An officer may also discharge a firearm under the following circumstances:
 - 1. During range practice or competitive sporting events.
 - 2. To destroy an animal that represents a threat to public safety, or as a humanitarian measure where the animal is seriously injured.
- H. Prior to being authorized to carry a firearm on duty for the Wisconsin Dells Police Department, officers must meet the following three requirements:
 - 1. Officers shall receive training in the safe handling and operation of Department issued and authorized firearms. Officers must demonstrate their understanding of Department Policy & Procedures and state laws pertaining to deadly weapons and the use thereof.
 - 2. Officers must be certified by the State of Wisconsin in the use of firearms.
 - 3. Officers must qualify with a Wisconsin Dells Police Department Range Officer.

V. USE OF VEHICLES-BLOCKADES, BARRIERS, AND RAMMING

- A. The following may only be employed by a police officer if, and only if, the use of deadly force would be authorized:
 - 1. The use of blockades or roadblocks constructed by placing obstacles (including but not limited to police vehicles) of such density and mass upon a roadway that any vehicle colliding with them would be so severely decelerated that its occupants would likely suffer death or serious injury.
 - 2. Ramming of a suspect/evader vehicle by a police vehicle.
 - 3. Forcing a suspect/evader off the roadway or highway and/or into another object by the use of a police vehicle.

4. Also refer to Policy & Procedure for Vehicle Pursuits.

VI. USE OF NON-DEADLY FORCE

- A. An officer shall use only the minimum amount of force that is reasonably necessary to perform his/her duties. The amount of force which may be employed is determined by the circumstances of a situation, including, but not limited to:
1. The nature of the incident of offense.
 2. The behavior of the subject against whom force is to be used, actions by third parties who may be present.
 3. Physical conditions.
 4. The feasibility or availability of alternative actions.
- B. The reasonableness of the force used will be judged in the light of the circumstances as they appeared to the officer at the time he/she acted, and not as they appear from a subsequent, more thorough knowledge of the circumstances.
- C. Under no circumstances may an officer continue to use force (except for physical restraint) against an individual who has ceased to resist, escape, or otherwise violate the law. The officer making an arrest has the right to use only that amount of force reasonably necessary to affect the arrest and maintain control of the arrested individual.
- D. Officers may use reasonable force to:
1. Overcome an offender's resistance to or threat to resist a lawful arrest.
 2. Prevent the escape of an offender or arrested person.
 3. Protect a third person from bodily harm or death.
 4. Protect himself/herself from bodily harm or death.
- E. When an individual offers only passive resistance to arrest, an officer shall take such person into custody and transport such individual with as much regard to the individual's safety and welfare as is reasonable, practical and possible.

- F. Officers shall not mistreat persons who are in their custody. Officers shall handle such persons in accordance with the law and department orders. The use of excessive and unwarranted force or brutality will not be tolerated under any circumstances and may subject the officer to disciplinary action.
- G. The DAAT Disturbance Resolution Model should be followed and adhered to at all times.
- H. Training for less lethal weapons shall occur at least biennially for officers authorized to use such weapons or techniques.

This policy and procedure cancels and supersedes any and all previous written directives relative to the subject matter contained herein.