

<b>Subject: Use of Force</b>		
Directive Number 101	Effective Date: 12-01-04 Revised: 09-12-16	WILEAG 1.2.2, 1.2.5, 1.3.1 - 1.3.11, 33.1.5, 46.1.4, 46.2.3, 71.2.1, 71.3.1, 81.2.5

This Directive consists of the following numbered sections:

- I. Purpose
- II. Policy
- III. Applicability
- IV. Definitions
- V. Procedures
- VI. Medical Aid

**I Purpose**

To provide police officers with Department policy, standards, and guidelines on the use of force pursuant to state statute 66.0511(2).

This Directive is for Department use only and does not apply in any criminal or civil proceeding and should not be construed as a creation of higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this Directive will only form the basis for Departmental administrative sanctions. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting.

**II Policy**

Officers shall use only that level of force that appears reasonably necessary to effectively bring an incident under control, overcome resistance, maintain control, while minimizing injuries and protecting the lives of the officer or another. The authority of the officer is not a license under color of law to use excessive or indiscriminate force, or more force than is reasonably necessary under all the circumstances.

This Department adopts the system of Defensive and Arrest Tactics (commonly referred to as DAT or DAAT), techniques and mechanics sanctioned by the Wisconsin Law Enforcement Standards Board. The system is also referred to in the Wisconsin Administrative Code. It incorporates a force option continuum which provides general guidelines that define the degree and type of force to be

used, specifies intervention options or modes (with tactics available in each mode, and specific techniques applicable within each of those tactics), employing a system of escalation of force, using verbal presence, dialog, empty hand control, intermediate weapons, and deadly force.

The following sections of the Wisconsin State Statutes are recognized as legal authority or privilege, within their defined limits, in the use of force:

939.45(4) Conduct in reasonable accomplishment of a lawful arrest.

939.48 Use of force in self-defense and defense of others.

939.49 Use of force (but not deadly force) in defense of property.

968.14 Use of force in executing a search warrant.

968.25 Authority for officers under defined circumstances to search a person during temporary questioning.

### **III Applicability**

This Directive is applicable to officers, performing official police duties on or off duty, except for and during off duty hunting or participation in legitimate sporting events as they relate to the discharge of a weapon.

### **IV Definitions**

In a police setting, as used in this Directive:

- A. "Deadly Force" is the intentional use of a firearm or other instrument that creates a high probability of death or great bodily harm.
- B. "Great Bodily Harm/Injury" is bodily injury which creates a substantial risk of death, which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member, organ or other serious bodily injury.
- C. "O.C." is Oleoresin Capsicum aerosol spray.
- D. "Taser" is the manufacturer name of the department issued conductive energy device.

### **V Procedures**

- A. Deadly Force.
  - 1. An officer may use deadly force when the officer reasonably believes it is necessary to prevent death or great bodily harm.
  - 2. Deadly force is to be used only as a last resort.

3. Justification for deadly force is the immediate threat of death or great bodily harm, but the application of deadly force is that action which is likely to cause death.
4. In a limited number of instances, an officer may use deadly force in attempting to make an arrest or prevent escape. The arrest must be for a serious offense in which the suspect has used or threatened to use deadly force against some member of the public, such as murder, rape, assault with a weapon, etc. The officer must reasonably believe there is no other way to make the arrest or retain custody of the person once arrested. Even if the suspect is fleeing from the officer, there has to have been a use or threat of use of deadly force by the suspect, in order to authorize deadly force by the officer. In any situation, the officer should not use deadly force unless there is a reasonable belief that it is necessary, and then only as a last resort.
5. An officer may also use deadly force, at any time, even when no crime has been committed, in self-defense or defense of another person, whenever the officer believes it necessary to prevent imminent death or great bodily harm to the officer or another person.
6. Where feasible, before using deadly force, officers shall identify themselves and state an intent to shoot or use other deadly force.

B. Less Lethal Force

1. Where deadly force is not authorized, officers should assess the incident and attempt to de-escalate the seriousness of the incident to bring it under control.

C. Other Authorized Discharge of Weapon

An officer may also discharge a weapon under the following circumstances:

1. During weapon practice, training, or competitive sporting events;
2. To destroy a vicious animal, the officer being guided by the same policy set forth for self-defense and the defense and safety of others, or to destroy a seriously injured animal as a humanitarian measure after consideration has been made to request assistance from the Humane Society or Department of Natural Resources, when feasible.

3. As otherwise permitted by this Directive.

D. Weapon Restrictions

Officers shall adhere to the following weapon restrictions:

1. Except for normal handling procedures (such as, maintenance, inspections, securing for entrance to jail or courtroom area) or during training, officers shall not draw or exhibit a weapon unless circumstances cause the officer to reasonably believe that it may be necessary to lawfully use the weapon in conformance with this policy.
2. An officer is not permitted to use a weapon to discharge a warning shot.
3. Officers should not discharge a weapon at or from a moving vehicle except as the ultimate measure of self-defense or defense of another.
4. Officers are prohibited from discharging weapons when it appears likely that an innocent person will be injured, except when such person's danger would increase by the officer not reacting.

E. Authorized Weapons

1. Unless otherwise authorized, officers assigned to patrol are required to have in their possession an authorized duty belt and related equipment. Officers assigned to other duties are required to have the necessary equipment to exercise the options in the force option continuum when outside of the Department.
2. While on and off duty, officers shall carry only weapons and ammunition authorized by the Department. No alterations may be made in the weapons unless authorized by the Department.
3. An officer is not permitted to use a less lethal weapon, unless qualified in its proficient use, as determined by training procedures.
4. Authorized weapons are those with which the officer has qualified and received Department training on proper and safe usage, and that are registered and comply with Departmental specifications.

5. Off-duty officers are not required to go armed off-duty but may do so in accordance with policy, state and federal law. The decision to go armed off-duty will be based on the officer's personal evaluation of their expected activity. Officers are prohibited from carrying firearms when the officer's mental/physical abilities are or may be anticipated to be impaired by use of alcohol, drugs, medications or a combination thereof.

An officer who elects not to carry a handgun while off duty shall not be subjected to disciplinary action, if an occasion should arise in which action could have been taken if armed. An officer who does elect to carry a weapon, while off duty, must comply with paragraphs 2 and 3 above, and the officer must carry a Department issued full-size badge and identification card during those times.

6. Secondary (back-up) on-duty weapons are not mandated. An officer who wishes to have a secondary (back-up) on-duty handgun must receive specific authorization, complying with paragraphs 2 and 3 above.
7. A newly hired probationary officer is not permitted to carry any weapon until complying with paragraphs 2 and 3 above and until receiving specific authorization to do so.
8. An officer who has taken extended leave, or suffered an illness or injury that could affect the personal ability to use weapons will be required to train or re-familiarize before returning to enforcement duties.
9. The use of trigger guards or other locking devices is encouraged and will be provided to officers for use with their sidearm. Any officer who possesses a Department issued sidearm will store it with a trigger lock properly secured or in an otherwise secured manner.
10. The following weapons are specifically not authorized to be carried by officers: slapjacks, blackjacks, saps, brass knuckles, nun-chucks, fighting/throwing stars and other martial arts weapons that are not specifically authorized.
11. Use of the flashlight or portable radio by an officer as a weapon is permitted only as a last resort in self-defense.

## F. Handcuffs

1. Handcuffs are a means of temporarily restraining an arrested person or prisoner to protect the officer, bystanders and the detainee from sustaining injury caused by the detainee's acts. Another use of handcuffs is to prevent the escape of a prisoner or arrested person.
2. Criminal offenders may attempt to escape to avoid being transported to jail. Civil law and traffic violators may also become irrational for various reasons when taken into physical custody. Arrested persons and prisoners may also attempt to conceal or destroy evidence when not restrained.
3. Although it is the policy of this Department that handcuffs be utilized on persons taken into custody in arrest situations, officers do have discretion not to use handcuffs under the following conditions:
  - a. Physical disabilities, injuries, deformities, or unusual size of prisoners should be considered. Except where the officer reasonably believes that the person is a threat, or will be non-compliant, should restraints be used when they might cause or exacerbate injuries.
  - b. Where a person is compliant and the officer reasonably believes that the person will remain compliant and the subject is in a controlled environment, i.e. department interview rooms during interview/interrogation, and or secure jail setting.
  - c. Discretion as to the use of restraining devices on juveniles should be based on the following criteria:
    - The age of the child. No child under 12 years old should be handcuffed absent an articulable need.
    - Emotional state or development of the child. Those who are developmentally delayed may have an emotional age below their physical age. The potential to inflict emotional injury by restraining may be unreasonable.
    - Physical size of the child
    - Nature of the offense (violent vs. non-violent)
    - Behavior exhibited towards the officer
    - Experience with the criminal justice system
    - Threats to inflict injury to self or others

4. Officers should be aware that it is difficult to predict the future actions of an individual. Risks that are unnecessary should be avoided in favor of applying handcuffs.
5. With experience, a law enforcement officer will be able to discern those situations which call for the use of handcuffs and those where there is little threat. Timing and tact should be used in sensitive situations (e.g. family disturbances, condition of the person detained).
6. Handcuffs should never be applied so as to cause direct injury to the detainee. Handcuffs should be attached firmly and securely, but not painfully or tightly. When used, the handcuffs must be double-locked.

G. Oleoresin Capsicum (O.C.)

1. In the force option continuum, O.C. has been placed immediately following active countermeasures when officers are using escort and compliance holds and various countermeasures to reach control. The criteria for use of O.C. spray is; "active resistance or its threat". As officers escalate through presence, dialogue, and into this level, O.C. spray becomes an option when the officer receives active resistance or its threat. O.C. is not a replacement for other components of the force option continuum.
2. Training shall include options for officers confronted by subjects with O.C. spray. The options are to disengage or to escalate. Due to the incapacitating nature of O.C. spray, 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. Training shall include criteria for seeking medical attention following exposure to O.C. Guidelines are:
  - attention for persons who cannot recover 45 minutes after exposure;
  - for persons wearing contact lenses;
  - for persons requesting medical attention.

During training, officers are not required to experience a direct, frontal O.C. spray demonstration, but a clear demonstration by physical exposure is required (unless a reasonable medical reason

can be articulated to the contrary). An officer who elects to carry O.C. while off duty must carry a Department issued full-size badge and identification card.

#### H. Conducted Energy Weapon (Taser)

1. Conducted Energy Weapon: A less lethal force weapon utilized by trained personnel that causes Electro-Muscular Disruption (EMD) to a combative or potentially combative subject. The use of this device is intended to incapacitate the subject with a minimal potential for causing death or great bodily harm.
2. A Conducted Energy Weapon may be used by trained personnel when a subject is threatening to actively resist or is actively resisting an officer and/or the subject poses an articulable threat of harm to an officer or another person. It may also be used when the subject poses a threat of harm to himself or herself such as self-inflicted injury or a suicide attempt.
  - a. Department personnel who use a conducted energy weapon against a person shall ensure the person is monitored for injury as soon as practical after the person is under control.
  - b. If an adverse reaction to the conducted energy weapon occurs, or if requested by the subject, transport to a medical facility shall be arranged.
3. If the probes are imbedded in sensitive tissue areas, i.e. neck, face, groin, or the breast of a female, officers shall arrange transport to a medical facility for removal. If the probes are imbedded in other non-sensitive tissue areas, a trained officer may remove them according to the trained procedures.
4. After the probes have been removed they shall be handled as a Bio-hazard and packaged according to the trained procedure. The package shall be put in a hazardous materials bag and placed into a temporary storage locker with instructions to be destroyed.
5. All officers will be required to successfully complete agency authorized certification training prior to carry and/or use of a Conducted Energy Weapon and will be required to maintain certification/re-certifications for continued carry and/or use.

I. Training

1. All sworn personnel will be trained in and demonstrate an understanding of this Directive prior to being authorized to carry any firearm or other weapon.
2. The Department shall schedule training and qualification sessions for duty and specialized weapons, which will be on a pass/fail basis. Re-familiarization is required at least annually with any firearm an officer is authorized to use.
3. Officers who fail to pass with training issued duty weapon(s) in accordance with Department training procedures shall be immediately scheduled for special remedial weapons instruction.

J. Notification and Initial Investigation

1. A supervisor will be immediately summoned to the scene and briefed in the following:
  - a. A weapon is discharged outside the firing range (except as provided under V, C, 2);
  - b. Use of force results in death or injury;
  - c. Force is used and a person complains that an injury has been inflicted or property damaged.
2. A supervisor, when summoned to the scene, will comply with:
  - a. Investigative procedures as required by the Department, to include addressing the propriety of the use of force and to determine whether actions were in accordance with Departmental policy and procedures;
  - b. Retrieval of weapons which have been fired and ammunition, and unless inappropriate, arranging for replacements from the Department inventory for officers of this Department, as soon as practicable;
  - c. Notification to the Chief of Police as soon as possible;

- d. Implementation of post-shooting incident procedures when a shooting has occurred.

K. Reporting Requirements

1. A written report prepared according to Departmental procedures will be required in the following:
  - a. A weapon is discharged outside the firing range;
  - b. Use of force results in death, injury or property damage;
  - c. A device intended to be less lethal is used on a person;
  - d. As part of an officer's use of force, a weapon is drawn or displayed (including, but not limited to, the pointing of a weapon at another person);
  - e. Force is used which is higher or more serious on the force option continuum than presence and dialog (including, but not limited to, empty hand control, use of handcuffs, Taser, and O.C.) and any other less lethal technique or device.
  - f. Any time an officer uses any force or physical restraint of any person(s).
2. The narrative of the report should, at a minimum, detail the circumstances of the incident, an explanation of what force was used, why it was used, and the extent of injury inflicted or sustained.
3. An initial Use of Force Report Form shall be completed by the officer(s) involved and submitted to Department administration in the event any use of force that rises above the level of handcuffing occurs. This form will be reviewed in a timely fashion by Department Administration, and is intended to aid Department Administration in determining the appropriateness of the force used. The reviewing supervisor will forward an initial finding to the Chief of Police or his/her designee, who will determine whether further investigation is warranted.

L. Department Response

1. Deadly force incident.

- a. When an officer's use of force causes death, the officer shall be placed on administrative leave after completing all internal investigative requirements, and until it is determined by a mental health professional that the officer is ready to return to duty. Administrative leave is not a suspension from duty (with or without pay), nor is it relief from duty. The officer remains subject to administrative reassignment.
  - b. The Department shall ensure that both an administrative and criminal investigations are conducted concerning the incident. An outside law enforcement agency may be requested to assist, if necessary and appropriate.
2. Administrative review of critical incidents.
- a. All reported uses of force will be reviewed by the appropriate Departmental authority to determine whether:
    - (1) Departmental rules, policy or procedures were followed;
    - (2) The relevant policy was clearly understandable and effective to cover the situation;
    - (3) Department training requires revision.
  - b. All findings of policy violations or training inadequacies shall be reported to the appropriate supervisor for resolution and/or discipline.
  - c. There will be regular review of use of force incidents by the appropriate Departmental authority to ascertain training and policy needs.
  - d. If a weapon was used in the application of force, a report of findings shall be forwarded to the Chief of Police, including the relevant facts and circumstances surrounding the incident and a conclusion as to whether the discharge was in compliance with this Directive.
3. Disciplinary Action

Officers who violate this Directive may be subject to disciplinary action up to and including termination.

**VI Medical Aid**

- A. After every use of force incident officers should be alert to the possibility of injury to the person upon whom force has been used.
- B. If injury is apparent, or a person complains of injury whereby medical attention is necessary, officers shall offer or arrange for medical assistance.
- C. If medical assistance is necessary, officers should exercise sound discretion in the use of transportation by ambulance as opposed to a police vehicle.
  
- D. Officers may apply first aid appropriate to the injured person, being consistent with the officer's training and ability. Absent any specific request from the injured person, officers may determine if an appropriate level of first aid has been afforded.
- E. Should officers be aware of an injury which obviously requires medical attention, such attention will be sought regardless of whether or not the injured person requests assistance.
- F. Persons who have been exposed to OC spray may have their eyes flushed in accordance with OC spray training guidelines. Treatment at a medical facility is indicated when:
  - a. The person has not recovered within 45 minutes.
  - b. The person experiences breathing difficulty.
  - c. The person wears contact lenses.
  - d. The person requests medical assistance.

This Directive was implemented on 12-01-04, revised on 09-12-16, and will supersede any previously existing policies, arrangements, or understandings to the contrary.

Revised: 09-12-16

BY ORDER OF THE CHIEF:

Craig J. Sherven  
Chief of Police

Refer to Statutes: 939.45(4); 939.48; 939.49; 968.14; 968.25

**Addendum No. 1**  
**DISTRUBANCE RESOLUTION**  
**INTERVENTION OPTIONS**

**I. Presence**

- A. Open Stance
- B. Ready Stance
- C. Defensive Stance

**II. Dialog**

- A. Search Talk
- B. Persuasion
- C. Light Control Talk
- D. Heavy Control Talk

**III. Empty Hand Control**

- A. Escort Holds
  - < blanket the arm
  - < escort position
- B. Compliance Holds
  - < come-along hold
  - < pressure points
  - < diffused strike
- C. Passive Countermeasures
  - < secure the head
  - < hug yourself
  - < lower your center
  - < pull in/push down
- D. Active Countermeasures
  - < Conductive Energy Weapon (the criteria for use of the Taser device is active resistance or its threat from a subject. As with any force option, actual use of the Taser device depends on the officer's tactical evaluation of the situation)
  - < Oleoresin Capsicum (O.C.) aerosol spray (the criteria for use of O.C. spray is active resistance or its threat from a subject. As with any force option, actual use of O.C. spray depends on officer's tactical evaluation of the situation.)
  - < vertical stuns
  - < focused strikes

**IV. Intermediate Weapons**

- A. Impact Weapon
  - < verbal warning
  - < hand on the baton
  - < present the baton
  - < load the baton
  - < strike with the baton

**V. Deadly Force**

- A. Firearm
  - < verbal warning
  - < hand on the gun
  - < draw the gun
  - < point the gun
  - < shoot the gun