



POLICY & PROCEDURE

WALWORTH COUNTY SHERIFF'S OFFICE

SUBJECT: SWORN USE OF FORCE

SCOPE: All Sworn Personnel

DISTRIBUTION: Policy & Procedure Manual

AUTHORITY: Sheriff Kurt Picknell

REFERENCE: WI State Statutes: 66.0511, 939.45, 939.48, and Chapter 941; Wisconsin DAAT System; Firearms and Ammunition Policy; Pursuit Policy

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RESCINDS

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STANDARDS: 5.1.1 - 5.1.2 -

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PURPOSE: The purpose of this Policy & Procedure is to provide Deputies with clear direction in use of force situations. Deputies have the privilege to use force when it becomes necessary in the performance of their official duties. They shall only use the amount of force that is reasonably necessary to accomplish their objectives. The United States Supreme Court stated that reasonableness should be judged under the totality of the circumstances from the perspective of a reasonable officer at the scene with similar training and experience. The Court also noted that Deputies must frequently make split-second decisions. The below factors are to be considered when determining the objective reasonableness of a use of force incident.

- A. The severity of the alleged crime at issue.
- B. Whether the suspect poses an imminent threat to the safety of Deputies and/or others.
- C. Whether the suspect is actively resisting or attempting to evade arrest by

flight.

This Agency's Use-Of-Force policies adhere to all applicable federal, state, and local laws.

This Policy & Procedure consists of the following numbered sections:

- I. POLICY
- II. DEFINITIONS
- III. PROCEDURES
- IV. TRAINING

I. POLICY

It is the policy of the Walworth County Sheriff's Office to require all Deputies to follow the State of Wisconsin's Law Enforcement Training and Standard's system of Defensive and Arrest Tactics when making all use of force decisions. Only sworn Deputies who have successfully passed firearms qualification and have demonstrated an understanding of the Agency's Policy & Procedures and State Laws pertaining to the use of force are authorized to carry a firearm.

II. DEFINITIONS

LESS LETHAL TOOLS – For the purpose of this Policy, less lethal tools are Chemical Agents, Chemical Munitions, ECD, baton, and Specialty Impact Munitions

CHEMICAL AGENTS: A chemical mixture to equal OC (Oleoresin Capsicum) or CS (Chloracetophenone) used to incapacitate a subject(s) in order to gain control.

CHEMICAL MUNITIONS: A chemical mixture delivered by projectile to equal OC (Oleoresin Capsicum) or CS (Chloracetophenone) used to incapacitate a subject(s) in order to gain control.

DUTY TO INTERCEDE – A Deputy present and visually observing another Deputy/Officer using force the observing Deputy believes to be excessive under Agency policy shall intercede and attempt to prevent or stop the use of excessive force, if it is safe and feasible to do so.

SPECIALTY IMPACT MUNITIONS: Are defined as extended range munitions which can be fired, launched, or otherwise propelled to impede a subject, preventing him or her from continuing resistive, assaultive, or otherwise dangerous behavior without posing a significant potential for causing death.

ELECTRONIC CONTROL DEVICE (ECD) - A law enforcement tool with the purpose to overcome active resistance or its threat. Currently, the chosen ECD tool at the Walworth County Sheriff's Office is the Taser.

III. PROCEDURES

A. The decision to use force and the amount of force to be used should be based on the totality of circumstances of the incident and should take into consideration the aforementioned Purpose and Sections I and II.

1. A Deputy may use force:

- a. To achieve and maintain control of resistive subjects.
- b. To detain persons reasonably suspected of criminal behavior.
- c. To make lawful arrests.
- d. To defend themselves or others.
- e. To prevent escape.
- f. To bring an unlawful situation safely under control.

2. Intervention Options –

- a. PRESENCE – The first mode. Presence reflects the fact that sometimes all that is needed to control a situation is the presence of a Deputy. The purpose of this mode is to present a visible display of authority.
- 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 verbally persuade subjects to comply with a Deputy's lawful directives.
- c. CONTROL ALTERNATIVES – The third mode. It includes a wide range of tactics and tools for controlling subjects. The purpose of Control Alternatives is to overcome passive resistance, active resistance, or its threat. The tactics/tools within Control Alternatives are:

<u>Tactic / Tool</u>	<u>Goal</u>
Escort Holds	To safely initiate physical contact
Compliance Holds	To overcome passive resistance
OC/CS/ECD	To overcome active resistance or its threat
Passive Countermeasures	To decentralize

- d. PROTECTIVE ALTERNATIVES – The fourth mode. It includes tactics and tools to protect an officer while also managing continuing resistance. The purpose of a Protective Alternative is to overcome continued resistance, assaultive behavior, or its threat. The tactics/tools within the Protective Alternatives are:

<i>Tactic / Tool</i>	<i>Goal</i>
Active Countermeasures	To create dysfunction
Incapacitating Techniques	To cause the immediate, temporary cessation of violent behavior
Intermediate Weapons (Specialty Impact Munitions)	To impede

3. DEADLY FORCE – The fifth mode. Deadly Force represents the highest level of force available to law enforcement officers with the purpose to stop the threat. This Agency recognizes that deadly force may be utilized as a last resort, but may be the Deputy’s first option to defend themselves. Deadly Force is the intentional use of a firearm or other instrument that creates a high probability of death or great bodily harm. The subject behavior that justifies a Deputy’s use of deadly force, if an officer reasonably believes a lesser degree of force would be insufficient, is any behavior which has caused or imminently threatens to cause death or great bodily harm to you or another person or persons.
- a. Deputies may use deadly force as a last resort to defend themselves (or another person) when the deputy reasonably believes they are in imminent danger of death or great bodily harm.
 - b. Deputies may fire at an unarmed fleeing felon subject only if there is “probable cause to believe that the suspect poses a significant threat of death or great bodily harm to the Deputy or others.” This assessment is based on the totality of the circumstances.
 - c. Warning shots are prohibited.
 - d. This agency does not authorize the use of choke holds except in life-threatening situations or in self-defense.
4. DUTY TO INTERCEDE - A Deputy present and visually observing another Deputy/Officer using force the observing Deputy believes is excessive under Agency policy shall intercede and attempt to prevent or stop the use of excessive force, if it is safe and there is a reasonable opportunity to do so. A Deputy’s duty to intercede will be reviewed under an objectively reasonable officer standard. A Deputy who visually observes another Deputy/Officer use force that is excessive under this policy shall promptly report these observations and actions to their immediate supervisor and record those observations and actions in an official report.

The immediate supervisor shall make a preliminary determination as to whether force was excessive under Agency policy and whether the interceding Deputy acted in accordance with this Agency policy.

- B. Follow Through to Intervention Options - Deputies have responsibilities after using force. Where a Deputy used force to establish control over a subject, the Deputy must monitor the subject for injuries. This may include handcuffing, unless inappropriate (based on the Defensive and Arrest Tactics Training). An initial medical assessment must be conducted as follows:

1. Treatment of Persons Injured Through the Use of Force

- a. When safe to do so, persons subject to the use of force shall be observed to detect obvious changes in their physical or mental condition and treat to the level of your training if required.
- b. Summon appropriate medical aid, if necessary.
- c. If necessary, or requested by the injured subject, the injured person is to be transported by ambulance to the most appropriate medical facility for proper treatment.
- d. During the time awaiting treatment and during the treatment activities, the Deputy shall maintain security.
- e. The injured person is to remain handcuffed during treatment unless the handcuffs interfere with such treatment. Should medical treatment require removal of handcuffs, the employee should request that restraints be used by hospital personnel.
- f. If medical treatment requires the removal of handcuffs and hospital restraints are not authorized or utilized, the employee should maintain close physical proximity to the subject and determine the appropriate level of control and/or restraint use with hospital personnel and security staff based on employee/subject factors, degree of subject's injuries, the possibility of behavior changes of intoxicated and/or drug impaired subjects, and the subject's level of cooperation with employees and hospital personnel.
- g. The employee is to remain with the injured person at all times during the hospital stay unless the injury is so serious that escape is not physically possible.
- h. If it is determined that the injured person needs to be admitted to the hospital for additional treatment or a hospital stay, the employee will contact his/her immediate supervisor and coordinate efforts with hospital personnel in order to determine what level of monitoring will be required.
- i. If the injured person is to be released from the hospital/medical

facility following medical evaluation and treatment, the employee will notify the appropriate detention facility of the nature of the subject's injuries as well as provide them with any medical discharge instructions or paperwork, if applicable.

- C. Use of the Electronic Control Devices (ECD) - This Agency utilizes the TASER as its chosen ECD tool within the Control Alternatives Mode.

Only trained Deputies may carry and deploy an ECD. All Deputies in uniform shall carry their assigned Taser while on-duty. Exceptions to this rule shall only be authorized by the Sheriff or designee.

1. An ECD may be used by trained personnel when a subject is threatening to actively resist or is actively resisting a deputy or another officer and the subject poses an articulable threat of harm to a deputy or another person. It may also be used when the subject poses a threat of harm to himself or herself of a serious self-inflicted injury or suicide attempt.
 - a. Deputies may also include in the decision to use this force option information known to the deputy at the time of the incident, including conduct or statements of the subject or prior history of resistive or assaultive behavior.
 - b. Passive resistance without posing an articulable threat of harm to deputies or others does not permit the use of an ECD. Generally, ECD should not be used against verbal aggression; people who are running away; children and older persons; and/or persons engaged in peaceful civil disobedience, unless you can articulate a reasonable threat to the safety of self or others.
2. A deputy shall not brandish, display or threaten the use of an ECD unless he or she can reasonably conclude its use may become justified and is anticipated.
3. In each instance when an ECD is deployed on an incident, a determination will be made regarding the need for lethal cover.
 - a. Lethal cover shall be required in all cases in which the subject possesses a firearm.
4. Deputies who use an ECD against a person shall ensure the person is monitored for injury as soon as practical after the person is under control.
5. If a person has an adverse reaction to an ECD application, or if requested by the subject, transport to a medical facility shall be arranged.

6. If the probes are embedded in sensitive tissue areas, i.e. neck, face, groin, or the breast of a female, a Deputy shall arrange transport to a medical facility for removal. Tactical emergency medical physicians contracted by this Agency during SWAT operations may be used for this purpose, and the requirement for transportation to a hospital will be left to the physician's discretion. If the probes are embedded in other non-sensitive tissue areas, a trained Deputy may remove them per the trained procedures.
7. Probe Removal from non-sensitive areas:
 - a. Stabilize area approximately six inches from probe site.
 - b. Pinch the probe between your forefinger and thumb. Squeeze tightly.
 - c. Pull the probe straight out, ensure you do not twist the probe.
 - d. Gather the wires (do not bend or break), probes, and cartridge.
 - e. Dispose of the probes and cartridge in a sharps container unless they need to be preserved for evidentiary purposes. Treat as a biohazard.
 - f. Trained deputies shall receive periodic training at intervals recommended by the manufacturer concerning the use of the approved ECD.

D. Oleoresin Capsicum (OC) Spray

All Deputies in uniform shall be required to have a Walworth County Sheriff's Office approved OC on their duty belt or exterior carrier at all times.

1. O.C. may be used by trained personnel when a subject is threatening to actively resist or is actively resisting a deputy or other officer and the subject poses an articulable threat of harm to a deputy or another person.
 - a. Deputies may also include in the decision to use this force option, information known to the deputy at the time of the incident, including conduct or statements of the subject or prior history of resistive or assaultive behavior.
 - b. Passive resistance without posing an articulable threat of harm to deputies or others does not permit the use of O.C.
2. Generally, O.C. should not be sprayed at a person from a distance

of less than 3 feet.

3. Deputies who use O.C. against a person shall ensure the person is decontaminated as soon as practical after he or she is under control. If circumstances permit, and it can be done without endangering Agency personnel, reasonable efforts to decontaminate animals should be made or the decontamination information conveyed to the animal's owner.
4. A deputy shall not brandish, display, or threaten the use of O.C. unless he or she can reasonably conclude its use may become justified and anticipated.

E. Intermediate Weapons/Impact Weapon (baton)

All Deputies are authorized to have a Walworth County Sheriff's Office approved impact weapon on their duty belt or exterior carrier.

1. The use of an authorized impact weapon is permitted against an actively aggressive person when the deputy reasonably believes that lesser force options would be ineffective or would subject the deputy to bodily harm.
 - a. Deputies may also include in the decision to use this force option information known to the deputy at the time of the incident, including conduct or statements of the subject or prior history of resistive or assaultive behavior.
 - b. Passive resistance without posing an articulable threat of harm to deputies or others does not permit the use of an intermediate/impact weapon.
2. A deputy shall not brandish, display or threaten the use of an impact weapon as a threat unless he or she can reasonably conclude its use may become justified and is anticipated.

F. Administrative and plain clothes deputies shall at all times carry at least one of the above three less-lethal options (OC, ECD or baton). Exceptions to this rule shall only be authorized by the Sheriff or designee.

G. Use of Specialty Impact Munitions – The Agency utilizes Specialty Impact Munitions and places them within the protective alternative mode which is an intermediate weapon.

H. Documentation

1. A Use of Force report in RMS must be completed for each person that force is used against, by any Deputy involved in the use of force. An Incident Report must be completed for any of the following circumstances:

- a. When a firearm is discharged, except in a training situation or for lawful recreational purposes.
- b. When an action results in, or is alleged to have resulted in, injury or death of another person.
- c. When force is applied through the use of a lethal or less lethal weapon.
- d. When use of force is at a level of compliance holds or above.
- e. Canine use of force is at a level of bark or above, where the bark was utilized to gain compliance.
- f. Any pursuit - The Deputy shall use the name "Unknown" for a pursuit where the identity of the driver is unknown or cannot be affirmatively established.
- g. The Deputy shall use "ShUOF" code as the "supervisor" in the use of force report.
- h. All deputies involved in the use of force will complete a supplemental report.

❖ *Note that during the investigation of a high level use of force, the Deputy's Statement may serve as his/her incident report.*

I. If a Deputy uses deadly force to euthanize an injured animal, the Deputy must create a case and complete a use of force report but does not need to complete an incident report. The Deputies short summary is sufficient in this situation. The Deputy shall use the name "Euthanize Animal" for deadly force to put down an injured animal.

J. Review

- 1. Shift supervisors are responsible to review all use of force reports generated from shift personnel and note their findings.
- 2. The Training Lieutenant is responsible for final review of all use of force incidents and maintenance of use of force records. Refer to Use of Force Reporting and Review Policy.
- 3. The Training Lieutenant will conduct an annual analysis of use-of-force incidents to identify trends that could reveal the need for training, equipment or policy modifications.

IV. TRAINING

- A. Deputies shall receive periodic training on use of force topics.
- B. Deputies authorized to use less lethal weapons shall receive biennial training

on those weapons.

This Policy & Procedure cancels and supersedes any and all previous written directives relative to the subject matter contained herein.

Initial _____ 10/25/2021