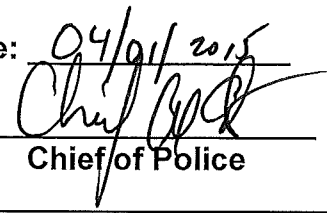


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Chief of Police

6-300 THE USE OF NON-DEADLY FORCE

It is policy of this department that officers, while in the performance of legal duties, shall always employ force in a manner that is objectively reasonable based on the totality of the circumstances. GRAHAM v. CONNOR, 490 U.S. 386 (1989). The reasonableness text is an objective one and must be judged from the perspective of a reasonable officer at the scene.

NON-DEADLY FORCE DEFINED

As used in this policy, non-deadly force means the use of any weapon or instrument, or any physical action taken by an officer which is not likely to cause death.

NON-DEADLY FORCE AUTHORIZED

Non-deadly force is only authorized when an officer reasonably believes it is necessary to control a person under any of the following circumstances.

1. Detaining a person reasonably suspected of unlawful behavior.
2. Effecting an arrest
3. Overcoming resistance
4. Preventing escape
5. Protecting oneself or another
6. Maintaining order

FORCE CONSIDERATIONS

Officers shall use the degree of force believed to be objectively reasonable to control a situation considering the following factors:

1. The existence of alternative methods of control

2. Physical size, strength and weaponry of the person as compared to the officer.
3. The nature of the encounter
4. Actions of the person
5. Exigent conditions (i.e., availability of backup, number of persons involved, etc.)
6. The severity of the offense
7. Whether the suspect poses a threat to the safety of officers or citizens
8. Whether the suspect is actively resisting arrest or attempting to evade arrest by flight.

Control of a person through presence and verbal commands shall always be the preferred method of control. Because verbal commands are not always effective or appropriate in gaining compliance, officers may escalate the degree of force based on the actions of the person they are attempting to control. Once a person is under control, officers are required to revert to the lowest degree of force necessary to maintain that control.

The degree of force an officer chooses should be based on his/her tactical evaluation and threat assessment of the situation. Based upon the totality of the circumstances known at the time and in light of the officer's training and experience, the officer should choose a tactic/procedure that is objectively reasonable and is consistent with one of the following:

1. The tactic/procedure utilized is a trained technique
2. The tactic/procedure is a dynamic application of a trained technique.
3. The tactic/procedure not trained, but justifiable under the circumstances. *

*excerpted from Defensive and Arrest Tactics. A Training Guide For Law Enforcement Officers, Wisconsin Department of Justice, Law Enforcement Standards Board, March 2007.

THE USE OF OLEORESIN CAPSICUM SPRAY (O.C. SPRAY)

1. Officers may use OC Spray when they reasonably believe they are facing active resistance, or its threat, from the subject. OC Spray is not to be used against subjects who are offering passive resistance.
2. Officers shall only direct O.C. Spray in a manner as prescribed by the Chief of Police through department training.
3. Oleoresin capsicum (O.C.) Spray shall not be used once an individual is subdued and under control.
4. If practical, the individual should be provided with an opportunity to eliminate the effects of the irritant by washing and flushing the affected areas with water. Further, the officer should inform such individuals that it is not advisable to use creams, ointments, or bandages on the affected areas.

CHEMICAL AGENT USE

Officers shall discharge chemical agents only in a manner as prescribed by the Chief of Police through departmental training.

ELECTRONIC CONTROL DEVICE USE

1. An approved electronic control device (ECD) may only be utilized by officers that have successfully completed training in its use. Deployment and use of the electronic control devices will be in accordance with departmental training and procedure.
2. An ECD is not a substitute for deadly force – on cases where a subject is believed to be armed with a dangerous weapon, an officer may not arm him or herself with an ECD unless another officer at the scene has the immediate ability to deliver deadly force. Officers armed with an ECD should continuously monitor and evaluate the ability of other officers present to deliver deadly force.
3. An officer may only display, present, or threaten to use an ECD if the officer reasonably believes that the potential for its authorized use exists.

4. Deployment of an ECD will be evaluated using the criteria in this. An ECD may only be used under the following circumstances:
 - a. To overcome violent or assaultive behavior or its threat; if the officer reasonably believes that the subject poses an articulable threat of harm to an officer or to another person.
 - b. To control persons in order to prevent them from harming themselves or others.
5. Use of an ECD under the following circumstances is prohibited, unless exigent circumstances are present:
 - a. Against handcuffed subjects
 - b. Against subjects fleeing on foot
 - c. Against subjects operating a motor vehicle
 - d. From a moving vehicle
6. The ECD will not be used under the following circumstances:
 - a. For coercion or intimidation
 - b. To escort or prod subjects
 - c. To awaken unconscious or intoxicated subjects
 - d. Against subjects who are offering only passive resistance
7. ECD probes may not be intentionally fired at the face, head, neck or groin, unless the use of deadly force would be justified.
8. Officers shall evaluate all subjects against whom an ECD has been deployed. The subject shall be medically evaluated if:
 - a. The subject requests medical treatment
 - b. The subject displays an adverse reaction to the ECD deployment

- c. The subject has been exposed to more than one ECD simultaneously
 - d. The subject has been exposed to three (3) or more ECD firing cycles; or one continuous firing cycle of twenty-five (25) seconds or more
9. If the ECD probes have penetrated the skin in a sensitive area (head, neck, groin or breast of a female) the subject will be conveyed to an emergency room for removal. If the probes are embedded in non-sensitive areas, a trained officer may remove them.
10. Removing the air cartridge to deploy an ECD in the drive-stun mode is not authorized as a primary ECD deployment technique.

BATON USE

- 1. A baton may be used when an officer reasonably believes a lesser degree of force would be insufficient to control the situation.
- 2. An officer shall never intentionally strike a person's head with a baton unless such an action is justified under the use of deadly force.
- 3. Officers shall only use department-approved batons and techniques.
- 4. Department-approved batons are the only authorized impact weapons. Flashlights, radios, firearms, etc., are not recommended as impact weapons; however, the department recognizes that emergency self-defense situations involving other objects and instruments may occur.

IMPACT PROJECTILES

- 1. Impact projectile weapons may only be utilized by officers that have successfully completed training in their use. Deployment of impact projectiles will be in accordance with departmental training.
- 2. Impact projectiles are not a substitute for deadly force – an officer may not arm him or herself with an impact projectile

weapon unless another officer at the scene has the immediate ability to deliver deadly force. Officers armed with impact projectile weapons should continuously monitor and evaluate the ability of other officers present to deliver deadly force.

3. It is the responsibility of the officer arming him or herself with an impact projectile weapon to ensure that the weapon is loaded with impact projectiles each time the weapon is deployed.
4. Like any use of force, deployment of impact projectiles must be evaluated using the criteria in this. Deployment of impact projectiles at non-vital areas is considered non-deadly force. Impact projectiles may only be used under the following circumstances:
 - a. To overcome violent or assaultive behavior or its threat; if the officer reasonably believes that the subject poses an articulable threat of harm to an officer or to another person.
 - b. To control persons in order to prevent them from harming themselves or others.

Additionally, an officer must reasonably believe that a lesser degree of force would be insufficient to control the situation, or that it is necessary to deliver force at a safe distance from the suspect/subject.

The intentional deployment of impact projectiles at the face, head or neck is considered deadly force.

5. All persons taken into custody who have been struck with an impact projectile will be conveyed to an emergency room for medical clearance.
6. The investigative requirements of the Use of Deadly Force policy will be followed only if deployment of an impact projectile results in death or great bodily harm.
7. Absent an imminent risk of harm to officers or citizens, impact projectiles will not be used in crowd control situations. Impact projectiles will not be used to move or disperse crowds.

8. Impact projectiles may be deployed in other jurisdictions pursuant to a mutual aid request. In the event that an individual struck with an impact projectile is taken into custody by another agency, officers from that agency shall be notified of the need for medical treatment.

USE OF RETRAINING DEVICES

1. Officers shall place handcuffs on any individual in custody when the officer reasonably believes the individual may become violent, attempt to escape, or pose a danger to self or others. It is mandatory that all persons who have aggressively resisted or attacked another person be placed in handcuffs.
2. Officers shall apply handcuffs in a manner prescribed by the Chief of Police through Departmental training.
3. When handcuffs prove to be insufficient in restraining an individual (e.g., kicking, attempting to flee, etc.), officers may employ the use of additional department-approved restraining devices.
4. In an emergency situation when a department-approved restraining device is not available, the department recognizes that alternative devices may have to be employed. In such situations, approved devices should be substituted as soon as reasonably practicable.
5. Individuals who are placed in the maximum restraint position should be continuously monitored for breathing and circulation.

USE OF SPIT HOODS

1. A spit hood is a temporary protective device, which may be used on persons that display behavior or threatening behavior that pose a hazard of exposure to bodily fluids transmitted by spitting, wiping blood from their face/head, or wiping/blowing nasal discharges at or onto officers.
2. Officer should use only department-approved spit hoods. In an emergency situation, if not readily available, officers may utilize other breathable items, such as pillowcases, surgical masks, etc.

3. Officers shall apply the spit hood in accordance with department training.
4. Persons wearing the spit hood must be closely monitored and shall not be left unattended.
5. Officers shall document the use of the spit hood including the circumstances requiring its use in their report of the incident. A copy of the report shall be routed to training.

USE OF FORCE REPORTING

Any officer who uses physical force, or any of the following enumerated weapons, items or devices against another person, shall complete an original or supplementary report on the incident involved.

1. Firearms
2. Baton
3. Chemical Agents
4. Handcuffs or other restraining devices
5. Physical force

The report shall specifically note the totality of the circumstances necessitating force and the manner of force employed.

USE OF FORCE REVIEW AND INVESTIGATIONS

All instances of the use of non-deadly force shall be reviewed for compliance with TPD policy by an appropriate supervisor.

In cases where a complaint is filed pertaining to an officer's use of non-deadly force, the Sergeant has the primary responsibility for coordinating the internal investigation to ensure compliance with the TPD Use of Non-Deadly Force policy.

If necessary, as part of the internal investigation, members from the department, who are certified WI Defensive and Arrest Tactics (DAAT) instructors can be consulted to determine findings and forward their conclusions to the appropriate source requesting assistance.