



# POLICY & PROCEDURE

WAUKESHA COUNTY SHERIFF'S OFFICE

**SUBJECT: USE OF FORCE**

NUMBER: 5.01

SCOPE: Sworn Personnel

ISSUED: 11/3/2014

DISTRIBUTION: Policy & Procedure Manual

EFFECTIVE: 12/3/2014

X RESCINDS 451.0

AMENDS 1/31/2019

REFERENCE: WI State Statutes: 66.0511(3), 939.45, 939.48, and Chapter 941; WSD Policy and Procedure 5.02, 5.03, 6.02, 6.27, & 12.01. DAAT Incident Response and Disturbance Resolution Model

WILEAG 5<sup>TH</sup> EDITION  
STANDARDS: 5.1.1, 5.1.2, 5.1.3, 5.1.4

PURPOSE: This policy & procedure is to establish policies and procedures for members of the Waukesha County Sheriff's Office regarding the use of force, and to identify the responsibilities of department members when using force and after it has been used.

This policy & procedure consists of the following numbered sections:

- I. POLICY**
- II. DEFINITIONS**
- III. DEFENSIVE AND ARREST TACTICS (DAAT)**
- IV. USE OF FIREARMS**
- V. USE OF VEHICLES - BLOCKADES, BARRIERS, AND RAMMING**
- VI. USE OF LESS LETHAL FORCE**
- VII. USE OF FORCE TO ENTER PRIVATE PROPERTY**
- VIII. USE OF RESTRAINTS**
- IX. FOOT PURSUITS**
- X. RENDERING MEDICAL AID**

## **XI. REPORTING THE USE OF FORCE**

## **XII. CANINE**

### **I. POLICY**

The Waukesha County Sheriff's Office recognizes and respects the value and special integrity of each human life. In vesting members 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 the department that department members shall use only force that is reasonably necessary to effectively bring an incident under control, while protecting the lives of the deputy and others. Any person injured through the use of force, shall receive medical aid for such injuries. It is the responsibility of any deputy who uses physical force or any of the enumerated weapons, items or devices indicated below to complete an incident report on the incident involved and to specifically note the circumstances necessitating, and manner of, such use of force. All cases where force is used shall be reviewed by the Sheriff or Sheriff's Designee on a documented annual basis.

### **II. DEFINITIONS**

- A. **DEADLY FORCE:** The intentional use of a firearm or other instrument, the use of which would result in a high probability of death or great bodily harm.
- B. **DE-ESCALATION:** Taking action or communicating verbally or non-verbally during a potential force situation in an attempt to stabilize the situation and reduce the threat without the use of force or with a reduction in the force necessary.
- C. **DEFENSIVE AND ARREST TACTICS (DAAT):** A system of verbalization skills coupled with physical alternatives for Wisconsin law enforcement.
- D. **ELECTRONIC CONTROL DEVICE (ECD):** Are instruments in which a safe amount of electricity is used to affect the sensory and/or motor nervous system of the body. The ECD generates an electrical current that is transmitted to the subject's body through probes, either directly attached to the ECD (contact deployment) or attached to wires that are shot at the subject (distance deployment). Two points of contact on the body are required to complete the electrical circuit. The electrical current then follows the circuit, including the portion of the body between the probes, causing sensory and/or motor nervous system overload.
- E. **JUSTIFICATION FOR DEADLY FORCE:** Any subject behavior which has caused or imminently threatens to cause death or great bodily harm to you or another person or persons.
- F. **LESS LETHAL FORCE:** Force that is highly unlikely to cause death or serious injury to a person. However, the potential for death or serious injury is a reality and shall be taken into account.
- G. **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.

- H. **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.
- I. **REASONABLE FORCE:** That force which an ordinary, prudent, and intelligent person with the same knowledge of the particular situation as a member would deem necessary.

### **III. DEFENSE AND ARREST TACTICS (DAAT)**

- A. Department members shall receive training that is consistent with the State of Wisconsin, Training and Standards.
- B. Approach Considerations
  - 1. All procedures related to DAAT approach considerations can be found in the State of Wisconsin, Training and Standards Defensive and Arrest Tactics Manual pages 17-29
- C. Intervention Options
  - 1. All procedures related to DAAT intervention options can be found in the State of Wisconsin, Training and Standards Defensive and Arrest Tactics Manual pages 31 to 84
- D. Follow-through Considerations
  - 1. All procedures related to DAAT follow-through considerations can be found in the State of Wisconsin, Training and Standards Defensive and Arrest Tactics Manual pages 99 to 124

### **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. § Chapter 941. Members must also follow the requirements set forth in Policy & Procedure 12.01: Firearms and Ammunition.
- B. Members may display department authorized firearms when they have reasonable suspicions to believe that the use of deadly force may be necessary. Department member 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. A member shall have their 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 a member to have reasonable fear for his/her life.

- C. Whenever safety permits and time allows, members shall identify themselves and state their intent to shoot prior to using a firearm. Members 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 an innocent person may be injured unless failure to discharge will result in the greater danger exception. The greater danger exception allows a deputy 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. Deputies 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 a deputy 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 shall be given to the safety of innocent bystanders and possible innocent passengers in the vehicle.
- G. A deputy 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 Waukesha County Sheriff's Office, deputies shall meet the following three requirements:
  - 1. Deputies shall receive training in the safe handling and operation of department issued and authorized firearms. Deputies must demonstrate their understanding of department policy & procedures and state laws pertaining to deadly weapons and the use thereof.
  - 2. Deputies shall be certified by the State of Wisconsin in the use of firearms. Deputies shall qualify annually using the State of Wisconsin standard qualification firearm course.
  - 3. Deputies shall qualify with a state certified Waukesha County Office firearms instructor.

**V. USE OF VEHICLES-BLOCKADES, BARRIERS, RAMMING, AND TIRE DEFLATION DEVICES. (Refer to WSD Pursuit policy 6.02)**

**VI. USE OF LESS LETHAL FORCE. (Refer to WSD Use of Less Lethal Force policy 5.03)**

- A. All procedures related to DAAT intervention options can be found in the State of Wisconsin, Training and Standards Defensive and Arrest Tactics Manual.

- B. The DAAT Disturbance Resolution Model shall be followed and adhered to at all times.

## **VII. USE OF FORCE TO ENTER PRIVATE PROPERTY**

- A. Refer to Policy & Procedure 1.12 Arrest Procedures when department members are making arrests with and without a warrant.
- B. Refer to policy 1.11 Search & Seizure when using force to enter a residence under community care taker.

## **VIII. USE OF RESTRAINTS**

- A. It should be understood that for the protection of both the person being restrained and a member, use of restraints, such as handcuffs, reduces the likelihood of a struggle with possible injury to the offender, a member, or both.
- B. A member may use restraining devices in order to:
  - 1. Maintain control of subject.
  - 2. Prevent escape.
  - 3. Protect himself/herself or others.
- C. A department member should never use restraining devices as punishment.
- D. The use of neck restraints, to include but not limited to chokeholds, is prohibited by all personnel except in those situations where the use of deadly force is allowed by law.
- E. All persons placed in protective custody or under arrest should be properly handcuffed during transportation.
- F. Hand-Style Restraints. Handcuffs or restraining devices during all transportation, except in the case of cooperative, non-threatening persons, where such decision shall be at a member's discretion. The following procedures shall be followed:
  - 1. A member shall use departmentally-approved restraints.
  - 2. Handcuffs should be applied to the person's wrists behind his/her back unless not physically possible.
  - 3. Handcuffs shall be double-locked upon placement on the person in order to negate any attempted tampering by the person and to assure that accidental tightening of the cuffs cannot occur.
  - 4. Handcuffs shall be closed to a firm contact with the individual's skin, but not so tightly as to produce pain.

5. Handcuffs (or any other restraining device) should be removed from the person upon arrival at a secure area within the department, or upon transfer of custody to a responsible party.
6. Handcuffs should not be used when it appears likely that the person's wrists or hands are too small, or for some other reason which would negate the restraining effects of handcuffs. In such circumstances, flex cuffs or other restraints shall be used.

#### G. Handcuffing Prisoners Being Transported.

1. Prior to any transportation of persons in custody, they shall be searched for weapons.
2. Subjects should be handcuffed behind the back. The following factors, among others, shall be taken into consideration in choosing alternate means of restraints:
  - a. Other restraining equipment is in use, i.e., belly chains. Handcuffs may be used in front of the body when the prisoner is wearing a garment with a belt through which the handcuffs may be laced to securely pin the hands to prevent flailing about.
  - b. Conditions exist that make it unreasonable or impossible to place handcuffs behind the subjects back. In all such cases the Deputy should detail in his/her written report the unusual circumstances that existed and what alternative restraining device or techniques was used.
3. Prisoners shall be so placed in a law enforcement vehicle and seat belts shall be secured about the prisoner in order to enhance their safety during transportation.
4. The use of handcuffs should not be viewed as an absolute provision of safety. Members should continue to exercise all due care as to the safety and custody of prisoners.
5. The use of "Hog Tying" is not permitted.

#### H. Exceptions to Handcuff Requirements.

1. Members should always handcuff unless the department member can articulate exceptional circumstances. Member discretion may be used in the following circumstances when deciding not to handcuff:
  - a) Persons who are temporarily incapacitated, such as by a serious wound to the lower arms, hands, etc. or a woman in an advanced stage of pregnancy, etc.
  - b) At the discretion of the deputy, juveniles who are very young may be given consideration on whether handcuffs should be used or not.

### **IX. FOOT PURSUITS**

- A. A department member's decision to pursue on foot should be made with an awareness and

appreciation for the risk to the department member and others who may be exposed. In deciding whether to initiate or continue a foot pursuit, department member should also consider the following risk factors:

1. The severity of the incident and/or offense to which the officer is responding.
2. Officer/suspect factors regarding skill level, age, size, and strength of the fleeing suspect.
3. Availability of immediate assistance.
4. Geography familiarization and orientation.
5. The necessity of the pursuit based upon whether the identity of the suspect is known or can be determined permitting apprehension at a later time.
6. Whether the person being pursued poses a threat or harm to the public beyond the act of fleeing the department member, if not immediately apprehended.
7. When the foot pursuit enters a building, structure, confined spaces, wooded or otherwise isolated areas without sufficient backup; the department member should consider setting up a perimeter and waiting for additional officers.
8. Consider perimeter and await back-up officers.

B. The foot pursuit should be discontinued when the following risk factors develop:

1. The threat of harm to the officer or the fleeing suspect outweighs the necessity for immediate apprehension.
2. Inability to maintain radio contact with communications center.
3. Riotous or unsafe environment.
4. Identity of fleeing suspect is obtained.
5. Termination of pursuit is directed by a supervisor.

## **X. RENDERING MEDICAL AID**

A. Treatment of persons injured through the use of force

1. Persons subject to the use of force should be observed to detect obvious changes in their physical or mental condition and administer first aid if required.
2. If necessary, summon appropriate medical aid,.

3. If necessary, or requested by the injured subject, the injured person/s is/are to be transported by ambulance to the most quickly acceptable medical facility for proper treatment.
4. During the time awaiting treatment and during the treatment activities, the officer should maintain security.
5. The injured person is to remain handcuffed during treatment unless the handcuffs interfere with such treatment. Should medical treatment require removal of handcuffs, the officer should request that restraints be used by hospital personnel.

If medical treatment requires the removal of handcuffs and hospital restraints are not authorized or utilized, department member(s) 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 officer/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 officers and hospital personnel.

6. The department member 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.
7. If it is determined that the injured person needs to be admitted to the hospital for additional treatment or a hospital stay, the department member will contact his/her immediate supervisor and coordinate efforts with hospital personnel in order to determine what level of monitoring will be required.
8. If the injured person is to be released from the emergency department following medical evaluation and treatment the department member will notify the appropriate detention facility of the nature of the subject's injuries as well as providing them with any medical discharge instructions or paperwork, if applicable. A two department member minimum is needed unless supervisor approval is given to deviate from this policy.

## **XI. REPORTING THE USE OF FORCE**

A. A report will be required when forced to use any of the following:

1. Firearms: discharging, with or pointing of any firearm.
2. Electronic Control Device (ECD).
3. Baton or kinetic energy impact projectiles: use in striking, blocking or pushing of any person.
4. Chemical agents: use of any chemical agent.
5. Physical force: striking, punching, pushing or restraining any person.



6. Oleoresin capsicum: use of any pepper gas aerosol.
- B. The department member(s) involved shall orally advise his/her supervisor of the use of force and the underlying facts justifying his/her use of force as soon as possible.
- C. The department member(s) involved shall make a written report/statement as to the underlying facts and the reasonableness, as perceived by the department member, justifying his/her use of force.
- D. If the discharge of the weapon or use of force causes injury or death or great bodily harm, the supervisor shall notify the Sheriff or the Sheriff's Designee as soon as possible.
- E. The supervisor, as soon as possible during the investigation, shall forward all reports of the investigation to the Sheriff or the Sheriff's Designee.
- F. A firearms discharge report shall be completed regarding any incident involving the intentional or accidental discharge of a firearm, except on an approved firearms range for the purpose of firearms practice, training, competition, qualification or legal hunting purposes.
- G. Whenever an officer uses force in the performance of his/her duty, he/she shall indicate in the report of the incident the use of the force and the circumstances and justification for its use.
- H. All use of force reports shall be forwarded to the lead DAAT instructor and a copy will be filed with the Sheriff or the Sheriff's Designee.
- I. Post use of force removal from duty.
  1. The department member(s) whose actions or use of force results in a death or serious physical injury shall be placed on administrative leave or desk duty by the Sheriff or the Sheriff's Designee during the investigation of the incident and/or until such time as the incident investigation or administrative review is completed.
    - a) The department member shall be available for departmental interviews and statements regarding the incident and subject to recall to duty.
- J. Post use of force review
  1. At least once every year the Sheriff or the Sheriff's designee shall conduct a documented review of the use of force reports to determine any policy issues, training or weapons/equipment deficiencies, or disciplinary matters that require attention or any type of future action.

**XII CANINE - Refer to Policy & Procedure 6.27**

Eric J. Severson  
Sheriff

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

NSD 11/3/2014

NSD 12/21/15 – Section VII, F, #5 Added

PC 1/31/19 – Updated numbered sections, definitions, and inserted hyperlinks. Section VII, IX, X and XI new.

MLL 12/26/20 – Reviewed; Section VIII D. and E. Added/Updated.