



POLICY & PROCEDURE

WAUKESHA COUNTY SHERIFF'S OFFICE

SUBJECT:	USE OF FORCE	NUMBER:	<u>5.01</u>
SCOPE:	Sworn Personnel	ISSUED:	<u>11/3/2014</u>
DISTRIBUTION:	Policy & Procedure Manual	EFFECTIVE:	<u>12/3/2014</u>
REFERENCE:	WI State Statutes: 59.26, 66.0511, 175.44, 939.45, 939.48, and Chapter 941, Wisconsin Department of Justice, Training and Standards Bureau DAAT curriculum (DAAT Manual saved in the policy and procedure folder on the N drive labeled 5.01 DAAT Manual)	X RESCINDS	451.0
		X AMENDS	11/11/2021
		WILEAG 5 TH EDITION	
		STANDARDS: 5.1.1, 5.1.2, 5.1.3, 5.1.4	

PURPOSE: The purpose of this policy and 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 force has been used.

This policy and procedure consists of the following numbered sections:

- I. POLICY**
- II. DEFINITIONS**
- III. DEFENSIVE AND ARREST TACTICS (DAAT)**
- IV. MODELS**
- V. DUTY TO INTERVENE**
- VI. DUTY TO REPORT NONCOMPLIANT USE OF FORCE**
- VII. WHISTELBLOWER PROTECTIONS**
- VIII. USE OF RESTRAINTS**
- IX. FOOT PURSUITS**
- X. OTHER CONSIDERATIONS**
- XI. POLICY RELEASE**

I. **POLICY**

- A. The Waukesha County Sheriff's Office recognizes and respects the value and special integrity of each human life. In serving the community, deputies shall make every effort to preserve and protect human life and the safety of all persons. In vesting deputies with the lawful authority to use force, a careful balancing of all human interests is required. Deputies shall respect and uphold the dignity of all persons at all times in a nondiscriminatory manner. Therefore, it is the policy of this agency that when deputies use force, they shall act in good faith to achieve a legitimate law enforcement objective. A deputy is authorized to use force that is objectively reasonable base on the totality of the circumstances, including: The severity of the alleged crime at issue; Whether the suspect poses an imminent threat to the safety of law enforcement officers or others; Whether the suspect is actively resisting or attempting to evade arrest by flight. The use of physical force should be discontinued when resistance ceases or when the incident is under control.
- B. A deputy may use deadly force only as a last resort when the deputy reasonably believes that all other options have been exhausted or would be ineffective. A deputy may use deadly force only to stop behavior that has caused or imminently threatens to cause death or great bodily harm to the deputy or another person(s). If both practicable and feasible, a deputy shall give a verbal warning before using deadly force.
- C. Deputies shall not mistreat persons who are in their custody. Deputies shall handle such persons in accordance with the law and agency policies and procedures to ensure their safety and security. Deputies shall use de-escalation techniques whenever possible and appropriate before resorting to force and to reduce the need for force. Whenever possible, Deputies should allow individuals time and opportunity to submit to verbal commands before force is used. The use of excessive and unwarranted force or brutality will not be tolerated under any circumstances and will subject the deputy to disciplinary actions.
- D. Deputies shall report any noncompliant use of force.
- E. Deputies shall intervene to prevent or stop another law enforcement officer from using force that does not comply with the standards.
- F. Deputies will receive annual training regarding DAAT.
- G. This policy and procedure shall be made available to citizen's when requested and posted on the departments website.

II. **DEFINITIONS**

- A. **DEADLY FORCE:** The intentional use of a firearm or other instrument that creates a high probability of death or great bodily harm.
- B. **LESS LETHAL FORCE:** The amount of force which under normal circumstances, may cause bodily harm but is not intended to cause death.

- C. OBJECTIVELY REASONABLE FORCE (GRAHAM v CONNOR): The force which is judged acceptable under the totality of circumstances from the perspective of a reasonable officer at the scene, with similar training and experience, based upon:
 - a. The severity of the alleged crime at issue,
 - b. Whether the subject poses an imminent threat to the safety of deputies and/or others and;
 - c. Whether the subject is actively resisting or attempting to evade arrest by flight.
- D. ELECTRONIC CONTROL DEVICE (ECD): A less lethal force instrument that uses electricity to affect the sensory and/or motor nervous system of the body. The ECD is intended to incapacitate the subject with a minimal potential to cause death or great bodily harm.
- E. DEFENSIVE AND ARREST TACTICS (DAAT): A training program for law enforcement that is a system of verbalization skills coupled with physical alternatives.
- F. DE-ESCALATION: A deputy's use of time, distance and relative positioning in combination with Professional Communication Skills to attempt to stabilize a situation and reduce the immediacy of threat posed by an individual.

III. DEFENSIVE AND ARREST TACTICS (DAAT)

- A. Wisconsin Statutes afford deputies the protection of privilege when the deputy's use of force is a reasonable accomplishment of a lawful arrest, their use of force is in defense of themselves and others, or their use of force is in good faith and is an apparently authorized and reasonable fulfillment of any duties of a peace officer.
- B. The Waukesha County Sheriff's Office adopts the use of force standards established by the State of Wisconsin Department of Justice, Training and Standards Bureau. This is a system designed for all deputies with the primary purpose of defense of self or others. The principles of DAAT should be adhered to and followed at all times.
- C. This system includes the Incident Response Model and the Disturbance Resolution Model which provide guidelines that define the degree and type of force to be used in controlling subjects.
 - a. The Disturbance Resolution Model requires that a deputy use a reasonable level of force in reacting to other people's behavior by escalating or de-escalating through the Intervention Options.
 - 1. A deputy shall only use that amount of force which is necessary and reasonable in the performance of their official duties.
 - 2. When evaluating a deputy's use of force, the following acceptable standards are recognized:

- a) A trained technique
 - b) A dynamic application of a trained technique
 - c) A technique not trained, but justifiable under the circumstances
3. Once a deputy has gained control of a subject, they must reduce the level of force to that needed to maintain control.
 4. When affecting an arrest, deputies should be particularly mindful when using force against a subject displaying passive resistance that is non-compliant and/or non-threatening.
 5. Physical force shall not be used against individuals in restraints except as objectively reasonable to prevent their escape or prevent imminent bodily injury to the individual, the deputy, or another person.

IV. MODELS

A. The following is adopted by the DAAT systems:

INCIDENT RESPONSE MODEL

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 communication to normal

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

B. The following is adopted by the DAAT systems:

DISTRUBANCE RESOLUTION MODEL

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) The mode chosen in a given situation depends on the deputy's 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. Whether or not a deputy's use of force is objectively reasonable will be evaluated by taking into consideration the severity of the alleged offense, whether the subject posed an imminent threat to the safety of the deputy or others, and whether the subject was actively resisting or attempting to evade arrest by flight.
- b) These five fundamental principles apply to a deputy's use of force:

- 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) A deputy may initially use the level and degree of force that is reasonably necessary to achieve control. A deputy need not escalate step-by-step through the Intervention Options. As the situation dictates, a deputy may move from any mode to another if they reasonably believe that a lower level of force would be ineffective.
- 3) At any time, if the level of force being used is not effective to gain control, a deputy may disengage and/or escalate to a higher level of force.
- 4) Once a deputy has gained control of a subject, they must reduce the level of force to that needed to maintain control.
- 5) Deputies should maintain a position of advantage whenever possible.

c) The below 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: 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, and includes the following:

- Tactical Stance
 - Open Stance
 - Ready Stance
 - Defensive Stance

B. Dialogue: Dialogue covers the range of tactical communication from very low-level questioning to very direct commands. The purpose of dialogue is to verbally persuade subjects to comply with a deputy's lawful directives. The specific techniques used are covered extensively in the Professional Communication Skills curriculum, and includes the following:

- Search talk
- Persuasion
- Light control talk
- Heavy control talk

C. Control Alternatives: Control Alternatives are designed to overcome passive resistance, active resistance, or their threats, and includes a wide range of tactics and tools for controlling subjects, and are divided into four groups:

- Escort Holds- The goal of escort holds is to safely initiate physical contact
 - Blanket the arm
 - Escort position
- Compliance Holds- The goal of compliance holds is to overcome passive resistance
 - Come-along
 - Pressure points
- Control Devices- The goal of control devices is to overcome active resistance or its threat
 - Chemical agents
 - ECD's

- Passive Countermeasures- The goal of passive countermeasures is to decentralize a subject
 - Secure-the-head decentralization
 - Hug-yourself decentralization
 - Lower-your-center decentralization
 - Pull-in/push-down decentralization

D. Protective Alternatives: Protective Alternatives are designed to overcome continued resistance, assaultive behavior, or their threats and include:

- Active Countermeasures- The goal of active countermeasures is to create a temporary dysfunction of an actively resistive or assaultive subject, and includes two categories of techniques:
 - Vertical stuns
 - Focused strikes
 - Reaction Hand Strike
 - Reaction Forearm Strike
 - Strong Hand Strike
 - Strong Forearm Strike
 - Reaction Front Kick
 - Reaction Knee Strike
 - Strong Angle Knee Strike
 - Strong Angle Kick
- Incapacitation Techniques- The goal of incapacitation techniques is to cause the immediate, temporary cessation of violent behavior
 - Diffused strike- from the front
 - Diffused strike- from the rear
- 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.
 - Baton
 - Specialty impact munitions
 - Chemical munitions
 - NFDD's

- For a comprehensive discussion, see also the policy and procedure related to **Less Lethal Force**.

E. **Deadly Force:** Deadly force represents the highest level of force available to deputies and includes the intentional use of a firearm or other instrument that creates a high probability of death or great bodily harm. Wisconsin Statutes specifically limits the use of deadly force in self-defense where 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 the use of deadly force to defend a third person. The goal of the use of deadly force is to stop the threat. For a comprehensive discussion on the use of deadly force, refer to the policy and procedure related to **Deadly Force**.

V. **DUTY TO INTERVENE**

- A. A deputy shall, without regard for chain of command, intervene to prevent or stop another law enforcement officer from using force that does not comply with the WI DAAT Manual, this policy and procedure and/or state law in the course of that deputy's official duties if all of the following apply:
 - a. The deputy observes the use of force that does not comply with the WI DAAT Manual, this policy and procedure and/or state law.
 - b. The circumstances are such that it is safe for the deputy to intervene.
- B. A deputy who intervenes as required shall report the intervention to a supervisor as soon as is practicable after the occurrence of the use of such force.
- C. A deputy who intentionally fails to intervene as required or intentionally fails to report an intervention to a supervisor could be charged criminally and disciplining by this agency.

VI. **DUTY TO REPORT NONCOMPLIANT USE OF FORCE**

- A. A deputy who, in the course of his or her law enforcement duties, witnesses another law enforcement officer use force that does not comply with the WI DAAT Manual, the standards within this policy and procedure and/or state law in the course of that deputy's official duties shall report the noncompliant use of force to a supervisor as soon as is practicable after the occurrence of the use of such force. A deputy who fails to report a noncompliant use of force may be charged criminally and disciplined by this agency.

VII. **WHISTLEBLOWER PROTECTIONS**

- A. No deputy may be discharged, disciplined, demoted or denied promotion, transferred or reassigned or otherwise discriminated against in regard to

employment, or threatened with any such treatment, because the deputy reported, any noncompliant use of force as required; intervened to prevent or stop a noncompliant use of force as required; initiated, participated in or testified in, or is believed to have initiated, participated in, or testified in, any action or proceeding regarding a noncompliant use of force; or provided any information, or is believed to have provided any information, about noncompliant use of force as required.

VIII. USE OF RESTRAINTS

- A. It should be understood that for the protection the person being restrained and the deputy(s), the use of restraints, such as handcuffs, reduces the likelihood of a struggle with possible injury to the offender, the deputy(s), 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. Persons placed in protective custody or under arrest should be properly handcuffed during transportation.
- F. Hand-Style Restraints. Handcuffs or restraining devices should be used during transportation of prisoners. The following procedures shall be followed:
 - 1. A member shall use department-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. When safe to do so, handcuffs (or any other restraining device) should be removed from the person when they arrive in a secure area within the department or substation, or upon transfer of custody.
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 can be used.
7. Flex cuffs are approved to be used and removed as trained during mass arrests or when needed.

G. Handcuffing Prisoners Being Transported

1. Prior to any transportation of persons in custody, they shall be searched for weapons and contraband:
 - a. All weapons, contraband, and property, including but not limited to, any form of communication should be removed from the subject before transportation.
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. When prisoners are placed in a law enforcement vehicle their seat belts shall be secured about their person 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 handcuff subjects in custody 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 deputy's decision to pursue on foot should be made with an awareness and appreciation for the risk to the deputy and others who may be exposed. In deciding whether to initiate, continue or terminate a foot pursuit, the deputy should also consider the following risk factors:
 1. The severity of the incident and/or offense to which the deputy is responding.
 2. Deputy/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.
 8. The deputy is able to set up a perimeter and wait for additional officers.
 9. The threat of harm to the deputy(s), public or the fleeing suspect outweighs the necessity for immediate apprehension.
 10. Inability to maintain radio contact with communications center.
 11. Riotous or unsafe environment.

12. Foot pursuits shall be terminated if directed by a supervisor.

X. OTHER CONSIDERATIONS

- A. Use of Deadly Force – Refer to the policy and procedure regarding **Deadly Force**.
- B. Use of vehicles and tire deflation devices - Refer to the policy and procedure regarding **Vehicle Pursuits**.
- C. Use of Less Lethal Force – Refer to the policy and procedure regarding **Use of Less Lethal Weapons**.
- D. Use of Force to enter private property- Refer to the policies and procedures regarding **Arrest Procedures** and **Search and Seizure**.
- E. Rendering medical aid – Refer to the policy and procedure regarding **Use of Force/Rendering Medical Aid**.
- F. Reporting the Use of Force – Refer to the policy and procedure regarding **Use of Force Reporting and Review**.
- G. Use of Force involving a Canine – Refer to the policy and procedure regarding **Canine Unit**.

XI. POLICY RELEASE

- A. This agency shall make this policy and procedure publicly available on the departments website. If the policy and procedure changes, this agency shall ensure the website displays the updated policy and procedure as soon as practically possible but no later than one year after the change is made. This agency shall also prominently display a means of requesting a copy of this policy and procedure. If a person requests a copy of this policy and procedure, this agency shall provide a copy of the current policy and procedure free of charge as soon as practically possible but no later than 3 business days after the request is made.

Eric J. Severson
Sheriff

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

NSD 11/3/2014

NSD 12/21/2015 – Section VII, F, #5 Added

PC 1/31/2019 – Updated numbered sections, definitions, and inserted hyperlinks. Section VII, IX, X and XI new.

MLL 12/26/2020 – Reviewed; Section VIII D. and E. Added/Updated

MLL 11/11/2021: The entire policy and procedure has been revamped. Language from the WI DAAT Manual has been added. Language from WI State Statutes has been added.

/