

POLICY #3 – Use of Force

Reviewed 04/24/23 Revised 06/06/23

POLICY: The purpose of this policy is to establish a guideline for the use of deadly and non-deadly force by sworn personnel to affect an arrest or to control a person. Proper use of force decisions based on reasonableness, provide for due process for suspects and protection for citizens and officers.

This policy is based on the recommendations of the State of Wisconsin's Training and Standards Board and in accordance with Wisconsin State Statute 66.0511(2) "Each person in charge of a law enforcement agency shall prepare in writing and make available for public scrutiny a policy or standard regulating the use of force by law enforcement officers in the performance of their duties."

When application of force is required an officer's legal authority is provided by Wisconsin State Statutes 939.45 (privilege) and 939.48 (self-defense and defense of others). Only the minimum amount of force necessary to gain or regain control of a subject shall be applied.

It is further Shawano County's policy to prohibit the use of excessive force in all cases including by law enforcement agencies within its jurisdiction against any individuals engaged in lawful and nonviolent civil rights demonstrations in accordance with Section 519 of Public Law 101-144.

Shawano County enforces the applicable state and local laws against physically barring entrance to or exit from a facility or location which is the subject of non-violent civil rights demonstrations within its jurisdiction.

DEFINITIONS:

Deadly Force: The intentional use of a firearm or other instrument which creates a high probability of death or great bodily harm.

Deadly Force Justification: A subject's actions which has caused or imminently threatens to cause death or great bodily harm to yourself or another person(s).

Non-Deadly Force: Force or tactic, which is designed for and not likely to cause death or great bodily harm.

Great Bodily Harm: Bodily injury which creates a high probability of death, or which causes serious, permanent or protracted loss or impairment of the function of anybody member or organ or other serious injury.

Choke Hold: A physical maneuver that restricts an individual's ability to breathe for the purposes of incapacitation.

Target-Specific Directed Fire: An application of deadly force which may be appropriate in certain limited situations. It is purposeful, controlled, sustained fire directed at a perpetrator who has caused or imminently threatens to cause death or great bodily harm to you or others, but whom you may not be able to clearly observe. The purpose of target-specific directed fire is

2. Size: A relatively small-framed officer who encounters a large, resistive subject may have to use greater force for control than an officer of comparable size.
 3. Skill: The skill level of the officer and the subject also enters into the use of force determination. An officer facing a subject whose skill level is obviously higher than that of the officer may use a higher level of force when faced with resistance.
 4. Subjects: When an officer faces multiple subjects, he/she will likely need to employ greater force to achieve control.
- C. Additionally, officer will consider the following factors in determining whether or not to escalate the force level, or skip levels of intervention option:
1. Imminent Danger: The officer responding to a call where he/she has reason to believe that the subject to be encountered may be armed must be prepared to move from the level of dialogue directly to the level of impede or stop (deadly force), as the situation dictates.
 2. Special Knowledge: This refers to a situation in which the officer knows that the subject has special skills, which make that subject a greater threat to the officer and others; or, the officer may simply know that the subject has a history of reacting violently to police encounters.
 3. Injury/Exhaustion: This refers to a situation in which the officer, having been injured in a confrontation, but still obliged to control the subject and the circumstance, may need to use a higher threat level of force immediately.
 4. Proximity to the Officer's Firearm: At any time, the officer's primary concern should be the accessibility of his/her firearm to the subject. If a subject seems to have access to an officer's firearm, and is indicating intent to disarm the officer, the officer may be justified in using a higher level or greater amount of force to protect that firearm.
 5. Ground Fighting: Because an officer's ability to control a resistive subject is greatly minimized when the officer is on the ground, an officer may need to use more force to control a subject when he/she is engaged in ground fighting.
- D. Special considerations for using chemical agents exist. They are as follows:
1. The purpose for using OC spray is to overcome active resistance or its threat. OC spray (also called "pepper spray") works by creating in the subject a variety of physical effects that may result in confusion and disorientation, thus disrupting the subject's ability to resist or continue to resist.
 2. An officer shall not brandish, display, or threaten the use of OC unless he/she can reasonably conclude its use may become justified.
 3. When OC is used, the user shall notify an on-duty supervisor and shall complete the department use of force form.

4. Decontamination Guidelines: All subjects who are exposed to OC Pepper Spray or Chemical Agents will be provided and/or offered decontamination as follows:
 - a. After spraying the subject(s), the officer should allow the OC agent to drop (5 to 10 seconds) and verbalize proper commands. Approach the aggressor as you would any dangerous person and use proper restraint and control methods.
 - b. Subjects who are sprayed with OC should be monitored and verbally reassured that they are safe and that they will be all right. The subject(s) should be told to calm down (relax) and to try to breath normally.
 - c. Subjects who are sprayed should be removed to fresh air and faced into the wind when possible. They may be allowed to use cool water to rinse the OC from their face, encourage them to open their eyes and flush with cool water. Ice may be applied if burning persists. Do no rub. Cool water will allow even quicker recovery from the effects. If any subject(s) sprayed with OC is wearing contact lenses, they should be permitted to remove them.
 - d. Get medical attention if the subject(s) request it or if the symptoms persist beyond 45 minutes.

E. Special considerations for using the conducted electrical weapon exist. They are as follows:

1. The ADVANCED TASER is a conducted electrical weapon designed to immobilize and control a person who is actively resisting an officer or threatening to do so. The taser causes Neuromuscular Incapacitation (NMI), which causes the muscles of the body to contract and results in a loss of muscle control. The purpose is to restrain the subject from a safer distance than that of empty-hands counter-measures. The use of the taser is potentially safer for the subject, because it reduces the likelihood of injury associated with higher levels of force sometimes required in close quarters contact. There are no documented serious injuries or prolonged after effects attributed to the taser.
2. The ADVANCED TASER may be used by trained personnel when a subject is threatening to actively resist, or is actively resisting, the officer and the risk associated with closing in on the subject, to take control, makes other alternatives unsafe. This option may also be used when a person poses a threat of harm to self or others and unarmed tactics have been exhausted, would not be effective, or would not be safe, given the circumstances known to the officer at the time.
 - a. Passive resistance without posing an articulate threat of harm to officers or others does not permit the use of the ADVANCED TASER.
3. Officers shall not brandish or display the taser as a threat unless its use is justified, or a situation could likely escalate to where use would be justified.
4. The taser is not a replacement for the firearm and shall not be used without lethal cover in those incidents where deadly force is justified.

5. Weapon safety protocol shall be observed at all times during the handling of the taser unit and the cartridges.
 6. A deployment announcement is recommended whenever it would not put the officer or others safety at risk, or jeopardize the officers' position of advantage. Announcement that the taser is about to be used shall be communicated to other officers at the scene so that the taser shot is not mistaken for the sound of the firearm. This announcement should also be transmitted over the radio if possible.
 7. Officers who use the taser weapon against a person shall ensure the person is monitored for injury as soon as practical after the person is under control. If an adverse reaction to the taser weapon occurs, or if requested by the subject, transportation to a medical facility shall be arranged.
 - a. Officers must be aware that an overlooked injury, in applying the taser, is that of falling from a standing position. An examination, with particular emphasis on injuries secondary to the fall, should be performed.
 8. If the probes are imbedded in a sensitive area, i.e., neck, face, groin, or breast of a female, officers shall arrange transportation to the medical facility for removal. If the probes are imbedded in other non-sensitive tissue areas, a trained officer may remove them according to training procedures. Removed probes are to be handled as a "sharps-biohazard" and, if not needed as evidence, should be disposed of accordingly. If the cartridge is needed for evidence, collect it consistent with standard procedure. Photographs shall be taken of the subject's wound site, unless extenuating circumstances prevent it.
 9. When a taser weapon is used against a person, the user shall notify their on-duty supervisor and shall complete a Use of Force Report.
 10. Officers trained in the use of the ADVANCED TASER shall complete a refresher course and a written examination every two years concerning the use of this weapon.
- F. Special considerations exist for the use of Kinetic Energy Projectiles to aid officers in taking a subject into custody where other means have been exhausted or were otherwise ineffective. They are as follows:
1. Officers may only use Kinetic Energy Impact Projectiles and delivery systems which are authorized by the Sheriff or designee and with which they are currently trained to use.
 2. Trained department personnel may use kinetic energy impact projectiles when a subject poses and imminent threat of bodily harm to another person or a threat of bodily harm to him or herself.
 3. Kinetic energy impact projectiles should not be used in a situation where the subject poses an imminent threat of great bodily harm or death to an officer or another

person (including the subject) unless another officer is present and capable of immediately delivering deadly force

4. Kinetic energy impact projectiles may be delivered to a subject's body in accordance with the following guideline:
 - a. Primary Target Areas:
 - 1) Thighs
 - 2) Buttocks
 - b. Secondary Target Areas:
 - 1) Lower abdomen
 - 2) Legs
 - 3) Back (off of center-avoiding the spine)
 - c. Head/Neck/Chest area: Intentional impact to these areas will be avoided unless the use of deadly force is justified.
5. Subjects struck by a kinetic energy impact projectile shall be transported to a medical facility for examination.
6. All kinetic energy impact projectiles shall be collected for evidentiary value.
7. Trained officers shall complete a kinetic energy impact projectile refresher course every two years by a qualified instructor.
- G. Special considerations exist for the use of the police baton. They are as follows:
 1. An officer will not strike an individual above the shoulders, unless such an action would be justified under the use of deadly force guidelines. This is intended to prohibit the intentional striking of an individual above the shoulders. It is not intended to apply to an accidental striking.
 2. Officers who use a baton against a person shall ensure the person is monitored for injury as soon as practical after the person is under control. If the person displays signs of injury or if requested by the subject, transport to a medical facility shall be arranged.
 3. If a baton is used against a person, the user shall notify their on-duty supervisor and shall complete a use of force report.

DEADLY FORCE

- A. Officers are only authorized to use deadly force when necessary to prevent death or great bodily harm to oneself or another person (with the exception of the case of a fleeing felon, as noted below). Even with such justification, officer will only apply deadly force if non-deadly force options have proven ineffective or would clearly be ineffective in the

situation. In determining whether a subject imminently threatens to cause death or great bodily harm, officer will consider the following factors:

1. Intent: the displayed or indicated intent to cause death or great bodily harm to the officer or another person.
 2. Weapon: whether the subject has the opportunity and means capable of inflicting death or great bodily harm (this could be a conventional or unconventional weapon).
 3. Delivery System: whether the subject appears to have the capability to actually use the means of inflicting death or great bodily harm.
- B. When an officer has determined a threat meets the requirements to permit a deadly-force response, and the decision to shoot has been made, the officer must still fulfill three target requirements:
1. Target Acquisition: The officer has acquired an actual target/deadly threat.
 2. Target Identification: The officer has identified the target as the source of the imminent threat.
 3. Target Isolation: The officer reasonably isolated the source of the deadly threat so the use of force does not unreasonably place other persons at significant risk or death.
 - a. Greater Danger exception to target isolation: The exception allows an officer to shoot without target isolation if the consequences of not immediately stopping the threat would be worse than the possibility of causing death to an unintended person(s).
 - b. Officers may use deadly force to destroy an animal which represents a threat to officer safety, public safety, or as a humanitarian measure when the animal is seriously injured, but only after careful consideration is given to the public's safety and whether other dispositions may be feasible.
 4. Deadly Force Application
 - a. The intentional discharge of a firearm directed at a person(s).
 - b. Exceptional circumstances for discharging of firearm
 1. Target-Specific Directed Fire. Examples include but are not limited to:
 - (a) Officer(s) or uninvolved citizens are receiving fire with no reasonable means of cover or retreat.
 - (b) Officer(s) or uninvolved citizens are "pinned down" or wounded and in a vulnerable area in need of immediate evacuation to a safer location.
 - (c) Bound over-watch: This technique is used to move officers across a vulnerable area to a position of tactical advantage.

- C. Officer may use deadly force to stop a fleeing felon, only if:
1. The suspect has threatened the officer with death or great bodily harm or the officer has probable cause to believe that the suspect has committed a crime involving the infliction or threatened infliction of serious physical harm.
 2. The use of deadly force is necessary to prevent the suspect's escape; if the officer reasonably believes the suspect is a danger to the community.
 3. The officer has first given the suspect some warning of the imminent use of deadly force if the suspect does not stop, unless there is some strong reason why it is not feasible or possible to give such warning.
- D. Before using deadly force, an officer shall make every reasonable effort to identify him/herself as a police officer, unless such identification would further endanger the officer or other people in the area.
- E. Warning shots shall not be permitted in any situation.
- F. Officers shall not brandish or display a firearm as a threat unless its use is justified, or a situation could likely escalate to where its use would be justified.
1. Officers may use their firearms for the purpose of destroying injured or diseased animals.
- G. Officers who use a firearm against a person shall ensure that the person is monitored for injury as soon as practical after the person is under control. Medical attention shall be given to the subject if injury is displayed or if the subject requests medical attention.
- H. If a firearm is used against a subject, the user shall notify their on-duty supervisor and shall complete a use of force report.
1. This section shall also apply to the accidental discharge of a firearm.
- I. The procedure to be followed when an officer is responsible for the accidental or intentional discharge of any firearm (other than on an approved firing range or to dispose of an injured, diseased, or dangerous animal), or the accidental or intentional use of deadly force by any means is:
1. Officers shall inform their shift supervisor of the incident as soon as possible.
 2. The shift supervisor shall take responsibility for the physical and emotional welfare of the officer or officers involved. This officer(s) shall be relieved of his or her tour of duty until the Sheriff notifies the officer(s) to return to duty. The shift supervisor shall immediately inform the Sheriff of the incident as soon as possible.
 3. The Sheriff shall appoint an investigative team.

4. The investigating officers assigned shall contact the officer(s) involved and attempt to ascertain the circumstances of the incident.
 5. After thoroughly investigating the incident, which will include taking statements from all parties, the investigation team shall submit a written report of the incident to the Sheriff. The Sheriff will then take the appropriate action.
- J. The use of choke holds is prohibited, except in those situations where the use of deadly force is justified.

CHEMICAL MUNITIONS AND DIVERSIONARY DEVICES

- A. Chemical munitions and diversionary devices are to assist the Special Response Team (SRT) with but not limited to barricaded subject(s), hostage situations, weapon offenses and any other situations the SRT Commander deems necessary.
1. The use of these devices will be limited to the SRT members under the direction of the SRT Commander.
 2. Injuries to a person resulting from the use of chemical munitions and diversionary devices shall be documented and the person shall be treated at a medical facility.
 3. All chemical munitions and diversionary devices shall be collected for evidentiary value.
 4. Oleoresin Capsicum (OC) chemical munitions shall be deployed first. If the OC chemical munitions do not produce the desired outcome, Orthochlorobenzalmalonitrile (CS) chemicals may then be deployed.
 5. All requirements of this policy will apply to the use of these devices.

PEPPERBALL LAUNCHER DEVICE

A. Definition:

PepperBall projectiles are plastic spheres that are filled with powdered or liquid Oleoresin Capsicum (OC). The projectiles, when delivered by an air powered launching device, burst upon impact and release the projectile contents. PepperBall projectiles subdue suspects by inflaming the mucous membrane in their nose, lungs, and respiratory tract. The suspect's response to inhaling PepperBall projectile OC powder varies greatly among each individual. The PepperBall system can deliver projectiles with enough kinetic energy to produce temporary abrasions, bruises, and/or welts.

B. Procedure:

The Shawano County Sheriff's Office authorizes sworn members of the Shawano County Special Response Team (SRT) to use the PepperBall system, under the direction of an SRT commander. Proper training on the PepperBall system will be provided to those officers who are part of the SRT. The utilization of the PepperBall system is approved within the jail, under special circumstances, in accordance with their department policy. The deployment of the PepperBall munitions, within the jail, must be conducted by a member of the Special Response Team, or by someone under the direction of an SRT commander.

This system is to be used when an officer reasonably believes the subject to be taken into custody is exhibiting or threatening resistive or assaultive behaviors.

The PepperBall launcher may also be deployed in response to:

- Unruly crowd management situations in order to control crowd movement, defend an area, or to disperse persons in defiance of lawful orders or committing criminal offenses
- Any event which requires a tactical law enforcement response

The application decision to use the PepperBall launcher is the responsibility of the operator and/or the on-scene supervisor based upon their training and the ongoing evaluation of the situation.

When a subject is exposed to PepperBall contaminants, proper decontamination guidelines shall be followed as outlined earlier in this policy.

DOCUMENTATION OF USE OF FORCE

- A. Use of force reports are required following the use of deadly or non-deadly force. This includes, but is not limited to:
 1. forcible restraint (other than that required by unresisted restraint)
 2. fist, elbow, or hand strikes
 3. kicks
 4. any use of the impact tool/device that involves actual contact
 5. use of electronic restraint device or taser
 6. use of chemical incapacitation devices (e.g., OC)
 7. use of firearm
- B. A report shall be made by the officer involved before the end of his/her shift, unless abnormal circumstances require the temporary postponement of the report submission. The report shall be submitted to the Shift Supervisor.
- C. Injury to persons other than officers:
 1. If legally permitted, photographs should be taken of the person's injuries or alleged injuries.
 2. In incidents where there is substantial injury to a person, the Sheriff shall be notified immediately (regardless of the hour).
- D. Injury to officers:
 1. Any time an officer is injured in the line of duty, and particularly when such injury resulted from the making or the attempted making of a seizure or other contact with a person, the officer shall promptly notify his/her supervisor.
 2. Even if the officer feels that the injury is slight or insignificant, his/her immediate supervisor shall:

- a. cause photographs to be taken of all injury sites
- b. cause medical/rescue personnel to examine and treat, if necessary, the injury
3. A report shall be completed by the Shift Supervisor and submitted to the Sheriff within twenty-four (24) hours of the incident.
4. In incidents where there is substantial injury to the officer, the Sheriff shall be notified immediately (regardless of the hour).