

GENERAL ORDER

CEDARBURG POLICE DEPARTMENT

SUBJECT: USE OF FORCE

SCOPE: All Sworn Personnel
DISTRIBUTION: General Orders Manual, and
All Sworn Personnel

REFERENCE: WI State Statutes 939.45, and 939.48,
and Chapter 941, DAAT Incident
Response and Disturbance Resolution
Model

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INDEX AS: Control Devices
Deadly Force
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Use of Non-Deadly Force
Warning Shots
Weapons Pre-Authorization

PURPOSE: The purpose of this order is to establish policies and procedures regarding the use of less lethal, non-deadly force, and deadly force, and to identify the responsibilities of officers when using force or after it has been used. This order will establish guidelines for post deadly force incident procedures that result in death or serious bodily injury in order to minimize the chances that involved personnel will develop or suffer from post-traumatic stress disorder.

This Order consists of the following numbered sections:

- I. POLICY
- II. DEFINITIONS
- III. DEFENSIVE AND ARREST TACTICS (DAAT)
- IV. NECK RESTRAINTS
- V. USE OF DEADLY FORCE
- VI. USE OF FIREARMS

- VII. USE OF VEHICLES - BLOCKADES, BARRIERS, AND RAMMING
- VIII. USE OF NON-DEADLY FORCE
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- XII. CONDUCTED ELECTRICAL WEAPON
- XIII. IMPACT MUNITIONS
- XIV. WRAP
- XV. DE-ESCALATION
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- XVII. MEDICAL ASSISTANCE
- XVIII. REPORTING THE USE OF FORCE
- XIX. DEADLY FORCE INCIDENT PROCEDURES
- XX1. WHISTLEBLOWER PROTECTIONS

I. POLICY

- A. It is the policy of the Cedarburg Police Department that when serving the community, Officers make every effort to preserve and protect human life and the safety of all persons. Officers shall also respect and uphold the dignity of all persons at all times in a nondiscriminatory manner. When using force, Officers are required to act in good faith to achieve a legitimate law enforcement objective. Officers are authorized to use force that is objectively reasonable based 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, and/or whether the suspect is actively resisting or attempting to evade arrest by flight. Officers may include in their decision to use this force option, information known to the officer(s) at the time of the incident or conduct or statements by the subject or a prior history of resistive or assaultive behavior.

- B. A law enforcement officer may use deadly force only as a last resort when the law enforcement officer reasonably believes that all other options have been exhausted or would be ineffective. A law enforcement officer may use deadly force only to stop behavior that has caused or imminently threatens to cause death or great bodily harm to the law enforcement officer or another person. If both practicable and feasible, a law enforcement officer shall give a verbal warning before using deadly force.

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. **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.
- C. **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.
- D. **REASONABLE FORCE:** That force which an ordinary, prudent, and intelligent person with the same knowledge of the particular situation as the officer would deem necessary.
- E. **CONDUCTED ELECTRICAL WEAPON (CEW):** A non-lethal force weapon that causes electro-muscular disruption to a combative, violent, or potentially combative, violent subject. The use of this device is intended to incapacitate the subject with a minimal potential for causing death or great bodily harm.
- F. **DEFENSIVE AND ARREST TACTICS (DAAT):** A system of verbalization skills coupled with physical alternatives.
- G. **DEFTECH 40MM MULTI LAUNCHER:** Designed for riot and tactical situations. It fires 40mm foam batons, foam batons with CS, and CS gas rounds.
- H. **DE-ESCALATION-** taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, or/and resources can be called upon to resolve the situation without the use of force or without the reduction of force necessary.
- I. **SPIT HOODS/MASKS/SOCKS-** Spit hoods/masks/socks are temporary protective devices designed to prevent the wearer from biting and/or transferring or transmitting fluids (saliva and mucous) to others.
- J. **NECK RESTRAINT:** an action taken by the use of any force or device to the neck area to restrain a person, including but not limited to:

1. 1. Choke Hold – A physical maneuver that restricts an individual’s ability to breathe for the purposes of incapacitation.
2. Vascular Neck Restraint – A technique that can be used to incapacitate individuals by restricting the flow of blood to their brain.
3. The use of neck restraints by personnel of the Cedarburg Police Department is prohibited unless the situation requires the use of deadly force that would be justified.

III. DEFENSE AND ARREST TACTICS

A. The Cedarburg Police Department adopts the Defensive and Arrest Tactics System. This is a system designed for all police officers for the primary purpose of self defense. This system includes the Incident Response and Disturbance Resolution Models which provide general guidelines that define the degree and type of force to be used in controlling suspects. All Cedarburg Police Officers shall be trained in the DAAT system per State Training and Standard Bureau standards.

1. An officer shall only use that amount of force which is necessary and reasonable in the performance of his/her law enforcement duties.
2. Under no circumstances shall an officer continue to use force (except mere physical restraint) against an individual who has ceased to resist.
3. When an individual only offers passive resistance to arrest, the officer shall bodily remove and transport such an individual with as much regard to the individual’s safety and welfare as reasonable, practical, and possible.
4. When utilizing the Disturbance Resolution Model, the officer must use the minimum necessary force in reacting to other people’s behavior by escalating or de-escalating through the Intervention Options.
5. Use of Force Training will be conducted annually and will include weaponless control techniques that have the potential for serious injury.

B. Incident Response Model: The following is the Incident Response Model adopted by the State of Wisconsin DAAT Advisory Committee 01-16-02.

INCIDENT RESPONSE

- | | |
|---|----------------|
| 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 communications to normal
- D Document/Debrief
 - *Debrief self, other responding personnel, subject(s), other persons
 - Document incident appropriately

C. Disturbance Resolution Model: The following is the Disturbance Resolution Model adopted by the State of Wisconsin DAAT Advisory Committee 04-19-05.

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. Which mode you choose in a given situation depends on your 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. The criterion is whether the level and degree of force is objectively reasonable. Five fundamental principles apply:

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. You may initially use the level and degree of force that is reasonable through the Intervention Options. As the situation dictates, you may move from any mode to any other if you reasonably believe that a lower level of force would be ineffective.

3. At any time, if the level of force you are using is not effective to gain control, you may **disengage** and/or **escalate** to a higher level of force.

4. Once you have gained control of a subject, you must **de-escalate** the level of force to that needed to maintain control.

5. You must always maintain a position of advantage.

b. The 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

1. **Presence:** The first mode, Presence, reflects the fact that sometimes all that is needed to control a situation is the presence of an officer. The purpose of this mode is to “present a visible display of authority.” Much as drivers are careful not to exceed the speed limit when they share the road with a marked squad, the simple presence of an officer in uniform or otherwise identified is enough to prevent people from starting or continuing to behave aggressively or otherwise create a disturbance.
2. **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 persuade subjects to comply with an officer’s lawful directives. The specific techniques used are covered extensively in Professional Communication Skills.
3. **Control Alternatives:** The third mode, Control Alternative, includes a wide range of tactics and tools for controlling subjects. These are divided into four groups: escort holds, compliance holds, control devices, and passive countermeasures. This mode includes both empty-hand techniques such as applying an escort hold or directing a subject to the ground and tools such as Oleoresin Capsicum (OC) spray, commonly called “pepper spray,” and conducted electrical weapon (CEW’s). The common thread is that all these tactics and tools are used to control subjects who are resisting or threatening to resist.

The mode of Control Alternatives includes four tactics/tools:

- Escort Holds
- Compliance Holds
- Control Devices (OC spray, CEW’s)
- Passive Countermeasures

The goal of control devices (OC spray and CEW’s) is to overcome active resistance or its threat. Active resistance, unlike passive resistance, involves a subject who is physically counteracting an officer’s control efforts under circumstances in which the behavior itself, the environment in which the behavior occurs, or officer/subject factors create a risk of bodily harm.

The criterion of active resistance or its threat means that in general, control devices would not be appropriate to use against verbal aggression, against people who are running away, against children and older persons, and against persons engaged in peaceful civil disobedience-unless reasonably justified by the circumstances covered in Approach Considerations.

Verbal Aggression - Verbal aggression occurs when a suspect is being argumentative, and/or confrontational with an officer. While this behavior alone can be difficult for an officer to deal with, Professional Communication skills are the preferred method. However, if arbitration is unsuccessful (REACT), and an officer/ subject factor comparison dictates lesser levels of force would be ineffective, then a control device could be a viable alternative.

People who are running away - Before deploying a control device (in this case, an CEW would be a better choice than OC spray) during a foot pursuit, ask yourself, “what will the suspect force me to do when I catch him?’ If the subject would force you to decentralize him or her during initial physical contact, using an CEW might be a better choice, as the risk of injury to the officer and subject would be less with an CEW as opposed to a passive countermeasure. On the other hand, if you don’t think the subject would require you to immediately take him or her to the ground, then an CEW would probably not be the best choice. In that case you could safely respond with a lower level of force. (see section VIII of this GO)

Another way to think about the situation is to apply the three criteria from *Graham v. Connor* to determine whether using a control device would be reasonable:

- The severity of the alleged crime at issue: Is it a retail theft or a substantial battery?

4. **Protective Alternatives:** Protective Alternatives is the fourth mode in Intervention Options. As the name implies, these interventions are designed to protect officers in situations when they face subjects continuing to resist or threatening to assault. The overall purpose is to overcome continued resistance, assaultive behavior or their threats. Continued resistance means that an individual is maintaining a level of counteractive behavior that is not controlled with the officer’s current level of force. Assaultive behavior occurs when an individual’s direct action generates bodily harm to the officer(s) and/or another person(s).

The mode of Protective Alternatives includes three tactics:

- Active Countermeasures
- Incapacitation Techniques
- Intermediate Weapon

Note that these tactics may also be used as control alternative, depending on the situation. For example, a jab with a baton (an intermediate weapon) may be used to prevent a person from pushing into a room while officers are interviewing a victim of domestic violence. In that situation, the baton would be used as a Control Alternative rather than a Protective Alternative. Remember that Intervention Options are just that – options. You will choose the appropriate option depending on the totality of the circumstances.

Active Countermeasures – The purpose of active countermeasures is to create a temporary dysfunction of an actively resistive or assaultive subject. The goal is to interrupt the subject to the ground for stabilization, handcuffing, and other follow-through procedures.

Active countermeasures include two categories of techniques:

- Vertical stuns
- Focused strikes

Incapacitating Techniques – The goal of incapacitating techniques is to cause the immediate, temporary cessation of violent behavior. One such technique is taught in the DAAT system: the Diffused Strike. Like the Vertical Stun, the Diffused Strike disrupts nerve impulses to the brain. Unlike the Vertical Stun, however, the effect is usually greater, rendering the subject temporarily unconscious.

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.

Intermediate weapons include a variety of impact and other weapons designed to impede subjects. The intermediate weapon included in the DAAT program is the straight baton. The baton-either a wood or plastic fixed-length baton or a metal expandable baton-is an impact weapon.

While Wisconsin law (939.45 Wis. Stats.) affords officers the protection of privilege “when the actor’s conduct is a reasonable accomplishment of a lawful arrest,” the conduct must be reasonable-using deadly force in the absence of significant threat would not be reasonable. Further, Wisconsin law specifically limits the use of deadly force in self-defense (939.48 Wis. Stats.) as follows:

“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.” (939.48(1) Wis. Stats.)

The same limitation is extended to use of force to defend a third person, in 939.48(4) Wis. Stats.

The statutes and this General Order specifically prohibit use of deadly force to prevent suicide and solely to protect property.

5. **Deadly Force:** The fifth mode, Deadly Force, represents the highest level of force available to law enforcement officers. The power to use deadly force is the most awesome responsibility given to law enforcement officers.

IV. NECK RESTRAINTS

- A. **NECK RESTRAINT:** an action taken by the use of any force or device to the neck area to restrain a person, including but not limited to:
 1. 1. Choke Hold – A physical maneuver that restricts an individual’s ability to breathe for the purposes of incapacitation.
 2. Vascular Neck Restraint – A technique that can be used to incapacitate individuals by restricting the flow of blood to their brain.
 3. The use of neck restraints by personnel of the Cedarburg Police Department is prohibited unless the situation requires the use of deadly force that would be justified.

V. USE OF DEADLY FORCE

- A. Parameters for use of deadly force:
 1. Deadly force may be used as a last resort in the defense of oneself, when there is reasonable cause to believe that the officer is in imminent danger of death or serious bodily harm.
 2. Deadly force may be used as a last resort in the defense of another person or persons whom the officer has reasonable cause to believe is being unlawfully attacked and in imminent danger of death or great bodily harm.
 3. Deadly force may be used, after all other reasonable means of capture are exhausted, to affect the arrest or prevent the escape of a suspect whom the officer has reasonable cause to believe has committed, or has attempted to commit, a felony involving the use or threatened use of deadly force and the officer reasonably believes the suspect cannot be apprehended later without the use of deadly force. This paragraph allows the officer to use deadly force when the suspect is engaged in such felonies involving violence. Non-violent felonies such as embezzlement or burglary do not in themselves justify the use of deadly force.

- B. An officer shall never threaten to use deadly force unless the use of such force would be justified under this Order.
- C. Before using deadly force, the officer shall, if possible, identify himself/herself as a police officer, order the suspect to desist from the unlawful activity and threaten to use deadly force if the order is not obeyed.
- D. The reasonableness of the force used in any incident will be judged in the knowledge of the circumstances as they were known or appeared to the officer at the time he/she acted, and not as they appear from a subsequent, more thorough knowledge of the circumstances.
- E. While it is recognized that the death of a suspect is a logical and probable consequence of the use of deadly force, the intent of the use of such force is only to terminate the actions of the suspect and not necessarily to take his or her life.
- F. No officer may apply a choke hold on a suspect except for when deadly force is justified.

VI. 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 Wis. Stats. Chapter 941. Officers must also follow the requirements set forth in General Order 2.4, Firearms and Ammunition.
- B. Officers may display department authorized firearms when they have reasonable suspicions to believe that the use of deadly force may be necessary. Officers 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. This section is intended to allow the officer to have the 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 the officer to have reasonable fear for his/her life.
- C. Whenever safety permits and time allows, officers shall identify themselves and state their intent to shoot prior to using a firearm. Officers 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 that an innocent person may be injured unless failure to discharge will result in the greater danger exception. The greater danger exception allows you 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. Officers should not discharge a firearm at or from a motor vehicle except as the last measure of self defense of oneself or another, and only then if the officer 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 must be given to the safety of innocent bystanders and possible innocent passengers in the vehicle.
- G. An officer 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 Cedarburg Police Department, officers must meet the following three requirements:
 - 1. Officers shall receive training in the safe handling and operation of department issued and authorized firearms. Officers must demonstrate their understanding of department General Orders and state laws pertaining to deadly weapons and the use thereof.
 - 2. Officers must be certified by the State of Wisconsin in the use of firearms.
 - 3. Officers must qualify with a Cedarburg Police Department Range Officer.

VII. USE OF VEHICLES-BLOCKADES, BARRIERS, AND RAMMING

- A. The following may only be employed by a police officer if, and only if, the use of deadly force would be authorized:
 - 1. The use of blockades or roadblocks constructed by placing obstacles (including but not limited to police vehicles) of such density and mass upon a roadway that any vehicle colliding with them would be so severely decelerated that its occupants would likely suffer death or serious injury.
 - 2. Ramming of a suspect/evader vehicle by a police vehicle.
 - 3. Forcing a suspect/evader off the roadway or highway and/or into another object by the use of a police vehicle.

VIII. USE OF NON-DEADLY FORCE

- A. An officer shall use only the minimum amount of force that is reasonably necessary to perform his/her duties. The amount of force which may be employed is determined by the circumstances of a situation, including, but not limited to:
 - 1. The nature of the incident of offense.
 - 2. The behavior of the subject against whom force is to be used, actions by third parties who may be present.
 - 3. Physical conditions.
 - 4. The feasibility or availability of alternative actions.
- B. The reasonableness of the force used will be judged in the light of the circumstances as they appeared to the officer at the time he/she acted, and not as they appear from a subsequent, more thorough knowledge of the circumstances.
- C. Under no circumstances may an officer continue to use force (except for physical restraint) against an individual who has ceased to resist, escape, or otherwise violate the law. The officer making an arrest has the right to use only that amount of force reasonably necessary to affect the arrest and maintain control of the arrested individual.
- D. Officers may use reasonable force to:
 - 1. Overcome an offender's resistance to or threat to resist a lawful arrest.
 - 2. Prevent the escape of an offender or arrested person.
 - 3. Protect a third person from bodily harm or death.
 - 4. Protect himself/herself from bodily harm or death.
- E. When an individual offers only passive resistance to arrest, an officer shall take such person into custody and transport such individual with as much regard to the individual's safety and welfare as is reasonable, practical and possible.

- F. Officers shall not mistreat persons who are in their custody. Officers shall handle such persons in accordance with the law and department orders. The use of excessive and unwarranted force or brutality will not be tolerated under any circumstances and may subject the officer to disciplinary action. An officer who witnesses another officer using force in excess of that permitted by law, training, WI. State Statute 175.44, and/or this Policy & Procedure must intervene and stop the prohibited use of force when circumstances are such that it is safe for the Officer to intervene. The officer shall also report such use of force to a supervisor immediately or as soon as practical. If the offending officer is their supervisor then the reporting officer will report the incident to the next supervisor in the chain of command.

- G. The DAAT Disturbance Resolution Model should be followed and adhered to at all times.

- H. Training for less lethal weapons shall occur at least biennially for officers authorized to use such weapons or techniques.

IX. FOOT PURSUITS

- A. An officer's decision to pursue on foot shall be made with an awareness and appreciation for the risk to the officer and others who may be exposed. In deciding whether to initiate or continue a foot pursuit, officers shall 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 officer, if not immediately apprehended.
 - 7. When the foot pursuit enters a building, structure, confined spaces, wooded or otherwise isolated areas without sufficient backup; the officer 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. USE OF POLICE BATONS

- A. The police baton may be used by an officer only when it is reasonably apparent that a lesser degree of force would be inadequate to control the situation. The baton may be used by an officer to subdue a violently resisting subject or in self-defense or in defense of a third person if lesser methods have failed, or if circumstances warrant the immediate use of the baton.
1. Only those officers qualified in the Defensive and Arrest Tactics System shall be allowed to carry or use the impact weapon.
 2. The acceptable primary target areas for the impact weapon are the elbow, knee, and abdomen.
 3. An officer shall not strike an individual outside the primary target areas unless such action would be justified under the use of deadly force guidelines.
 4. The intentional striking of an individual above the shoulders is prohibited. However, it is recognized that because of a person's own resistance, the accidental, unintentional striking of a person above the shoulders may occur. If that happens, the officer must articulate this in detail in the report of the incident and will seek immediate medical attention for the subject if treatment is necessary.
 5. The police baton was never intended to replace the officer's gun, but it is an alternative to be used at less than deadly force.

XI. CHEMICAL CONTROL DEVICE

1. The aerosol chemical control device authorized by the Cedarburg Police Department contains oleoresin capsicum (O.C.). No other aerosol chemical restraint is authorized or allowed without prior approval from the Chief of Police or the Chief's designee. All O.C. must be non-flammable.
2. When an officer is threatened with physical force or dealing with a resistive or combative person and lesser control factors are ineffective, consideration should be given to the use of control devices.
3. All uniformed officers issued O.C. aerosol will be required to carry it while on duty unless replaced by an Electronic Control Device in which case it must be in the squad. This rule shall not apply to administrative personnel and other officers assigned to plain clothes duties within the police department.
4. O.C. aerosol will be used consistent with the training provided by the Cedarburg Police Department and/or the Wisconsin Training and Standards Bureau.

XII. CONDUCTED ELECTRICAL WEAPON (CEW)

- A. An electronic control device may be used by trained officers when a subject is threatening to actively resist or is actively resisting an officer and the subject poses an articulable threat of harm to an officer or another person. It may also be used when a subject poses a threat of harm to themselves such as self-inflicted injury or a suicide attempt.
 1. The CEW is considered to be in the "Control Device" section of the Intervention Options on the Disturbance Resolution Model.
 2. The use of the CEW shall be consistent with the manufacturer's recommendation and precautions.
 3. Officers may include in the decision to use this force option information known to the officer at the time of the incident, including conduct or statements of the subject or prior history of resistive or violent behavior.
 4. Passive resistance without posing an articulable threat of harm to officers or others does not permit the use of a CEW.
- B. An officer shall not brandish, display, or threaten the use of a CEW unless he or she can reasonably conclude its use may become justified and is anticipated.
- C. In each instance that a CEW is deployed in an incident, consideration should be made regarding the need for lethal cover.
- D. Officers who deploy a CEW against a subject shall ensure the subject is monitored for injury as soon as practical after the subject is under control.

- E. If an adverse reaction to the CEW occurs, or if requested by the person, emergency medical services shall be provided to them.
- F. If the probes are imbedded in sensitive tissue areas, i.e. neck, face, groin, or the breasts of a female, officers shall arrange transport to a medical facility for removal. If the probes are imbedded in other non-sensitive tissue areas, a CEW-trained officer may remove them according to the trained procedures.
- G. After the probes have been removed, they shall be handled as a biohazard and packaged according to the trained procedure. Photographs of the wound site shall be taken if practical. Probes and wires will be retained as evidence.
- H. When a CEW is deployed against a subject, the officer shall notify the shift supervisor, and shall complete an offense report detailing the circumstances of the incident.
- I. Trained officers shall complete a refresher course and a written examination every two years concerning the use of this weapon.

XIII. IMPACT MUNITIONS

- A. The Cedarburg Police Department uses the DEFTEC Model 1440 tactical 4 shot launcher which will fire the following rounds only.
 - 1. 40mm Projectile: Exact Impact Sponge Round (Blue Tip)
 - 2. 40mm Projectile: CS Direct Impact Sponge Round.
 - 3. 40mm Projectile: 32 caliber rubber ball round.
 - 4. 40mm Projectile: Ferret Powder, CS.
- B. Deployment of the launcher
 - 1. The launcher will be carried in a case unloaded inside of the trained officer's squad.
 - 2. Only department personnel trained on this launcher will be allowed to deploy it.
 - 3. It will only be deployed with the approval of the shift supervisor.
 - 4. It is not a replacement for deadly force and will not be deployed without at least one additional officer having lethal cover.
 - 5. It can be deployed for mutual aid but at the approval of the supervisor and used by trained Cedarburg Police Department personnel only.
- C. Target Area Non-Deadly Force
 - 1. Lower extremities, Thighs and buttocks.

D. Target area Deadly Force

2. Head, Neck, Upper Chest area (center mass), and Kidneys (Back Area)

E. Special considerations when deploying impact munitions

1. Distance

- a. The closer the target the greater potential for penetration
- b. The farther the target the more time a suspect has to recover from Psychological and Physiological effects
- c. The further away a suspect is the less accurate the munition will be

2. Clothing

- a. Heavy clothing will dull the energy transfer from impact munitions

3. Gender

- a. Impact munitions should be used on pregnant female only in extreme situations and if deploying officer can justify its use

4. Age

5. Persons build

F. 40mm Impact safe minimum distance and range

1. The 40mm exact impact round and 40mm direct impact cs round have a safe minimum distance of 5ft.
2. The operator of the 40mm DEFTEC Model 1440 tactical 4 shot launcher shall not deploy an impact round closer then 5ft unless deadly force is justified
3. The effective range of the 40mm exact impact round and 40mm direct impact cs round is 131 ft.
4. The 40mm 32-Caliber rubber balls round has a minimum safe distance of 15 ft.
5. The 40mm 32-Caliber rubber balls round has a effective range of 30 ft.

G. Actions following deployment

1. If a person is impacted with a 40mm Exact Impact Sponge Round (Blue Tip) round, or a 40mm CS Direct Impact Sponge Round, Officers shall arrange for medical evaluation by requesting the Cedarburg Fire Department EMS to respond to check for possible injuries as soon as practical.

XIV. WRAP RESTRAINT

- A. The Wrap immobilizes the body and restricts a subject's ability to kick or do harm to oneself and others. The Wrap minimizes the time required to secure a person safely, restrains the subject in an upright position, and has the subject prepared for transport or movement.
- B. Deployment and Use
 - 1. The Wrap can be used prior to or after a violent or potentially violent/combative subject is controlled using approved departmental methods. Like any restraint device, do not assume the Wrap is escape-proof. Once applied, the subject should not be left unattended. The Wrap should be considered for use under the following situations:
 - a) Whenever you anticipate possible violent/combative behavior.
 - b) To immobilize a violent/combative subject.
 - c) To limit violent/combative subjects from causing injury to themselves or others.
 - d) To prevent violent/combative subjects from causing property damage by kicking.
 - e) To restrain subjects after a chemical spray, extended range baton, or Taser is used, if necessary.
 - f) When conventional methods of restraint are not effective.
 - g) In transportation of violent/combative subjects.
 - h) To assist with cell extraction of violent/combative subjects.

Once the subject is properly restrained in the Wrap, they can be placed on their side or in a sitting position. This will increase the oxygen recovery rate allowing for respiratory recovery.

- C. Deployment Considerations
 - 1. Movement of the subject can be accomplished in two ways depending on their cooperation. The subject can either be carried or allowed to stand and shuffle step to the destination.
 - a) To carry the subject, it is recommended that between 2 to 4 personnel be used depending on the size and weight of the subject. Lift the subject by the arms and the ankles. A "log lift" carrying technique may be used when moving the subject. Proper lifting techniques should be followed to prevent unnecessary injury.

- b) As an option to lifting, the subject may be moved by means of a shuffle. If the subject has calmed down and is cooperative, the lower Wrap leg band can be loosened to allow some leg movement below the knees without compromising security or safety concerns. By loosening the tether to the shoulder harness, the subject can be brought to a standing position with the help of officers and then allowed to shuffle to or from a vehicle or holding cell. If this method is used, appropriate support must be given to the subject to prevent possible injury.
 - c) Prior to vehicle transportation, re-check all belts to ensure that they are securely fastened. The use of a seat belt is recommended to limit movement and reduce the risk of injury to the subject.
 - d) Whenever possible, one person should ride as an observer with the subject to ensure all straps remain tight and the subject has no medical problems. Re-checking the security of the Wrap and keeping the subject under constant observation should apply to any movement of the subject.
2. Precautions should be taken when the Wrap is in use. Such precautions include:
- a) The shoulder harness should never be tightened to the point that it interferes with the subject's ability to breathe.
 - b) The leg bands and shoulder harness must be checked frequently for tightness and re tightened or loosened as necessary until the Wrap is removed.
 - c) If the restrained subject complains of or show signs of breathing distress (shortness of breath, sudden calmness, a change in facial color, etc.), medical attention should be provided immediately.
 - d) The subject should never be left unattended.
 - e) Subjects should be placed in an upright sitting position or on their side as soon as possible to allow for respiratory recovery.
 - f) The Wrap is a temporary restraining device and is not escape-proof.
 - g) The Wrap is to be used by trained personnel only.

XV. SPIT HOODS/MASKS/SOCKS

- A. Spit hoods may be placed upon persons in custody when the officer reasonably believes the person will bite or spit, either on a person or in an inappropriate place. They are generally used during application of a physical restraint, while the person is restrained, or during or after transport.
- B. Officers utilizing spit hoods should ensure that the spit hood is fastened properly to allow for adequate ventilation and that the restrained person can breathe normally. Officers should provide assistance during the movement of restrained individuals due to the potential for impaired or distorted vision on the part of the individual.
- C. Spit hoods should not be used in situations where the restrained person is bleeding profusely from the area around the mouth or nose, or if there are indications that the person has a medical condition, such as difficulty breathing or vomiting. In such cases, prompt medical care should be obtained.
- D. If the person vomits while wearing a spit hood, the spit hood should be promptly removed and discarded. Persons who have been sprayed with oleoresin capsicum (OC) spray should be thoroughly decontaminated including hair, head and clothing prior to application of a spit hood. Those who have been placed in a spit hood should be continually monitored and shall not be left unattended until the spit hood is removed.
- E. Spit hoods shall be discarded after each use.

XVI. DE-ESCALATION

- A. The concept of de-escalation involves an officer'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. The merging of Professional Communication Skills such as Crisis Intervention, and sound tactical positioning can be instrumental in generating the needed time, options, and resources to gain willful cooperation and ensure everyone's safety
- B. DONE- Danger, Overriding Concern, No Progress, and Escape- There are many circumstances in which de-escalation is not applicable to a situation and the Professional Communication Skill concept of DONE offers examples and guidance. The acronym DONE stands for Danger, Overriding Concern, No Progress, and Escape.
 - 1. Danger- Something has occurred that negatively effects the commodities of time, distance, and positioning making de-escalation not possible. Ex- When officers are making contact with the subject who is armed with a knife, he suddenly charge the officers forcing them to escalate.

2. Overriding Concern- An event occurred that has changed the priority and has drastically influenced the outcome of this situation and placed officers in a position to use force. Ex-Officers are talking to a subject armed with a knife and an innocent bystander has walked into the situation and the subject's closes the distance with them.
3. No Progress- Officer's attempts to gain rapport with the subject and it isn't working. Ex- Officers are talking to a suspect who ignores their dialog and closes the distance on them.
4. Escape- The officers' relative positioning and limited distance does not allow them the ability to regain safe distance and positioning (escape) to continue de-escalation efforts. Ex-The subject moves towards the officers and puts them into a position where they can't escape.

XVII. BOLA Wrap restraint Device

1. Only a Department-approved BolaWrap 100 device that has been issued by the Department shall be utilized by personnel trained in its deployment and use.
2. A BolaWrap 100 device is not a substitute for deadly force.
3. All BolaWrap 100 devices shall be clearly and distinctly marked to differentiate them from the duty weapon and any other device.
4. Uniformed officers who have been issued the BolaWrap 100 device shall wear the device in an approved holster or with a metal Bola clip on their person.
5. BolaWrap® 100 devices should not be used on handcuffed persons unless they are actively resisting or exhibiting active aggression, and/or to prevent individuals from harming themselves or others.
6. Officers shall be responsible for ensuring that their issued BolaWrap 100 device is properly maintained and in good working order.
7. Officers shall not hold both a firearm and the BolaWrap 100 device at the same time.
8. Any deployment of the BolaWrap 100 shall comply with GO 02.03 Use of Force
9. The BolaWrap® 100 is not intended to be a transportation restraint device and shall not be used as a substitute for a hobble or max restraints. Once the subject has been detained, the cord should be cut with an approved device and removed in accordance with Section F (3) of this order.

B. CONSIDERATION FOR THE USE OF THE BolaWrap® 100 DEVICE

1. The BolaWrap® 100 device has limitations and restrictions requiring consideration before its use. The device should only be used when its operator can safely approach the subject within the operational range of the device. Although the BolaWrap® 100 device is generally effective in controlling most individuals, officers should be aware that the device may not achieve the intended results and be prepared with other options.
2. The use of the BolaWrap® 100 device on the individuals listed below should generally be avoided, unless an officer reasonably believes under the totality of the circumstances that other options would be ineffective or would present a greater danger to the officer, the subject, or others:
3. Individuals who are known to be pregnant.
4. Elderly individuals or obvious juveniles.
5. Individuals who are handcuffed or otherwise restrained.
6. Individuals detained in a police vehicle.
7. Individuals in danger of falling or becoming entangled in machinery or heavy equipment, which could result in death or serious bodily injury.
8. Individuals near any body of water that may present a drowning risk.
9. Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles).

C. PRE-DEPLOYMENT RESPONSIBILITIES

1. A verbal warning of “Bola, Bola, Bola” should precede a BolaWrap® 100 device application, unless it would otherwise endanger the safety of officers or when it is otherwise not practicable due to the totality of the circumstances. The purpose of the warning is to:
 - a) Provide the individual with a reasonable opportunity to voluntarily comply.
 - b) Provide other officers and individuals with a warning that the BolaWrap® 100 device may be deployed.
 - c) The fact that a verbal or other warning was given, or the reasons it was not given, shall be documented by the officer deploying the BolaWrap 100 device in the related report.
2. The aiming laser should never be intentionally directed into the eyes of another as it may permanently impair his/her vision.
3. The deploying officer should, if possible, assemble a sufficient number of officers to assist with taking the suspect into custody.

4. Under exigent circumstances, nothing in this policy prohibits an officer from deploying the BolaWrap 100 at a subject without requesting or having the presence of additional officers.

D. APPLICATION OF THE BOLAWRAP® 100 DEVICE

1. The BolaWrap 100 device may be used in any of the following circumstances, when the totality of circumstances perceived by the officer at the time indicate that such application is reasonably necessary to control a person:
 - a) The subject is assaultive, actively resisting, or passive non-compliant.
 - b) The subject has demonstrated, by words or actions, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm officers, him/herself or others.
2. Mere flight from a pursuing officer, without other known circumstances or factors, is not good cause for the use of the BolaWrap 100 device to apprehend an individual.
3. Simultaneous applications of the BolaWrap 100 on a single individual by multiple devices is allowed in authorized target areas.

E. TACTICAL USE

1. Targeting considerations:
 - a) Reasonable efforts should be made to target lower extremities or lower arms. The head, neck, chest and groin shall be avoided. If the dynamics of a situation or officer safety do not permit the officer to limit the application of the BolaWrap 100 device to a precise target area, officers should monitor the condition of the subject if it strikes the head, neck, chest or groin until the subject is examined by paramedics or other medical personnel.
2. Multiple applications of the BolaWrap 100 device:
 - a) If the first application of the BolaWrap® 100 device appears to be ineffective in gaining control of an individual, the officer should consider certain factors before additional applications of the device, including:
 - (i) Whether the Kevlar cord and/or anchor's hooks are making proper contact.
 - (ii) Whether the individual has the ability and has been given a reasonable opportunity to comply.

- (iii) Whether verbal commands, other options or tactics may be more effective.

F. Actions following deployments:

1. Personnel shall request a supervisor to the scene.
2. Officers shall comply with Emergency Care for Individuals under Police Care or Control covered under this GO.
3. Only medical personnel may remove hooks that are embedded in a subject's skin.
4. If the hooks penetrate only a subject's clothing, then the supervisor or officer may remove the hooks. The supervisor or officer may cut the Kevlar cord with Department issued medical shears.
5. The Kevlar cord shall be cut prior to any transportation.
6. The expended cartridge, hooks and Kevlar cord shall be collected and submitted into evidence.

G. REPORTING THE USE OF THE BOLAWRAP® 100

1. The deployment of the BolaWrap® 100 is considered a Control Alternative under the Use of Force GO.
2. Officers shall:
 - a) Complete the applicable report(s) (crime, casualty, UOF report, and/or incident). The report shall include the cartridge serial number, reason for the application of force as well as the description of injuries sustained or claimed.
 - b) Book an arrested subject and notify the appropriate jail medical staff employee of the sustained injury and the type of force used.
3. The supervisor shall determine whether further documentation of the incident is necessary, in accordance with Department policy.

H. SUPERVISOR RESPONSIBILITIES

1. When possible, supervisors should respond to calls when they reasonably believe there is a likelihood the BolaWrap 100 device may be used. A supervisor shall respond to all incidents where the BolaWrap® 100 device was activated.
2. Comply with reporting procedures/supervisor's responsibilities specified under this GO.

XVIII. MEDICAL ASSISTANCE

- A. All sworn department personnel who engage in the use of force shall after the subject has been brought under the officers' control:
 - 1. Check the subject for injuries and administer first aid if required.
 - 2. Summon appropriate medical aid if necessary.
 - 3. Maintain close personal observation and physical contact with the subject while continuing to provide first aid until relieved by appropriate medical personnel.

XIX. REPORTING THE USE OF FORCE

- A. The officer 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.
- B. The officer involved shall make a written report/statement as to the underlying facts and the reasonableness, as perceived by the officer, justifying his/her use of force.
- C. If the discharge of the weapon or use of force causes injury or death or great bodily harm, the supervisor shall notify the Chief of Police or the Chief's designee as soon as possible.
- D. The supervisor, as soon as possible during the investigation, shall forward all reports of the investigation to the Chief of Police.
- E. An Intra-departmental Communication 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.
- F. 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. The Cedarburg Police Department Officer Defensive Action Report will be completed and submitted to the lead DAAT instructor for review. This will include all use of force incidents except for handcuffing but also including pointing a Taser or weapon at a person. The below lists the reasons a report should be filed:
 - 1. Firearms: discharging or pointing of any firearm.
 - 2. Conducted Energy Weapon. Pointed or deployed (CEW)
 - 3. Baton or Kinetic energy impact projectiles: use in striking, blocking or pushing of any person.
 - 4. Chemical agents: use of any chemical agent. Pointed or deployed.

5. Physical Force: striking, punching, pushing, or restraining any person.
 6. Oleoresin capsicum: use of any pepper spray gas aerosol. Pointed or deployed
- G. An officer who witnesses another officer using force in excess of that permitted by law and this General Order, must report such use of force to a supervisor immediately. If the offending officer is their supervisor then the reporting officer will report the incident to the next supervisor in the chain of command. Subsequent written notification to the Chief of Police shall be made prior to the end of shift and include the date, time, and place of the occurrence, the identity if known, and description of the participants, and a description of the events and the force used.
- H. Supervisors will complete the Supervisor Inquiry of Officer Defensive Action form and which will be submitted to the lead DAAT instructor for review.
- I. All use of force reports and forms shall be forwarded to the lead DAAT instructor and a copy will be filed with the Chief or his designee.
- J. At least once every year the Chief or his designee shall review 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.
- K. Further, per 2021 WI Act 82, effective November 8th, 2021, all Use of Force Reports involving each Department member shall be included in that member's employment file. Also refer to General Order 11.01 Performance Evaluations.

XX. DEADLY FORCE INCIDENT PROCEDURES (REFER TO GENERAL ORDER 2.06)

This directive is for departmental use only and does not apply in any criminal or civil proceeding. The department policy should not be construed as a creation of higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this directive will only form the basis for departmental administrative sanctions.

Michael D. McNerney
Chief of Police

This Order cancels and supersedes any and all previous Orders and directives relative to the subject matter contained herein.

XIX. WHISTLEBLOWER PROTECTIONS

- A. No law enforcement officer may be discharged, disciplined, demoted, or denied promotion, transfer, or reassignment, or otherwise discriminated against in regard to employment, or threatened with any such treatment, because the law enforcement officer reported, or is believed to have reported, any noncompliant use of force as required in WI State Statute 175.44; intervened to prevent or stop a noncompliant use of force as required in the Statute; 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 in the Statute.

Initial 11/21/2002, Revised 04/19/2004, Revised 10/07/2005, Revised 09/29/2006, Revised 07/19/2007, Revised 03/27/2008, Revised 03/13/2009, Revised 11/20/2009, Revised 12/14/2011, Revised 03/15/2013, Revised 10/07/2014, Revised 11/17/2017, Revised 04/23/2020, Revised 02/19/2021, Revised 11/30/2021, Revised 12/06/2021, Reviewed 12/21/2021 Revised 05/31/2022, Revised 12/01/2022