

# NEOSHO/RUBICON/ASHIPPUN POLICE DEPT.

<i>Subject:</i> <b>USE OF FORCE</b>		<i>Effective Date:</i> 07/01/14	<i>Policy Number:</i> #01
<i>CALEA/WILEAG</i>	<i>Rescinds/Replaces:</i>	<i>Revision Date:</i> 02/01/15	<i>No of Pages:</i> 11

## I. PURPOSE

The purpose of this policy is to provide law enforcement officers of this agency with guidelines for the use of deadly and non-deadly force. This policy also establishes guidelines for using force in self defense or the defense of another, to prevent or intercede in an attempt at self injury, in defense of property, and in fulfilling the community caretaker function.

## II. POLICY

It is the policy of the NRAPD that officers shall use only the force that reasonably appears necessary to effectively bring an incident under control, while protecting the lives of the officer and others. The use of force must be objectively reasonable. The officer must only use that force which a reasonably prudent officer would use under the same or similar circumstances.

## III. DEFINITIONS

*Defense and Arrest Tactics (DAAT):* This is a system of verbalization skills coupled with physical alternatives. This is a specific system formulated, approved, and governed by the State of Wisconsin, Training and Standards Bureau.

*Intervention Options:* Trained techniques recognized in the DAAT system. These techniques may include additional techniques trained and authorized by the NRAPD and untrained techniques justified by the circumstances.

*Reasonable Belief:* A conclusion reached by an ordinary, prudent, and reasonably intelligent police officer that a certain fact situation exists under the totality of circumstances perceived by the officer at the time the officer acted.

*Reasonable Force:* A physical act by a police officer in the performance of duty when it is used to accomplish a legitimate law enforcement goal and the level of force used is reasonable considering all the facts and circumstances known to the officer at the time of the incident.

*Objective Reasonable Standard:* The standard established by the U.S. Supreme Court in *Graham v. Connor*, and its progeny, which says that reasonableness should be judged under the totality of the circumstances from the perspective of a reasonable officer at the scene with similar training and experience. Three elements of the standard are:

1. The severity of the alleged crime at issue.
2. Whether the person poses an imminent threat to the safety of officers and/or others.
3. Whether the person is actively resisting seizure or attempting to evade seizure by flight.

*Bodily Harm:* Physical pain or injury, or impairment of physical condition, but less severe than great bodily harm.

*Great Bodily Harm:* Bodily injury which creates a substantial risk of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or any other serious bodily injury.

*Deadly Force:* Any use of force that creates a substantial risk of causing death or serious bodily harm.

*Passive Resistance:* Refusal to comply with a directive or command from an officer, but without behaviors likely to cause bodily harm to an officer or another.

*Active Resistance:* Behavior that physically counteracts an officer's control efforts and creates a risk of bodily harm to the officer or another person.

*Assaultive Behavior:* Conduct that creates an imminent risk of bodily harm to the officer or another person.

*Electronic Control Device (ECD):* A battery powered, non-deadly force device that uses propelled wires and probes or direct contact to conduct sufficient energy to affect the sensory and motor functions of the human and animal nervous system. The intended purpose of the device is to incapacitate and help control threatened or active resistance and/or violent persons or animals.

*Non-Deadly Force:* Any use of force other than that which is considered deadly force. This includes any physical effort used to control or restrain another, or to overcome the resistance of another.



*Objectively Reasonable:* This term means that, in determining the necessity for force and the appropriate level of force, officers shall evaluate each situation in light of the known circumstances, including, but not limited to, the seriousness of the crime, the

level of threat or resistance presented by the subject, and the danger to the community

**Passive Countermeasures:** Techniques that use physical force to direct a subject to the ground. These techniques are designed to overcome active resistance or the threat of active resistance.

**Active Countermeasures:** Techniques that include stunning a subject against a vertical surface, and hand, elbow and leg strikes. The purpose of active countermeasures is to create a temporary dysfunction of an actively resistive or assaultive subject.

**Incapacitating Technique:** Diffused strike to the side of the neck. The goal of an incapacitating technique is to cause the immediate, temporary cessation of violent or assaultive behavior.

**Impact Weapon:** A police baton or other object justified by the circumstances. The use of an impact weapon is to overcome continued resistance, assaultive behavior or the threat of such violence.

**Kinetic Energy Impact Projectiles:** Flexible or non-flexible launched projectiles, which are intended to incapacitate a subject with a minimal potential for causing death or great bodily harm, when compared to conventional projectiles.

**Excited Delirium Syndrome:** A state of extreme mental and physiological excitement characterized by extreme agitation, hyperthermia, hostility, and exceptional strength and endurance without apparent fatigue.

#### **IV. PROCEDURES**

##### **A. Use of Deadly Force**

1. The use of deadly force is permissible under the following circumstances:
  - a. As a last resort in the defense of one's self when the officer reasonably believes necessary that (s)he is in imminent danger of death or great bodily harm.
  - b. As the last resort in the defense of another person who the officer reasonably believes is in imminent danger of death or great bodily harm and who the officer reasonably believes is entitled to self defense.

- c. As the final alternative to effect an arrest or prevent the escape of a fleeing felon who the officer reasonably believes has committed a felony involving the actual or threatened use of deadly force and the officer has probable cause to believe the suspected felon poses an imminent threat of death or great bodily harm to the officer, or others, if not immediately apprehended.
  - d. To euthanize an animal so seriously injured that humanity dictates its removal from suffering, but only after careful consideration is given to the public's safety and whether other dispositions may be feasible.
- 2. Before using a firearm, police officers shall identify themselves and state their intent to shoot, when feasible.
  - 3. Generally deadly force shall not be used under the following circumstances:
    - a. As a warning.
    - b. Warning shots.
    - c. From a moving vehicle unless l(a) or l(b) apply.
    - d. At a moving vehicle unless l(a) or l(b) apply.
    - e. When the target of the force is not clearly visible. For example, firing into a building or through a door is not permitted unless officers are being fired upon from within and no alternative means of cover is available.
    - f. When the officer is in doubt as to whether or not (s)he has the legal justification to use deadly force.

### **C. Use of Non-Deadly Force**

- 1. Officers shall use only that amount of force reasonably necessary to control a situation, effect the arrest of an offender or to control a person.
- 2. Officers shall not continue to use force more than is reasonably necessary to maintain control once the subject has stopped resisting and control of the subject has been established.
- 3. Once control has been established, the officer shall be responsible for monitoring the subject's condition and welfare.



**C(a). Conducted Energy Weapon**

1. A Conducted Energy Weapon may be used by trained personnel when a subject is threatening to actively resist or is actively resisting and officer. It may also be used when the subject poses a threat of harm to himself or herself such as self-inflicted injury or a suicide attempt, or poses a threat of harm to another person.
  - a. Officers may also 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 assaultive behavior.
  - b. Passive resistance without posing an articulable threat of harm to officers or others do not permit the use of a conducted energy weapon.
2. An officer shall not brandish, display or threaten the use of a conducted energy weapon unless he or she can reasonably conclude its use may become justified and is anticipated.
3. In each instance when a conducted energy weapon is deployed on an incident, a determination will be made regarding the need for lethal cover.
  - a. Lethal cover shall be required in all cases in which the subject possesses a firearm.
4. Department personnel who use a conducted energy weapon against a person shall ensure the person is monitored for injury as soon as practical after the person is under control.
5. If an adverse reaction to the conducted energy weapon occurs, or if requested by the subject, transport to a medical facility shall be arranged.
6. If the probes are imbedded in sensitive tissue areas, i.e. neck, face, groin, or the breast of a female, officers shall arrange transport to a medical facility for removal. If the probes are imbedded in other none sensitive tissue areas, a trained officer may remove them according to the trained procedures.
7. After the probes have been removed they shall be handled as a biohazard and packaged according to the trained procedure.
8. When a conducted energy weapon is used against a person or animal, the user shall complete an incident report detailing the circumstances of the incident.

9. Trained officers shall complete a refresher course every two years concerning the use of this weapon.

**C(b). Use of Oleoresin Capsicum Spray (OC)**

1. Officers shall not brandish or display, as a threat, OC Spray unless its use is anticipated.
2. Oleoresin Capsicum Spray (OC)
  - a. Officers who have been trained in and certified for use of OC by an instructor shall carry OC.
  - b. The use of OC is permitted by officers when:
    - (1) The criterion for the use of OC is active resistance or its threat from a subject. The officer may use OC against the subject if the subject indicates to the officer by words and/or actions that s/he intends to physically resist the officer's efforts to apprehend or restrain him/her or intends to cause bodily harm to the officer.
    - (2) Mere passive resistance (e.g. refusal to comply with verbal commands, going limp, stiffening of limbs without struggling, etc.) does not permit the use of OC without words or actions showing intent to physically resist or to harm the officer.
  - c. When OC is used against a person or animal, the user will complete an incident report detailing the circumstances of the incident.
  - d. Officers shall exercise sound judgment when using OC and shall consider the potential for cross-contamination to the user, other officers and bystanders.
  - e. OC should not be utilized by departmental personnel if it appears children less than two years of age are in the area that would be contaminated, unless exceptional circumstances exist.
  - f. OC should not be sprayed at a person from a distance of less than four feet unless exceptional circumstances exist.
  - g. Departmental personnel who use OC against a person shall ensure the person is decontaminated as soon as practical after the person is under proper control. If possible:
    - (1) Expose the person to fresh air and flush exposed areas with large amount of cold water as soon as practical.



- (2) Have the subject remove their contact lenses and contaminated clothing, when appropriate. Inform the person that clothing should be washed thoroughly and soft contact

lenses may have to be discarded. (See optometrist.) Officers shall not remove contacts from the person sprayed with OC.

- (3) Continue to monitor the subject for any unusual reactions, and, if incarcerated, notify confinement personnel of the use of OC. If an adverse reaction occurs, or if requested by the subject, transport to a medical facility shall be arranged.

- h. If circumstances permit, and it can be done without endangering departmental personnel, reasonable efforts to decontaminate animals should be made or the information conveyed to the animal's owner.

#### **D. Use of Impact Weapon**

1. Uniformed patrol officers may possess an Intermediate Weapon (expandable baton) with them while on-duty.
2. An authorized impact weapon may be withdrawn from its holder and held in the approved loaded position if the officer reasonably believes that the impact weapon will be used or is anticipated that it will be used.
3. The use of authorized impact weapon is permitted against an actively aggressive person, to impede their continued actions, where the officer reasonably believes lesser force options would be ineffective or would subject the officer to bodily harm.
4. When an impact weapon is used against the body of a person, the officer will notify a supervisor and will complete an incident report detailing the circumstances of the incident.

#### **E. Kinetic Energy Impact Projectiles**

1. Officers may only use Kinetic Energy Impact Projectiles and delivery systems that are authorized by the Chief of Police or his/her designee.
2. Trained department personnel may use kinetic energy impact projectiles when a subject poses an imminent threat of bodily harm to another person or a threat of great bodily harm to him or herself.
2. 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.

3. When deploying a 12 ga. shotgun as a kinetic energy impact projectile delivery system, the officer shall transition the weapon from lethal ammunition to kinetic energy impact projectiles. The transition procedure will be taught during training.
  - a. Whenever practical, another officer should observe the unloading of lethal ammunition from the shotgun and the loading of kinetic energy impact projectiles into the shotgun.
  - b. Once the shotgun has been transitioned from lethal ammunition to kinetic energy impact projectiles, the weapon will be clearly marked as a non-deadly weapon. This will be done by applying a piece of orange tape to the front portion of the weapon's barrel.
4. MPD Kinetic energy impact projectiles may be delivered to the subject's body in accordance with the following guidelines:
  - a. Primary Target Areas (legs and buttocks): The arms may also be targeted as a primary target under some circumstances. The officer must consider the proximity of the targeted portion of the arm to vital areas of the body. Primary target areas shall be considered when incapacitation is necessary but the threat is not imminent. Multiple impacts to the primary target areas should be considered before progressing to the secondary target area.
  - b. Secondary Target Area (Lower Abdomen): The secondary target area will be considered when incapacitation is critical due to the imminent threat posed by the subject.
  - c. Head/Neck/Chest area: Intentional impact to these areas will be avoided unless the use of deadly force is justified.
  - d. Subjects who are struck by a kinetic energy impact projectile shall be transported to a medical facility for examination.
  - e. Trained officers shall complete a kinetic energy impact projectile refresher course every two years.

3. **Authorized Personnel.**

Only personnel who have successfully completed a Department-approved training course in the proper use and deployment of less lethal devices will be authorized to use them.



4. **Justification for Use.**

The deployment and use of less lethal impact devices are decisive actions that can assist in achieving the goal of protecting life and property and/or the restoration of order. Such deployment should be considered whenever the use of "less lethal" options would assist in enabling an arrest, restoring order, or reducing the risk of more serious injury. Less lethal impact devices are not, however, a substitute for deadly force when such force is justified. Circumstances justifying less lethal impact devices include, but are not limited to:

- (a) safely controlling violent persons,
- (b) restoration or maintenance of order during prisoner or civil disturbances,
- (c) situations wherein an authorizing supervisor deems their use necessary to safely resolve an incident.

5. As an "extended-range" impact weapon, the use of less lethal impact devices is included on the intervention options after conventional impact weapons, and before deadly force.

6. **Deployment Considerations.**

The following factors must be considered when using less lethal impact devices against a subject or group of individuals:

- (a) Distance and cover are important considerations, as officers may be injured if the subject is in close proximity and is armed with a potentially deadly weapon. As with the utilization of any level of force, an officer needs to use proper tactical techniques.
- (b) The potential for causing death or great bodily harm with less lethal devices does exist, and needs to be taken into account during deployment. Target areas are similar to those for the baton under Defensive and Arrest Tactics (DAAT). The primary target locations should generally be the lower abdomen and the arms and legs. Intentionally targeting the head, neck, solar plexus, groin, or spine shall not be done, unless deadly force is justified.
- (c) An officer must continually evaluate the effectiveness of each round, and be prepared to administer follow-up rounds. On the other hand, if the less lethal devices prove to be ineffective, other tactics should be considered. The use of less lethal devices may

always be complimented with chemical agents or alternative tactics.

- (d) If the threat level warrants it, an officer may use less lethal devices as deadly force, or may escalate to other forms of deadly force.
- (e) The officer deploying less lethal devices is responsible for making absolutely certain that the round being used are, in fact, less lethal rounds, and that they are deployed in accordance with this Department policy. The officer shall also utilize ONLY those weapons/delivery systems dedicated to less lethal device applications. The less lethal impact devices shall only be deployed with a high visibility green 12-gauge shotgun. Deploying officers shall make every effort to alert other on-scene officers that less lethal rounds are being utilized.

**7. Storing of Less Lethal Bean Bag Weapons and Rounds**

The dedicated 12-gauge shotgun with high visibility stock and forearm shall be stored in a clearly identified case and secured in the trunk of the patrol vehicle. The weapon will have an empty magazine and chamber with the breach kept open. The weapon shall contain six beanbag/sock rounds in the exterior ammunition saddle. It is the duty of the officer responsible for the weapon to inspect and hand load each round for deployment. It is also the duty of the officer to clear and secure the weapon after deployment.

**8. Reporting Procedures for Less Lethal Impact Devices**

- (a) The deployment of less lethal devices constitutes a use of force and, as such, shall be immediately reported to the Chief/Captain. An incident report must be immediately completed. In addition, the Chief/Captain shall be notified of the deployment immediately.
- (b) Any subject against whom less lethal devices are used SHALL be transported to a medical facility for evaluation and/or treatment.
- (c) Photographs of apparent injuries should be taken as soon as practicable, and photographs should be taken of impacted areas of any subject in custody, even if no visible injuries exist.

**9. First Aid and Medical Assistance**

- (a) Whenever a person is injured as a result of applied force by an officer, officers on the scene will immediately provide first aid and request medical assistance, if necessary, for the injured person as soon the scene is secure.



10. **Required Notifications and Reports Upon Use of Force**

- (a) Whenever an officer is responsible for an unwanted or intentional discharge of a firearm while on or off-duty (other than during firearms training, hunting or participation in sporting or recreational events), or following notifications and reports shall be made:
- (1) Used on or directed against a person: The officer shall orally inform his/her supervisor and dispatch as soon as possible. The supervisor shall immediately notify the Chief of Police. The officer, unless incapacitated, shall complete an incident report about the incident prior to going off duty that shift, unless otherwise directed by the Captain or Chief of Police. If the incident occurred while the officer was off-duty, these reports will be completed at the police department as soon as practical after the event.
  - (2) Used against an animal: If a firearm is used against an animal, the officer should notify dispatch. If the officer feels that the circumstances of the event may be an issue, a supervisor should be notified. The officer shall complete an incident report.
  - (3) Accidental discharge without injury: The officer shall immediately notify a supervisor immediately. The supervisor will contact the Chief of Police. The officer will complete an incident report regarding the circumstances of the incident.
- (b) Whenever an officer uses physical force against another, regardless of whether that action results in, or is alleged to have resulted in accidental or intentional injury/death to a person, the officer shall prepare an incident report describing the circumstances surrounding the use of force. If the officer is incapacitated or otherwise unable to initiate the offense report, the supervisor shall initiate the report.

**APPROVED BY:**

Date: \_\_\_\_\_

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William Linzenmeyer  
Chief of Police