

6-100 THE USE OF DEADLY FORCE

Recognizing our legal and moral obligation to use force wisely and judiciously, it is the policy of this department that deadly force will never be resorted to unless an officer reasonably believes that a lesser degree of force would be insufficient to defend the life of another, one's self, or in limited situations, to apprehend a dangerous felon, or control an animal.

DEADLY FORCE DEFINED

As used in this policy, deadly force refers to the intentional use of a firearm or other instrument, the use of which would result in a high probability of death.

DEADLY FORCE AUTHORIZED

The use of deadly force is only authorized when, under any of the following circumstances, an officer reasonably believes a lesser degree of force would be insufficient:

1. in the defense of another person who the officer has reasonable cause to believe is in imminent danger of death or great bodily harm;
2. in defense of one's self, when there is reasonable cause to believe one is in imminent danger of death or great bodily harm;
3. to effect the arrest or prevent the escape of a suspect who the officer has reasonable cause to believe has committed, or attempted to commit, a felony involving the use or threatened use of deadly force, when a high probability exists that the suspect, if not immediately apprehended, may cause death or great bodily harm;
4. to protect one's self or another from an animal which an officer reasonably believes may cause great bodily harm if not immediately controlled, or to end the suffering of an animal gravely injured or diseased after considering public view, safety, and other reasonable dispositions.

VERBAL WARNING

Before using deadly force, officers shall, if reasonably possible, identify themselves, order the suspect to desist from unlawful activity, and threaten to use deadly force if the lawful order is not obeyed.

DEADLY FORCE IS NEVER AUTHORIZED

1. Warning shots will not be fired.
2. From a moving vehicle, unless an officer has reasonable cause to believe that one's self or another is in imminent danger of death or great bodily harm.

3. At a moving vehicle unless an officer has reasonable cause to believe that one's self or another is in imminent danger of death or great bodily harm or Deadly Force Authorized, paragraph 3, regarding certain felons applies.
4. Officers shall not use deadly force when its use unreasonably risks the lives of innocent bystanders.

USE OF FORCE TECHNIQUES/INSTRUMENTS

1. The intentional punching, striking, or grabbing the throat (trachea) or blocking or restricting the carotid neck arteries creates a substantial likelihood of death or great bodily harm and is therefore considered deadly force and shall be used only in accordance with this policy.
2. Members of the department are permitted to carry folding knives with a blade no longer than 4 inches for utility purposes while on duty. Fixed-bladed knives are authorized only for members of the Emergency Response Team (ERT) and only while operating in such a capacity in special circumstances with the written permission of the Chief of Police.

AUTHORIZED USE OF FIREARMS

Authorized firearms (on or off duty) may be used for target practice or competition at a firing range, or other safe area

INVESTIGATION OF THE USE OF DEADLY FORCE

It is important to recognize that employees, in the course of carrying out their responsibilities, may be confronted by violence and may be required to use deadly force to protect their life or the life of another person. Employees who are compelled to exercise deadly force may experience severe emotional trauma.

The investigative inquiry is to be conducted in a thorough, accurate and factual manner and must also take into consideration the psychological, physiological and legal ramifications that such incidents have upon the officer, their family and the community.

The Chief of Police will annually designate the members of the Officer Involved Critical Incident (OICI) investigative team.

Use of Force Not Resulting in Death or Injury

When an officer is responsible for the accidental or intentional use of deadly force which does not result in death or injury,

1. Officers shall inform their supervisor or the Officer-in-Charge of the incident as soon as possible.

2. The supervisor notified or the supervisor assigned shall make an investigation of the incident pursuant to department policy.

Use of Force Resulting in Death or Injury

When an officer is responsible for the accidental or intentional use of deadly force which results in death or injury,

1. Duties of Involved Officers
 - a. Officers shall inform a supervisor or the Officer-in-Charge of the incident as soon as possible.
 - b. Control the scene until relieved.
 - c. Identify witnesses for subsequent interviews. Involved officers shall not participate in the interviews of witnesses.
 - d. Reporting requirements for principal officers will be covered by contact with the OICI team.
2. Duties of On-scene Supervisor
 - a. Assume responsibility for the security and preservation of the scene.
 - b. Contact officers involved to identify the crime scene and identify potential witnesses.
 - c. The on-scene supervisor shall immediately notify the dispatcher to broadcast a message if no officers have been injured.
 - d. In the event an officer is injured, immediately notify the Officer-in-Charge.
 - e. The on-scene supervisor shall ensure that a non-involved supervisor, if not already at the scene, responds immediately to the scene of the incident. (A non-involved supervisor is defined as one who has not been involved specifically at the scene, or involved in any tangential fashion, e.g., raid planning, drafting of search warrants, surveillance officers, intelligence gathering, etc.)
 - f. Establish a command post and give location to the Dane County Public Safety Communications (911 Center).
 - g. Temporarily move the involved officer a short distance away from but accessible to the scene. A non-involved fellow officer shall be assigned to accompany the involved officer, unless the involved officer prefers to be alone. If the involved officer elects to speak about the incident with the non-

- involved officer, those conversations are not privileged and may become part of the investigation.
- h. Provide an opportunity for the involved principal personnel to contact Union officials or legal counsel as soon as practical. Provide phones and numbers as needed.
 - i. Upon arrival of the OICI Investigation Team, brief them on the incident and relinquish the investigative responsibility to its commander.
 - j. Assist at the scene as needed.
 - k. Complete a report unless otherwise directed by the OICI commander.
3. Duties of the Officer-In-Charge (OIC).
- a. Notify the OICI team commander or designee.
 - b. Contact operational team leaders of involved district(s).
 - c. Notify the Chief, Assistant Chief of Operations, and Assistant Chief of Support Services.
 - d. Contact Dane County Public Safety Communications (911 Center) and direct them to inform officers of the status of the incident (e.g., injuries to officers and citizens, important information). This should be done in a discreet manner, MDT, phone, etc.
 - e. In the event of an injury or death of an employee, notify immediate family per the Line of Duty, Life Threatening Injury or Death of an Employee policy.
 - f. Notify the Professional Standards and Internal Affairs Unit, and the Public Information Officer (PIO).
 - g. All media releases shall be cleared through the OICI Commander and the Office of the Chief of Police.
4. Duties of the OICI Commander
- a. Assume command from the on-scene supervisor.
 - b. Ensure that services regarding involved personnel have been provided.
 - c. Direct the investigation of the incident.
 - d. Limit the OICI Team's investigative interview(s) of the principal officer(s) until directed to proceed with the

- interview(s) by Professional Standards/Internal Affairs (PSIA).
- e. If appropriate, the OICI Commander or their appointee shall provide information to all commissioned personnel regarding the pertinent facts of the incident within 24 hours.
5. Duties of the OICI Investigation Team.
- a. Investigate incident.
 - b. Retrieve and take custody of the weapon used by the officer(s). The supervisor shall determine whether the circumstances of the incident require that the officer's duty weapon be taken for laboratory analysis. Where the duty weapon is taken, the OICI Team shall take custody of the officer's weapon in a discrete manner and may replace it with another weapon, or advise the officer that it will be returned or replaced at a later time as appropriate. (When processing an officer's personal weapon as evidence, consideration shall be given to marking the weapon with the necessary information as inconspicuously as possible).
 - c. If necessary, have the officer(s) returned to the scene to respond to the needs of the investigation.
 - d. Interview principal officer(s)
 - i. Contact with the involved officer(s) will be controlled at the discretion of the OICI Commander after consultation with PSIA.
 - ii. Only members of the OICI Criminal Investigation Team will conduct an investigative interview with the officer(s) regarding the specifics of the incident.
 - iii. The participants of the interview shall be limited to members of the OICI team, the involved officer and their legal counsel or an advocate of involved officer's choice.
6. Duties of the Assistant Chief of Operations.
- a. Ensure that involved personnel have had appropriate opportunities to contact family members, Union officials, and/or attorneys.
 - b. Ensure that EAP services have been offered.
 - c. Place the officer(s) on a minimum of one-day paid administrative leave. Confer with the officer's Commander

regarding additional days. This may include additional paid administrative leave time or a temporary special assignment.

- d. Ensure that within 72 hours of the incident, the involved officer(s) are contacted by a department approved traumatic stress professional.

District Attorney Review

All reports involving the use of deadly force by department personnel which cause injury or death shall be submitted to the District Attorney for review.

MPD Policy Compliance Review

All instances of the use of deadly force shall be reviewed for compliance with MPD policy.

1. Professional Standards and Internal Affairs Unit (PSIA)
 - a. PSIA has the primary responsibility for conducting the internal investigation to ensure compliance with the MPD Use of Deadly Force policy.
 - b. PSIA will report the findings of the internal investigation directly to Assistant Chief of Support Services.
2. Assistant Chief of Support Services
 - a. Shall oversee all internal investigation resulting from the accidental or intentional use of deadly force which results in death or injury.
 - b. Shall review administrative command decisions which result in the deployment of deadly force.

6-200 THE USE OF NON-DEADLY FORCE

Recognizing our legal and moral responsibility to use force wisely and judiciously, it is the policy of this Department that force shall never be resorted to until officers reasonably believe it is necessary in the performance of legal duties.

NON-DEADLY FORCE DEFINED

As used in this policy, non-deadly force means the use of any weapon or instrument, or any physical action taken by an officer which is not likely to cause death.

NON-DEADLY FORCE AUTHORIZED

Non-deadly force is only authorized when an officer reasonably believes it is necessary to control a person under any of the following circumstances:

1. Detaining a person reasonably suspected of unlawful behavior.
2. Effecting an arrest.
3. Overcoming resistance.
4. Preventing escape.
5. Protecting oneself or another.
6. Maintaining order.

DEGREES OF NON-DEADLY FORCE

Officers shall only use the degree of force reasonably believed to be necessary to control a situation considering the following factors:

1. The existence of alternative methods of control.
2. Physical size, strength and weaponry of the person as compared to the officer.
3. The nature of the encounter.
4. Actions of the person.
5. Exigent conditions (i.e., availability of backup, number of persons involved, etc.).
6. The severity of the offense.
7. Whether the suspect poses a threat to the safety of officers or citizens.
8. Whether the suspect is actively resisting arrest or attempting to evade arrest by flight.

Control of a person through verbal commands shall always be the preferred method of control. Because verbal commands are not always effective or appropriate in gaining compliance, officers may escalate the degree of force based on the actions of the person they are attempting to control.

The concept of escalating/de-escalating degrees of force is based on an officer's reaction to a specific action of the person s/he is attempting to control. Officers are not required to begin a confrontation with dialogue and escalate step by step until control is gained if it is reasonably believed that the reaction would be ineffective or inappropriate based on the actions of the person they are attempting to control. Once a person is under control, officers are required to revert to the lowest degree of force necessary to maintain that control.

STATE OF WISCONSIN INTERVENTION OPTIONS

Mode	Tactic	Purpose
A. Presence	Professional Presence	To present a visible display of authority
B. Dialog	Tactical Communication	To verbally persuade
C. Empty Hand Control	Escort Holds	To safely initiate contact
	Compliance Holds	To overcome passive resistance
D. Control Devices	Oleoresin Capsicum (O.C.) Aerosol Spray	To overcome active resistance or its threat
	Electronic Control Device (ECD)	***
	Passive Countermeasures	To decentralize
	Active Countermeasures	To create dysfunction
	Incapacitating Techniques	To cause the immediate, temporary cessation of violent behavior
E. Intermediate Weapon	Intermediate Weapons	To impede a subject
F. Deadly Force	Firearm	To stop the threat

***** ECD use is only permitted as outlined in this policy**

The Intervention Options matrix is not simply a Continuum of Force; rather, each Mode, Tactic and Subcategory reflects an option that an officer may chose in order to deal with a particular situation. Note that each Mode contains a series of sub-steps, reflecting increasingly more intrusive force

options. Several different Modes may be used to establish control in any given situation, and force options within different Modes may be appropriate in any given situation. Presence and Dialog will commonly occur throughout the duration of any confrontation.

Whatever situation an officer faces, the officer assesses the totality of the circumstances in light of his or her training and experience. The officer chooses the intervention option that he or she feels is reasonably necessary to gain control (the objective for any police use of force). Anytime that a given force option fails to result in control, the officer has the option of disengaging or escalating to a higher level of force (within that Mode or in another Mode) in order to attain Control.

THE USE OF OLEORESIN CAPSICUM SPRAY (O.C. SPRAY)

1. Officers may use OC Spray when they reasonably believe they are facing active resistance, or its threat, from the subject. OC Spray is not to be used against subjects who are offering passive resistance.
2. Officers shall only direct O.C. Spray in a manner as prescribed by the Chief of Police through departmental training.
3. Oleoresin capsicum (O.C.) Spray shall not be used once an individual is subdued and under control.
4. If practical, the individual should be provided with an opportunity to eliminate the effects of the irritant by washing and flushing the affected areas with water. Further, the officer should inform such individuals that it is not advisable to use creams, ointments, or bandages on the affected areas

CHEMICAL AGENT USE

Officers shall discharge chemical agents only in a manner as prescribed by the Chief of Police through departmental training.

ELECTRONIC CONTROL DEVICE USE

1. An approved electronic control device (ECD) may only be utilized by officers that have successfully completed training in its use. Deployment and use of the electronic control devices will be in accordance with departmental training and procedure.
2. An ECD is not a substitute for deadly force—in cases where a subject is believed to be armed with a dangerous weapon, an officer may not arm him or herself with an ECD unless another officer at the scene has the immediate ability to deliver deadly force. Officers armed with an ECD should continuously monitor and evaluate the ability of other officers present to deliver deadly force.

3. An officer may only display, present, or threaten to use an ECD if the officer reasonably believes that the potential for its authorized use exists.
4. Deployment of an ECD will be evaluated using the criteria in this policy and within the framework of the Use of Force Intervention Options matrix. An ECD may only be used under the following circumstances:
 - a. To overcome violent or assaultive behavior or its threat; if the officer reasonably believes that the subject poses an articulable threat of harm to an officer or to another person.
 - b. To control persons in order to prevent them from harming themselves or others.
5. Use of an ECD under the following circumstances is prohibited, unless exigent circumstances are present:
 - a. Against handcuffed subjects.
 - b. Against subjects fleeing on foot.
 - c. Against subjects operating a motor vehicle.
 - d. From a moving vehicle.
6. The ECD will not be used under the following circumstances:
 - a. For coercion or intimidation.
 - b. To escort or prod subjects.
 - c. To awaken unconscious or intoxicated subjects.
 - d. Against subjects who are offering only passive resistance.
7. ECD probes may not be intentionally fired at the face, head, neck or groin, unless the use of deadly force would be justified.
8. Officers shall evaluate all subjects against whom an ECD has been deployed. The subject shall be medically evaluated if:
 - a. The subject requests medical treatment.
 - b. The subject displays an adverse reaction to the ECD deployment.
 - c. The subject has been exposed to more than one ECD simultaneously.

- d. The subject has been exposed to five (5) or more ECD firing cycles; or one continuous firing cycle of twenty-five (25) seconds or more.
9. If the ECD probes have penetrated the skin in a sensitive area (head, neck, groin or breast of a female) the subject will be conveyed to an emergency room for removal. If the probes are embedded in non-sensitive areas, a trained officer may remove them.
10. Removing the air cartridge to deploy an ECD in the drive-stun mode is not authorized as a primary ECD deployment technique.

BATON USE

1. A baton may be used only when an officer reasonably believes a lesser degree of force would be insufficient to control the situation.
2. An officer shall never strike a person's head with a baton unless such an action is justified under the use of deadly force. This section is not intended to apply to an accidental strike to the head as a result of resistance.
3. Officers shall only use Department-approved batons and techniques.
4. Department-approved batons are the only authorized impact weapons. Flashlights, radios, firearms, etc., are not recommended as impact weapons; however, the Department recognizes that emergency self-defense situations involving other objects and instruments may occur.

IMPACT PROJECTILES

1. Impact projectile weapons may only be utilized by officers that have successfully completed training in their use. Deployment of impact projectiles will be in accordance with departmental training.
2. Impact projectiles are not a substitute for deadly force—an officer may not arm him or herself with an impact projectile weapon unless another officer at the scene has the immediate ability to deliver deadly force. Officers armed with impact projectile weapons should continuously monitor and evaluate the ability of other officers present to deliver deadly force.
3. It is the responsibility of the officer arming him or herself with an impact projectile weapon to ensure that the weapon is loaded with impact projectiles each time the weapon is deployed.
4. Like any use of force, deployment of impact projectiles must be evaluated using the criteria in this policy and the State of Wisconsin's Use of Force Intervention Options. Deployment of impact projectiles at non-vital areas is considered non-deadly force, but is considered to fall just above baton strikes (at the upper range of the “impact weapon” category”) on the force continuum. The intentional

deployment of impact projectiles at the face, head or neck is considered deadly force.

5. All persons taken into custody who have been struck with an impact projectile will be conveyed to an emergency room for medical clearance.
6. The investigative requirements of the Use of Deadly Force policy will be followed only if deployment of an impact projectile results in death or great bodily harm.
7. Absent an imminent risk of harm to officers or citizens, impact projectiles will not be used in crowd control situations. Impact projectiles will not be used to move or disperse crowds.
8. Impact projectiles may be deployed in other jurisdictions pursuant to a mutual aid request. In the event that an individual struck with an impact projectile is taken into custody by another agency, officers from that agency shall be notified of the need for medical treatment.

USE OF RESTRAINING DEVICES

1. Officers shall place handcuffs on any individual in custody when the officer reasonably believes the individual may become violent, attempt to escape, or pose a danger to self or others. It is mandatory that all persons who have aggressively resisted or attacked another person be placed in handcuffs.
2. When handcuffs prove to be insufficient in restraining an individual (e.g., kicking, attempting to flee, etc.), officers may employ the use of additional department-approved restraining devices.
3. In an emergency situation when a Department approved restraining device is not available, the Department recognizes that alternative devices may have to be employed. In such situations, approved devices should be substituted as soon as reasonably practicable.
4. Individuals who are placed in the maximum restraint position should be continuously monitored for breathing and circulation.

USE OF FORCE REPORTING REQUIRED

1. It is the responsibility of any officer who uses physical force, or any of the following enumerated weapons, items or devices, to complete an original or supplementary report on the incident involved, and to specifically note the circumstances necessitating and manner of such use:
 - a. Firearms (e.g., striking with or pointing of any firearm),
 - b. Baton (e.g., the striking, blocking or pushing of any person),

- c. Chemical Agents,
- d. Handcuffs or other restraining devices,
- e. Physical force (e.g., striking, punching, pushing or restraining any person).

