# POLICY & PROCEDURE

STOUGHTON POLICE DEPARTMENT

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| SUBJECT: | **USE OF FORCE** | NUMBER: | 5.01 |
| | | ISSUED: | 11/12/2018 |
| SCOPE: | All Sworn Personnel | EFFECTIVE: | 11/12/2018 |
| DISTRIBUTION: | Policy & Procedures Manual | ☐ RESCINDS<br>☐ AMENDS | |
| REFERENCE: | WI State Statutes: 66.0511(3), 939.45, 939.48, and Chapter 941; DAAT Incident Response and Disturbance Resolution Model | WILEAG 5TH EDITION STANDARDS: 5.1.1, 5.1.2, 5.1.3, 5.1.4, 5.2.1, 5.3.1, 5.3.2, 5.3.3, 5.3.4 | |

INDEX AS:
- Control Devices
- DAAT (Defense and Arrest Tactics)
- Deadly Force
- Firearms
- Foot Pursuits
- Less Lethal Weapons
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- Ramming with Police Vehicles
- Rendering Medical Aid, Use of Force
- Use of Force
- Use of Force Reporting / Review
- Warning Shots
- Weapons Pre-Authorization

PURPOSE: The purpose of this Policy & Procedure is to establish policies and procedures for the Stoughton Police Department regarding; the use of force, and identify the responsibilities of officers using force or after it has been used; to provide guidance to officers when persons become injured due to the use of force by an officer; and to provide guidelines for officers for the reporting and review of any officer-involved critical incident.

This Policy & Procedure consists of the following numbered sections:

I. POLICY

II. DEFINITIONS

III. DEFENSIVE AND ARREST TACTICS (DAAT)

IV. USE OF FIREARMS

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

VI. USE OF NON-DEADLY FORCE

VII. USE OF RESTRAINTS

VIII. FOOT PURSUITS

IX. RENDERING MEDICAL AID

X. REPORTING THE USE OF FORCE

## I. POLICY

A. It is the policy of the Stoughton Police Department that:

1. Officers shall use only force that is reasonably necessary to effectively bring an incident under control, while protecting the lives of the officer and others.

2. Any person injured through the use of force by one of its officers, shall receive medical aid for such injuries.

3. It is the responsibility of any officer who uses physical force or any of the enumerated weapons, items or devices indicated below to complete an Incident Report on the incident involved and to specifically note the circumstances necessitating, and manner of, such use of force.

4. All cases where force is used shall be reviewed by the Chief of Police on a documented annual basis.

## II. DEFINITIONS

A. DEADLY FORCE: The intentional use of a firearm or other instrument, the use of which would result in a high probability of death.

B. DEFENSIVE AND ARREST TACTICS (DAAT): A system of verbalization skills coupled with physical alternatives.

C. DE-ESCALATION: Taking action or communicating verbally of non-verbally during a potential force situation in an attempt to stabilize the situation and reduce the threat without the use of force or with a deduction in the force necessary.

D. 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.

E. POST TRAUMATIC STRESS DISORDER: An anxiety disorder that can result from exposure to short-term stress, or long-term buildup of repetitive prolonged milder stress

F. 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.

## III. DEFENSE AND ARREST TACTICS

A. The Stoughton 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 Stoughton 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 various control techniques.

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

C. Disturbance Resolution Model: all officers shall follow the most current version of the Disturbance Resolution Model adopted the State of Wisconsin DAAT Advisory Committee 04-19-05

<u>INCIDENT RESPONSE</u>

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. <u>APPROACH CONSIDERATIONS</u>

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 **reduce** the level of force to that needed to maintain control.

(5) You should maintain a position of advantage when possible.

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 |

**A. 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.

**B. 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.

**C. Control Alternatives:** The third mode, Control Alternatives, 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 electronic control devices (ECDs). 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, ECD's)
- Passive Countermeasures

The goal of control devices (OC spray and ECD'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 ECD 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 ECD might be a better choice, as the risk of injury to the officer and subject would be less with an ECD as opposed to a passive countermeasure. On the other hand, if you do not think the subject would require you to immediately take him or her to the ground, then an ECD would probably not be the best choice. In that case, you could safely respond with a lower level of force.

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?
- Whether the suspect poses an imminent threat to the safety of officers and/or others: What is the suspect doing when you decide to use force?
- Whether the suspect is actively resisting or attempting to evade by flight. Is the suspect able to offer active resistance and/or flee?

**D. 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 (WI. Statute 939.45) 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 (WI. Statute 939.48(1)) 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."*

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

The statutes and this Policy & Procedure specifically prohibit use of deadly force to prevent suicide or solely to protect property.

**E. Deadly Force:** The fifth mode, Deadly Force, represents the highest level of force available to law enforcement officers and the authority to use deadly force is the greatest responsibility given to law enforcement officers, refer to Policy & Procedure 5.02: Deadly Force.

3. FOLLOW-THROUGH CONSIDERATIONS

| | |
|---|---|
| A. Stabilize | Application of restraints, if necessary |
| B. Monitor/Debrief | |
| C. Search | If appropriate |
| D. Escort | If necessary |
| E. Transport | If necessary |
| F. Turn-over/Release | Removal of restraints, if necessary |

IV. 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 various statutes found in WI. Statutes: Chapter 941.

Officers must also follow the requirements set forth in Policy & Procedure 12.01: 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 should not be fired.

F. Officers should not discharge a firearm at or from a moving 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 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 Policy & Procedures 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 Department Range Officer.

## V. 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.

4. Also, refer to Policy & Procedure 6.02: Vehicle Pursuits.

## VI. 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.

G. An officer who witnesses another officer using force in excess of that permitted by law and this Policy & Procedure, 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. Use of Less Lethal Weapons. Refer to Policy & Procedure 5.02: Use of Less Lethal Weapons

I. Use of Force to Enter Private Property.

1. In lawfully entering the land of another to make a felony arrest (not for a misdemeanor ordinance), an officer may use force reasonably believed necessary against persons on that land. An officer may use force to break and enter a fence, enclosure dwelling or other building.

2. Prior to forced entry into a building, the officer should knock on the door announcing that he/she is a police officer unless such announcement is known to be futile.

   He/she should announce that he/she is there to make an arrest and demand that the person inside open the door. Only after a reasonable period of time should the officer enter the door without it being opened from the inside. If an officer does break in, he/she should try to do as little damage as possible.

3. There are exceptions to the above policies where police officers may enter without announcement and demand to make a lawful arrest. This occurs when an officer has good reason to believe that an announcement may:

   a) Help the suspect to escape.

   b) Endanger persons.

   c) Result in the destruction of evidence.

4. When executing a search warrant, officers should first secure the area, and then enter the property.

VII. USE OF RESTRAINTS

A. It should be understood that for the protection of both the person being restrained and the officer, use of restraints, such as handcuffs, reduces the likelihood of a struggle with the attendant possible injury to the offender, the officer, or both.

B. An officer may use restraining devices in order to:

1. Maintain control of subject.

2. Prevent escape.

3. Protect him/her or others.

C. An officer should never use restraining devices as punishment.

D. It is a policy and procedure of this Department that *all persons placed in protective custody or under arrest* shall be properly handcuffed during transportation, except in the case of cooperative, non-threatening persons, where such decision shall be at the officer's discretion.

E. Hand-Style Restraints. It is the policy and procedure of this Department to use handcuffs or restraining devices during all transportation, except in the case of cooperative, non-threatening persons, where such decision shall be at the officer's discretion. The following use procedures are provided:

1. The officer should use Departmentally approved restraints.

2. Handcuffs should be applied to the person's wrists behind his/her back unless not physically possible.

3. Handcuffs should be double-locked upon placement on the person in order to negate any attempted tampering by the person and to assure that accidental tightening of the cuffs cannot occur.

4. Handcuffs should be closed to a firm contact with offender's skin, but not so tightly as to produce pain, although one may expect comments as to discomfort.

5. Handcuffs should not intentionally be closed so tightly as to cause physical injury to the person.

6. Handcuffs (or any other restraining device) may be removed from the person upon arrival at a secure area within the Department, or upon transfer of custody to a responsible party. This procedure will not be affected should such removal be likely to result in physical harm to the offender, officers, or other person.

7. Handcuffs should not be used when it appears likely that the person's wrists or hands are too small, or for some other reason, which would negate the restraining effects of handcuffs. In such circumstances, flex cuffs or other restraints will be used.

8. The use of neck restraints by personnel of the Stoughton Police Department is prohibited.

F. Handcuffing Prisoners Being Transported.

1. *Prior* to any transportation of persons in custody, they should be searched for weapons.

2. Subjects should be handcuffed behind the back. The following factors, among others, may be taken into consideration in choosing alternate means of restraints:

a) Other restraining equipment is in use, i.e., belly chains. Handcuffs may be used in front of the body when the prisoner is wearing a garment with a belt through which the handcuffs may be laced to securely pin the hands to prevent flailing about.

b) Conditions exist that make it unreasonable or impossible to place handcuffs behind the subjects back. In all such cases, the officer should detail in his/her written report the unusual circumstances that existed and what alternative restraining device or techniques was used.

3. Prisoners should be so placed in the police cruiser that seat belts may be secured about the prisoner in order to enhance their safety during transportation.

4. *The use of handcuffs should not be viewed as an absolute provision of safety.* Officers should continue to exercise all due care as to the safety and custody of prisoners.

G. Exceptions to Handcuff Requirements.

1. Officers should always handcuff unless the officer can articulate exceptional circumstances. Officer discretion may be used in the following circumstances when deciding not to handcuff.

2. Persons who are temporarily incapacitated, such as by a serious wound to the lower arms, hands, etc. or a woman in an advanced stage of pregnancy, etc.

3. Juveniles who are wither very young, or whom the officer has personal knowledge of, and as such, determines that the use of handcuffs is not an appropriate action.

4. All officers shall receive defensive tactics training in accordance with Wisconsin Training and Standards guidelines.

## VIII. 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.

IX. RENDERING MEDICAL AID

A. See Policy 5.04 Use of Force / Rendering Medical Aid

X. USE OF FORCE REPORTING / REVIEWING

A. See Policy 5.05 Use of Force Reporting / Reviewing

Gregory W. Leck
Chief of Police

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

Initial 11/06/2018