

**CITY OF OCONOMOWOC POLICE DEPARTMENT
POLICIES & PROCEDURES**

DATE: November 07, 2021

HISTORY: January 8, 2021
November 7, 2020
March 14, 2019
November 12, 2009
September 10, 1998

SUBJECT: Use of Force

POLICY NUMBER: 97-012

I. PURPOSE

When necessary, officers have the privilege to use force in the performance of their official duties. Only that force reasonably necessary to accomplish their objective shall be used.

II. POLICY

This department recognizes and respects the value and special integrity of each human life. In vesting police officers with the lawful authority to use force to protect the public welfare, a careful balancing of all human interests is required. It is the policy of the City of Oconomowoc Police Department to require all sworn officers to follow the State of Wisconsin's Law Enforcement Training and Standard's system of Defensive and Arrest Tactics when making all use of force decision.

III. DEFINITIONS

A. Conducted Energy Weapon (CEW) – a legitimate law enforcement tool with the purpose to overcome active resistance or its threat. Currently the chosen CEW tool at the City of Oconomowoc Police Department is the Taser.

B. Use of Force

1. The sanctity of human life

In serving the community, law enforcement officers shall make every effort to preserve and protect human life and the safety of all persons. Law enforcement officers shall also respect and uphold the dignity of all persons at all times in a nondiscriminatory manner.

2. Use of force

When using force, a law enforcement officer is required to act in good faith to achieve a legitimate law enforcement objective. A law enforcement officer is authorized to use force that is objectively reasonable based on the totality of the circumstances, including

- a. the severity of the alleged crime at issue
- b. whether the suspect poses an imminent threat to the safety of law enforcement officers or others
- c. whether the suspect is actively resisting or attempting to evade arrest by flight

3. Deadly force

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.

IV. PROCEDURE

- A. The decision to use force and the amount of force to be used should be based on the totality of circumstances of the incident.
1. An officer may use force:
 - a. to achieve and maintain control of resistive subjects
 - b. to detain persons reasonable suspected of criminal behavior
 - c. to make lawful arrests
 - d. to defend themselves or others
 - e. to prevent escape
 - f. to bring an unlawful situation safely under control
 2. Intervention options – in determining the amount of force to be used, officers may use one level of force higher than that being used or threatened against them. The amount of force an officer may use should be based on the following intervention options:
 - 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 the present a visible display of authority.
 - b. *Dialogue* – the second mode: dialogue covers the range of tactical communications from very low-level questioning to very directive commands. The purpose of dialogue is the verbally persuade subjects to comply with an officer’s lawful directives.
 - c. *Control alternatives* – the third mode: it contains a wide range of tactics and tools for controlling subjects. The purpose of control alternatives are to overcome passive resistance, active resistance, or its threat. The tactics within control alternatives are:

<u>TACTIC</u>	<u>GOAL</u>
Escort holds	To safely initiate physical contact
Compliance holds	To overcome passive resistance
OC/CEW	To overcome active resistance or its threat
Passive countermeasures	To decentralize

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- d. *Protective alternatives* – the fourth mode: it contains a wide range of tactics and tools for protecting officers managing resistive/assaultive subjects. The purpose of a protective alternative is to overcome continued resistance, assaultive behavior, or its threat. The tactics within protective alternatives are:

<u>TACTIC</u>	<u>GOAL</u>
Active countermeasures	To create dysfunction
Incapacitating techniques	To cause the immediate, temporary cessation of violent behavior
Intermediate weapons	To impede

Other control techniques taught by the Wisconsin DAAT system, such as head control while escaping during a ground fight or ground side control, are authorized, consistent with DAAT training.

- e. *Deadly force* – the fifth mode: deadly force represents the highest level of force available to law enforcement officers with the purpose to *stop the threat*. Deadly force is *the intentional use of a firearm or other instrument, the use of which would result in the high probability of death*. The definition of subject behavior that justifies an officer’s use of deadly force is *any behavior, which has caused or imminently threatens to cause death or great bodily harm to you or another person or persons*.
 - (1) Use of Chokeholds – a chokehold occurs when an officer encircles the neck of an individual with the intent to restrict breathing (e.g., an arm across the windpipe, “Adams Apple”, or larynx). The use of a chokehold is only authorized if an officer believes they are at risk of great bodily harm or death.
- 3. Follow through to intervention options – officers have responsibilities after using force. Where an officer used force to establish control over a subject, the officer must monitor the subject for injuries. This may include handcuffing, unless inappropriate (based on the Defensive and Arrest Tactics training). An initial medical assessment must be conducted as follows:
 - a. determine the level of consciousness, using verbal or physical stimulus
 - b. check airway, breathing, and circulation
 - c. perform a body check for injuries – severe bleeding, gross deformities, etc.
 - d. provide any necessary treatment to your level of training and, if needed or the subject requests it, activate the emergency medical system
 - e. continue to monitor and remain with the subject until he or she is turned over to someone of equal or greater responsibility. Find out if there is a need for long term monitoring of the subject because of special medical or mental health needs.
- 4. Use of the conducted energy weapon (CEW) – this department utilizes the Taser as its chosen CEW tool within the control alternatives (device) mode.
 - a. only trained officers may carry and deploy a Taser. After application of the Taser, applicable follow through procedures shall be utilized when safe to do so. The below procedure should be followed:
 - (1) If a person has an adverse reaction to a Taser application, or if requested by the subject, transport to a medical facility shall be arranged.
 - (2) If the probes are embedded in sensitive tissue areas, i.e. neck, face, groin, or the breast of a female, officer shall arrange transport to a medical facility for removal. If the probes are embedded in other non-sensitive tissue areas, a trained officer may remove them according to the trained procedures.
 - (3) After the probes have been removed, they shall be handled as a biohazard and packaged according to the established procedure.

V. USE OF FORCE REVIEW

- A. All force applied by City of Oconomowoc officers will be reviewed from an objectively reasonable perspective and in light of the facts and circumstances confronting the officer at the time, without regard to their underlying intent or motivation. The “reasonableness” of a particular use of force must be judged from the perspective of a reasonable officer on the scene, and its calculus must embody an allowance for the fact that police officers are often forced to make split-second decisions about the amount of force necessary in a particular situation. Reviewers are prohibited from using hindsight bias and must be aware of the impact of various forms of bias. Bias can be mitigated by withholding judgement until all evidence is available (i.e. the totality of the circumstances), considering multiple reviewers, examining incidents in chronological order, considering multiple camera angles, and viewing video footage last.

- B. Human Factors Statement – human factors refer to the wide range of issues that affect how police officers perform a task under high stress, which are often experienced during use of force incidents. The following human factors play a significant role during use of force incidents: perception, attention, divided attention and inattentive blindness, decision making, and response time. Officers make decisions based upon the totality of the human senses, which are impacted by stress and human factors. Officers involved in use of force incidents are likely to experience auditory exclusion, vision narrowing, delays in response time and decision making, and inaccuracy in recollection when compared to video footage. An officer’s recollection of specific details may be different than what is captured on video and audio. It is inconsistent with best practices to merely watch video footage to determine if officers are in compliance with this policy. These human factors must be part of the objectively reasonable analysis when determining if officers are in compliance with this policy.

VI. DUTY TO REPORT NONCOMPLIANT USE OF FORCE

- A. A law enforcement officer who, in the course of his or her enforcement duties, witnesses another law enforcement officer use force that does not comply with the standards in the course of that law enforcement officer’s official duties shall report the noncompliant use of force as soon as is practicable after the occurrence of the use of such force.
- B. A person who intentionally fails to report a noncompliant use of force as required under paragraph A may be fined not more than \$1,000 or imprisoned not more than 6 months or both. If multiple officers witness a noncompliant action, the statute creates a duty for each of them to report it.
- C. Officer’s Obligation to Report
 - 1. Officers will report nonpliant use of force to the patrol lieutenant. This includes officers assisting other agencies or assigned to any special events or task force outside this jurisdiction.
 - 2. Officers will report the incident in written format to the patrol Lieutenant. This report will contain officer observations of the use of force used and identify and describe how the force used would be noncompliant.
 - 3. This report will be filed as soon as practicable. Practicable means the completion of other arrest reports, incident reports, or medical clearance.

VII. DUTY TO INTERVENE

- A. A law enforcement officer shall, without regard for chain of command, intervene to prevent or stop another law enforcement officer from using force that does not comply with the standards under use of force or deadly force in the course of that law enforcement officer’s official duties if all of the following apply:
 - 1. the law enforcement officer observes the use of force that does not comply with the standards under Use of Force or Deadly Force.
 - 2. The circumstances are such that it is safe for the law enforcement officer to intervene.
- B. A law enforcement officer who intervenes as required shall report the intervention to his or her patrol Lieutenant as soon as is practicable after the occurrence of the use of such force.
- C. A person who intentionally fails to intervene as required under paragraph (VI-A) or intentionally fails to report an intervention as required under paragraph (VI-B) may be fined not more than \$1,000 or imprisoned not more than 6 months or both.

- D. The responsibility to intervene applies equally to supervisory and nonsupervisory officers
 - 1. An officer who is present and fails to intervene to prevent other law enforcement officers from infringing the constitutional rights of citizens is liable under §1983 if that officer had reason to know:
 - a. the excessive force was being used
 - b. that a citizen has been unjustifiably arrested, or
 - c. that any constitutional violation has been committed by a law enforcement official; and
 - d. the officer had a realistic opportunity to intervene to prevent the harm from occurring. This court has implied that a “realistic opportunity to intervene” may exist whenever an officer could have called for backup, called for help, or at least cautioned [the excessive force defendant] to stop.
- E. Duty to intervene does not limit the duty to on-duty officers; it applies to officers regardless of duty status or location.
 - 1. Officers will interfere “only if the circumstances are such that it is safe for the law enforcement officer to intervene.
 - 2. Off duty officers are required to intervene unless that officer feels circumstances make it unsafe to do so.

VIII. 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, intervened to prevent or stop a noncompliant use of force as required, initiated, participated in, or testified in, or is believed to have initiated, participating in, or testified in any action of 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.

IX. DOCUMENTATION

- A. An incident report must be generated for any of the following circumstances:
 - 1. Anytime an injury is sustained during any officer interaction with subject
 - 2. Any use of force is displayed as a deterrent at or beyond the tactic OC/CEW
 - 3. When force is applied at or beyond the tactic OC/CEW
- B. All must be documented in the narrative.
- C. If a Taser is displayed or discharged, a Taser Use of Force report must be completed and forwarded to the Lieutenant.

X. REVIEW

- A. The shift supervisor will be notified and shall respond to the scene whenever force at or greater than control alternatives (third mode) is utilized.
- B. Shift supervisors are responsible to review all use of force reports generated from shift personnel.

XI. EXCEPTIONS TO THIS POLICY MAY BE AUTHORIZED ONLY BY THE CHIEF OF POLICE

This policy is effective immediately
and will supersede any directives or understandings in conflict