

TOWN OF FOX LAKE POLICE DEPARTMENT

Policy Number: 01

Subject: **Use of Force**

Number of Pages: 14

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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 Town of Fox Lake Police Department 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 the force which a reasonably prudent officer would use under the same or similar circumstances.

This policy is related to Sec. 939.45 through 939.49 Wis. Stats., Tennessee vs. Garner, 105 S. Ct. 1694 (1985); Graham vs. Conner, 409 U.S. 386, 109 S. Ct. 1865, 104 L. Ed.2d 443 (1989).

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 Town of Fox Lake Police Department 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 of 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.

Imminent Threat: The person to whom the officer is intending to use deadly force must have:

1. **Intent.** The subject must indicate his/her intent to cause great bodily harm or death to you or someone else. Some of the ways that intent might be shown would include deliberately pointing a weapon, stating an intention to kill, or rushing at an officer with a weapon.
2. **Weapon.** The subject must have a conventional or unconventional weapon capable of inflicting great bodily harm or death. Weapons are not categorized as exclusively guns or knives. Other examples of potential

weapons are, but not limited to beer bottles, baseball bats, broken glass, large rocks, or bricks.

Delivery System. The subject must have a means of using the weapon to inflict harm. As an example, a person armed with a baseball bat, having stated his/her intention to kill an officer, does not meet the criteria for imminent threat if they are standing 50 yards away behind a fence. There is no delivery system. But, the same person, standing 10 feet away and charging at an officer does meet the criteria.

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.

Conducted Energy Weapon: (Taser X26) A less than lethal force weapon utilized by trained personnel that causes Electro-Muscular Disruption (EMD) to a combative or potentially combative subject. The use of this device is intended to incapacitate the subject and help control threatened or active resistance with a minimal potential for causing death or great bodily harm.

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 considering 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, or using hands, elbows, or leg strikes. The purpose of the 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 overcome continued resistance, assaultive behavior or the threat of such violence.

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 fatigue.

IV. PROCEDURES

A. Authorized Weapons

1. Primary Duty Weapon

2. Conducted Energy Weapon: (Taser X26)

A less than lethal force weapon utilized by trained personnel that causes Electro-Muscular Disruption (EMD) to a combative or potentially combative subject. The use of this device is intended to incapacitate the subject with a minimal potential for causing death or great bodily harm. The Taser X26 will be issued by the Waupun Police Department to all officers.

3. Batons

An expandable baton constructed of a telescoping steel shaft with an overall length of between 16" to 31"; or a 26" wooden baton. (Baton is optional if the officer carries the Taser X26)

4. Oleoresin Capsicum (OC Spray)

All officers will be issued and shall carry Oleoresin Capsicum (OC Spray) in a 5% concentration solution which is non-flammable.

5. Conducted Energy Weapon: (Taser X26)

A less than lethal force weapon utilized by trained personnel that causes Electro-Muscular Disruption (EMD) to a combative or potentially combative subject. The use of this device is intended to incapacitate the subject with a minimal potential for causing death or great bodily harm. The Taser X26 will be issued by the Waupun Police Department to all officers.

6. Inspections

All weapons, either department issued or owned by an officer, will be subject to random inspections by supervisor or other qualified personnel. If at any time a weapon is determined to be unsafe or in need of repair, the weapon will not be used until repairs have been completed. Officers shall notify their supervisor immediately if the condition of any firearm or weapon they have access to use is in need of repair.

B. 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 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. Careful consideration is given to the public's safety and whether other dispositions may be feasible.
2. Before using a firearm, Police officers of the Town of Fox Lake shall identify themselves in a clear and convincing tone, and state their intention 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 1(a) or 1(b) apply.
 - d. When the target of the force is not clearly visible. An example would be discharging a firearm into a building or through a door would not be permitted unless officers are being fired upon from within and no alternative means of cover is available.
 - e. When the officer is in doubt as to whether (s)he has the legal justification to use deadly force.

C. Use of Necessary or Non-Deadly Force

1. Officers shall only use the degree of force they reasonably believe is necessary to control a situation, effect an arrest of an offender, or to control a person.
2. Control of an individual through verbal commands is always the alternative to the use of physical force, less than lethal weapons and/or deadly force. It is recognized that this method is not always effective or appropriate in gaining compliance, and it then becomes necessary to escalate the degree of force. When it is determined that verbal commands are neither effective nor appropriate, an officer may escalate the degree of force based on the actions of the individual they are attempting to control.
3. The concept of escalating / de-escalating levels of force is based on an officer's intervention to a specific action by the individual he/she is trying to control.
4. It is expected that officers can and will maintain a "position of advantage" in use of force situations. Officers are not required to begin intervention at the dialog level and escalate step by step until control is gained, if the officer reasonably believes that their intervention would be ineffective or inappropriate based on the actions of the individual they are attempting to control. Once an individual is under control, officers must revert to the lowest degree of force necessary to maintain that control and begin follow-through procedures.

5. Once control has been established, the officer shall be responsible for monitoring the subject's condition and welfare.
6. Use of chokeholds are prohibited except in those situations where deadly force is allowed by law.

C. Conducted Energy Weapon

1. A Conducted Energy Weapon (CEW) may be used by trained personnel 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 the subject poses a threat of harm to themselves such as a self-inflicted injury or a suicide attempt or poses a threat of harm to another person.
2. 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 or resistive or assaultive behavior.
3. An officer shall not brandish, display or threaten the use of a CEW unless they can reasonably conclude its use may become justified and is anticipated.
4. Department personnel who use a CEW against a person shall insure the person is monitored for injury as soon as practical after the person is under control.
5. If an adverse reaction to the CEW occurs, or if requested by the subject, transport to a medical facility will 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 for transport to the hospital for removal.
7. If the probes are imbedded in other non-sensitive tissue areas, a trained officer may remove them according to the trained procedures.
8. After the probes have been removed from the subject, they shall be handled as biohazard. The spent cartridge shall be removed from the CEW. The spent probes shall be placed inside the spent cartridge, along with some of the AFID tags if possible. The spent cartridge containing

these items shall then be wrapped in the removed latex gloves of the collecting officer, and all shall be secured in an evidence bag.

9. When a CEW is used against a person or animal, the officer that used the device shall notify their supervisor and will complete a 'Use of Force' report detailing the circumstances of the incident. A copy of the 'Use of Force' report shall be provided to the Town of Fox Lake Chief of Police.
- 10.. If a "drive stun" technique has been used on a subject, photographs will be taken of the area where the technique was applied.
11. Officers may use the CEW on animals if the officer reasonably believes that the animal is vicious and is threatening and/or attacking. The attack could be on the officer themselves, another officer, citizen, or another animal, and if the use of other methods in the officer's belief would not be appropriate or safe.

D. 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 Spray)
 - a. Officers who have been trained in and certified for use of OC by an instructor, shall be permitted to carry OC spray.
 - b. The use of OC spray is permitted by officers when:
 1. The criterion for the use of OC spray is active resistance or the threat of from a subject. The officer may use OC against the subject if the subject indicates to the officer by words and/or actions the (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 spray without words or actions showing intent to physically resist or to harm the officer.

- c. When OC spray has been 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 spray and shall consider the potential for cross-contamination to the user, other officers, or bystanders.
- e. OC spray should not be used by department personnel if it appears children less than two years of age are in the area that would be contaminated, unless exceptional circumstances exist.
- f. Departmental personnel who use OC spray against a person shall ensure the person is decontaminated as soon as practical after the person is under proper control.

3. Follow-through care after the use of OC Spray:

- a. An officer must use Professional Communication skills to calm and reassure the subject, who may feel quite panicked. Inform the subject that the effects will wear off in 30-45 minutes.
- b. Ask the subject if they are wearing contact lenses, and if so and the situation permits, allow the subject to remove them. Inform the sprayed subject that clothing should be washed thoroughly and if wearing contact lenses, may have to be discarded. Officers shall not remove contacts from the person sprayed with OC spray.
- c. If the subject is wet with OC Spray, attempt to dry them off before transporting.
- d. If the subject is no longer resistive, encourage the subject to open their eyes and blink, while rinsing out their eyes with cool water. Advise the subject not to rub his/her eyes.
- e. If possible, remove the subject to fresh air and have them face into the wind.

- f. If available, use non-lotion soap (baby shampoo) to remove the OC resin from the skin and eyes.
- g. Officers shall provide the subject medical attention at a local hospital under these circumstances:
 - 1. If the sprayed subject requests it.
 - 2. If the symptoms do not visibly improve after 45 minutes
 - 3. If an officer observes any other problems or feels that medical assistance is warranted
- h. Document the approximate time the subject was sprayed to inform jail personnel.
- i. 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.

E. 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 holster 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 an 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 shall notify the Chief of Police, and will complete an incident report detailing the circumstances of the incident.

F. 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.
3. 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 and capable of immediately delivering deadly force.
4. Kinetic energy impact projectiles may be delivered to the subject's body in accordance to 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 the 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 force is justified.
 - d. If the threat level posed by a subject warrants deadly force, an officer may use kinetic energy weapons/projectiles as deadly force or may escalate to other forms of deadly force.
 - e. Subject who are struck by a kinetic energy impact projectile shall be transported to a medical facility for examination.

G. Use of Non-Traditional Weapons

1. It is recognized that in certain, rare situations, an officer may be attacked so suddenly and/or viciously, that the use of approved departmental techniques and/or weapons are compromised. In these situations, the officer may utilize non-traditional weapons. This includes any object or instrument the officer may need to ensure his/her safety and survival. To the extent possible, the use of such items must be consistent with this policy.

H. First Aid and Medical Assistance

1. 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 as the scene is secured.
2. Any subject against whom less lethal devices are used **shall** be transported to a medical facility for evaluation and/or treatment.
3. Photographs of any 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.

I. Use of Force Reporting

1. 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 event).
2. Any action involving pointing a firearm at another person has occurred.
3. Any action that results in, or is alleged to have resulted in, injury or death of another person occurs.
4. Any force applied through the use of lethal or less-than-lethal weapons.
5. Any action involving weaponless physical force at a level of escort holds, or compliance holds and above pursuant to the Intervention Options Table.
6. When use of force is 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, the Chief of Police shall be notified. The officer shall complete an incident report.

7. Whenever an officer uses physical force against another, regardless of whether that act 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 Chief of Police or his designee shall initiate the report.

8. In compliance with the FBI Use of Force Reporting and Bureau of Justice Assistance (BJA) Arrest-Related Death Reporting the Chief of Police or his/her designee shall report all Use of Force causing Death, Use of Force causing Great Bodily Harm, and Use of Force in which a firearm was fired at a subject or in the direction of the subject. The report shall be completed using the Badger Tracs Software Program. The monthly report shall be completed no later than the 15th day of the following month.

J. Personnel Status Pending Review

1. Any officer whose application of force causes serious physical injury or death to any human being may be placed on administrative leave pending a review of the incident. An investigation will be conducted by the Chief of Police or may be conducted by an outside agency as the circumstances dictate. The completed investigation will be reviewed by the Chief of Police and the District Attorney's Office if necessary. The following conditions shall apply to officers placed on administrative leave:

- a. The officer must complete all required reports prior to the period of administrative leave.
- b. The administrative leave will not be interpreted to imply or indicate that the officer acted improperly.
- c. The administrative leave will not be without pay or benefits, until the investigation is completed.
- d. The officer must remain available at all times for departmental interviews and statements regarding the incident.

e. Any officer involved in the use of force, or any incident, whether intentional or accidental resulting in the death or serious physical injury of an individual will be required to participate in a confidential post-incident debriefing session with an individual trained and experienced in Critical Incident Debriefing. The officer, their spouse or immediate family, at their discretion, will be invited to participate in the debriefing session.

APPROVED BY:

Chief Terrence A. Gebhardt

01/01/2025