



STANDARD OPERATING PROCEDURE

WHITEFISH BAY POLICE DEPARTMENT

SUBJECT: USE OF FORCE

SCOPE: All Sworn Personnel

DISTRIBUTION: Standard Operating Procedure Manual

REFERENCE: WI State Statutes: 66.0511(3), 175.44
939.45, 939.48, and Chapter 941; DAAT
Incident Response and Disturbance
Resolution Model

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× **RESCINDS** 2020 revision of this
SOP.

AMENDS

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)
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PURPOSE: The purpose of this Standard Operating Procedure is to establish policies and procedures regarding the use of force, and to identify the responsibilities of officers employed by the Whitefish Bay Police Department when using force or after it has been used.

This Standard Operating Procedure consists of the following numbered sections:

- I. POLICY
- II. DEFINITIONS
- III. GUIDING PRINCIPLES

- IV. DEFENSIVE AND ARREST TACTICS (DAAT)
- V. USE OF NON-DEADLY FORCE
- VI. DEADLY FORCE
- VII. USE OF VEHICLES - BLOCKADES, BARRIERS, AND RAMMING
- VIII. USE OF RESTRAINTS
- IX. MEDICAL AID
- X. REVIEWS
- XI. WHISTLEBLOWER PROTECTIONS

I. POLICY

- A. It is the policy of the Whitefish Bay Police Department that when serving the community, Officers make every effort to preserve and protect human life and the safety of all persons. Officers shall also respect and uphold the dignity of all persons at all times in a nondiscriminatory manner. When using force, Officers are required to act in good faith to achieve a legitimate law enforcement objective. Officers are authorized to use force that is objectively reasonable based on the totality of the circumstances, including: the severity of the alleged crime at issue, whether the suspect poses an imminent threat to the safety of law enforcement officers or others, and/or whether the suspect is actively resisting or attempting to evade arrest by flight.

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.

II. DEFINITIONS

ACTIVE RESISTANCE: Behavior which physically counteracts an officer's control efforts and which creates a risk of bodily harm to the officer, subject, and/or other persons.

CONTINUED RESISTANCE: Maintaining a level of counteractive behavior that is not controlled by an officer's current efforts.

CRISIS INTERVENTION: An immediate and short-term emergency response to mental, emotional, physical and behavioral distress.

DE-ESCALATE: To decrease in intensity, to select another, less extreme alternative.

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

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

ELECTRONIC CONTROL DEVICE (ECD): Electronic Control Devices are instruments in which a safe amount of electricity is used to affect the sensory and/or motor nervous system of the body. The use of this device is intended to incapacitate the subject with a minimal potential for causing death or great bodily harm.

GLASS BREAKER ROUND: A solid polymer sphere designed to be fired from a PepperBall launcher. The round is used for breaking our residential style windows and side windows on vehicles. This round is not to be fired at a subject unless deadly force is justified.

INERT PEPPERBALL: A plastic sphere which is fired from a PepperBall launcher. The round is to be used in conjunction with Live OC PepperBalls and uses a lower level of kinetic energy effect on a targeted subject.

INTERVENTION OPTIONS: An element of Disturbance Resolution in DAAT containing five modes in which an officer can intervene with a subject.

LIVE OC PEPPERBALL: A plastic sphere filled with an OC type powder which is fired from a PepperBall launcher. Upon impact, the round bursts causing the release of the OC powder, causing an OC exposure effect on the targeted subject. When fired directly at a subject, the round can cause a lower level of kinetic energy impact effect.

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.

PASSIVE RESISTANCE: Non-compliant and non-threatening behavior.

PEPPERBALL LAUNCHER: A non-lethal chemical agent delivery system that uses compressed air to deliver power and/or projectiles at a safe distance. The delivery system is capable to combining chemical agent exposure with kinetic impact and pain.

REASONABLE FORCE: That force, which under the totality of the circumstances and from the perspective of a reasonable officer at the scene with similar training and experience was necessary.

III. GUIDING PRINCIPLES (WILEAG 5.1.1)

- A. Officers should use the least amount of force necessary to bring an incident under control. Presence and dialogue are the preferred method when feasible and appropriate.

- B. Under no circumstances shall an officer continue to use force (except mere physical restraint) against an individual who has ceased to resist.

- C. Officers may use reasonable force to:
 - i. To achieve and maintain control of resistive subjects
 - ii. To detain persons reasonably suspected of criminal behavior
 - iii. To make lawful arrests
 - iv. To defend themselves or others
 - v. To prevent escape

- D. The force that officers use must be both reasonable and necessary to bring the incident under control. The U.S. Supreme Court, in **Graham v. Connor** said that use of force must be “objectively reasonable” in the given situation. The factors which, in general, enter into a determination as to whether force used was “objectively reasonable” include:
 - i. The severity of the alleged crime at issue;
 - ii. Whether the suspect poses an imminent threat to the safety of officers and/or others; and
 - iii. Whether the suspect is actively resisting or attempting to evade arrest by flight.

In making a determination as to the reasonableness of force, courts recognize that officers have to make split second decisions and reactions. The reasonableness of the force used must be judged in the light of the circumstances as they appeared to the officer at the time, not as they appear from a subsequent, more thorough knowledge of the circumstances. Further it shall be judged by what an ordinarily prudent and intelligent officer, in the same situation, would have deemed reasonable under the circumstances.

In addition to this policy officers are also governed by WI. Stat. 939.48; Self-defense and defense of others.

- E. Officers need not escalate step by step through the Intervention Options in the Disturbance Resolution Model. As the situation dictates, officers may move from one mode to any other if it is reasonable to believe that a lower level of force would be ineffective. Officers are reminded to rely strongly on crisis intervention and de-escalation techniques when it would not jeopardize the safety of the officers, subject, or others.
- F. If a subject poses a threat only to themselves, deadly force should not be employed as the only option. Officers should employ crisis intervention and de-escalation tactics to attempt to bring the incident under control. Situations that involve weapons are fluid and complex. Officers should have a plan in place should a person become a threat to the officer or others. Lethal cover should be used when less lethal options are employed.
- G. All sworn employees have a duty to intervene if they observe another officer using force that is clearly beyond that which is objectively reasonable under the circumstances; WI. State Statute 175.44. Officers shall promptly report these observations to a supervisor. If the offending officer is their supervisor then the reporting officer will report the incident to the next supervisor in the chain of command. If the offending officer works for another jurisdiction; the reporting officer shall work through the Whitefish Bay 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. Officers shall use equipment and techniques that are authorized by the department and consistent with their training.
- I. The use of chokeholds is prohibited except in situations where deadly force would be justified.

IV. DEFENSE AND ARREST TACTICS

- A. The Whitefish Bay 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 Whitefish Bay Police Officers shall be trained in the DAAT system per State Training and Standard Bureau standards.
- i. When utilizing the Disturbance Resolution Model, the officer must use a reasonable level of force in reacting to other people's behavior by escalating or de-escalating through the Intervention Options. Officers are reminded to rely strongly on crisis intervention and de-escalation techniques when it would not jeopardize the safety of the officers, subject, or others.
 - ii. Officers shall only use trained techniques, dynamic applications of a trained technique(s) or techniques not trained but justified under the circumstances.
 - iii. Use of Force Training will be conducted annually and will include various control techniques.

V. USE OF NON-DEADLY FORCE (WILEAG 5.1.4)

- A. Control Alternatives: Designed to control subjects who are resisting or threatening to resist your lawful orders.
- i. Escort Holds: The goal of escort holds is to safely initiate physical contact.
 - ii. Compliance Holds: The goal of compliance holds is to overcome passive resistance.
 - iii. Control Devices: The goal of control devices (OC spray and ECD's) is to overcome active resistance or its threat.
 - 1. The control devices allowed by the Whitefish Bay Police Department are:
 - A. OC Spray that is ECD safe.
 - B. Taser 7 and X26P
 - C. PepperBall Launcher utilizing OC Saturation technique
 - iv. Passive Counter Measures: The goal of passive counter measures

is to decentralize a subject.

- B. Protective Alternatives: The purpose is to overcome continued resistance, assaultive behavior or their threats. These interventions are designed to protect officers in situations when they face subjects continuing to resist or threatening to assault.
- C. Active Countermeasures: The goal of active countermeasures is to create a temporary dysfunction of an actively resistive or assaultive subject.
- D. Incapacitating Techniques: The goal of incapacitating techniques is to cause the immediate, temporary cessation of violent behavior.
- E. Intermediate Weapon: The goal of using intermediate weapons is to impede a subject, prevent him or her from continuing resistive, assaultive, or otherwise dangerous behavior or their threats.
 - i. There are two approved intermediate weapons approved by the Whitefish Bay Police Department.
 - 1. The baton
 - 2. 40 mm impact round – see less lethal policy
 - 3. PepperBall Launcher using OC and Inert rounds impacting a subject.

VI. DEADLY FORCE (WILEAG 5.1.2)

- A. The purpose of deadly force is to stop the threat.
 - i. Deadly force is defined as: The intentional use of a firearm or other instrument that creates a high probability of death or great bodily harm.
 - ii. Behavior that justified an officer's use of force is: Behavior which has caused or imminently threatens to cause death or great bodily harm to you or another person or persons.
 - 1. For a threat to be imminent, it must meet three criteria:
 - A. Intent: The subject must indicate his or her intent to cause great bodily harm or death to you or someone else.
 - B. Weapon: The subject must have a conventional or unconventional weapon capable to inflicting great bodily harm or death.
 - C. Delivery System: The subject must have a means of using the weapon to inflict harm.

B. Preclusion: Before you can use deadly force, you must reasonably believe that all other options have been exhausted or would be ineffective.

C. Officers are authorized to use deadly force to:

- i. Protect the officer or others from an imminent threat of death or great bodily harm; and/or
- ii. To prevent the escape of a person whom the officer has probable cause to believe has committed a serious, violent crime and creates an unreasonable risk or significant threat of death or serious physical injury to the officer, another person, or the community at large if not apprehended. A verbal warning should be given, unless it is not feasible to do so in the particular circumstances, before deadly force is used to prevent escape.

D. Deadly Force against animals is justified under the following:

- i. For self defense
- ii. To prevent substantial harm to the officer or another
- iii. When the animal is so badly injured that humanity requires its relief from further suffering, with approval from the shift commander.

E. Firearms

- i. 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 Standard Operating Procedure 12.01: Firearms and Ammunition.

- ii. 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.

2. 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.
 3. 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.
 4. A warning shot(s) shall not be fired under any circumstances. **(WILEAG 5.1.3)**
 5. 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.
- iii. Prior to being authorized to carry a firearm on duty for the Whitefish Bay Police 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 Standard Operating 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.
- Officers must qualify with a Whitefish Bay Police Department Firearms Instructor.

VII. 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:
- i. 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. The technique of channeling a vehicle is not considered a blockade.

- ii. Ramming of a suspect/evader vehicle by a police vehicle.
- iii. Forcing a suspect/evader off the roadway or highway and/or into another object by the use of a police vehicle.
- iv. Also refer to Standard Operating Procedure 6.02: Vehicle Pursuits.

VIII. 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 shall place handcuffs on any individual who is in custody when the officer reasonably believes the individual may become violent, attempt escape, or pose a danger to himself/herself or others.
- C. Handcuffs may be used in a non-arrest situation provided that the use of handcuffs is reasonable and necessary.
- D. After placing handcuffs on an individual, officers should exercise caution and assist the subject as necessary in order to prevent injury due to falling, as well as positioning the person to avoid positional asphyxia.
- E. Hobble restraints may be used to further stabilize a subject who is resisting or is a threat to escape.
- F. Hogtying of a suspect is never allowed.
- G. W.R.A.P Restraint System can be used by trained officers to control a subject who once in custody continues to actively resist, threatens to actively resist, or presents a risk of self-harm.

IX. MEDICAL AID (WILEAG 5.2.1)

- A. Following a Use of Force encounter, the officer shall as soon as safe and reasonably possible do the following:
 - i. Render aid to the level of training of the officers at the scene.
 - ii. If the level of care required is beyond the capabilities of the officers or the subject requests medical attention, fire department personnel should be requested.

X. REVIEWS (WILEAG 5.3.2)

A. Deadly Force

- i. A supervisor shall respond to the scene, begin a preliminary investigation, and summon additional personnel and/or other resources as needed.
- ii. The scene will be secured to protect all evidence.
- iii. See Officer Involved Shooting/Serious Injury SOP, Secure Detention SOP, and Notification of Police Chief SOP

B. Non-Deadly Force

- i. Officers shall notify the shift supervisor as soon as practical whenever force is used.
- ii. All use of force incidents above the level of compliance hold and incidents where a subject received significant injury from their interaction with a Whitefish Bay Police officer shall be documented by the on duty supervisor using the Whitefish Bay Police Department Use of Force Report.
 - a.) Firearms: any intentional or accidental discharge of a firearm except in training situations or for lawful recreational purposes.
 - b.) Electronic Control Weapon (ECW): deployment of an ECW to include drive stun and/or probe deployment.
 - c.) Police baton or 40mm impact round: use in striking of any person or animal.
 - d.) Chemical agents: use of any chemical agent
 - e.) Physical force: striking, punching, decentralization of any person.
 - f.) Oleoresin capsicum (OC): use of any pepper gas aerosol or powder form.
 - g.) Use of any type of force in which a person becomes injured or claims injury, whether or not the injury is immediately visible.
- iii. The Use of Force Report will include an overview of the incident action(s) performed by the officer(s).

- iv. The shift supervisor shall be responsible for the initial review of an incident that involved the use of non-deadly force by an officer. The reviewing supervisor shall ensure that proper departmental procedures were followed during and after the incident.

If the shift supervisor is involved in the Use of Force and another shift supervisor is also working; the shift supervisor not involved in the situation shall complete the initial Use of Force report.

- v. A Lieutenant that was not on duty at the time of the incident shall complete an Administrative review of the incident concerning Standard Operating Procedure.
- vi. The department shall annually analyze use of force incidents and identify any additions, deletions or modifications warranted in departmental procedures or training. **(WILEAG 5.3.4)**

C. Post Use of Force Removal from Duty **(WILEAG 5.3.3)**

- i. An officer(s) whose actions or use of force results in a death or serious physical injury shall be placed on administrative leave or administrative duty at the police department by the Chief of Police or their designee. This may occur during the investigation of the incident and/or until such time as the incident investigation or administrative review is completed.
- ii. The officer(s) shall be available for Departmental interviews and statements regarding the incident and subject to recall to duty.

XI. 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 in WI State Statute 175.44; intervened to prevent or stop a noncompliant use of force as required in the Statute; initiated, participated in, or testified in, or is believed to have initiated, participated in, or testified in, any action or 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 in the Statute.

Patrick Whitaker
Chief of Police

This Standard Operating Procedure cancels and supersedes any and all previous written directives relative to the subject matter contained herein.

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