



POLICY & PROCEDURE

MCFARLAND POLICE DEPARTMENT

SUBJECT: **USE OF FORCE**

SCOPE: All Sworn Personnel

DISTRIBUTION: Policy & Procedure Manual

REFERENCE: WI State Statutes: 66.0511, 165.845, 939.22(14), 939.45, 939.48, and Chapter 941; DAAT Incident Response and Disturbance Resolution Model

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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

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Deadly Force
Firearms
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Use of Less Lethal Weapons & Non-Deadly Force
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PURPOSE: The purpose of this Policy & Procedure is to establish guidance to the McFarland Police Department regarding: the use of force and identifying 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. DE-ESCALATION
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I. POLICY

1. It is the policy of the McFarland Police Department that:

It is the policy of the McFarland Police Department to value and preserve human life; therefore, officers shall use only the force, including less lethal force, that is reasonably objective to gain and maintain control, while protecting the lives of the officer or others. Officers may include in their decision to use this force option, information known to the officer(s) at the time of the incident or conduct or statements by the subject or a prior history of resistive or assaultive behavior. Deadly force shall never be resorted to unless the officer reasonably believes all other options have been exhausted or would be ineffective and SHOULD only be used as a last resort.

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.

1. All sworn Officers are required to follow the State of Wisconsin's Law

Enforcement Training and Standards' system of Defensive and Arrest Tactics when making all use of force decisions.

2. 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.
3. Any person injured through the use of force by an officer, shall receive medical aid for such injuries.
4. 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.
5. All cases where force is used shall be reviewed by the Chief of Police or his/her designee on a documented annual basis.

II. DEFINITIONS:

DEADLY FORCE: The intentional use of a firearm or other instrument that creates a high probability of death or great bodily harm.

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

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.

DE-ESCALATION- Taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, or/and resources can be called upon to resolve the situation without the use of force or without the reduction of force necessary.

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.

CONDUCTED ELECTRICAL WEAPON (CEW): A less lethal force weapon that causes electro-muscular disruption to a combative, violent, or potentially combative, violent subject. The use of this device is intended to incapacitate the subject with a minimal potential for causing death or great bodily harm.

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

OLEORESIN CAPSICUM AEROSOL SPRAY (OC): Oleoresin Capsicum (OC) aerosol spray is a non-lethal weapon. It is a control alternative. Refer to Policy & Procedure 5.03; Use of Less Lethal Weapons.

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 or impairment of the function of any bodily member or organ or other serious bodily injury." WI State Statute 939.22(14)

NECK RESTRAINT: an action taken by the use of any force or device to the neck area to restrain a person, including but not limited to:

1. Choke Hold means the intentional and prolonged application of force to the throat, windpipe, or carotid arteries that prevents or hinders breathing or blood flow, reduces the intake of air, or reduces blood flow to the head
2. Vascular Neck Restraint – A technique that can be used to incapacitate individuals by restricting the flow of blood to their brain.

III. DEFENSIVE AND ARREST TACTICS

A. The McFarland 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 subjects. All McFarland 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 reasonably necessary to gain and maintain control 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 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 only that force which is objectively reasonable 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: All officers shall follow the most current version of the Incident Response Model adopted by the State of Wisconsin DAAT Advisory Committee.
- C. Disturbance Resolution Model: all officers shall follow the most current version of the Disturbance Resolution Model adopted by the State of Wisconsin DAAT Advisory Committee.

IV. DE-ESCALATION

1. The concept of de-escalation involves an officer's use of time, distance, and relative positioning in combination with Professional Communication Skills to attempt to stabilize a situation and reduce the immediacy of threat posed by an individual. The merging of Professional Communication Skills such as Crisis Intervention, and sound tactical positioning can be instrumental in generating the needed time, options, and resources to gain willful cooperation and ensure everyone's safety.

2. DONE- Danger, Overriding Concern, No Progress, and Escape- There are many circumstances in which de-escalation is not applicable to a situation and the Professional Communication Skills concept of DONE offers examples and guidance. The acronym DONE stands for Danger, Overriding Concern, No Progress, and Escape.

- a) Danger- Something has occurred that negatively effects the commodities of time, distance, and positioning making de-escalation not possible. Ex- When officers are making contact with the subject who is armed with a knife, he suddenly charges the officers forcing them to escalate.
- b) Overriding Concern- An event occurred that has changed the priority and has drastically influenced the outcome of this situation and placed officers in a position to use force. Ex-Officers are talking to a subject armed with a knife and an innocent bystander has walked into the situation and the subject's closes the distance with them.
- c) No Progress- Officer's attempts to gain rapport with the subject and it isn't working. Ex- Officers are talking to a suspect who ignores their dialog and closes the distance on them.
- d) Escape- The officers' relative positioning and limited distance does not allow them the ability to regain safe distance and positioning (escape) to continue de-escalation efforts. Ex-The subject moves towards the officers and puts them into a position where they can't escape.

3. Incident Response Model: all officers shall follow the most current version of the Incident Response Model adopted by the State of Wisconsin DAAT Advisory Committee.
4. Disturbance Resolution Model: all officers shall follow the most current version of the Disturbance Resolution Model adopted by the State of Wisconsin DAAT Advisory Committee.

V. 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: Weapons 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 shall not be fired under any circumstances.
- 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 caused or imminently threatens to cause 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 sick/injured.
- H. Prior to being authorized to carry a firearm on duty for the McFarland 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 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 McFarland Police Department Range Officer or having recently qualified with another agency, provide proof of completion of the approved training requirements as set by the Wisconsin Training and Standards Bureau.

VI. 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.

VII. USE OF NON-DEADLY FORCE

- A. 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:
 - 1. The severity of the alleged crime at issue.
 - 2. Whether the suspect poses an imminent threat to the safety of law enforcement or others.
 - 3. Whether the suspect is actively resisting or attempting to evade arrest by flight.

- 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 objectively reasonable to affect the arrest and maintain control of the arrested individual.
- D. Officers may use reasonable force to:
 - 1. Achieve and maintain control of resistive subjects
 - 2. Detain persons reasonably suspected of criminal behavior
 - 3. Make lawful arrests
 - 4. Defend themselves or others
 - 5. Prevent escape
- 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.

VIII. DUTY TO INTERVENE & REPORT - An officer who witnesses another officer using force in excess of that permitted by law, training, and/or and this Policy & Procedure, must intervene and stop the prohibited use of force. The officer shall also report such use of force to the on duty or on call supervisor immediately. If the offending officer is the on duty or on call supervisor then the reporting officer will report the incident to another supervisor. 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.

Officers 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 of this policy in the course of that law enforcement officer's official duties on or off duty if all of the following apply:

1. The law enforcement officer observes the use of force that does not comply with this policy.
2. The circumstances are such that it is safe for the law enforcement officer to intervene. Safety considerations are as follows:

1. In his or her jurisdiction, immediately identifiable as a law enforcement officer, is the observed use of force in context of an ongoing tactical situation, officer's intervention likely to escalate the situation.
 3. Whistleblower Protections – 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, intervened to prevent or stop a noncompliant use of force, 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 is believed to have provided any information, about noncompliant use of force.
- I. Use of Force to Enter Private Property (Also refer to Policy & Procedure 1.11: Arrest Procedures).

1. In lawfully entering the land of another to make a jailable offense, 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.

IX. 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 resulting in a 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 himself/herself or others.
- C. An officer should never use restraining devices as punishment.
- D. The use of neck restraints by personnel of the McFarland Police Department is prohibited unless the situation requires the use of deadly force that would be justified.
- E. It is the policy and procedure of the 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.
- F. Hand-Style Restraints. It is the policy and procedure of the 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 Department approved restraints.
 2. Handcuffs should be applied to the person's wrists behind his/her back unless not physically possible or when using a transport belt or other restraining equipment.
 3. Handcuffs shall be safety-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 contact with subject'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 restraint device) should be removed from the person upon arrival at a secure area within the Department, or upon transfer of custody to a responsible party, unless removal is likely to result in physical harm to the offender, officers, or other person or the subject is uncooperative.
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 restraint effects of handcuffs. In such circumstances, flex cuffs or other restraints will be used.
8. 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. 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) If other restraining equipment is in use, i.e., transport belt, 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) If 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 shall be secured in a seatbelt during transportation in order to enhance their safety unless they are uncooperative, assaultive, or resist officer's attempts to properly secure them.

H. 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.
 - a) 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.

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

X. FOOT PURSUITS

A. An officer's decision to pursue a subject 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/subject factors regarding skill level, age, size, and strength.
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/resources.
8. Consider perimeter and await back-up officers and/or K-9.

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. Termination of pursuit is directed by a supervisor.

XI. RENDERING MEDICAL AID

A. Treatment of Persons Injured Through the Use of Force

1. Persons subject to the use of force shall be observed to detect obvious changes in their physical or mental condition and administer first aid if required.
2. Summon appropriate medical aid, if necessary.
3. If necessary, or requested by the injured subject, the injured person/s is/are to be transported by ambulance to the most quickly acceptable medical facility for proper treatment.
4. During the time awaiting treatment and during the treatment activities, the officer should maintain security.
5. The injured person is to remain handcuffed during treatment unless the handcuffs interfere with such treatment. Should medical treatment require removal of handcuffs, the officer should request that restraints be used by hospital personnel.

If medical treatment requires the removal of handcuffs and hospital restraints are not authorized or utilized, the officer/s should maintain close physical proximity to the subject and determine the appropriate level of control and/or restraint use with hospital personnel and security staff based on officer/subject factors, degree of subject's injuries, the possibility of behavior changes of intoxicated and/or drug impaired subjects, and the subject's level of cooperation with officers and hospital personnel.

6. The officer is to remain with the injured person at all times during the hospital stay unless the injury is so serious that escape is not physically possible.
7. If it is determined that the injured person needs to be admitted to the hospital for additional treatment or a hospital stay, the officer will contact his/her immediate supervisor and coordinate efforts with hospital personnel in order to determine what level of monitoring will be required.
8. If the injured person is to be released from the Emergency Room following medical evaluation and treatment, the officer will notify the appropriate detention facility of the nature of the subject's injuries as well as providing them with any medical discharge instructions or paperwork, if applicable.

XII. REPORTING THE USE OF FORCE

A. A report will be required when an officer is involved in any of the following:

1. Firearms: discharging, or pointing of any firearm at a person.

2. Conducted Electrical Weapon (CEW) (also known as Electric Control Device (ECD): discharging or pointing of any CEW or ECD at a person.
 3. Baton or kinetic energy impact projectiles: use in striking, blocking or pushing of any person.
 4. Chemical agents: use of any chemical agent on a person.
 5. Physical force: striking, punching, pushing or use of compliance holds on any person.
 6. Oleoresin capsicum: use of oleoresin capsicum on a person.
- C. The officer involved shall make a written report/statement as to the underlying facts and the reasonableness, as perceived by the officer, justifying his/her use of force.
- D. If the discharge of the weapon or use of force causes injury or death or great bodily harm, the supervisor shall notify the Chief of Police or designee as soon as possible.
- E. The supervisor, as soon as possible during the investigation, shall forward all reports of the investigation to the Chief of Police.
- F. A Firearms Discharge Report shall be completed regarding any incident involving the intentional or accidental discharge of a firearm, except on an approved firearms range for the purpose of firearms practice, training, competition, qualification or legal hunting purposes.
- G. All use of force reports shall be forwarded to the officer's immediate supervisor and a copy will be filed with the Chief or designee.
- H. Post use of force removal from duty.
1. An officer(s) whose actions or use of force results in a death or serious physical injury shall be placed on administrative leave or desk duty by the Chief of Police or his/her designee during the investigation of the incident and/or until such time as the incident investigation or administrative review is completed.
 - a) The officer shall be available for Departmental interviews and statements regarding the incident and subject to recall to duty.
- I. Post use of force review

1. At least once every year the Chief or designee shall conduct a documented review of the use of force reports to determine any policy issues, training or weapons/equipment deficiencies, or disciplinary matters that require attention or any type of future action. The TRACS system will be used to report monthly law enforcement use of force resulting in death or to report the death of a subject while being detained.

J. The Department will forward information related to the National Use-Of-Force Data Collection-FBI program to the Wisconsin Department of Justice. Additional information regarding this program can be found at the Wisconsin DOJ, Bureau of Justice Information and Analysis.

1. In addition, the Department shall supply additional information regarding the use of force to the Wisconsin Department of Justice, in their format that is specific to the language in Wisconsin State Statute 165.845.

XIII PUBLIC ACCESS TO POLICY & PROCEDURE

A. Pursuant to WI State Statute 66.0511(2), the Department shall:

1. Make this Policy & Procedure publicly available on a web site maintained by the Department, or if the Department does not maintain its own site, on a web site maintained by the municipality over which the Department has jurisdiction.

- a) If the Policy & Procedure is changed, the Department shall ensure the web site displays the updated information as soon as practically possible but no later than one year after the change is made.

2. Prominently display a means of requesting a copy of this Policy & Procedure. If a person requests a copy, the Department shall provide a current copy free of charge as soon as practically possible but no later than 3 business days after the request is made.

Aaron P. Chapin
Chief of Police

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

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