

UW Oshkosh Police Department Procedure



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I. PURPOSE

The purpose of this document is to establish a procedure for personnel (hereinafter officer(s)) of the University of Wisconsin Oshkosh Police Department concerning the use of force, as required by §66.0511(2) that adheres to all applicable Federal, State, and local laws. Proper use of force decisions, based on reasonableness, ensure due process for citizens as well as provide protection for the officer and the Department.

This policy is primarily based on the Defense and Arrest Tactics (DAAT) System of the State of Wisconsin as developed by the Department of Justice – Training and Standards Bureau and approved by the Law Enforcement Standards Board.

II. POLICY

It is the policy of the UW Oshkosh Police Department that department members will use the minimum force and authority necessary to accomplish a proper police purpose. UW Oshkosh police members will demonstrate self-discipline, even when no one is listening or watching. We preserve the sanctity of human life in every situation we're managing.

III. DISCUSSION

The State of Wisconsin Law Enforcement Standards Board establishes standards and a training guide for the training of police officers in defense and arrest tactics (DAAT.) It is based on the premise that officers can and should accomplish the law enforcement objectives of control and/or arrest as quickly as possible, with minimal chances of injury or death to officers and subjects. The DAAT system is premised on the principle of reasonable use of force in accomplishing such legitimate law enforcement objectives.

IV. DEFINITIONS

- A. **Defense and Arrest Tactics (DAAT):** A system of verbalization skills coupled with physical alternatives. It is the specific system formulated, approved, and governed by the State of Wisconsin Law Enforcement Standards Board.

- B. **Disturbance Resolution Model:** A Law Enforcement Standards Board guide in providing a structure which law enforcement can use to safely, professionally, and reasonably perform their duties. The Disturbance Resolution Model can be found as Annex A to this policy.
- C. **Passive Resistance:** Refusal to comply with a directive from a law enforcement officer, but no attempt by the subject to engage in physical action likely to cause bodily harm to the officer or to another person.
- D. **Active Resistance:** Behavior which physically counteracts an officer's attempt to control and which creates risk of bodily harm to the officer, subject, and/or other person.
- E. **Reasonable Force:** A physical act by an officer in the performance of duty when it is used to accomplish the legitimate law enforcement objective of control, and the level of force used is reasonable considering all the facts and circumstances known to the officer at the time of the incident.
- F. **Reasonably Believes:** An ordinary, prudent and objectively reasonable officer believes that a certain fact situation exists and such belief is reasonable under the circumstances known to the officer at the time the officer acted.
- G. **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.
- H. **Non-Deadly Force:** Any amount of force other than that which is considered deadly force.
- I. **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.
- I. **Deadly Force Justification:** Behavior which has caused or imminently threatens to cause death or great bodily harm to you or another person or persons.
- J. **Imminent Danger/Imminent Threat:** An imminent threat is an immediate threat. For a subject's threat to be considered imminent it must meet all of the following criteria:
1. Intent, either implied or actual, to cause death or great bodily harm.
 2. A weapon capable of inflicting death or great bodily harm.
 3. A delivery system for the utilization of that weapon.

K. **Target Requirements:** If an officer has determined that s/he faces a threat that meets the requirements to permit a deadly force response, and the officer has decided to shoot, s/he must still fulfill three (3) target requirements:

1. Target Acquisition: Means simply that an officer has acquired an actual target to shoot at.
2. Target Identification: Means that an officer has identified the target as the source of the imminent threat.
3. Target Isolation: Means that an officer can shoot at the target without danger of harming innocent people.
 - a. The one exception to the requirement for target isolation is called the Greater Danger Exception. This 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.

L. **Physical Restraint:** Holding, restraining, handcuffing, or other physical manipulation, without the use of any weapon, by one or more officers acting alone or in concert to control a person or to affect an arrest.

M. **Objectively Reasonable Standard:** The standard established by the U.S. Supreme Court in *Graham v. Connor* 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 suspect poses an imminent threat to the safety of officers and/or others.
3. Whether the suspect is actively resisting or attempting to evade arrest by flight.

N. **Conducted Electrical Weapon (CEW):** A less 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.

- O. **Intervention Options:** Trained techniques recognized in the DAAT system. These techniques may include additional techniques trained and authorized by the UW Oshkosh Police Department. A list of these techniques shall be attached in Appendix A of this policy.

V. PROCEDURE

A. Disturbance Resolution Model

1. The Department adopts the DAAT System and Disturbance Resolution Model concepts, techniques, and teachings as its primary policy in the use of force and how this use of force is administered. As such, officers of the Department shall, in response to or while involved in any incident, strictly adhere to and follow these concepts, techniques, and teachings as provided during Departmental DAAT, firearms and/or other use of force training.

- B. Unless emergency circumstances exist, officers shall only use, or carry for use, departmentally issued or authorized equipment and weapons.

C. Brandishing or Threatening the Use of Force or Weapons

1. Officers shall not brandish, display, or threaten the use of any weapon, technique, or the use of force in general, unless its use would be justified under the circumstances.

D. Duty to Intervene

1. Officers shall, without regard of duty status and without regard for chain of command, intervene to prevent or stop another officer from using force that does not comply with the standards outlined in §175.44(2)(b) or (c), Wis. Stats. in the course of that officer's official duties. Intervention shall take place if the circumstances dictate that it is safe for the officer to intervene, especially when intervening while off-duty.
2. Officers who intervene shall report the intervention to their immediate supervisor as soon as it is practicable after the occurrence of the use of such force.

E. Whistleblower Protection

1. 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 under in §175.44(3)

or (4), Wis. Stats.; intervened to prevent or stop a noncompliant use of force as required under in §175.44 (4), Wis. Stats.; 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 under in §175.44(3) or (4), Wis. Stats.

F. Physical Restraint Techniques

1. Due to the inherent risk of causing death or serious and permanent brain damage a chokehold or any maneuver or tactic that prevents breathing or obstructs an individual's airway is prohibited except in life-threatening situations or self-defense.

G. Use of Deadly Force

1. The use of deadly force is justified when the criteria for the deadly force justification has been met or encountered:
 - a. As the last resort in the defense of one's self when the officer reasonably believes 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 whom the officer reasonably believes is entitled to self-defense.
 - c. As the last resort 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 a significant threat of death or great bodily harm to the officer, or others, if not immediately apprehended.
 - d. As the last resort to euthanize a dangerous animal or one that is so seriously injured that humanity dictates its removal from suffering, but only after careful consideration is given to the public's safety and view and whether other dispositions may be feasible. Additionally, the use of a firearm to euthanize an animal shall also be the last resort and shall only be used in strict adherence to all other Departmental firearms and use of deadly force policies, guidelines and training principles. Whenever reasonably practical,

officers shall seek permission from an on-duty or the on-call supervisor prior to using a firearm to euthanize an animal.

2. When reasonable, officers shall identify themselves and order the subject(s) to stop the unlawful activity prior to the application of deadly force. If the subject does not comply with the lawful order, the officer will, when reasonable, advise of his/her intent to use deadly force.
3. If both practicable and feasible, a law enforcement officer shall give a verbal warning before using deadly force.
4. Generally, deadly force shall not be used under the following circumstances:
 - a. As a warning
 - b. Warning shots shall not be fired.
 - c. From a moving or at a moving vehicle unless these apply:
 - a. As the last resort in the defense of oneself when the officer reasonably believes 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 whom the officer reasonably believes is entitled to self-defense.
 - d. When the target requirements have not been satisfied.
 - e. When the officer is in doubt as to whether or not s/he has the legal justification to use deadly force.

H. Use of Non-Deadly Force

1. Officers shall use only that amount of force reasonably necessary to control a situation, effect the arrest of an offender, or to control a subject.
2. Officers shall not continue to use force, except mere physical restraint, after a subject has stopped resisting and control of the subject has been established. Display of only passive resistance by the subject warrants only their bodily removal and transport from the scene of the incident.

I. Use of Less Lethal Weapons

1. Oleoresin Capsicum Spray (OC)

- a. Officers who have been certified for the use of OC shall carry department issued OC while on duty. (An officer's supervisor may make exceptions when officers are actively participating in assignments or duties where the carrying of OC would be unsafe, unnecessary, or impractical. For instance, officers participating in undercover assignments.)
- b. OC 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, another person, or themselves. The officer may use OC against the subject if the subject indicates to the officer by words and/or actions that 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.
- c. Officers shall exercise sound judgment when using OC and shall consider the potential for cross-contamination to the user, other officers, and bystanders.
- d. Officers should use caution when considering the use of OC if it appears children less than two years of age are in the area and could be contaminated.
- e. Officers who use OC against a subject shall ensure that aftercare and decontamination procedures are started as soon as practical after the subject is under control and stabilized. Such procedures include, but may not be limited to:
 1. Remove the subject from the contaminated area.
 2. Place the subject in an area of fresh air.
 3. Verbally reassure the subject.
 4. When available, rinse affected areas with cool running water.
 5. Continuously monitor the subject until they are fully recovered or are turned over to a competent authority.

6. If the subject's symptoms persist, they experience an unusual reaction or if they request, seek medical attention.
 7. If contact lenses are worn, have the subject or qualified medical personnel remove them. Officers shall not remove contact lenses from a subject's eyes.
 8. Do not rub the contaminated areas or apply creams, salves, or lotions.
- f. Officers are permitted to use OC in self-defense when an animal endangers their personal safety or the safety of others. If circumstances permit, and it can be done without endangering departmental personnel or others, reasonable efforts to decontaminate animals should be made or the information conveyed to the animal's owner.
 - g. A copy of the manufacturer's Material Safety Data Sheet (MSDS) for UW Oshkosh Police Department issued OC shall be permanently located in a folder within the Standard Operating Procedures folder on our Shared Network. If asked, officers shall, without delay, provide a copy of this sheet to any healthcare provider called upon to assist a subject that has been sprayed with or otherwise affected by the use of OC.
 1. Officers shall be provided with information about where the MSDS sheets are located during the initial training program after being hired.

2. Intermediate Weapons

- a. Officers who have been trained in and certified for the use of intermediate weapons by the Department shall carry UW Oshkosh Police Department issued baton(s) while on duty. (An officer's supervisor may make exceptions when officers are actively participating in assignments or duties where the carrying of baton(s) would be unsafe, unnecessary, or impractical. For instance, officers participating in undercover assignments.)
- b. The use of an authorized intermediate weapon is permitted against an actively aggressive subject, to impede their continued actions, where the officer reasonably believes lesser force options would be ineffective or would subject the officer to bodily harm.

- (1) 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 of resistive or assaultive behavior.

3. Conducted Electrical Weapon (CEW)

- a. A conducted electrical weapon 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, another person, or themselves. The officer may use a CEW against the subject if the subject indicates to the officer by words and/or actions that 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.
 1. 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 of resistive or assaultive behavior.
 2. Running away from police, without posing an articulable threat of harm to the officers or others does not permit the use of a conducted electrical weapon.
 3. Officers shall not use a conducted electrical weapon when in obvious proximity to flammable liquids, gases or any highly combustible materials that may be ignited by the device.
 4. Officers shall be aware of the general concerns raised when a CEW is used on a member of a sensitive population group. Officers are not prohibited from using a CEW on such persons (i.e. young children and elderly people) but use is limited to those exceptional circumstances where the potential benefit of using the device (i.e., injury reduction) reasonably outweighs the risks and concerns.
 - i. In each instance when a conducted electrical weapon is deployed during an incident, a determination will be made regarding the need for lethal cover.
 5. Lethal cover shall be required in all cases in which the subject possesses a firearm.

- b. Department personnel who use a conducted electrical weapon against a person shall request that Oshkosh Fire Department respond to medically evaluate the subject.
- c. If an adverse reaction to the electronic control device occurs, or if requested by the subject, transport to a medical facility shall be arranged.
- d. If the probes are imbedded in sensitive tissue areas (i.e. neck, face, groin, or the breast of a female) officers shall arrange transport to a medical facility for removal. If the probes are imbedded in other non-sensitive tissue areas, a trained officer may remove them according to the trained procedures.
- e. After the probes have been removed, they shall be handled as a biohazard and packaged according to the trained procedure. The package shall be put in a hazardous materials bag and disposed of in accordance with established procedures.
- f. Trained officers shall complete a refresher course on an annual basis concerning the use of the CEWs.

J. De-escalation Techniques

- 1. Officers shall apply de-escalation techniques whenever possible. De-escalation may include, but not be limited to:
 - a. Proportionality of response
 - b. Crisis recognition
 - c. Effective communication
 - d. Use of distance and cover
 - e. “Slowing down” situations that do not pose an immediate threat

K. Use of Restraints

- 1. Generally, all subjects taken into custody by officers of the Department will be handcuffed, or otherwise physically restrained, pursuant to departmental training guidelines and training principles.

2. Officers shall use only those physical restraints and techniques in which they have received training.
3. In an emergency where exigent circumstances exist and an approved restraining device is unavailable, or would otherwise be ineffective, the Department recognizes that temporary emergency techniques or devices may have to be used. If such action is necessary, the officer involved must use only such techniques or devices that would be reasonably justified in consideration of the totality of the circumstances. In these situations, departmentally approved restraining devices or techniques shall be substituted as soon as reasonably practical.
 - a. A restraint technique that secures a person's hands and feet at the same time shall not be used at any time.
4. Unless extenuating circumstances (i.e. injuries, disabilities, other medical conditions) exist, officers shall restrain all subjects who are being transported regarding an investigation.
5. Handcuffs are temporary restraining devices. An officer who applies handcuffs to a subject, must be prepared to closely monitor that subject's condition until the handcuffs are removed and the subject is released or turned over to a competent authority.
6. Handcuffs serve to aid an officer in safely maintaining control of a subject if they effectively restrain the subject's hands. If it appears that the subject's hands are too small, or for some other reason the handcuffs would fail to restrain the subject, the handcuffs should not be used and a different department approved restraint method should be considered.
7. Subjects who are placed in handcuffs should be brought to a seated or standing position as soon as possible and should not be kept in a laying position.
8. Physical force shall not be used against individuals in restraints except as objectively reasonable to prevent their escape or prevent imminent bodily injury to the individual, the officer, another person, or property damage. In these situations, only the minimal amount of force necessary to control the situation shall be used.

L. First Aid and Medical Assistance

1. An officer involved in any use of force incident shall display as much regard for the offender's safety and welfare as is reasonably possible

under the circumstances.

2. When a person is in the custody of an officer whether physically restrained by the officer or through the use of a device the health and well-being of the person in-custody shall be monitored constantly to ensure that they aren't experiencing an adverse effect from the situation or the restraint technique being utilized.
3. After any contact involving a possibility of illness or injury, including contacts involving physical intervention, officers shall conduct an initial medical assessment to find out if the subject, or anyone else, requires medical care. Officers shall:
 - a. Determine the subject's level of consciousness, using verbal or physical stimulus.
 - b. Check airway, breathing and circulation.
 - c. Perform a body check for injuries.
 - d. Provide any necessary treatment to the officer's level of training, and if needed or the subject requests it, activate the emergency medical system.
 - e. Continue to closely monitor and remain with the subject until they are turned over to a competent authority (i.e. medical or jail staff). Officers should make attempts to find out if there is a need for long-term monitoring.
4. Whenever an officer injures a subject as a result of applied force, officers on the scene will immediately provide first aid and request medical assistance, if necessary, for the injured subject as soon as the scene is secure.

I. Policy Distribution and Use of Force Training

1. Only State of Wisconsin Department of Justice Training and Standards Board certified DAAT, and firearms instructors for firearms training, shall instruct officers in the concepts and techniques identified in the DAAT System and Disturbance Resolution Model.
2. The UWO Police Training Coordinator shall ensure that each officer is fully trained and has demonstrated competency in both the physical and cognitive components of the DAAT System and Disturbance Resolution

Model, as well as department policy on the Use of Force. Officers will be required to demonstrate these competencies at the following times:

- a. Immediately upon being hired by the Department. This shall normally occur during the first month of field training. Officers shall not become involved in fieldwork or otherwise become involved in any incident where the potential for the use of force exists until they have been able to demonstrate their competencies to a DAAT Instructor. Officers shall not wear their uniform or other attire that identifies them as an officer until this training has been successfully completed, unless directed by a supervisor.
 - b. At least once per year.
 - c. Upon returning from leaves of absence of six (6) months or more.
 - d. At any time that the UWO Police Training Coordinator or Chief of Police has just cause to believe that such re-training and/or evaluation is necessary.
3. As it relates to the proficient use and care of firearms and the application of deadly force, the Firearms Training Coordinator shall ensure that each officer is fully trained and has demonstrated competency in both the physical and cognitive components of the use and care of departmental firearms, the DAAT System and Disturbance Resolution Model, as well as Department policy on the Use of Force.
1. Officers will be required to demonstrate these competencies during the department's firearms training and qualifications program. This training shall be conducted at the following times:
 - a. Immediately upon being hired by the department. This shall normally occur during the first month of field training. Officers shall not become involved in fieldwork or otherwise become involved in any incident where the potential for the use of force exists until they have completed this certification. Officers shall not wear their uniform or other attire that identifies them as an officer until this training has been successfully completed.
 - b. Qualification standards are further defined in the Firearms Policy.
 - c. Upon returning from leaves of absence of six (6) months or more.

- d. At any time that the Firearms Training Coordinator or Chief of Police has just cause to believe that such re-training and/or evaluation is necessary.
4. The DAAT Training Coordinator and Firearms Training Coordinator are responsible for ensuring that all Department personnel are receiving use of force training that meets and/or exceeds the minimum standards of training established by state or federal laws, administrative codes, case law, or any other such legitimate mandate or recommendations. As such, the DAAT and Firearms Training Coordinators shall ensure that they remain fully aware of such information and changes thereto.
5. A copy of the Use of Force policy, including all future amendments or revisions thereto, shall be distributed individually to all sworn personnel in strict accordance with the guidelines established in policy. However, the Department DAAT Training Coordinator, not the officer's immediate supervisor, shall review the Use of Force policy with all officers to ensure that they fully understand the policy requirements and information contained therein. Other policy distribution guidelines, as outlined in policy, shall be followed.
6. The Use of Force policy shall be thoroughly reviewed with all sworn department personnel annually. The department's Training Coordinator shall be responsible for scheduling the DAAT and/or Firearms Training Coordinators to complete this policy review.
7. The Chief of Police shall be responsible for ensuring that the DAAT Training Coordinator is also provided with a review of the policy. A written confirmation of each officer's review and understanding of the policy shall be obtained. This confirmation shall be forwarded to the Chief of Police, who shall ensure that it is maintained in the master policy file.

J. For Departmental Use Only

1. This policy is for departmental use only and does not apply in any criminal or civil proceeding. The department policy should not be construed as the creation of a higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this policy will only form the basis for departmental administrative sanctions.

Annex A (Use of Force Policy)

DISTURBANCE RESOLUTION

1) APPROACH CONSIDERATIONS

A. Decision-Making

- Justification
- Desirability

B. Tactical Deployment Control of Distance

- Relative Positioning
- Relative Positioning with Multiple Subjects
- Team Tactics

C. Tactical Evaluation

- Threat Assessment Opportunities
- Officer/Subject Factors
- Special Circumstances
- Level/Stage/Degree of Stabilization

2) INTERVENTION OPTIONS

MODE	PURPOSE
A. Presence	To present a visible display of authority
B. Dialogue	To verbally persuade
C. Control Alternatives	To overcome passive resistance, active resistance, or their threats
D. Protective Alternatives	To overcome continued resistance, assaultive behavior, or their threats.
E. Deadly Force	To stop the threat

3) FOLLOW-THROUGH CONSIDERATIONS

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