



# POLICY & PROCEDURE

## KEWASKUM POLICE DEPARTMENT

SUBJECT:	<b>USE OF FORCE</b>	NUMBER:	<u>5.01</u>
SCOPE:	All Department Personnel	ISSUED:	<u>06/30/2020</u>
DISTRIBUTION:	Policy & Procedure Manual	EFFECTIVE:	<u>06/30/2020</u>
REFERENCE:	WI State Statutes: 66.0511(3), 939.22(14), 939.45, 939.48, and Chapter 941; DAAT Incident Response and Disturbance Resolution Model	<input type="checkbox"/> RESCINDS <input type="checkbox"/> AMENDS WILEAG 5 <sup>TH</sup> 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	

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**PURPOSE:** The purpose of this Policy & Procedure is to establish policies and procedures for the Kewaskum 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. USE OF FIREARMS
- V. USE OF VEHICLES - BLOCKADES, BARRIERS, AND RAMMING
- VI. USE OF NON-DEADLY FORCE
- VII. USE OF RESTRAINTS
- VIII. FOOT PURSUITS
- IX. RENDERING MEDICAL AID
- X. REPORTING THE USE OF FORCE

## I. POLICY

A. It is the policy of the Kewaskum Police Department that:

- 1. 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.
- 2. Any person injured through the use of force by an officer, shall receive medical aid for such injuries.
- 3. 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.
- 4. All cases where force is used shall be reviewed by the Chief of Police on a documented annual basis.
- 5. 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.

## II. DEFINITIONS

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

- C. DE-ESCALATION: Taking action or communicating verbally or non-verbally during a potential force situation in an attempt to stabilize the situation and reduce the threat without the use of force or with a reduction in the force necessary.
- D. CONDUCTED ENERGY 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.
- E. 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).
- F. 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 – A physical maneuver that restricts an individual's ability to breathe for the purposes of incapacitation.
  - 2. Vascular Neck Restraint – A technique that can be used to incapacitate individuals by restricting the flow of blood to their brain.
- G. 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.
- H. 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.
- I. 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.

### III. DEFENSE AND ARREST TACTICS

- A. The Department adopts the Defensive and Arrest Tactics System (DAAT). 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 Officers shall be trained in the DAAT system per State of Wisconsin Training and Standard Bureau standards.
  - 1. An officer shall only use that amount of force which is objectively reasonable to gain 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 physically 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 the minimum necessary force in reacting to other people's behavior by escalating or de-escalating through the Intervention Options.
- 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 06-17-2017.
- 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 06-07-17.

#### IV. 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: Firearms 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 where 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. Warning shots are not allowed.

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 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.

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 injured.

H. Prior to being authorized to carry a firearm on duty for the 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 Department Range Officer.

## V. USE OF VEHICLES-BLOCKADES, BARRIERS, AND RAMMING

A. The following may only be employed by an 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.

## VI. USE OF NON-DEADLY FORCE

A. An officer shall use only the minimum amount of force that is reasonably necessary to perform his/her duties. The amount of force which may be employed is determined by the circumstances of a situation, including, but not limited to:

1. The nature of the incident of offense.

2. The behavior of the subject against whom force is to be used, actions by third parties who may be present.
  3. Physical conditions.
  4. The feasibility or availability of alternative actions.
- 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 reasonably necessary to affect the arrest and maintain control of the arrested individual.

- D. Officers may use reasonable force to:
1. Overcome an offender's resistance to or threat to resist a lawful arrest.
  2. Prevent the escape of an offender or arrested person.
  3. Protect a third person from bodily harm or death.
  4. Protect himself/herself from bodily harm or death.
- E. When an individual offers only passive resistance to arrest, an officer shall take such person into custody and transport such individual with as much regard to the individual's safety and welfare as is reasonable, practical and possible.
- F. Officers shall not mistreat persons who are in their custody. Officers shall handle such persons in accordance with the law and Department policies. The use of excessive and unwarranted force or brutality will not be tolerated under any circumstances and may subject the officer to disciplinary action.
- G. An officer who witnesses another officer using force in excess of that permitted by law, training, and/or this Policy & Procedure, must intervene and stop the prohibited use of force. The officer shall also report such use of force to a supervisor immediately. If the offending officer is their supervisor then the reporting officer will report the incident to the next supervisor in the 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. Use of Less Lethal Weapons. Refer to Policy & Procedure 5.02: Use of Less Lethal Weapons.

I. Use of Force to Enter Private Property. (Also refer to Policy & Procedure 1.10: Arrest Procedures).

1. In lawfully entering the land of another to make a felony arrest (not for a misdemeanor or ordinance violation), 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.

## VII. 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 him/her or others.

- C. An officer should never use restraining devices as punishment.

D. The use of neck restraints by personnel of the Kewaskum Police Department is prohibited unless the situation requires the use of deadly force that would be justified.

E. It is the policy of the Department that all persons placed in protective custody or under arrest shall be properly handcuffed.

1. The officer should use Departmentally-approved restraints.

2. Handcuffs should be applied to the person's wrists behind his/her back unless not physically possible, or other factors exists; such as:

a) Other restraining equipment is in use, i.e., belly chains.

b) 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. Handcuffs should be double-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 a firm contact with offender'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 restraining device) should be removed from the person upon arrival at a secure area within the Department, or upon transfer of custody to a responsible.

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 restraining 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 due care as to the safety and custody of prisoners.

E. Prisoners Being Transported.

1. Prior to any transportation of persons in custody, they should be searched for weapons.



2. Prisoners should be placed in the police cruiser so that seat belts may be secured about the prisoner in order to enhance their safety during transportation. Also refer to Policy and Procedure 7.01: Search/Transport of Detainees.

F. 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.

G. All officers shall receive defensive tactics training in accordance with Wisconsin Training and Standards guidelines.

## VIII. FOOT PURSUITS

A. An officer's decision to pursue 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/suspect factors regarding skill level, age, size, and strength of the fleeing suspect.
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.

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.

## IX. 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 Department 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.

## X. REPORTING THE USE OF FORCE

- A. A report will be required when any an officer is forced to use any of the following:
  - 1. Firearms: discharge or pointing of any firearm.
  - 2. Conducted Energy Weapon (CEW).
  - 3. Baton used in striking, blocking or pushing of any person.
  - 4. Chemical agents: use of any chemical agent.
  - 5. Physical force: striking, punching, pushing or restraining any person.
  - 6. Oleoresin capsicum: use of any pepper gas aerosol.
- B. The officer involved shall advise his/her supervisor of the use of force and the underling facts justifying his/her use of force as soon as possible.
- 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. Whenever an officer uses force in the performance of his/her duty, he/she shall indicate in the report of the incident the use of the force and the circumstances and justification for its use.
- H. All use of force reports shall be forwarded to the Lieutenant and Chief.
- I. 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.

2. The officer shall be available for Departmental interviews and statements regarding the incident and subject to recall to duty.

J. 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.

- K. 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. (See Attachment 5.04 - Use of Force and Arrest Related Death Reporting flow chart).

Thomas F. Bishop  
Chief of Police

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

Initial 02/14/2019, 06/30/2020, 01/18/2021