



## MADISON OFFICE

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Saturday, July 18, 2020

Kristie Goforth Schilling  
Monona City Alder  
[kschilling@ci.monona.wi.us](mailto:kschilling@ci.monona.wi.us)

### **Re: Monona Police “Use of Force” and “Use of Less Lethal Weapons” Policies**

Dear City Alder Kristie Goforth Schilling,

Thank you for requesting Legal Action of Wisconsin’s (LAW) input on proposed police reforms for the City of Monona. My colleagues and I have looked at Monona Police Department (MPD)’s existing policies, and the “Use of Force” and “Use of Less Lethal Weapons” policies specifically. (5.01 and 5.03). We have identified portions of those policies that are either unclear or inconsistent with the emerging consensus on best practices.

While this memo focuses on MPD’s “Use of Force” and “Use of Less Lethal Weapons” policies, there are other aspects of police funding and policies that will be vital for the City of Monona to consider if it truly intends to reduce police violence and improve community-police relations. For example, MPD’s other policies provide for the use of race, ethnicity, national origin, appearance or demeanor to justify arrests and stops. Patterns of racial profiling, the selective enforcement of laws against people of color, and problematic stop and frisk policies, in combination with highly publicized cases of excessive force have created a state of terror in Black and Brown communities and for many of Legal Action’s clients. (*Police Practices*, American Civil Liberties Union, 2020.)

We also note that 38% of Monona’s 2020 Operating Budget is dedicated to law enforcement. Studies indicate that a very significant amount of police budgets is spent responding to mental health crises and non-violent offenses. Police resources are thus increasingly being spent on tasks which the police are not necessarily well-qualified to perform or on enforcing, necessarily arbitrarily, a large number of laws and ordinances which do not involve threat to life or community security. At LAW, we see how this kind of over policing destabilizes communities, takes resources away from other forms of community intervention, and undermines public trust in institutions. Any reconsideration of police policies would thus be

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incomplete without a consideration of reallocating resources to bolster non-police interventions and community investment. Those kinds of investment serve two important goals, reducing the criminalization of poverty and mental illness and limiting police/community interactions that present significant opportunities for excessive use of police force.

In response to your invitation, LAW has identified suggestions for modifying MPD's "Use of Force" and "Use of Non-Lethal Weapons" policies. Our suggestions borrow from police policies used in Camden, NJ and Philadelphia, PA which are both clear and comprehensive. For convenience, we have attached an edited version of the existing MPD policies, in which we struck through potential deletions and underlined potential additions. If Monona were to take LAW's suggestions into consideration, our clients would benefit by experiencing less police interaction, and less fear and violence when interactions do occur.

To help you identify key features of the model policy, this letter focuses on a few critical areas in which existing policies are either unclear, incomplete, or in conflict with current best practices.

**1. Current MPD policies are unclear about how and when officers should pursue escalation and de-escalation techniques.**

Current MPD policy states, "[a]t any time, if the level of force you are using **is not effective to gain control**, you may disengage and/or escalate to a higher level of force." (MPD GO, 5.01, at 5) (emphasis added). However, nothing in the policy clearly defines when an officer should escalate or de-escalate their level of force. Other police forces have supplemented this kind of vague general rule with more particulars. (See Philadelphia Police Department (Philadelphia PD) Directive 10 and Camden County, NJ Police Department Use of Force Policy (CCPD UOF Policy), Volume 3, Chapter 2). For example, Philadelphia PD Directive 10.2 at 4, says that the amount of force an officer should use **is based on the suspect's behavior and threat, taking into consideration the suspect's state of mind due to drug or mental illness**. CCPD UOF Policy, Core Principal # 2 makes it explicit that officers have an obligation to de-escalate confrontations with the goal of resolving encounters without force. (CCPD UOF Policy, at 1.) Finally, the federal Justice in Policing Act of 2020 defines necessary force as that which another law enforcement officer would objectively conclude, under the totality of the circumstances, that **there was no reasonable alternative to the use of force**. (Section 364(b)(1)(E)).

**2. Clearer standards would provide officers with a more focused set of goals and action options instead of seeing each encounter as one in which success is defined as obtaining control through force.**

In addition to revising general force standards, Monona PD could consider reformed deadly force police policies from other jurisdictions. Under current MPD policy, "[d]eadly force shall never be resorted to until every other reasonable means of apprehension or defense has been exhausted or there is no other reasonable recourse." (MPD GO 5.01 at 2.). By contrast, the Camden and Philadelphia police departments, expressly prohibit the use of deadly force unless

officers have an objectively reasonable belief that they must protect themselves or another person from death or serious bodily injury. (See Philadelphia PD Directive 10.2 at 6; CCPD UOF Policy, at 9).

LAW also recommends that MPD consider identifying the use of police dogs to effect arrest as a form of deadly force both because of the risk of very serious injury and the evidence that use of dogs very often escalates rather than reduces violence. Here, policy could make explicit whether MPD enforces bark-and-hold or bite-and-hold techniques, with considerations given to implicit bias associated with canine handlers. Lastly, MPD policies could increase accountability by showing employment consequences of violating its use of force policies. (See CCPD UOF Policy at 13-14).

### **3. MPD policies lack any clear requirement to report all use of force incidents to the public.**

Nothing in MPD's current policy establishes a clear and comprehensive duty to report police use of force instances to the public. MPD General Order, 1.07 at 9, appears to limit availability of the reports to the Department and the Board. While there might be circumstances in which some details of a report could be restricted for internal uses, for there to be true public accountability, reports on use of force incidents involving weapons, canines, or vehicles—not just the use of deadly force or police-involved shootings—could be documented with descriptive data on date and time; demographic data about the person subjected to force; location; outcomes for both person subjected to force and officer (e.g., wounded/killed); the name and badge number of the officer; and the ultimate outcome of the incident (i.e., justified/non-justified use of force). The Philadelphia PD's Directive 10.1 and 10.4 are good examples of this.

### **4. MPD policies could incorporate more of the clear policies which would give substantive content to the idea of “objectively reasonable” use of force.**

MPD, and many other police departments like it, train officers and create policies for use of force based on the US Supreme Court's 1989 decision in *Graham v. Conner*, 490 U.S. 1986. However, this standard has come under increasing scrutiny, and criticism, over the intervening decades for several reasons. First, because the “subjective objectivity” at the core of these standards makes it virtually impossible for both officers and the public to determine what kinds of force are constitutionally impermissible. (See Seth W. Stoughton, *Regulating the Reasonableness of Police Violence*, at <https://www.theregreview.org/2017/02/14/stoughton-regulating-reasonableness-police-violence/> ). And second the focus on the constitutional standard provides no positive guidance for what officers should do and no assurance to the public the police use of force is governed clear and constant policies. (Id.).

Currently, MPD's policy provides for the use of force that is reasonably necessary to effectively bring an incident under control (MPD GO, 5.01, at 2). MPD provides that reasonable force is “that force which an ordinary, prudent, and intelligent person with the same knowledge of the particular situation as the officer would deem necessary.” (Id.). While this standard is legally compatible with Supreme Court precedent, it provides no guidance for officers beyond try not to be unreasonable. MPD could benefit from adopting a more objective standard of

reasonability when its officers decide when to use force, and the level of force used. Officers can be trained to recognize the use of force determination should reflect all relevant facts and circumstances of each particular case, including, (1) the severity of the crime at issue, (2) whether the suspect poses an immediate threat to the safety of the officers or others, (3) and whether the suspect is actively resisting arrest or attempting to evade arrest by flight. (See Philadelphia PD Directive 10.2 at 3; CCPD UOF Policy at 2).

#### **5. MPD policies could benefit from incorporating a requirement to consider the totality of circumstances.**

Currently there is no provision in the current MPD policies addressing how to deal with an individual who has a mental impairment, developmental disability or is in a behavioral crisis. (See CCPD UOF Policy, at 5). Any reforms should address whether some of Monona's law enforcement resources would be more effective if they were invested in mental health and community stabilization efforts. For example, in Eugene and Springfield, OR, mental health calls are diverted by dispatch to unarmed mental-health specialists who seek to stabilize the individual. These specialists respond in lieu of police to 20% of 911 and non-emergency police calls and the specialists need to call for police backup in less than 1% of those dispatches.<sup>[16]</sup> The program costs \$2.1 million annually but estimates that it saves \$15 million per year in law enforcement and emergency room costs.<sup>[17]</sup>

Using police as the default responder in many situations is often wasteful and dangerous. Studies show that “21% of total law enforcement staff time was used to respond to and transport individuals with mental illness.”<sup>[14]</sup> And the results can be deadly, as “1 in 4 fatal police encounters ends the life of an individual with severe mental illness.”<sup>[15]</sup> Philadelphia PD's Directives specifically require officers to consider an individual's lack of capacity to comply with police instructions when making use of force decision. (10.2 at 2). In particular, subjects may be physically or mentally incapable of responding to police commands due to a variety of circumstances such as alcohol or drug impairment, mental impairment, medical conditions, or language and cultural barriers. (Id).

#### **6. MPD policies could benefit from including a duty to intervene.**

Nothing in MPD's current policy creates a clear duty to intervene. The Code of Conduct 1.04 prohibits an officer from using or participating in the use of excessive force against any person; from using insulting, unjustifiably threatening words or gestures to any person while on duty;

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<sup>[16]</sup> <https://www.marketwatch.com/story/long-before-defund-the-police-mental-health-advocates-have-been-redefining-public-safety-2020-06-11>

<sup>[17]</sup> <https://www.npr.org/2020/06/10/874339977/cahoots-how-social-workers-and-police-share-responsibilities-in-eugene-oregon>

<sup>[14]</sup> <https://www.treatmentadvocacycenter.org/storage/documents/Road-Runners.pdf>

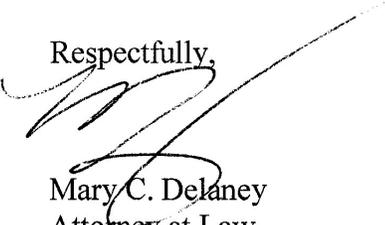
<sup>[15]</sup> <https://www.treatmentadvocacycenter.org/storage/documents/overlooked-in-the-undercounted.pdf>

and requires officers to conduct themselves in a manner that will not reflect negatively on the department. (1.04 at 5). But the Code nowhere affirmatively requires an officer to intercede on behalf of a victim when another officer is engaged in an abuse of force or is otherwise violating the Code of Conduct. In fact, the Code currently appears to require compliance/complicity as it goes on to describe consequences for insubordination. (1.04 p. 5).

In contrast, CCPD UOF Policy Core Principle #6 affirmatively requires employees to stop and report uses of force that violates any applicable law and/or department directives. (CCPD UOF Policy, at 9). The policy also prohibits retaliation against the employee who intercedes in, reports a violation of the directive, or who cooperates with an investigation into possible violations. (Id at 10).

Proponents of police reform have identified effective training, carefully crafted policies and resource allocation changes as reform measures that could help decrease violent encounters between police and the public and increase public safety and security. Thank you again for the opportunity to submit comments on possible police reform initiatives in Monona and the impact of such reforms on our clients. Please do not hesitate to reach out with questions or concerns. I would welcome the opportunity to further discuss the impact of current Monona policies on LAW's clients, and to discuss LAW's work generally.

Respectfully,



Mary C. Delaney  
Attorney at Law



# GENERAL ORDER

## MONONA POLICE DEPARTMENT

SUBJECT: **USE OF FORCE**

SCOPE: All Sworn Personnel  
DISTRIBUTION: General Orders Manual

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

NUMBER: 5.01  
ISSUED: 07/03/2015  
EFFECTIVE: 07/13/2015  
 RESCINDS Policy 2.000  
 AMENDS  
WILEAG 4<sup>TH</sup> EDITION  
STANDARDS: 5.1.1, 5.1.2, 5.1.3,  
5.1.4

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INDEX AS: Control Devices  
DAAT (Defense and Arrest Tactics)  
Deadly Force  
Firearms  
Less Lethal Weapons  
Non-Deadly Force  
Ramming with Police Vehicles  
Use of Force  
Use of Non-Deadly Force  
Warning Shots  
Weapons Pre-Authorization

PURPOSE: The purpose of this General Order is to establish procedures regarding the use of force, and to identify the responsibilities of officers of the Monona Police Department when using force or after it has been used.

This General Order 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

I. POLICY

- A. The Monona Police Department recognizes and respects the value and special integrity of each human life. In vesting police officers with the lawful authority to use force to protect the public welfare, a careful balancing of all human interests is required. The primary duty of all police officers is to preserve human life. (See Philadelphia PD Directive 10.1 at 1.) Therefore, it is the policy of this Department that police officers shall use only force that is reasonably necessary to protect life or to effectuate an arrest. Excessive force will not be tolerated. Officers should exercise all safe and reasonable means of control and containment, using only the minimal amount of force necessary to overcome resistance effectively bring an incident under control, while protecting the lives of the officer or another. (See Philadelphia PD Directive 10.2 at 2.)
- B. Deadly force shall never be resorted to until every other reasonable means of apprehension or defense has been exhausted or there is no other reasonable recourse.
- C. Personnel will not unnecessarily or unreasonably endanger themselves and others in applying these guidelines to actual situations.
- D. Subjects may be physically or mentally incapable of responding to police commands due to a variety of circumstances including but not limited to alcohol or drugs, mental impairment, medical conditions, or language and cultural barriers. Officers should be mindful of this when making use of force decisions. (See Philadelphia PD Directive 10.2 at 2.)

~~Deadly force shall never be resorted to until every other reasonable means of apprehension or defense has been exhausted or there is no other reasonable recourse.~~

II. DEFINITIONS

(See Camden, NJ -CCPD UOF Policy at 16 for most definitions.)

ACTIVE ASSAILANT: A person who is using or imminently threatening the use of force against another person, with or without a weapon, in an aggressive manner that poses an imminent danger to an officer or another person.

ACTIVE RESISTANCE: A person who is uncooperative and fails to comply with directions from an officer, and instead attempts to avoid physical control and/or arrest by creating distance between themselves and the officer or the officer's reach. This type of resistance includes but is not limited to evasive movement of the arm, flailing

arms, and full flight by running.

CANINE APPREHENSION: A properly trained police canine may be used to apprehend an Active Resister whenever the handler has probably cause to believe the person has committed a crime, and less intrusive means of apprehension have been exhausted or, under the circumstances, determined to be ineffective or unavailable.

CHOKEHOLD: Sometimes referred to as a Neck or Carotid Restraint, a chokehold is a technique that involves applying direct pressure to a person's trachea (windpipe) or airway (front of the neck) with the intention of reducing the intake of air. A Carotid Restraint is a technique that applies direct pressure to the carotid artery (on the side of the neck) restricting the flow of blood to the brain and causing a temporary loss of consciousness.

COMPLIANCE TECHNIQUES: Physical techniques that involve the use of non-impact pressure to sensitive areas of the body (mainly areas of skin covering bone) in order to elicit and maintain control of a person. Compliance techniques include joint manipulation and pressure point techniques, but do not include any technique that restricts blood flow to carotid arteries, causing a person to lose oxygen to the brain.

CONDUCTED ELECTRICAL WEAPON (CEW): A CEW is any device that is capable of firing darts/electrodes that transmit an electrical charge or current intended to temporarily disable a person.

ELECTRONIC CONTROL WEAPON (ECW): A non-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.

DEADLY FORCE: Force that an officer uses with the purpose of causing, or which the officer knows to create a substantial risk of causing, death or serious bodily harm. Deadly force is not limited to firing a firearm in the direction of another person, but also includes other particularly dangerous tactics.

DE-ESCALATION (DE-ESCALATION TECHNIQUES): Actions taken by an officer meant to stabilize a situation and reduce the immediacy of a potential threat so that a potentially dangerous situation with voluntary compliance and without resorting to force.

HOLDING TECHNIQUES: Holding techniques include a firm grip or grab of an arm, wristlocks, come-along holds (i.e. escort holds that are not elevated to compliance techniques), controlled take-downs, and pins against the ground or objects, as well as any combination of the above.

IMMINENT DANGER: Imminent danger describes threatened actions or outcomes that are immediately likely to cause death or serious bodily harm to an officer or another person, unless action is taken. In order to be imminent, the person threatening danger must have the means/instruments and opportunity/ability to cause death or serious bodily harm. The threatened harm does not have to be instantaneous. The period of time involved is dependent on the circumstances and facts of each situation and is not the same in all situations.

IMPACT WEAPONS: Weapons designed to establish control by means of applying mechanical impact to a person to disable elements of his or her musculoskeletal structure. Impact weapons include batons and less lethal ammunition. The Department trains officers to avoid the use of flashlights, radios, firearms, or any item not specifically designed as an impact weapon, unless immediately necessary and no other practical options are available.

OLEORESIN CAPSICUM SPRAY: Also known as OC Spray or Pepper Spray, this is an inflammatory chemical agent that causes an intense burning sensation of the skin, eyes, and mucous membranes. Direct exposure to a person's eyes will likely result in the eyes closing, tearing, and swelling. When inhaled, a person experiences choking, gagging, gasping for breath, or, on rare occasion, unconsciousness. As a result of these symptoms, a person may experience nausea or temporarily impaired thought processes or may become disoriented or lose his or her balance.

PASSIVE RESISTANCE: A person who is not cooperative, in that the person fails to comply (in a non-movement way) with verbal or other direction from an officer.

PHYSICAL CONTACT: Routine or procedural contact necessary to effectively accomplish a legitimate law enforcement objective. Examples include, guiding a subject into a police vehicle, holding the subject's arm while transporting, handcuffing a subject and maneuvering or securing a subject for a frisk.

PHYSICAL FORCE: Forceful, concentrated striking movements such as punching and kicking, or focused pressure strikes and pressures. These techniques can be combined with takedowns or pins against the ground or other objects.

POLICE PRESENCE: Police presence established through identification of authority and proximity to the person.

PROPORTIONATE FORCE: Actions, including de-escalation and force, which correspond appropriately with the particular circumstances confronting the officer.

NON-DEADLY FORCE: That amount of force which does not meet the definition of deadly force but is an amount of force in normal circumstances that can cause bodily harm.

OBJECTIVELY REASONABLE FORCE: Is a Fourth Amendment standard whereby an officer's belief that they must protect themselves or others from death or serious bodily injury is compared and weighed against what a reasonable or rational officer would have believed under similar circumstances. This determination is made by reviewing all relevant facts and circumstances of each particular case, including, but not limited to, (1) the severity of the crime at issue, (2) whether the suspects poses an immediate threat to the safety of the officers or others, (3) whether the suspect is actively resisting arrest or attempting to evade arrest by flight. (See Philadelphia PD Directive 10.2 at 3; CCPD UOF Policy at 2; Graham v. Connor, 490 U.S. 386 (1989).)

SUBSTANTIAL RISK: A substantial risk is one that is foreseeably likely to occur. That is, the risk is one that a reasonable officer in the same circumstances should anticipate as the likely outcome.

THREATENING ASSAILANT: A person who is using or threatening the use of force against another person, with or without a weapon, in an aggressive manner that may cause physical injury. Examples may include: (1) a person who puts an officer in fear of a battery by advancing on the officer in a threatening manner or closing the distance between the assailant and the officer, thereby reducing the officer's reaction time, and (2) a person who fails to disarm, thereby increasing the likelihood the person's actions are likely to cause physical injury.

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

~~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.~~

~~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.~~

~~ELECTRONIC CONTROL WEAPON (ECW): A non-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.~~

### III. DEFENSE AND ARREST TACTICS

~~A. The Monona 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 Monona Police Officers shall be trained in the DAAT system per State Training and Standard Bureau standards.

1. An officer shall only use the minimum that amount of force which is necessary and reasonable to overcome an immediate threat or to effectuate an arrest 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 effectively 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.
  5. The officer should also consider the totality of the circumstances to include, but not limited to, a suspect's altered state due to alcohol or drugs, mental impairment, medical conditions, or the proximity of weapons. (See Philadelphia PD Directive 10.2 at 4.)
  6. Use of Force Training will be conducted annually and will include various control techniques.
- ~~B. Incident Response Model: The following is the Incident Response Model adopted by the State of Wisconsin DAAT Advisory Committee 01-16-02.~~

### INCIDENT RESPONSE

R ——— Report

- ~~\*Become aware~~
- ~~\*Plan response~~
- ~~\*Arrive/Assess~~
- ~~\*Alarm/Inform~~

E ——— Evaluate

- ~~\*Look for dangers~~
- ~~\*Determine backup needs~~
- ~~\*Enter when appropriate/tactically sound~~

S ——— Stabilize

- ~~\*Subject(s)~~
- ~~\*Scene~~

P ——— Preserve

- ~~\*Life~~
- ~~-Conduct an initial medical assessment (as trained)~~
- ~~-Treat to level of training~~

~~-Continue to monitor the subject(s)~~

~~\*Evidence~~

~~O ——— Organize~~

~~\*Coordinate additional responding units (if necessary)~~

~~\*Communicate with dispatch and others~~

~~\*Organize the collection of evidence (if appropriate)~~

~~N ——— Normalize~~

~~\*Provide long-term monitoring (as appropriate)~~

~~\*Restore scene to normal~~

~~\*Return radio communications to normal~~

~~D ——— Document/Debrief~~

~~\*Debrief self, other responding personnel, subject(s), other persons~~

~~\*Document incident appropriately~~

~~C. Disturbance Resolution Model: The following is the Disturbance Resolution Model adopted by the State of Wisconsin DAAT Advisory Committee 04-19-05.~~

#### ~~1. APPROACH CONSIDERATIONS~~

~~a) Decision-making ——— Justification—  
Desirability~~

~~b) Tactical Deployment ——— Control of distance  
Positioning Team  
Tactics~~

~~c) Tactical Evaluation ——— Threat assessment opportunities  
Officer/subject factors Special  
circumstances  
Level/stage/degree of stabilization~~

#### B. INTERVENTION OPTIONS

a) Which mode you choose in a given situation depends on your tactical evaluation and threat assessment. Note that the same tactic may, depending on the circumstances and the purpose for which it is used, fall into more than one mode. The criterion is whether the level and degree of force is objectively reasonable. The purpose for use of force is overcome an immediate threat or to effectuate an arrest. (See Philadelphia PD Directive 10.2 at 2.)

(1) The amount of force an officer should use is based on the suspect's behavior and threat. It is the suspect's behavior that places the officer and/or others in danger. The suspect's threat is the primary factor in choosing a force option. However, the officer should also consider the totality of the circumstances to include, but not limited to, a suspect's altered state due to alcohol or drugs, mental impairment, medical conditions, or the proximity of weapons. Five fundamental principles apply:

~~The purpose for use of force is to gain control in pursuit of a legitimate law~~

enforcement objective. ~~If verbalization is effective in gaining control, it is always preferable to physical force. (See Philadelphia PD Directive 10.2 at 4)~~

(2) You may initially use the level and degree of force that is reasonable through the Intervention Options. As the situation dictates, you may move from any mode to any other if you reasonably believe that a lower level of force would be ineffective.

(3) Whenever safe and feasible, officers should not use force immediately when encountering noncompliance with lawful verbal directions. Instead, whenever safe and feasible, before using force, officers should:

- a. Provide clear instructions and warnings;
- b. Seek to communicate in non-verbal ways when a verbal warning would be inadequate (such as when the person does not speak English, or is unable to hear or understand warnings);
- c. Indicate the consequences of refusing to comply with a mandatory order, including that force will be used unless the person complies; and
- d. Give the person a reasonable amount of time to comply

(See CCPD UOF Policy at 4-5.)

(4) Officers must, when feasible, consider whether a person's failure to comply with an officer's command is due to a medical condition, mental impairment, physical limitation, developmental disability, language barrier, drug interaction, behavioral crisis, or other factors beyond the individual's control. In these situations, officers should consider whether specific techniques or resources would help resolve the situation without force. (See CCPD UOF Policy at 5.)

(5) At any time, if the level of force you are using is not effective to gain control, you may **disengage** and/or **escalate** to a higher level of force.

(6) Once you have gained control of a subject, you must **reduce** the level of force to that needed to maintain control.

(7) You should maintain a position of advantage when possible.

(8) After employing any force, including lethal or less than lethal weapons, officers shall render appropriate medical aid and request further medical assistance, when necessary for the suspect and any other injured individuals, as soon as it is safe to do so. (See Philadelphia PD Directive 10.2 at 7; CCPD UOF Policy at 9.)

b) The five modes each serve a different purpose and include different tactics and techniques.

Mode	Purpose
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A. Presence	To present a visible display of authority
B. Dialog	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

**A. Presence:** The first mode, Presence, reflects the fact that sometimes all that is needed to control a situation is the presence of an officer. The purpose of this mode is to “present a visible display of authority.” Much as drivers are careful not to exceed the speed limit when they share the road with a marked squad, the simple presence of an officer in uniform or otherwise identified is enough to prevent people from starting or continuing to behave aggressively or otherwise create a disturbance. [FN Under Monona GO 5.01, Presence, the first mode of maintaining control, which suggests that “sometimes all that is needed to control the situation in the presence of an officer” fails to acknowledge the fact that incidents of racial profiling “poisons relationships between police and minority communities. If you (with good reason) believe that cops routinely discriminate against your racial or ethnic group, you are less likely to cooperate with them, report crimes or otherwise presume they are acting in good faith.” The Problem of Racial Profiling -Why it Matters and What Can Be Done About It, ILYA SOMIN, The Volokh Conspiracy, Washington Post, 6.8.20, at 2. It “is painful and degrading if the people who are supposed to ‘protect and serve’ routinely treat you as a second-class citizen merely based on the color of your skin. . . . It is also painful and scary to know that, while racial profiling usually doesn’t lead to injury or death, there is always a chance that such an incident could horrifically escalate. When a black man encounters a cop, he often has to worry that an officer might kill or injure him even if he has done nothing wrong. The fear is less common for whites.” (Id at 2.) Among people of color, the presence of police is often considered a public safety threat and not likely to elicit the desired response of maintaining control.]

**B. Dialogue:** The second mode, Dialogue, covers the range of tactical communication from very low-level questioning to very directive commands. The purpose of dialogue is to persuade subjects to comply with an officer’s lawful directives. The specific techniques used are covered extensively in Professional Communication Skills.

**C. Control Alternatives:** The third mode, Control Alternatives, includes a wide range of tactics and tools for controlling subjects. These are divided into four groups: escort holds, compliance holds, control devices, and passive countermeasures.

This mode includes both empty-hand techniques such as applying an escort hold or directing a subject to the ground and tools such as Oleoresin Capsicum (OC) spray, commonly called “pepper spray,” and Electronic Weapons (ECWs). The common thread is that all these tactics and tools are used to control subjects who are resisting or threatening to resist.

The mode of Control Alternatives includes four tactics/tools:

- Escort Holds
- Compliance Holds
- Control Devices (OC spray, ECW’s)
- Passive Countermeasures

The goal of control devices (OC spray and ECW’s) is to overcome active resistance or its threat. Active resistance, unlike passive resistance, involves a subject who is physically counteracting an officer’s control efforts under circumstances in which the behavior itself, the environment in which the behavior occurs, or officer/subject factors create a risk of bodily harm.

The criterion of active resistance or its threat means that in general, control devices would not be appropriate to use against verbal aggression, against people who are running away, against children and older persons, and against persons engaged in peaceful civil disobedience-unless reasonably justified by the circumstances covered in Approach Considerations.

**Verbal Aggression** - Verbal aggression occurs when a suspect is being argumentative, and/or confrontational with an officer. While this behavior alone can be difficult for an officer to deal with, Professional Communication skills are the preferred method. However, if arbitration is unsuccessful (REACT), and an officer/subject factor comparison dictates lesser levels of force would be ineffective, then a control device could be a viable alternative.

**People who are running away** - Before deploying a control device (in this case, an ECW would be a better choice than OC spray) during a foot pursuit, ask yourself, “what will the suspect force me to do when I catch him?” If the subject would force you to decentralize him or her during initial physical contact, using an ECW might be a better choice, as the risk of injury to the officer and subject would be less with an ECW as opposed to a passive countermeasure. On the other hand, if you don’t think the subject would require you to immediately take him or her to the ground, then an ECW would probably not be the best choice. In that case you could safely respond with a lower level of force.

Another way to think about the situation is to apply the three criteria from *Graham v. Connor* to determine whether using a control device would be reasonable:

- The severity of the alleged crime at issue: Is it a retail theft or a substantial battery?
- [FN: Given the high number of reported cardiac arrests and deaths

associated with the use of Tasers, reformers suggest Tasers be used solely as an alternative to deadly force, or, at the very least, regulations aimed at minimizing the risk of death. (Tasers No Longer a Non-Lethal Alternative for Law Enforcement, ACLU, May 3, 2012.) “To be sure, law enforcement officers have a legitimate interest in protective themselves and the public during a potentially violent encounters, and for the victim, a Taser is generally a less lethal alternative to a firearm. But history demonstrates that law enforcement agencies have failed to create and implement Taser training policies that effectively educate officers about the risks involved and ensure that officers only use tasers when actually necessary. (Id.)]

- Whether the suspect poses an imminent threat to the safety of officers and/or others: What is the suspect doing when you decide to use force?
- Whether the suspect is actively resisting or attempting to evade by flight. Is the suspect able to offer active resistance and/or flee?

**D. Protective Alternatives:** Protective Alternatives is the fourth mode in Intervention Options. As the name implies, these interventions are designed to protect officers in situations when they face subjects continuing to resist or threatening to assault.

The overall purpose is to overcome continued resistance, assaultive behavior or their threats. Continued resistance means that an individual is maintaining a level of counteractive behavior that is not controlled with the officer's current level of force. Assaultive behavior occurs when an individual's direct action generates bodily harm to the officer(s) and/or another person(s).

The mode of Protective Alternatives includes three tactics:

- Active Countermeasures
- Incapacitation Techniques
- Intermediate Weapon

Note that these tactics may also be used as control alternative, depending on the situation. For example, a jab with a baton (an intermediate weapon) may be used to prevent a person from pushing into a room while officers are interviewing a victim of domestic violence. In that situation, the baton would be used as a Control Alternative rather than a Protective Alternative. Remember that Intervention Options are just that – options. You will choose the appropriate option depending on the totality of the circumstances.

Active Countermeasures – The purpose of active countermeasures is to create a temporary dysfunction of an actively resistive or assaultive subject. The goal is to interrupt the subject to the ground for stabilization, handcuffing, and other follow-through procedures.

Active countermeasures include two categories of techniques:

- Vertical stuns
- Focused strikes

Incapacitating Techniques – The goal of incapacitating techniques is to cause the immediate, temporary cessation of violent behavior. One such technique is taught in the DAAT system: the Diffused Strike. Like the Vertical Stun, the Diffused Strike disrupts nerve impulses to the brain. Unlike the Vertical Stun, however, the effect is usually greater, rendering the subject temporarily unconscious.

Intermediate Weapon – The goal of using intermediate weapons is to impede a subject, preventing him or her from continuing resistive, assaultive, or otherwise dangerous behavior.

Intermediate weapons include a variety of impact and other weapons designed to impede subjects. The intermediate weapon included in the DAAT program is the straight baton. The baton-either a wood or plastic fixed-length baton or a metal expandable baton-is an impact weapon.

While Wisconsin law (WI. Statute 939.45) affords officers the protection of privilege “when the actor’s conduct is a reasonable accomplishment of a lawful arrest,” the conduct must be reasonable. Using deadly force in the absence of significant threat would not be reasonable. Further, Wisconsin law specifically limits the use of deadly force in self-defense (WI. Statute 939.48(1)) as follows:

*“the actor may not intentionally use force which is intended or likely to cause death or great bodily harm unless the actor reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or herself*

The same limitation is extended to use of force to defend a third person, in WI. Statute 939.48(4).

The statutes and this General Order specifically prohibit use of deadly force to prevent suicide or solely to protect property.

**E. Deadly Force:** The fifth mode, Deadly Force, represents the highest level of force available to law enforcement officers and the authority to use deadly force is the greatest responsibility given to law enforcement officers, refer to General Order 5.02: Deadly Force.

## 2. 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                            |

## 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 General Order 12.01: Firearms and Ammunition.

B. Officers shall not use deadly force against another person, unless they have an objectively reasonable belief that they must protect themselves or another person from death or serious bodily injury. (See Philadelphia PD Directive 10.2 at 6.) Further, an officer is not justified in using deadly force at any point in time when there is no longer an objectively reasonable belief that the suspect is dangerous, even if deadly force would have been justified at an earlier point in time. (See CCPD UOF Policy at 9.)

1. There are specific circumstances in which the use of deadly force is prohibited. In general, officers may not discharge their weapons as a signal for help or as a warning shot, nor may they use deadly force in the following situations

- a) Solely to prevent property damage or loss;
- b) Solely to prevent the destruction of evidence (for example, under no circumstances shall an officer use a chokehold, or any lesser contact with the neck area, in order to prevent the destruction of evidence by ingestion, unless life threatening to the actor);
- c) Solely to disable moving vehicles; or
- d) Against a person who poses a threat only to themselves (and not to others).

(See CCPD UOF Policy at 9.)

~~C. 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. An officer may use deadly force only when the officer reasonably believes such action is immediately necessary to protect the officer or another person from imminent danger of death or serious bodily harm. (See CCPD UOF Policy at 8.) 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. Subjects may be physically or mentally incapable of responding to police commands due to a variety of circumstances including but not limited to alcohol or drugs, mental impairment, medical conditions, or language and cultural barriers. Officers should be mindful of this when making use of force decisions. (See Philadelphia PD Directive 10.1 at 1; CCPD UOF Policy at 5.)
- G. While any firearm discharge entails some risk, discharging a firearm at or from a moving vehicle entails an even greater risk to innocent persons and passengers because of the risk that the fleeing suspect may lose control of the vehicle. Due to this greater risk, and considering that firearms are not generally effective in bringing moving vehicles to a rapid halt, an officer shall not discharge their firearms FROM a moving vehicle unless the officers are being fired upon. Shooting accurately from a moving vehicle is extremely difficult and therefore, unlikely to successfully stop a threat of another person.
- H. ~~Police Officers should shall not discharge their firearms at a vehicle unless a person in the vehicle is immediately threatening the officer or another person with deadly force by means other than the vehicle (e.g., officers or civilians are being fired upon by the occupants of the vehicle) and there are no other means available at that time to avert or eliminate the danger 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. (See CCPD UOF Policy at 8; Philadelphia PD Directive 10.1 at 7-8.)~~
- I. An officer may use deadly force to prevent the escape of a fleeing person only if all of the following conditions are met:
1. The officer has probable cause to believe the suspect has committed an offense in which the suspect caused or attempted to cause death or serious bodily harm; and
  2. The suspect will pose an imminent danger of death or serious bodily harm should the escape succeed; and
  3. The use of deadly force presents no substantial risk of injury to innocent persons
- (See CCPD UOF Policy at 8; Philadelphia PD Directive 10.1 at 7-8.)
- J. After using deadly force, officers shall immediately render the appropriate medical aid and request further medical assistance for the suspect and any other injured individuals when necessary and safe to do so and will not be delayed to await the arrival of medical assistance. (See CCPD UOF Policy at 9 and Philadelphia PD

Directive 10.2 at 7.)

- K. Officers who witness inappropriate or excessive force have a duty to report such violations to a supervisor and Internal Affairs.
- L. 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.
- M. Specific Prohibitions:
  - 1. Police officers shall not draw their firearms unless they reasonably believe an immediate threat for serious bodily injury or death to themselves or another person exists.
  - 2. Police officers shall not use a firearm as a club.
  - 3. Police officers shall ensure their actions do not precipitate the use of deadly force by placing themselves or others in jeopardy by taking unnecessary, overly aggressive, or improper actions. It is often a tactically superior police procedure to withdraw, take cover or reposition, rather than the immediate use of force.
  - 4. Officers shall not move into or remain in the path of a moving vehicle. Moving into or remaining in the path of a moving vehicle, whether deliberate or inadvertent, SHALL NOT be justification for discharging a firearm at the vehicle or any of its occupants. An officer in the path of an approaching vehicle shall attempt to move to a position of safety rather than discharging a firearm at the vehicle or any of the occupants of the vehicle. NOTE: An officer should never place themselves or another person in jeopardy in an attempt to stop a vehicle.

(See Philadelphia PD Directive 10.2 at 8)

- N. Prior to being authorized to carry a firearm on duty for the Monona Police Department, officers must meet the following three requirements:
  - 1. Officers shall receive training in the safe handling and operation of authorized firearms. Officers must demonstrate their understanding of Department General Orders 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 Monona Police Department Range Officer.

O. Release of Information Regarding Officer Involved Shootings (OIS)

1. A press conference will be held by the Police Commissioner or designee within 72 hours of an officer involved shooting in which an individual was killed or wounded. An official press statement will be released by the Police Commissioner or designee within 72 hours of an incident when an on duty accidental discharge occurs or when an individual was shot at but not struck as a result of a weapons discharge by a member of the Department. The information will include the officer's name, years of service, assignment and duty status.
  - a) The officer(s) will be placed on Administrative Duty Status pending the outcome of the investigation.
  - b) The release will contain a preliminary summary stating the circumstances of the incident known at the time and based on the facts collected and confirmed by the investigators. The release will provide a brief synopsis of the incident, condition (injuries) of the individual, charges (if applicable), and the proceeding steps of the investigation. Names of the individual suspect or the officer will be released unless there are public safety concerns.

(See Philadelphia PD Directive 10.1 at 20 and CCPD UOF Policy at 11)

~~V. 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 General Order 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 risk of harm presented by the person;
2. The risk of harm to the officer or innocent citizens by using force;
3. The seriousness of the law enforcement objective;
4. Whether further de-escalation techniques are feasible, including the time available to an officer to make a decision, and whether additional time could be gained through tactical means;
5. If there is a practical, less harmful alternative available to the officer;
6. Mental or physical disability, medical condition, and other physical and mental characteristics; and
7. Whether there are other exigent/emergency circumstances.
8. The nature of the incident of offense.
9. ~~The behavior of the subject against whom force is to be used, actions by third parties who may be present.~~
10. ~~Physical conditions.~~
11. ~~The feasibility or availability of alternative actions.~~

(See CCPD UOF Policy at 5.)

- B. Subjects may be physically or mentally incapable of responding to police commands due to a variety of circumstances including but not limited to alcohol or drugs, mental impairment, medical conditions, or language and cultural barriers. Officers should be mindful of this when making use of force decisions. 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. (See CCPD UOF Policy at 5.)
- C. As a situation changes, officers must reevaluate the circumstances and continue to respond proportionately. 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. (See CCPD UOF Policy at 5.)
- D. Officers may use objectively reasonable force to:
1. To effect lawful law enforcement objectives, such as to effect a lawful seizure (an arrest or detention) or to carry out a lawful search;
  2. To overcome resistance directed at the officer or others;
  3. To prevent physical harm to the officer or to another person, including intervening in a suicide or other attempt to self-inflict injury;
  4. To protect the officer, or a third party, from unlawful force; or
  5. To prevent property damage or loss.
  6. ~~Overcome an offender's resistance to or threat to resist a lawful arrest.~~
  7. ~~Prevent the escape of an offender or arrested person.~~

- ~~8. Protect a third person from bodily harm or death.~~
- ~~9. Protect himself/herself from bodily harm or death.~~

(See CCPD UOF Policy at 4.)

E. Officers may not use or threaten to use force for the following reasons:

1. To resolve a situation more quickly, unless the extended delay would risk the safety of the person involved, officers, or others, or would significantly interfere with other legitimate law enforcement objectives;
2. To punish a person or to retaliate against them for past conduct or to impose punishment;
3. To prevent a person from resisting or fleeing in the future;
4. To force compliance with an officer's request, unless that request is necessary to serve officer or public safety, or criminal adjudication; or
5. Based on bias against a person's race, ethnicity, nationality, religion, disability, gender, gender identity, sexual orientation, or any other protected characteristic.

F. Officers responding to any incident that may require the use of force, WILL NOT:

1. Whenever possible, sit, kneel, or stand on a subject's back or chest.
2. Stand on a subject's head, face and/or neck area.
3. Offensively kick and/or stomp on a subject. NOTE: Kicks are authorized for defensive purposes only.
4. Use prohibited neck restraints (i.e., choke holds and "sleeper holds"). This will include any incident where an individual attempts to ingest narcotics or other evidence.
5. Transport an individual in a face down position, especially when handcuffed. This will serve to prevent positional asphyxia that occurs when the position of the subject's body interferes with their ability to breathe. If an individual is having trouble breathing or is demonstrating life-threatening symptoms, medical assistance will be sought immediately.

G. Officers, when force is used, WILL:

1. If force is necessary, coordinate appropriate tactics with a sufficient number of personnel to safely overcome any resistance.
2. Use only the minimal amount of force necessary to overcome resistance.
3. Handcuff the individual behind the back, palms out, and ensure handcuffs are double-locked, and do so at the earliest possible time to reduce potential resistance.
4. Ensure that the individual is checked for injuries

(See Philadelphia PD Directive 10.2 at 9.)

H. 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.

I. 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.

- J. The DAAT Disturbance Resolution Model should be followed and adhered to at all times.
- K. Training for less lethal weapons shall occur at least biennially for officers authorized to use such weapons or techniques.
- L. Duty to Intervene:
  - 1. Officers have a duty to prevent and stop illegal and inappropriate uses of force by other officers. Every employee has an obligation to ensure compliance, by themselves and others, with Department directives and regulations, as well as all applicable laws, regarding use of force.
  - 2. Any employee who observes an officer about to use force that is illegal, excessive, or otherwise inconsistent with this directive must, absent extraordinary circumstances, do whatever he/she can to interrupt the flow of events before the fellow officer does something that makes any official action necessary. Officers can serve each other and the public by simply saying or doing the right thing to prevent a fellow officer from resorting to force illegally or inappropriately.
  - 3. Similarly, any employee who observes an officer using force that is illegal, excessive, or otherwise inconsistent with this directive must, absent extraordinary circumstances, do whatever he/she can to interrupt the flow of events and stop the use of force.
    - a) If a supervisor observes such a violation, the supervisor must issue a direct order to stop the violation. Employees have a duty to report illegal and inappropriate uses of force by other officers. Any employee who observes or has knowledge of a use of force that is illegal, excessive, or otherwise inconsistent with this directive must: a. Notify a supervisor as soon as possible; and
    - b) Submit an individual written report to a supervisor before reporting off duty on the day the officer becomes aware of the misconduct.
  - 4. Employees are prohibited from retaliating against an employee who intercedes in or reports illegal or inappropriate uses of force. No employee may retaliate, in any form, against another employee who intercedes in or reports a violation of this directive, or who cooperates with an investigation into a possible violation of this directive.

## ~~II. 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 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. It is a policy and procedure of this 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.~~

~~E. Hand-Style Restraints. It is the policy and procedure of this 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 Departmentally-approved restraints.~~

~~2. Handcuffs should be applied to the person's wrists behind his/her back unless not physically possible.~~

~~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 party. This procedure will not be affected should such removal be likely to result in physical harm to the offender, officers, or other person.~~

~~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 neck restraints by personnel of the Monona Police Department is prohibited.~~

~~F. 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) ~~Other restraining equipment is in use, i.e., belly chains. 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) ~~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 were used.~~~~
- ~~3. Prisoners should be so placed in the police cruiser that seat belts may be secured about the prisoner in order to enhance their safety during transportation.~~
- ~~4. 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. 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.~~~~

#### ~~H. Use of Force to Enter Private Property.~~

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

Walter J. Ostrenga  
Chief of Police

This General Order cancels and supersedes any and all written directives relative to the subject matter contained herein.

Initial 07/13/2015



# GENERAL ORDER

## MONONA POLICE DEPARTMENT

**SUBJECT: USE OF LESS LETHAL WEAPONS**

SCOPE: All Sworn Personnel  
DISTRIBUTION: General Orders Manual

REFERENCE: WI State Statutes: 939.45, 939.48, and Chapter 941; DAAT Incident Response and Disturbance Resolution Model

NUMBER: 5.03  
ISSUED: 03/31/2015  
EFFECTIVE: 04/10/2015  
X RESCINDS 2.000  
2.0001  
X AMENDS  
WILEAG 4<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, 12.1.1.1, 12.1.1.3, 12.1.3.1, 12.1.3.5

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INDEX AS: Control Devices  
Deadly Force  
Firearms  
Less Lethal Weapons  
Non-Deadly Force  
Police Baton  
Use of Less Lethal Weapons  
Use of Non-Deadly Force  
Weapons Pre-Authorization

PURPOSE: The purpose of this General Order is to establish policies and procedures regarding the use of less lethal weapons and to identify the responsibilities of officers of the Monona Police Department when using them or after they have been used.

This General Order consists of the following numbered sections:

- I. DEFINITIONS
- II. POLICY
- III. PROCEDURE

## I. DEFINITIONS

ACTIVE ASSAILANT: A person who is using or imminently threatening the use of force against another person, with or without a weapon, in an aggressive manner that poses an imminent danger to an officer or another person.

ACTIVE RESISTANCE: A person who is uncooperative and fails to comply with directions from an officer, and instead attempts to avoid physical control and/or arrest by creating distance between themselves and the officer or the officer's reach. This type of resistance includes but is not limited to evasive movement of the arm, flailing arms, and full flight by running.

CANINE APPREHENSION: A properly trained police canine may be used to apprehend an Active Resister whenever the handler has probably cause to believe the person has committed a crime, and less intrusive means of apprehension have been exhausted or, under the circumstances, determined to be ineffective or unavailable.

CHOKEHOLD: Sometimes referred to as a Neck or Carotid Restraint, a chokehold is a technique that involves applying direct pressure to a person's trachea (windpipe) or airway (front of the neck) with the intention of reducing the intake of air. A Carotid Restraint is a technique that applies direct pressure to the carotid artery (on the side of the neck) restricting the flow of blood to the brain and causing a temporary loss of consciousness.

COMPLIANCE TECHNIQUES: Physical techniques that involve the use of non-impact pressure to sensitive areas of the body (mainly areas of skin covering bone) in order to elicit and maintain control of a person. Compliance techniques include joint manipulation and pressure point techniques, but do not include any technique that restricts blood flow to carotid arteries, causing a person to lose oxygen to the brain.

CONDUCTED ELECTRICAL WEAPON (CEW): A CEW is any device that is capable of firing darts/electrodes that transmit an electrical charge or current intended to temporarily disable a person.

DEADLY FORCE: Force that an officer uses with the purpose of causing, or which the officer knows to create a substantial risk of causing, death or serious bodily harm. Deadly force is not limited to firing a firearm in the direction of another person, but also includes other particularly dangerous tactics.

DE-ESCALATION (DE-ESCALATION TECHNIQUES) Actions taken by an officer meant to stabilize a situation and reduce the immediacy of a potential threat so that a potentially dangerous situation with voluntary compliance and without resorting to force.

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

ELECTRONIC CONTROL WEAPON (ECW): A non-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.

HOLDING TECHNIQUES: Holding techniques include a firm grip or grab of an arm, wristlocks, come-along holds (i.e. escort holds that are not elevated to compliance techniques), controlled take-downs, and pins against the ground or objects, as well as any combination of the above.

IMMINENT DANGER: Imminent danger describes threatened actions or outcomes that are immediately likely to cause death or serious bodily harm to an officer or another person, unless action is taken. In order to be imminent, the person threatening danger must have the means/instruments and opportunity/ability to cause death or serious bodily harm. The threatened harm does not have to be instantaneous. The period of time involved is dependent on the circumstances and facts of each situation and is not the same in all situations.

IMPACT WEAPONS: Weapons designed to establish control by means of applying mechanical impact to a person to disable elements of his or her musculoskeletal structure. Impact weapons include batons and less lethal ammunition. The Department trains officers to avoid the use of flashlights, radios, firearms, or any item not specifically designed as an impact weapon, unless immediately necessary and no other practical options are available.

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.

OLEORESIN CAPSICUM SPRAY: Also known as OC Spray or Pepper Spray, this is an inflammatory chemical agent that causes an intense burning sensation of the skin, eyes, and mucous membranes. Direct exposure to a person's eyes will likely result in the eyes closing, tearing, and swelling. When inhaled, a person experiences choking, gagging, gasping for breath, or, on rare occasion, unconsciousness. As a result of these symptoms, a person may experience nausea or temporarily impaired thought processes, or may become disoriented or lose his or her balance.

PASSIVE RESISTANCE: A person who is not cooperative, in that the person fails to comply (in a non-movement way) with verbal or other direction from an officer.

PHYSICAL CONTACT: Routine or procedural contact necessary to effectively accomplish a legitimate law enforcement objective. Examples include, guiding a subject into a police vehicle, holding the subject's arm while transporting, handcuffing a subject and maneuvering or securing a subject for a frisk.

PHYSICAL FORCE: Forceful, concentrated striking movements such as punching and kicking, or focused pressure strikes and pressures. These techniques can be combined with takedowns or pins against the ground or other objects.

POLICE PRESENECE: Police presence established through identification of authority and proximity to the person.

PROPORTIONATE FORCE: Actions, including de-escalation and force, which correspond appropriately with the particular circumstances confronting the officer.

OBJECTIVELY REASONABLE FORCE: Is a Fourth Amendment standard whereby an officer's belief that they must protect themselves or others from death or serious bodily injury is compared and weighed against what a reasonable or rational officer would have believed under similar circumstances. This determination is made by reviewing all relevant facts and circumstances of each particular case, including, but not limited to, (1) the severity of the crime at issue, (2) whether the suspects poses an immediate threat to the safety of the officers or others, (3) whether the suspect is actively resisting arrest or attempting to evade arrest by flight.

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.(FN: Reformers suggest there should be a national standard of force to be used only as a last resort, a ban on choke holds and an end to qualified immunity, a doctrine from the Supreme Court that shields the police from being sued when they break the law. (Police Reform is Necessary But How Do We Do It? NYT Magazine, 7/13/2020.; H.R.7120- Justice in Policing Act of 2020, Section 102, 363, 364)  
The Justice in Policing Act of 2020 defines necessary force as that which another law enforcement officer would objectively conclude, under the totality of the circumstances, that there was no reasonable alternative to the use of force. (Section 364(b)(1)(E)).

SUBSTANTIAL RISK: A substantial risk is one that is foreseeably likely to occur. That is, the risk is one that a reasonable officer in the same circumstances should anticipate as the likely outcome.

THREATENING ASSAILANT: A person who is using or threatening the use of force against another person, with or without a weapon, in an aggressive manner that may cause physical injury. Examples may include: (1) a person who puts an officer in fear of a battery by advancing on the officer in a threatening manner or closing the distance between the assailant and the officer, thereby reducing the officer's reaction time, and (2) a person who fails to disarm, thereby increasing the likelihood the person's actions are likely to cause physical injury.

~~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.~~

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

~~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 non-lethal force weapon that causes neuro-muscular incapacitation 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.~~

~~PASSIVE RESISTANCE: When a subject refuses to comply with a directive from a law enforcement officer but does not threaten to or attempt to cause bodily harm to the officer or others.~~

~~ACTIVE RESISTANCE: When an officer encounters behavior which physically counteracts his or her attempt to control and which creates a risk of bodily harm to the officer, subject, and/or other person(s).~~

(See CCPD UOF Policy at 2, 16 for most definitions. See also: Philadelphia PD Directive 10.2 at 3; Graham v. Connor, 490 U.S. 386 (1989)).

## II. POLICY

A. The Monona Police Department recognizes and respects the value and special integrity of each human life. In vesting police officers with the lawful authority to use force to protect the public welfare, a careful balancing of all human interests is required. Therefore, it is the policy of this Department that police officers shall use only force that is reasonably necessary to protect life or to effectuate an arrest. Excessive force will not be tolerated. Officers should exercise all safe and reasonable means of control and containment, using only the minimal amount of force necessary to overcome resistance effectively bring an incident under control, while protecting the lives of the officer or another. (See Philadelphia PD Directive 10.2 at 2).

## II. PROCEDURE

A. Intermediate Impact Weapon- Batons.

1. An impact weapon may be used only when an officer reasonably believes a lesser level of force would be insufficient to control the situation. The use of a Department-authorized baton is permitted against an actively aggressive person when the officer reasonably believes that the subject poses an articulate threat of bodily harm to the officer or another person. An Officer may include in their decision to use this force option information known to the officer at the time of the incident, including conduct of or statements by the

subject or prior history of resistive or assaultive behavior.

2. The use of the baton/ASP is for defense and to assist in effecting an arrest. It should not be used as an offensive weapon. It may be needed to:
  - a) Block or deflect an attack.
  - b) Counter-strike in self-defense.
  - c) Control an aggressively resisting subject.
  - d) Overcome Physically Aggressive or Assaultive behavior to effect an arrest.
  - e) Protect an officer or another person from bodily injury.
  - f) Prevent an individual from injuring themselves.
  - g) Prevent a suicide

(See Philadelphia PD Directive 10.2 at 13.)

3. An officer should not brandish, display or threaten the use of an impact weapon as a threat unless he/she can reasonably conclude that its use may become justified and is anticipated.
4. An officer shall carry the baton/ASP in a non-aggressive (e.g., under arm) manner during vehicle or pedestrian stops, disturbances, crowds, or other potentially dangerous situations. (Philadelphia PD Directive 10.2 at 14.)
5. Strike only the following locations of the body, when necessary.
  - a) Preferred striking areas:
    - (1) Muscle in the legs (thigh and calf) and arms (forearms and biceps). These areas are most vulnerable to an effective strike.
  - b) Intermediate striking areas:
    - (1) If striking the preferred areas is not possible, unsafe to the officer or other officers, the officer should attempt to strike the intermediate areas which include the elbows, knees, and ankles. These are secondary strike zones which may cause pain or injury, but are not intended to cause permanent damage.
- ~~6. An officer should not strike a person above the shoulders with an impact weapon:~~
  - ~~a) Generally, a strike to the head with an impact weapon is considered deadly force and should not be used, unless such an action is justified under the use of deadly force.~~
  - ~~b) This Section is not intended to apply to an accidental strike to the head as a result of resistance.~~
7. Officers should only use Department-approved baton techniques.
8. Department-approved batons are the only authorized impact weapons. Other devices, flashlights, radios, firearms, etc., are not recommended to be used as impact weapons; however, the Department recognizes that emergency self-defense situations involving other objects and instruments may occur. Expandable or wooden batons are authorized providing the baton of choice is

readily available for on-duty, uniformed officers.

9. Take an injured individual or one complaining of an injury to the nearest hospital or appropriate trauma center immediately.
10. When a baton is used against the body of a person the officer must ~~should~~ notify the Chief of Police or a supervisor and complete Incident and Use of Force Reports.
11. Officers, when carrying or utilizing the baton/ASP WILL NOT:
  - a) Make modifications of, or additions to the baton/ASP.
  - b) Intentionally strike the head, face, throat, chest, abdomen, groin, spine, and collarbone of an individual.
  - c) Use more force than is necessary to overcome the resistance.

(See Philadelphia PD Directive 10.2 at 15.)

#### B. Less Lethal Munitions: Kinetic Energy Impact Projectiles (Beanbags).

1. Kinetic energy impact projectiles, commonly referred to as less lethal projectiles or beanbag rounds, may be utilized by trained Department personnel in circumstances where a level of force less than deadly force may be appropriate for resolving the situation, and when the risk associated with closing on the subject to take control makes other alternatives impractical.
2. Only Department-authorized and issued less lethal impact projectiles may be used, delivered by the department's designated 12 gauge shotguns.
3. Like any use of force, deployment of less lethal impact projectiles must be evaluated using the criteria in this General Order. Deployment of less lethal impact projectiles at non-vital areas is considered non-deadly force and is considered to fall just above baton strikes on the force continuum. The intentional deployment of less lethal impact projectiles at the face, head or neck is considered deadly force.
4. The option to use less lethal impact projectiles may be used when a person poses a significant threat of harm to self or others and unarmed tactics have either been exhausted or would not be effective or safe given the circumstances. Officers may include in the decision to use this force option information known to the officer at the time of the incident, including conduct of or statements by the subject or prior history of resistive or assaultive behavior.
5. Less lethal projectile weapons may only be utilized by officers that have successfully completed training in their use. Deployment of less lethal impact projectiles will be in accordance with departmental training.
6. It is the responsibility of the officer arming him or herself with a less lethal

projectile weapon to ensure that the weapon is loaded with less lethal rounds each time the weapon is deployed.

7. Impact projectiles are not a substitute for deadly force. An officer may not arm him or herself with a less lethal weapon against an armed subject unless another officer at the scene has the immediate ability to deliver deadly force. Officers armed with less lethal weapons should continuously monitor and evaluate the ability of other officers present to deliver deadly force.
8. When utilized, the Department places the use of less lethal impact projectiles and other Less Lethal Munitions at the Intermediate Weapon Mode. Less-lethal is defined as the “intentional use of an instrument to impede a subject, the use of which is less likely to cause death.”
9. Whenever practical or possible, officers discharging the Less Lethal Munitions must ~~should attempt to~~ give a warning to the subject and other officers, i.e., announcement of: “Impact – Impact - Impact”.
10. All persons taken into custody who have been struck with a less lethal impact projectile will be conveyed to an emergency room for medical clearance.
11. ~~An officer should not brandish, display or threaten the use of a less lethal impact weapon unless he/she can reasonably conclude it use may become justified and is anticipated. (This provision was previously stated in the policy.)~~
12. When less lethal impact projectiles (beanbag rounds) are used against the body of a person, the officer ~~should~~ must notify the Chief of Police or a supervisor and will complete an Incident Report detailing the circumstances of the incident.
13. Less lethal impact projectiles may only be delivered to the subject’s body in accordance with the following guidelines:
  - a) Primary Target Areas (legs and Buttocks): In addition to legs and buttocks, arms may also be considered a primary target under some circumstances. The officer must consider the proximity of the targeted portion of the arm to vital areas of the body. Primary target areas are considered when incapacitation is necessary but the threat is not imminent. Multiple impacts to the primary target areas should be considered before progressing to the secondary target area.
  - b) Secondary Target Area (Lower Abdomen): The secondary target area is considered when incapacitation is critical due to the imminent threat posed by the subject, but deadly force has not yet become necessary.
  - c) Head/Neck/Chest Area: Intentional impact to these areas is avoided unless the use of deadly force is justified.
14. In each instance where less lethal projectiles are deployed at an incident, a

determination should be made regarding the need for lethal cover. Lethal cover is required in all cases in which the subject possesses a firearm.

15. Absent an imminent risk of harm to officers or citizens, less lethal impact projectiles will not be used in crowd control situations. Less lethal impact projectiles will not be used to move or disperse crowds.
16. Subjects who are struck by a less lethal impact projectile ~~should~~ must be transported to a medical facility.
17. Less lethal impact weapons may be deployed in other jurisdictions pursuant to a mutual aid request. In the event that an individual struck with a less lethal impact projectile is taken into custody by another agency, officers from that agency shall be notified of the need for medical treatment.
18. The requirements of this policy, related to the investigation of the use of a firearm for the purposes of deadly force, will be used only if the deployment of the less lethal weapon results in death or serious injury. In all other cases only the requirements of reporting the use of force will be followed.

#### C. Chemical Control Device

1. The aerosol chemical control device authorized by the Monona Police Department contains oleoresin capsicum (O.C.). No other aerosol chemical restraint is authorized or allowed without prior approval from the Chief of Police or the Chief's designee. All O.C. must be non-flammable.
2. Oleoresin Capsicum (OC) Spray is an inflammatory agent that causes an intense burning sensation of the skin and mucous membranes. It has a near immediate effect on an individual sprayed. The effects subside after about 30 minutes.
3. If sprayed in the face, the individual's eyes will close, tear, and swell as a result. The subject may become disoriented and lose their balance. When inhaled, the respiratory tract will become inflamed and temporarily restrict breathing to short, shallow breaths. The subject may experience choking, gagging, or gasping for breath. A burning sensation of the skin may also occur.
4. The use of OC Spray is for defense or to assist in effecting an arrest. It MAY be used to:
  - a) Control an aggressively resisting subject (i.e., an involuntary commitment)
  - b) Prevent an escape from arrest.
  - c) Overcome resistance to an arrest.
  - d) Protect an officer or another person from bodily injury.
  - e) Prevent an individual from injuring themselves.
  - f) Prevent a suicide.

5. The use of OC Spray is NOT to be used:
  - a) For the dispersal of non-violent persons.
  - b) For disorderly crowds.
  - c) In situations where people are peacefully exercising their Constitutional Rights of free speech or assembly.
  - d) At random.
  - e) As a threat to gain compliance or information.
6. Once an individual has been placed under control, there is no further justification for the continued use of the OC Spray.
7. When utilizing OC Spray, officers WILL:
  - a) Ensure care is taken to protect infants, children, and the elderly from exposure to the OC Spray.
  - b) Deliver the spray directly into the face (eyes, nose, mouth) and when practical, when in the range of 10-12 feet, in two, one-half second bursts.
  - c) Be aware of cross-contamination, wind direction, and the presence of fellow officers before utilizing spray.
  - d) Safely secure the individual in handcuffs once under control.
  - e) Calm the individual and reassure them that the effects are temporary.
  - f) Expose the subject to fresh air and, if water is available, flush the contaminated areas.
  - g) Transport the subject to the nearest hospital and take the spray canister along.
  - h) Continue to monitor the subject during transportation for respiratory distress.
  - i) If the subject is or becomes unconscious, transport as an emergency hospital case. Have subject wash any contaminated areas of the skin with soap and water once arriving at the hospital.
  - j) When applicable, have subject remove contact lenses and wash effected area. NOTE: Serious eye damage can occur if contacts are not removed within 4 - 6 hours of exposure.
  - k) Prepare a Use of Force Report, which will include the description of the actions of the individual which caused the use of force, as well as the actions taken by the officer.
  - l) Treat OC Spray as a weapon and store in a secure place when not on duty.
8. Officers, when utilizing OC Spray WILL NOT:
  - a) Spray directly into the eyes at a distance of less than three feet, when possible.
  - b) Spray into the wind or in a confined area.
  - c) Keep spray projectors in vehicles.
  - d) Store where temperatures exceed 120 degrees Fahrenheit
9. When an officer is threatened with physical force or dealing with a resistive or

combative person and lesser control factors are ineffective, consideration should be given to the use of control devices.

(See Philadelphia PD Directive 10.2 at 10-13.)

10. All uniformed officers issued O.C. aerosol will be required to carry it while on duty unless replaced by a Conducted Electronic Weapon, in which case it must be in the squad. This rule shall not apply to administrative personnel and other officers assigned to plain clothes duties within the police department.

a) O.C. aerosol will be used consistent with the training provided by the Monona Police Department and/or the Wisconsin Training and Standards Bureau.

#### D. Conducted Electrical Weapon (CEW)

##### 1. Authorized CEW Users

a) Only officers who have satisfactorily completed the Department's approved CEW certification training course shall be authorized to carry/use such weapon.

b) All patrol division officers, and any other officer desiring to carry or deploy a CEW in the field, shall receive CEW certification training and maintain such certification through recognized re-certification applications.

##### 2. CEW Assignment and Control

a) A locked cabinet will be the repository for CEWs when not in use.

(1) Officers assigned patrol duties will check out a CEW at the beginning of their duty shift.

(2) CEWs will be returned to the squad room secure cabinet at the conclusion of the officer's duty day.

b) CEW spare cartridges and batteries will be kept in the department armory.

c) Officers shall report any damaged, missing or lost CEWs to their immediate supervisor as soon as possible.

##### 3. CEW Care and Handling

a) Officers will use only authorized CEW equipment issued by the Monona Police Department.

b) Officers will inspect their assigned CEW for damage and cleanliness at the beginning of each shift. The battery display will be checked on the CID and readings of 20% or less will require a battery pack change for CEW's

which run off of a battery, or recharged when powered by a CEW camera, at 50% or less.

- c) The CEW will be carried in a department issued holster on the support side (opposite the duty firearm) of the body.
  - d) The CEW will be carried fully armed with the safety on, loaded with a cartridge(s).
  - e) Officers are not authorized to draw or display the CEW, except for training and inspection, unless circumstances lead an officer to reasonably believe it may be necessary and appropriate to use it.
4. Authorized Use of CEWs

- a) The CEW may be used by trained personnel when a subject is physically aggressive or assaultive and there is an immediate likelihood that they may injure themselves or others ~~threatening to actively resist and/or is actively resisting an officer or poses an articulable threat of harm to an officer, another person or themselves. It may also be used when the subject poses a threat of harm to him/herself such as self-inflicted injury or a suicide attempt.~~
- b) A CEW cannot be used on a subject who is only non-compliant
- c) CEWs have been categorized by the Wisconsin Training and Standards Board as a control alternative method of intervention option.

#### 5. CEW Applications

- a) The following are three types of acceptable applications for the use of CEWs.
  - (1) Spark Display - A non-contact demonstration of the CEW's ability to discharge electricity. For the Taser X26, this is conducted when the CEW's cartridge has been removed. For the Taser X2, this is conducted using the ARC button. The purpose of this display is to convince a subject to comply with a lawful order to avoid the CEW being deployed in the Drive Stun or Probe mode. The Spark Display is generally not recommended due to delayed weapon readiness caused by removal of the cartridge.
  - (2) Drive Stun - Contact is made by pressing the front of the CEW (cartridge removed) into the body of a subject resisting lawful orders.

While the Drive Stun causes significant localized pain in the area touched, it does not have a major effect on the central nervous system and generally does not incapacitate. The effect of a Drive Stun may assist in taking a subject into custody and it has an effect similar to firing probes at a distance of less than 3 feet. (Emphasis in original)

- (3) Probe- This is the most effective use of the CEW. In the Probe mode, the cartridge is discharged and the probes make direct contact with the subject. Proper application will result in temporary immobilization which allows a “window of opportunity” to safely take the subject into custody.

## 6. Restrictions / Limitations on CEW Deployment

- a) The CEW will not be used in the following circumstances unless exigent circumstances are present, and those circumstances are clearly articulated:
  - (1) When the officer knows the subject has come in contact with flammable liquids, or is in a flammable atmosphere.
  - (2) In situations where the subject is in a position where a fall from an elevated position, or other hazard, may cause substantial injury or death.
  - (3) Punitively, for purposes of coercion, or in an unjustified manner.
  - (4) When a subject is handcuffed and offering no active resistance, or is offering resistance which may be overcome using lesser force, or against a subject offering passive resistance.
  - (5) When the subject is visibly pregnant.
  - (6) When it is reasonable to believe that incapacitation of the subject may result in serious injury or death.
  - (7) As a general rule, on fleeing subjects.
    - (a) If a subject actively resists and subsequently breaks away from an officer, the officer may deploy a CEW in the early stages of a foot pursuit to bring the subject under control only if there is an immediate likelihood that they may injure themselves or other.
  - (8) As a general rule, for performing drive stuns.
    - (a) Officers will be required to articulate a higher level of justification for performing a drive stun than will be required for deploying probes.
  - (9) In situations where the subject is in close proximity to water where, if incapacitated by the CEW, there is a high probability that the subject could drown.
- b) The CEW should not be used in the following circumstances unless there are compelling reasons to do so and those reasons are clearly articulated:

- (1) When the subject is operating a motor vehicle.
- (2) When the subject is holding a firearm.
- (3) When the subject is at the extremes of age (young or old) or physically disabled.
- (4) In a situation where deadly force is clearly justifiable unless another officer is present and capable of providing deadly force to protect the officer and/or others as necessary.
- (5) People with apparent debilitating illness.

#### 7. CEW Deployment – Probe

- a) Whenever practical or possible, officers discharging the CEW should attempt to give a warning to the subject and other officers, i.e., announcement of: “Taser – Taser – Taser”
  - (1) The primary target area for CEW deployment is Major Muscle Groups, i.e.: abdomen, legs, arms, back, with an emphasis on trying to get both probes between two muscle groups, i.e., one probe in the abdomen and one in the leg.
  - (2) When encountering subjects wearing heavy or loose clothing on the upper body, the legs should be considered a target.
  - (3) Officers should attempt to avoid hitting the subject in sensitive areas such as the head, face, neck, groin, or female breast area.
- b) After discharging the CEW, a supervisor shall be notified of the application as soon as possible.

#### 8. CEW Deployment – Drive Stun

- a) Use of the “Drive Stun” is discouraged except in situations where the “Probe” deployment is not possible and immediate application of the “Drive Stun” will bring a subject safely under control, or as follow through to one probe contact, to make a second point of contact to achieve electro-muscular disruption.
- b) Multiple “Drive Stuns” are discouraged and must be justified. If initial application is ineffective, officers will reassess the situation and consider other available options.

#### 9. Aftercare of CEW Use

- a) Upon use of the CEW, the deploying officer or another trained CEW officer shall insure the subject is monitored for injury, to include secondary injuries, as soon as practical after the person is under control.

~~b) Where CEW has been deployed, take any individual to the nearest hospital. The following persons should be transported by ambulance to a medical facility for treatment after exposure to an CEW:~~

~~(1) Subjects who are hit in a sensitive region of the body (head, face, neck, groin, or female breast area).~~

~~(2) Subjects from whom officers have difficulty removing the probes (i.e. probe/barb separation).~~

~~(3) Subjects who do not appear to be fully recovered within ten (10) minutes after being hit.~~

~~(4) Subjects who are in a potential susceptible population category, such as those noted in Section 6, b), (3).~~

~~(5) Any subject who requests medical attention.~~

#### 10. Removal of CEW Probes

a) After securing the subject in handcuffs and/or other appropriate restraints, the CEW deployment officer or his or her CEW trained designee will remove the probes according to the trained procedures.

b) If the probes are in areas such as head, face, neck, groin, or female breast area, the subject shall be treated at a medical facility and the probes removed only by medical personnel.

#### 11. Evidence Procedure for CEW Applications Resulting in Persons Being Treated at a Medical Facility

a) Officers will take photographs of the probe penetration sites and any secondary injuries caused by falling to the ground when a subject is treated at a medical facility as a result of exposure to a CEW.

(1) During incidents in which the groin or female breast area are the penetration sites, an officer of the same gender as the subject will take the photographs with a medical staff member being present to witness.

(2) Photographs will be submitted as evidence according to department guidelines.

b) The air cartridge and probes shall be retained and submitted as evidence in any case where the person(s) affected by the CEW require transportation to a medical facility as outlined in section 11., above. The items retained should be handled as a potential biohazard.

c) Cartridges from CEW applications which do not meet the criteria as outlined in 11., a), (1), above, will be disposed of according to department

procedures for biohazard disposal.

## 12. Detention Facility Notification / CEW Use

- a) Upon use of a CEW on a subject who is subsequently placed in a detention facility, officers will notify detention personnel of such CEW use and any other details that may be appropriate (such as injury complaint).

## 13. Documenting CEW Use

- a) Officers deploying a CEW will articulate the facts involved in the use of the CEW on the police incident and Use of Force reports. Officers will clearly state the justification for use, whether multiple deployments were necessary, probe impact area, signs or complaints of injury and aftercare.
- b) Following deployment of the CEW, data will be downloaded from the device, printed and submitted into records according to Department procedure. Once the data has been successfully downloaded, the CEW may be placed back in service.
- c) Patrol supervisors will be responsible for providing a copy of the police report involving the use of the CEW to the Department's CEW instructor(s).
- d) If a CEW is used on an animal, the patrol supervisor will be notified and that supervisor will decide on the proper paperwork and documentation of the incident to include the firing record of the CEW.

## 14. Use of the CEW on Animals

- a) The use of the CEW on an animal should be based on the intent to provide a safer, more humane and less traumatic conclusion to the incident.
- b) CEW may be used on animals when:
  - (1) A vicious animal is threatening or attacking a person or other animal and the use of other force is not reasonable, or may not be desired given the situation.
  - (2) An animal needs to be controlled for reason of public peace or safety, preservation of property, or other legitimate purpose; and the animal poses an active threat to officers in their efforts to perform their duties.
- c) Officers should be prepared to use other justified force if necessary.
- d) Officers should be prepared to apply conventional controls once the CEW has subdued the animal.

## 15. CEW Instructors

a) The Department's CEW instructors will:

- (1) Receive, inspect and insure the maintenance and replacement of the CEW devices assigned to the Department.
- (2) Establish and maintain a CEW and air cartridge inventory system.
- (3) Maintain an adequate supply of batteries and air cartridges for replacement.
- (4) Obtain service and or replacement for defective or damaged CEW components from the supplier.
- (5) Provide retraining to certified users.
- (6) Coordinate training for certification as requested by need of field services or other units within the Department.
- (7) Review CEW deployment police reports for conformance to policy, procedure, and training; with proper notification to the patrol supervisor on those incidents requiring further attention.

E. Canine Apprehension (See generally See Philadelphia PD Directive 4.8.)

1. Use of a canine in effecting an arrest constitutes either an actual or implied use of force. Therefore, police canine handlers and their supervisors will be fully aware of all facts and circumstances surrounding an incident before the decision is made to use a canine for other than deterrent or control purposes.

2. Police dogs are tools that canine officers may use to effect an arrest when physical resistance to that arrest is met by the officer. Police officers may not use any more force than is necessary to overcome the resistance that is met. All dogs will be kept on lead, per City ordinance, except in the course of building or field searches, or when warranted and justified for the apprehension of a fleeing criminal suspect or to prevent injury to the officer or another person.

3. The use of canine patrol is authorized for the following:

a) To deter criminal activity and to assist in the prevention and detection of crime.

b) To effect the arrest or prevent the escape of a person whom the police officer has probable cause to believe has committed a felony.

c) To protect the officer or another person(s) from bodily injury.

d) To search buildings where a possible unlawful entry is indicated or detected, or where a suspect may be hiding when such buildings are reasonably believed to be clear of innocent persons, and after clear warning by police is given prior to deployment of the dog. When the services of a canine team are anticipated for a search, every effort will be made by the first police officers on the scene to avoid contamination of the area with human scent by preventing any unnecessary

persons from entering the area, including police officers.

e) To track suspects, lost or missing persons, hidden implements of crime(s) or other contraband.

f) Narcotic detection canines may be utilized to assist in the search for hidden narcotics including vehicle searches when appropriate as well as other locations. This service is usually done with the benefit of a Search and Seizure Warrant.

g) Explosive detection canines should be utilized for the detection of explosives in a hidden area of a building or vehicle, bomb sweeps for visiting VIPs, and special event sites. When a device is found, ensure that all search operations are immediately terminated.

h) Cadaver detection canines will be utilized to detect hidden or decaying bodies as a result of a homicide, missing person, or catastrophic event. (See Philadelphia PD Directive 10.2 at 2.)

4. The use of Canine teams for crowd control is prohibited.

5. Responsibilities

a) Canine Officer will:

(1) Utilize their assigned dog in accordance with this directive.

(2) Be fully responsible and accountable for all actions of the assigned dog while in the performance on duty and during off-duty hours

(3) When receiving an order from a superior to use the dog in a manner that would conflict with Departmental policy or in a manner which would be unsafe for the dog, call such conflict to the attention of the superior and notify their canine supervisor.

(4) Maintain their assigned canine at a high level of proficiency and peak physical condition.

(5) Immediately notify canine supervisor when their dog is involved in any incident on or off duty.

(6) Under the direction of the Canine Supervisor or Commanding Officer, Canine Unit, a handler will return their dog to the Canine Unit when becoming ill or injured and unable to care for their canine.

(a) Upon returning to duty and being certified capable of handling the dog, the team will be re-evaluated by the Commanding Officer and training staff.

(b) Should a determination be made that the officer cannot perform the duties of a handler without aggravating a past injury or illness, they will be excluded from the position of canine handler.

(7) Report all injuries and illnesses suffered by the canine dog to the Commanding Officer, Canine Unit, and the contracted veterinarian as soon as possible.

(8) Whenever a canine officer leaves their dog alone in a vehicle, the dog will be secured to ensure it is not able to exit the vehicle without the assistance of its handler. A handler will not leave a police dog unattended in a vehicle without the air condition on when outside temperatures are 70 degrees or above.

6. Internal Affairs will be notified of any incident involving the use of force by

police, where an injury or a complaint of an injury results from the use of force, a bite from a canine dog or when:

a) A person is treated at a hospital (whether or not admitted) or dies while in police custody as the result of actions taken by police.

b) Any time a person in police custody is treated at a hospital (e. g., prisoner complaining of chest pains, a prisoner assaulted by another prisoner, dog bites) NOTE: Any individual bitten by a canine dog, regardless of severity, will be taken to the nearest hospital for treatment.

c) Any incident involving the use of force where an injury or a complaint of an injury results

Walter J. Ostrenga  
Chief of Police

This General Order cancels and supersedes any and all written directives relative to the subject matter contained herein.

Initial 03/31/2015