



POLICY & PROCEDURE

UNIVERSITY OF WISCONSIN-MILWAUKEE POLICE DEPARTMENT

SUBJECT: **USE OF LESS LETHAL WEAPONS**

SCOPE: All Sworn Personnel

DISTRIBUTION: Policy & Procedures Manual

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

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RESCINDS

AMENDS

WILEAG 5TH EDITION

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INDEX AS: Baton
Control Devices
Deadly Force
De-escalation
Electronic Control Device
Firearms
Less Lethal Weapons
Non-Deadly Force
Use of Less Lethal Weapons
Weapons Pre-Authorization

PURPOSE: The purpose of this Policy & Procedure is to establish policies and procedures regarding the use of less lethal weapons, including de-escalation measures and to identify the responsibilities of officers of the UWM Police Department when using them or after they have been used.

This Policy & Procedure consists of the following numbered sections:

I. POLICY

II. DEFINITIONS

III. PROCEDURES

IV. TRAINING

I. POLICY

- A. It is the policy of the UWM Police Department that its duty is to value and preserve human life therefore; officers shall use only the force, including less lethal force that is reasonably objective to gain control, while protecting the lives of the officer or others. Officers may include in their decision to use this force option, information known to the officer(s) at the time of the incident or conduct or statements by the subject or a prior history of resistive or assaultive behavior. Deadly force shall never be resorted to until every other reasonable means of apprehension or defense has been exhausted and SHOULD only be used as a last resort.

II. DEFINITIONS

- A. **DEADLY FORCE:** The intentional use of a firearm or other instrument, the use of which would result in a high probability of death.
- B. **DE-ESCALATION:** Taking action or communicating verbally or non-verbally during a potential force situation in an attempt to stabilize the situation and reduce the threat without the use of force or with a reduction in the force necessary.
- C. **DEFENSIVE AND ARREST TACTICS (DAAT):** A system of verbalization skills coupled with physical alternatives.
- D. **ELECTRONIC CONTROL DEVICE (ECD):** A non-lethal force device that causes electro-muscular disruption to a combative, violent, or potentially combative, violent subject. The use of this device is intended to incapacitate the subject with a minimal potential for causing death or great bodily harm.
- E. **GREAT BODILY HARM:** "Bodily injury which creates a substantial risk of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily injury." WI State Statute 939.22(14)
- F. **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.
- G. **REASONABLE FORCE:** That force which an ordinary, prudent, and intelligent person with the same knowledge of the particular situation as the officer would deem necessary.

III. PROCEDURES

A. Expandable Batons (aka baton)

1. The baton may be used by an officer only when it is reasonably apparent that a lesser degree of force would be inadequate to control the situation.

The baton may be used by an officer to subdue a violently resisting subject, in self-defense, or in defense of a third person if lesser methods have failed, or if circumstances warrant the immediate use of the baton.

- a) Only those officers qualified in the Defensive and Arrest Tactics System shall be allowed to carry or use a baton.
- b) The acceptable primary target areas for the baton are the elbow, knee, and abdomen.
- c) The intentional striking of an individual above the shoulders is prohibited. 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.

However, it is recognized that because of a person's own resistance, the accidental, unintentional striking of a person above the shoulders may occur. If that happens, the officer must articulate this in detail in the report of the incident and will seek immediate medical attention for the subject if treatment is necessary.

- d) Department-approved batons are the only authorized batons. 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.
- e) When a baton is used against the body of a person, the officer should notify a supervisor and complete an Incident Report.
- f) All uniformed officers issued expandable batons will be required to carry it while on duty unless replaced by an Electronic Control Device (ECD).

B. Chemical Control Device

1. The aerosol chemical control device authorized by the Department contains oleoresin capsicum (O.C.). No other aerosol chemical restraint is authorized or allowed without prior approval from the Chief of Police or designee. All O.C. must be non-flammable.
2. O.C. is considered to be in the Control Device section of the Intervention Options

on the Disturbance Resolution Model.

3. 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.
4. All uniformed officers issued O.C. aerosol will be required to carry it while on duty. This rule shall not apply to administrative personnel and other officers assigned to plain clothes duties within the Department.
5. O.C. aerosol will be used consistent with the training provided by the Department and/or the Wisconsin Training and Standards Bureau.

C. Electronic Control Device (ECD)

1. Only officers who have satisfactorily completed the Department's approved ECD certification training course shall be authorized to carry/use such weapon.
2. The ECD may be used by trained officers when a subject is threatening to actively resist or is actively resisting an officer and the subject poses an articulable threat of harm to an officer or another person. It may also be used when a subject poses a threat of harm to themselves such as self-inflicted injury or a suicide attempt.
 - a) Officers may also include in the decision to use this force option information known to the officer at the time of the incident, including conduct or statements of the subject or prior history of resistive or assaultive behavior.
 - b) In each instance when an Electronic Control Device is needed during an incident, a determination will be made regarding the need for lethal cover. Lethal cover shall be required, when possible, in all cases in which the subject possesses a weapon.
3. The ECD is considered to be in the Control Device section of the Intervention Options on the Disturbance Resolution Model.
4. Any use of the ECD shall be consistent with the manufacturer's recommendation and precautions.
5. Passive resistance without posing an articulable threat of harm to officers or others does not permit the use of an ECD.
6. An officer shall not brandish, display, or threaten the use of an ECD unless he or she can reasonably conclude its use may become justified and is anticipated.
7. In each instance that an ECD is deployed in an incident, consideration should be made regarding the need for lethal cover. Lethal cover shall be required, when possible, in all cases in which the subject possesses a weapon.

8. Officers who deploy an ECD against a subject shall ensure the subject is monitored for injury as soon as practical after the subject is under control.
 - a) If an adverse reaction to the ECD occurs, or if requested by the person, emergency medical services shall be provided to them.
 - b) If the probes are imbedded in sensitive tissue areas, i.e. neck, face, groin, or the breasts of a female, officers shall arrange transport to a medical facility for removal. If the probes are imbedded in other non-sensitive tissue areas, an ECD-trained officer may remove them according to the trained procedures.
 - c) After the probes have been removed, they shall be handled as a biohazard and packaged according to the trained procedure. Photographs or video (including body cam video) of the wound site shall be taken if practical. Probes and wires will be retained as evidence.

9. Restrictions/Limitations on ECD Deployment

- a) The ECD should not be used in the following circumstances unless exigent circumstances are present, and those circumstances are clearly articulated:
 - When the officer knows the subject has come in contact with flammable liquids, or is in a flammable atmosphere.
 - When the subject is in a position where a fall may cause substantial injury or death.
 - Punitively, for purposes of coercion, or in an unjustified manner.
 - When a subject is handcuffed and offering no active resistance, or is offering resistance which may be overcome using lesser force.
 - When the subject is visibly pregnant.
 - When it is reasonable to believe that incapacitation of the subject may result in serious injury or death.
 - In situations where the subject is in an elevated position where there is a high possibility that the subject may fall if incapacitated by the ECD.
 - In situations where the subject is in close proximity to water where, if incapacitated by the ECD, there is a high probability that the subject could drown.
 - When the subject is at the extremes of age (young or old) or physically disabled.
 - When a person has an apparent debilitating illness.

10. Detention Facility Notification / ECD Use

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

11. Use of the ECD on Animals

- a) ECD 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.

- b) Officers should be prepared to use other justified force if necessary.

- c) Officers should be prepared to apply conventional controls once the ECD has subdued the animal.

12. When a ECD is deployed against a subject, the officer shall notify a supervisor, and shall complete an offense report detailing the circumstances of the incident.

13. Trained officers shall complete a refresher course and a written examination every two years concerning the use of this weapon.

IV. TRAINING

- A. Training whether noted above or not for less lethal weapons shall occur at a minimum biennially for officers authorized to use such weapons or techniques.

Joseph LeMire
Chief of Police

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

Initial 07/07/2020