

GENERAL ORDER

PORT WASHINGTON POLICE DEPARTMENT

SUBJECT: USE OF FORCE		NUMBER:	5.1.1
		ISSUED:	5/5/09
SCOPE:	All Sworn Personnel	EFFECTIVE:	5/5/09
DISTRIBUTION:	General Orders Manual, and All Sworn Personnel	<input checked="" type="checkbox"/> RESCINDS	F-4-99 1.1
		AMENDS	
REFERENCE:	WI State Statutes 66.0511(2), 939.45, and 939.48 DAAT Disturbance Resolution Model	WILEAG 3 RD EDITION STANDARDS: 5.1.1, 5.1.4, 5.2.1, 5.3.1, 5.3.2, 5.3.3	

INDEX AS: Chemical Restraint
 Electronic Control Devices
 Less Lethal Weapons
 Non-Deadly Force
 Police Baton
 Specialty Impact Munitions
 Use of Less Lethal Weapons
 Use of Non-Deadly Force

PURPOSE: The purpose of this Order is to establish procedures for the use of less lethal weapons and non-deadly force, and to identify the responsibilities of officers when using such weapons and force, both on and off duty.

This Order consists of the following numbered sections:

- I. POLICY
- II. DEFINITIONS
- III. DISTURBANCE RESOLUTION
- IV. PROCEDURES
- V. EQUIPMENT
- VI. USE OF NON-DEADLY FORCE
- VII. POLICE BATON
- VIII. CHEMICAL RESTRAINT

- IX. ELECTRONIC CONTROL DEVICES
- X. SPECIALTY IMPACT MUNITIONS
- XI. MEDICAL ASSISTANCE
- XII. REPORTING THE USE OF NON-DEADLY FORCE
- XIII. SUPERVISORY RESPONSIBILITY
- XIV. USE OF NON-DEADLY FORCE WHILE EMPLOYED OFF DUTY
- XV. OFF DUTY CARRYING AND USE OF LESS LETHAL WEAPONS

I. POLICY

- A. The Port Washington 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 that force that is reasonably necessary to effectively bring an incident under control, while protecting the lives of the officer or another.

II. DEFINITIONS

- A. **Active Resistance:** Behavior which physically counteracts an officer's control efforts and which creates a risk of bodily harm to the officer, subject and/or other persons.
- B. **Assaultive Behavior:** Direct actions or conduct that generates bodily harm.
- C. **Continued Resistance:** Maintaining a level of counteractive behavior that is not controlled by an officer's current efforts.
- D. **Control:** Established when a subject is voluntarily complying with the legal directions of an officer or restrained so that they are forced to comply with the officer's legal direction.
- E. **DAAT:** Wisconsin Defensive and Arrest Tactics which is a system of verbalization skills coupled with physical alternatives.
- F. **Deadly Force:** The intentional use of a firearm or other instrument, the use of which would result in a high probability of death.

- G. **ELECTRONIC CONTROL DEVICE:** A less lethal force weapon utilized by trained personnel that causes Electro-Muscular Disruption (EMD) to a combative or potentially combative subject. The use of these devices is intended to incapacitate the subject with minimal potential for causing death or great bodily harm.
- H. **Great Bodily Harm:** As defined in S. 939.22 (14): 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.
- I. **Greater Danger Theory:** The only reason for shooting if the target has not been "isolated" is if a failure to shoot would place those innocent persons and/or yourself and other officers in greater danger of death or great bodily harm.
- J. **Hobble Restraint:** Belt-type restraint used to secure a subject's legs and ankles in order to restrict the subject's ability to kick or run.
- K. **Imminent Threat:** An impending likelihood; in this context "Imminent Threat" of death or great bodily harm to you or another is a justification for the use of deadly force.
- L. **Intervention Options:** Included within DAAT, a range of force options / responses available to an officer, each mode reflecting the need for an increasing level of control.
- M. **Last Resort:** Those situations where certain immediate and drastic measures must be undertaken by an officer in order to protect human life. Force used in these situations may involve the use of techniques or weapons not covered or authorized by policy, however must still comply with the reasonable and necessary standard set forth in Graham v. Conner.
- N. **NON-DEADLY FORCE:** The use of any weapon or instrument, or any other action on the part of the officer, which does not fall under the definition of deadly force, but which may result in bodily harm or injury to a person.
- O. **OFF DUTY:** Anytime an officer is not performing regular police duties under the supervision of a ranking officer on a scheduled tour of duty for the City of Port Washington.
- P. **Passive Resistance:** Non-threatening, Non-Compliant behavior.
- Q. **Reasonable Belief:** Belief formed when facts or circumstances the officer knows, or should know, are such as to cause any ordinary, prudent and reasonable intelligent officer to act or think in a similar way under similar circumstances, even though such belief may later be determined to be erroneous.

- R. **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.
- S. **SPECIALTY IMPACT MUNITIONS:** Munitions which can be fired, launched or otherwise propelled for the purpose of encouraging compliance, overcoming resistance or preventing serious injury without posing a significant potential of death.

III. Disturbance Resolution

- A. DAAT provides the basis for proper use of force by Wisconsin law enforcement officers. Force levels are identified under Intervention Options as part of Disturbance Resolution.

Refer to attachment: **Disturbance Resolution**

- B. Officers are expected to attempt to establish and maintain control through the use of presence and dialogue. However, an officer may escalate to control, through the use of any or all force options, as deemed necessary and reasonable. Intervention Options should not be looked at as a continuum, rather as a tool box in which an officer's options are based on their Threat Assessments Opportunities.

Once control of a subject or subjects has been established an officer should de-escalate to a force level sufficient to maintain control.

- C. During the initial approach or contact, the officer(s) must attempt to determine the extent or degree to which the subject(s) present a threat to you and others. Officers should use this threat assessment to help identify safety concerns and potential responses.

IV. Procedures

- A. Officers should evaluate the incident to determine the level of force necessary to achieve and maintain control. The level of force must be necessary and reasonable.
- B. Once control is achieved, officers must adjust their use of force to that level which is reasonable in order to maintain control.
- C. Officers shall use equipment and control techniques that are authorized by the department and consistent with their current training.
- D. Handcuffing and searching will be accomplished through the application of current training techniques as taught through the DAAT System.

- E. Handcuffs may be used in a non-arrest situation provided that the use of handcuffs is reasonable and necessary.
- F. The trained target areas for the baton are the knee area, elbow area and lower abdominal area.
- G. A hobble restraint may be used for a subject who is violently resisting, or there is the threat of resistance or escape. Officers shall not “hog tie” or place a subject in a position that hinders breathing for extended periods to avoid positional asphyxia.
- H. The Taser X26 is a conducted energy weapon that affects the sensory and motor functions of the central nervous system. The purpose of the Taser is to overcome active resistance or the threat of active resistance. The Taser X26 falls within the Control Alternatives of the Intervention Options.

V. EQUIPMENT

- A. The following department issued equipment are considered less lethal weapons and may be used in the application of non-deadly force where necessary:
 - 1. Police baton
 - 2. Chemical restraint
 - 3. Electronic Control Device
 - 4. Specialty Impact Munitions
- B. Any other equipment must be approved by the Chief of Police, or the Chief's designee prior to use by an officer.

VI. USE OF NON-DEADLY FORCE

- A. An officer shall use only the minimum amount of force that is reasonably necessary to perform his/her duties. The amount of force which may be employed is determined by the circumstances of a situation, including, but not limited to:
 - 1. The nature of the incident or offense.
 - 2. The behavior of the subject against whom force is to be used, actions by third parties who may be present.

3. Physical conditions.
 4. The feasibility or availability of alternative actions.
- B. The reasonableness of the force used will be judged in the light of the circumstances as they appeared to the officer at the time he/she acted, and not as they appear from a subsequent, more thorough knowledge of the circumstances.
 - C. Under no circumstances may an officer continue to use force (except for physical restraint) against an individual who has ceased to resist, escape, or otherwise violate the law. The officer making an arrest has the right to use only that amount of force reasonably necessary to affect the arrest and to detain the arrested individual.
 - D. Officers may use reasonable force to:
 1. Overcome an offender's resistance to a lawful arrest.
 2. Prevent the escape of an offender or arrested person.
 3. Protect a third person from bodily harm or death.
 4. Protect himself/herself from bodily harm or death.
 - E. When an individual offers only passive resistance to arrest, an officer shall take such person into custody and transport such individual with as much regard to the individual's safety and welfare as is reasonable, practical and possible. The officer's decision to use force shall be evaluated based upon the information available, and circumstance apparent to, the officer at the time the decision to use force was made.
 - F. Officers shall not mistreat persons who are in their custody. Officers shall handle such persons in accordance with 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.

VII. POLICE BATON

- A. Officers shall receive training in the proper use of the police baton. Training shall be done by a trained instructor in defense and arrest tactics, at a minimum every two years.

- B. The police 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 or 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.
- C. Uniformed officers shall have a department issued baton immediately available to them during their tour of duty. Immediately available means on their person or accessible in their patrol car.

D. Use of the Police Baton

- 1. The proper use of the baton is to impede a subject, not to cripple, maim or kill. The baton shall not be used as a club or bludgeon and it shall not be raised above the head to strike a blow except with the use of the departmental approved and trained methods.
- 2. Blows delivered with a baton shall be delivered only to the vulnerable areas of the body which will render the offender temporarily incapacitated but will not cause serious bodily harm, as instructed in the departmental authorized method on the use of the baton.
- 3. An officer shall not strike an individual above the shoulders unless such action would be justified under the use of deadly force. This section is intended to prohibit the intentional striking of an individual above the shoulders; it is not intended to apply to an accidental striking.
- 4. In less lethal force situations, when possible, officers should avoid using the baton on:
 - a) Pregnant women.
 - b) People with apparent debilitating illness.
 - c) Elderly persons.
 - d) Children 12 years or younger.

VIII. CHEMICAL RESTRAINT

- A. The aerosol chemical restraint authorized by the Port Washington 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.

- B. Officers must be trained and certified in the use of O.C. aerosol. Training shall be done by an O.C. aerosol trained instructor for a period of not less than four hours. Officers shall re-certify every two years.
- C. All uniformed officers issued O.C. aerosol shall be required to carry it while on duty. This rule shall not apply to administrative personnel and other officers assigned duties within the police department.
- D. Use of the O.C. Aerosol
 - 1. The proper use of O.C. aerosol is to overcome active resistance or its threat. The best target area for the aerosol is the face.
 - 2. Officers must consider the disturbance resolution model, officer subject factor and the threat assessment to determine if the use of O.C. aerosol is appropriate.
 - 3. O.C. aerosol will be used consistent with the training provided by the Port Washington Police Department.
 - 4. Officers will take into consideration the position of police officers assisting and other people before using O.C. aerosol. O.C. aerosol is not to be used once an individual is under control and is no longer a threat to the officer.
- E. After-Action Care
 - 1. Once the offender is under control, the officer must offer to apply the following decontamination / first aid procedures.
 - a. Expose the offender to fresh air.
 - b. Flush the offender's face and other affected areas with water.
 - c. Transport offender to medical facility for treatment if necessary.
 - d. Ask the offender if they are wearing contact lenses. If they are, provide an opportunity to remove the contact lenses as soon as possible.
 - e) Officers must monitor the offender for any signs of additional medical attention, until effects subside.
 - f) Offenders will not be forcibly decontaminated.
 - 2. Subjects that are exposed to O.C. aerosol and must be incarcerated shall be held at the Ozaukee County Jail Facility. Jail staff shall be informed that the subject has been exposed to O.C. aerosol.

IX. ELECTRONIC CONTROL DEVICES

- A. Electronic control devices are designed to restrain violent or potentially violent individuals.
- B. The primary purpose for employing electronic control devices is to reduce injuries and save human lives.
- C. Officers must be trained and certified in the use of electronic control devices. Training shall be done by a Port Washington Police Department approved instructor. Officers are required to re-certify every year.
- D. Officers shall carry and use only the makes and models of electronic control devices that have been approved by the Chief of Police.
- E. Electronic control devices and cartridges shall only be carried in department approved holsters or pouches. They may not be carried loosely in officers' pockets or in any other insecure fashion.
- F. Electronic control devices shall be carried on the side of the uniform opposite the officers' firearm.
- G. Use of Electronic Control Devices on Persons
 - 1. Officers must consider the disturbance resolution model, officer subject factor, and the threat assessment to determine if the use of electronic control device is appropriate.
 - 2. Trained officers may only use an electronic control device on a person when that person is threatening to actively resist or is actively resisting an officer OR the subject poses an articulable threat of harm to an officer or another person, OR the subject poses a threat of harm to himself or herself such as a self-inflicted injury or suicide attempt.
 - 3. An electronic control device will not be pointed at any individual unless an officer reasonably believes it will be necessary to use the device. The device should never be aimed at the head, face, or neck.
 - 4. If practical, officers shall announce their intent to use an electronic control device before deployment.
 - 5. An electronic control device **shall not be used**:
 - a) In obvious proximity to flammable liquids, gases, or any highly combustible materials that may be ignited by the device.

- b) When it is reasonable to believe that incapacitation of the subject may result in serious injury or death.
 - c) Punitively or for purposes of coercion.
 - d) On a handcuffed/secured prisoner, absent active resistance.
6. In less lethal force situations, when possible, officers should avoid using an electronic control device on:
- a) Persons in control of a vehicle.
 - b) Pregnant women.
 - c) People with apparent debilitating illness.
 - d) Elderly persons.
 - e) Children 12 years or younger.

H. After-Action Care

1. Generally, probes that have penetrated the skin can be removed by a trained officer. Once the probes have been safely removed, the puncture site can be treated with a sanitizing element and a band-aid. Spent probes and cartridges will be handled as a bio-hazard and will be disposed of in the bio-hazard container.
2. If a person requests that the probes be removed by medical personnel, officers will honor the request.
3. Probes that are embedded in sensitive areas such as the breast of a female, or the face, neck, or groin shall be removed by medical personnel.
4. When monitoring a subject who has been exposed to an electronic control device, officers should consider the potential for injuries sustained in an uncontrolled fall.

I. Use of Electronic Control Devices on Animals

1. The use of an electronic control device on an animal should be based on the intent to provide a safer, more humane and less traumatic conclusion to the incident.
2. Electronic control devices may be used on an animal when:
 - a) 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.

- b) 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.
- 3. Officers should be prepared to use other justified force if necessary.
- 4. Officers should be prepared to apply conventional controls once the electronic control device has subdued the animal.

X. SPECIALTY IMPACT MUNITIONS (Less Than Lethal Launcher)

- A. The Port Washington Police Department recognizes that combative, non compliant, armed and/or violent subjects cause handling and control problems that require special training and equipment. Thus the department has adopted the use of specialty impact munitions, or SIMS, to assist with the de-escalation of these potentially violent confrontations.
- B. Only officers who have been trained on the use of SIMS are authorized to use such munitions. Officers trained to use SIMS are required to maintain proficiency in the use of the munitions on a yearly basis.
- C. SIMS will be delivered to a suspect target area based on the circumstances, the established safety priorities, and the level of force authorized.
- D. Only those munitions authorized by the Chief of Police will be used during deployment and such munitions will only be deployed from department authorized firearms. SIMS will be fired from weapons dedicated for the sole purpose of deploying SIMS. Weapons dedicated for SIMS will be marked to identify them as single use weapons and will be loaded only with SIMS.
- E. Suspects struck by SIMS shall be examined by medical personnel, if necessary.

XI. MEDICAL ASSISTANCE

- A. All sworn department personnel who engage in the use of non-deadly force shall:
 - 1. Check the subject for injuries and administer first aid if required.

2. Summon appropriate medical aid if necessary.
3. Maintain close personal observation and physical contact with the subject while continuing to provide first aid until relieved by appropriate medical personnel.

XII. REPORTING THE USE OF NON-DEADLY FORCE

- A. As soon as practical, an officer shall report his/her use of non-deadly force to a supervisor.
- B. Whenever an officer uses non-deadly force in the performance of his/her duty, he/she shall indicate in the incident report the use of the force and the circumstances and justification for its use.
- C. Copies of the incident report shall be forwarded to the Chief of Police or the Chief's designee for review.
 1. For incidents where an electronic control device was used, the Chief of Police or the Chief's designee will download a report from the device's data port to attach to the incident report. The download should include at least one deployment prior to the reported usage and information from the date following the reported usage.
- D. With the exception of deliberate discharges for training purposes, all deployments of O.C. aerosol are required to be documented in a police incident report and will include;
 1. All circumstances surrounding the use of the aerosol including the officer's justification of its use.
 2. Effects on the offender that were caused by the aerosol.
 3. First aid measures given to, or offered to the offender to neutralize or alleviate the effects of the O.C. aerosol.
- E. With the exception of deliberate discharges for training purposes, all deployments of electronic control devices are to be documented in a police incident report.
 1. If the deployment occurs in a tactical situation, officers will include in their report:
 - a) The Date and approximate time of the deployment.
 - b) The duration or number of cycles deployed.
 - c) The approximate distance from which it was deployed.

- d) The points of impact and a description of the reaction of the subject exposed.
- e) A description of any injuries. Officers should consider photographing affected areas.

XIII. SUPERVISOR RESPONSIBILITY

- A. When possible, supervisors shall respond to the scene where officers have reported the use of non-deadly force.
- B. Supervisors shall insure that appropriate medical attention is rendered for injured persons, when medical attention is necessary.
- C. Supervisors will review the incident with the involved officers to insure the force used was in compliance with department policy.
- D. Supervisors shall provide investigative direction to the involved officers.

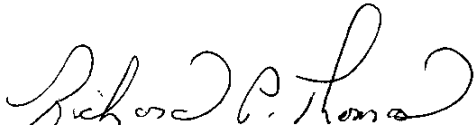
XIV. USE OF NON-DEADLY FORCE WHILE EMPLOYED OFF DUTY

- A. When an officer, while working Off-Duty Employment uses non-deadly force to make an arrest, under the identity of a Port Washington police officer, he/she shall request an on-duty supervisor to be sent to the scene. The officer shall be required to follow all the procedures set forth in this General Order as though he/she were on duty.
- B. The officer involved shall complete a full report of the incident for department records. A copy of the incident report shall be forwarded to the Chief of Police or the Chief's designee for review.

XV. OFF DUTY CARRYING AND USE OF LESS LETHAL WEAPONS

- A. Except when working Off-Duty Employment, the police department and the City prohibits officers from carrying department issued less lethal weapons off-duty. This includes while working Off-Duty Employment. Any officer who carries or uses personally obtained less lethal weapons while off-duty does so at their own risk. The officer is accountable for the responsibilities and liabilities associated with such action.

APPROVED:



Chief Richard P. Thomas

DATE:

5/24/10

Revised 5/24/10

Revised

5/19/10



DISTURBANCE RESOLUTION



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

2 INTERVENTION OPTIONS

<u>Mode</u>	<u>Tactic</u>	<u>Purpose</u>
A. Presence	Professional Presence	To present a visible display of authority
B. Dialog	Tactical Communication	To verbally persuade
C. Empty Hand Control	Escort Holds Compliance Holds	To safely initiate physical contact To overcome passive resistance
D. Control Devices	Oleoresin Capsicum (O.C.) Aerosol Spray Electronic Control Device (ECD)	To overcome active resistance or its threat
	Passive Countermeasures	To decentralize
	Active Countermeasures	To create dysfunction
	Incapacitating techniques	To cause the immediate, temporary cessation of violent behavior
E. Intermediate Weapon	Intermediate Weapons	To impede a subject
F. Deadly Force	Firearm	To stop the threat

3 FOLLOW-THROUGH CONSIDERATIONS

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