

GENERAL ORDER

PORT WASHINGTON POLICE DEPARTMENT

SUBJECT: DEADLY FORCE		NUMBER:	5.1.2
		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 F-6-99 1.2
		AMENDS	
REFERENCE:	WI Statutes §§ 66.0511(2), 939.45, 939.48; DAAT Disturbance Resolution Model	WILEAG 3 RD EDITION STANDARDS: 5.1.2, 5.1.3, 5.2.1, 5.3.1, 5.3.2, 5.3.3, 6.3.8	

INDEX AS: Deadly Force
 Deadly Force Incident Procedures
 Firearms
 Officer Involved Shooting Incident
 Post-Traumatic Stress Disorder
 Ramming with Police Vehicles
 Warning Shots
 Weapons Pre-Authorization

PURPOSE: The purpose of this Order is to establish policies and procedures regarding the use of deadly force and to identify the responsibilities of officers when using deadly force. This Order will also establish guidelines for post-deadly force incident procedures that result in death or serious bodily injury in order to minimize the chances that involved personnel will develop or suffer from post-traumatic stress disorder.

This Order consists of the following numbered sections:

- I. POLICY
- II. DEFINITIONS
- III. USE OF DEADLY FORCE
- IV. USE OF FIREARMS
- V. USE OF VEHICLES – BLOCKADES, BARRIERS, AND RAMMING
- VI. DEADLY FORCE INCIDENT PROCEDURES
- VII. REPORTING THE USE OF DEADLY FORCE

- VII. ADMINISTRATIVE REVIEW
- IX. POST TRAUMATIC STRESS DISORDER
- X. LEGAL SERVICES

I. POLICY

- A. Recognizing the legal and moral obligations to use force wisely and judiciously, it is the policy of the Port Washington Police Department that deadly force shall never be resorted to until every other reasonable means of apprehension or defense has been exhausted and found to have been ineffective.

II. DEFINITIONS

- A. “Deadly force” means the intentional use of a firearm or other instrument, the use of which would result in a high probability of death.
- B. “Greater danger exception” means an officer may shoot without target isolation if the consequences of not stopping the threat would be worse than the possibility of hitting an innocent person.
- C. “Post-traumatic stress disorder” means an anxiety disorder that can result from exposure to short-term severe stress, or the long-term buildup of repetitive and prolonged milder stress.
- D. “Target isolation” means the process by which an officer can decide to shoot at a threat without danger of harming innocent people.
- E. “Weapons” means department issued or approved weapons, including firearms, flashlights, police batons, vehicles, or any other instrument which could be considered lethal when used in a lethal manner.

III. USE OF DEADLY FORCE

- A. Parameters for use of deadly force:
 - 1. Deadly force may be used as a last resort in the defense of oneself when there is reasonable cause to believe that the officer is in imminent danger of death or great bodily harm.

2. Deadly force may be used as a last resort in the defense of another person or persons whom the officer has reasonable cause to believe is/are being unlawfully attacked and in imminent danger of death or great bodily harm.
 3. Deadly force may be used, after all other reasonable means of capture are exhausted, to effect the arrest or prevent the escape of a suspect whom the officer has reasonable cause to believe has committed, or has attempted to commit, a felony involving the use or threatened use of deadly force and the officer reasonably believes the suspect cannot be apprehended later without the use of deadly force. This paragraph allows the officer to use deadly force when the suspect is engaged in such felonies involving violence. Non-violent felonies such as embezzlement or burglary do not in themselves justify the use of deadly force.
- B. Unless justified in other sections of this Order, deadly force shall not be used in a misdemeanor case.
 - C. An officer shall never threaten to use deadly force unless the use of such force would be justified under this Order.
 - D. Before using deadly force, the officer shall, if possible, identify himself or herself as a police officer, order the suspect to desist from the unlawful activity, and threaten to use deadly force if the order is not obeyed.
 - E. The reasonableness of the force used in any incident will be judged in the knowledge of the circumstances as they were known or appeared to the officer at the time he or she acted, and not as they appear from a subsequent, more thorough knowledge of the circumstances.

IV. USE OF FIREARMS

- A. Sworn personnel may carry their approved firearm in accordance with the provisions of state and federal laws.
- B. Officers may display department authorized firearms when they have reasonable grounds to suspect that the use of deadly force may be necessary; officers need not be under attack, but only be reasonably apprehensive that a 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. Whenever an officer uses the firearm issued to him or her to protect himself, herself or another person, and if the firearm has a safety mechanism, the "safety" shall be kept in the "safe" position until such time as the officer is entitled to discharge the firearm.
 2. This section is intended to allow an officer to have his or her firearm ready in circumstances such as answering a silent alarm or confronting a suspect whom there is reasonable grounds to believe may be armed, or any other situation which may cause the officer to have reasonable fear for his or her life.
- C. Whenever safety permits, officers shall identify themselves and state their intent to shoot prior to using a firearm. Officers may fire their weapons to stop an assailant from completing a potentially deadly act. Officers shall shoot in such a manner 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.
1. In a dire circumstance, the greater danger exception may be considered when determining target isolation.
- E. A warning shot shall not be fired under any circumstances.
- F. Shooting at or from a moving vehicle is prohibited, unless deadly force is justified.
- G. An officer may also discharge a firearm under the following circumstances:
1. During range practice or competitive sporting events.
 2. To destroy an animal that represents a threat to public safety, or as a humanitarian measure where the animal is seriously injured as outlined in the Animal Procedures General Order.
- H. All Officers shall receive a copy of Deadly Force policy and demonstrate their understanding of the policy prior to being authorized to carry a firearm. Officers shall also receive annual training on the department General Orders pertaining to use of force.

V. USE OF VEHICLES - BLOCKADES, BARRIERS AND RAMMING

- A. The following may be employed by a police officer only if the use of deadly force would be authorized, and only with the approval of a supervisor or a supervisor's designee, and then only by officers trained in such techniques (as provided in Section X., "Use of Force," in the General Order entitled "Vehicle Pursuit Policy"):
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 use of a police vehicle.
 3. Forcing a suspect/evader off of the roadway or highway and/or into another object by use of a police vehicle.

VI. DEADLY FORCE INCIDENT PROCEDURES

- A. The following procedures shall be followed when an officer is involved in an incident in which deadly force causes death or serious bodily injury either to the officer or to another person. These procedures shall also be followed when an officer is responsible for the discharge of any firearm (other than on an approved firearms range or for legal hunting purposes), or the use of deadly force by any means.
1. The officer shall:
 - a) Check the subject for injuries and administer first aid, if required.
 - b) Summon appropriate medical aid, if necessary.
 - c) Maintain close personal observation and physical contact with the subject and continue to provide first aid until relieved by proper medical personnel.
 2. A supervisor shall be dispatched to the scene of the incident, and shall assume primary responsibility in caring for involved personnel.

3. During any period where an involved officer is required to remain on the scene, but has no immediate duties to fulfill, the officer should be taken to a quiet area away from the scene of the incident. A peer counselor or other supportive friend or officer should remain with the officer, but should be advised not to discuss details of the incident with the officer.
4. The supervisor should arrange for an officer directly involved in the incident to leave the scene as soon as possible, and be taken to a quiet, secure setting.
5. Where possible, the supervisor shall meet briefly with an involved officer.
 - a) No caffeine or other stimulants or depressants should be given to the officer unless administered by medical personnel.
 - b) Only minimal, preliminary questions should be asked about the incident. The officer should be advised that a more detailed debriefing will be conducted at a later time.
 - c) Any standard investigations that will occur concerning the incident should be discussed with the officer.
 - d) When applicable, the officer shall be advised of his or her legal and departmental rights regarding statements. The officer should be advised that they may seek legal counsel.
 - e) The officer should be advised not to discuss the incident with anyone except a personal or department attorney, union representative, or departmental investigator, until the conclusion of the preliminary investigation. This does not prohibit the officer from discussing the incident with his or her spouse.
6. The supervisor shall determine whether the circumstances of the incident require that an officer's duty weapon be taken for laboratory analysis. Where a duty weapon is taken, the supervisor shall:
 - a) Take custody of the officer's weapon in a discrete manner; and
 - b) Replace it with another weapon, or advise the officer that it will be returned or replaced at a later time, as appropriate.

7. An involved officer should notify his or her family about the incident as soon as possible. Where an officer is unable to do so and is injured or hospitalized, a department supervisor shall personally notify the officer's family and arrange for their transportation.
 8. At all times when at the scene of the incident, the supervisor should interact with the officer and all involved personnel in a manner that acknowledges the stress caused by the incident.
 9. Involved personnel shall be removed from line duties pending evaluation, but shall remain available for any necessary administrative investigations.
 10. Any department investigation of the incident shall be conducted as soon and as quickly as practicable.
 11. The officer involved shall be placed on administrative leave by the Chief of Police or the Chief's designee pending an administrative review.
 - a) The officer shall be available for official interviews and statements regarding the incident and subject to recall to duty.
 12. The department should brief other department members concerning the incident so as to minimize rumors. Department members are encouraged to show the involved officers their concern.
 13. All personnel involved in a deadly force incident shall be advised that they are not permitted to speak with the news media about the incident.
 14. In order to protect against crank or abusive calls, the officer should be advised to have phone calls answered by another person for several days if his or her name is released to the public.
 15. An officer who discharges his or her firearm during a deadly force incident shall be required to re-qualify with their weapon as soon as practicable.
- B. Any officer directly involved in a deadly force incident shall be required to contact a department designated specialist for counseling and evaluation as soon as practicable after the incident. Involved support personnel should also be encouraged to contact such specialists after a deadly force incident. After the counseling sessions, the specialist shall discuss with the Chief of Police:

1. Whether it would be in the officer's best interest to be placed on administrative leave or light duty, and for what period of time.
 2. If the officer was relieved of his or her duty weapon after an incident, at what point the weapon should be returned to him or her.
 3. What will be the best continued course of counseling.
- C. The department strongly encourages the family of the involved officer to take advantage of available counseling services.

VII. REPORTING THE USE OF DEADLY FORCE

- A. The officer conducting the investigation of the deadly force incident shall submit all written reports to his or her supervisor as soon as possible.
- B. The officer involved shall make a written report/statement as to the underlying facts, and the circumstances, as perceived by the officer, which reasonably justified his or her use of deadly force.
- C. If the discharge of the weapon or use of force causes injury or death, the supervisor shall notify the Chief of Police or the Chief's designee as soon as possible.
- D. The supervisor shall, as soon as possible during the investigation, forward all reports of the investigation to the Chief of Police.
- E. The supervisor shall forward a written report, with recommendations (if any), to the Chief of Police at the conclusion of the investigation.
- F. A departmental "Discharge of Firearms Report" shall be completed regarding any incident involving the discharge of a firearm, except on an approved firearms range for the purpose of firearms practice, training or qualification.

VIII. ADMINISTRATIVE REVIEW

- A. An administrative review of the incident will be conducted by a command staff officer, with the exception that the on-scene supervisor will not be responsible for conducting the review.
- B. The purpose of the review will be twofold: to determine whether the officer followed established policy, procedure and training, and to determine if any future policy, procedure or training recommendations are necessary.

- C. The administrative review will begin once the criminal investigation has been completed, unless directed otherwise by the Chief of Police.

IX. POST TRAUMATIC STRESS DISORDER

- A. As post-traumatic stress disorders may not arise immediately, or an officer may attempt to hide or minimize the problem, each supervisor is responsible for monitoring the behavior of department or shift members for symptoms of the disorder.
- B. The Chief of Police or the Chief's designee may order an officer to seek assistance or counseling from a mental health specialist upon a reasonable belief that stress may be disrupting the officer's job performance.
- C. The department shall provide employees with training pertaining to the symptoms and effects of post-traumatic stress disorder, and the uniform procedures contained in this Order.
- D. Supervisors are responsible for making available to department members information about mental health services.
- E. The department will make every effort to provide or make available psychological services for an officer, and/or the officer's family, when the officer is involved in a deadly force incident involving injury or death.
 - 1. The purpose of such services will be to allow an officer to express his or her emotions and to deal with the moral, ethical and/or psychological after-effects of the incident.
 - 2. The purpose of attempting to provide or make such services available to the family of the officer is to provide the officer and family with a source of professional consultation to aid them in dealing with the potential moral, ethical, and/or psychological after-effects of the incident.
 - 3. Information relating to the provision or rendition of such psychological services shall not be included in or disclosed as part of any department investigation of the incident. The counseling sessions shall remain protected by the physician-patient privilege, and no reports of the sessions or information discussed will be disclosed to or filed with the department.

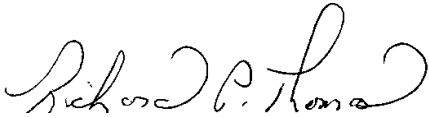
X. LEGAL SERVICES

- A. The department will make every effort to provide an attorney-at-law for an officer involved in a deadly force incident involving injury or death.
- B. The attorney, if provided, shall establish a lawyer-client relationship with the officer involved and interview the officer.
- C. The attorney may assist the officer in drafting the officer's personal statement or report as to the underlying facts, and the circumstances, as perceived by the officer, which reasonably justified his or her use of deadly force.

This directive is for departmental use only, and does not apply to any criminal or civil proceeding. This policy does not create, and shall not be deemed to create, any duty not existing or imposed by law, nor a higher legal standard of safety or care, nor a lower burden of proof, with respect to claims filed by any person(s) seeking damages for injury or death caused by or arising out of an officer's use of deadly force. Violations of this Order will only form the basis for departmental administrative sanctions.

APPROVED:

DATE:



5/5/09

Chief Richard P. Thomas

Officer-Involved Shooting Investigation Checklist

Involved Officers

- Control threats to safety
- Broadcast lookouts
- Request backup and related support services
- Notify Communications
- Request emergency medical assistance
- Secure your firearm
- Administer first aid to self and others
- Secure the perimeter and protect evidence
- Identify persons at or leaving the scene
- Identify witnesses and request cooperation

Supervisory Responsibilities

- Determine status of above actions
- Determine condition of officer and others
- Notify command/specialized units or personnel:

<input type="checkbox"/> Station OIC	<input type="checkbox"/> P.I.O.
<input type="checkbox"/> District Commander	<input type="checkbox"/> Crime scene investigator
<input type="checkbox"/> Chaplain	<input type="checkbox"/> Victim Advocate
<input type="checkbox"/> Legal Advisor	<input type="checkbox"/> K-9
<input type="checkbox"/> Hostage Negotiator	<input type="checkbox"/> Air Support
<input type="checkbox"/> SWAT	<input type="checkbox"/> Criminal Investigation

- Ensure area is contained and perimeter established
- Protect evidence
- Move officers away from the area
 - Separate officers and provide peer counselors
- If officer's shot, transport to hospital with supervisor
 - Don't release officer's name
 - Notify officer's family
 - Assign officer to family
 - Collect officer's clothing and equipment as evidence
- Establish command post if required
 - Appoint command post staff
 - Appoint a recorder
 - Brief personnel
 - Maintain/establish perimeter security
 - Press relations
- Diagram and photograph overall scene
- Locate and secure officer's weapon
- Check all officer's firearms for discharge
- Begin gathering information on incident

Investigator's Responsibilities

- Identify all police and emergency services personnel who were or are at the scene
 - Name, rank, serial number and current assignment
 - Name of first supervisor at the scene
 - Other related persons, e.g. ambulance crew

- Ensure completion of foregoing talks
- Conduct walk through
- Ensure location, photographing, collection of evidence
- Color photograph officer and injuries
- Interview witnesses (tape record)
- Conduct and tape record officer interviews in private
 - Advise not to discuss incident with other officers
 - Take involved officer weapon(s) into custody
- Formulate preliminary statement of facts
- Establish Chronology and Conditions
 - Date and time call received
 - Names, serial number and rank of officers involved
 - Current assignment and detail
 - Uniform or plainclothes
 - Types of vehicles
 - Weather, lighting conditions
- Describe and diagram scene including background
 - Position of officer(s)
 - Position of suspect(s)
 - Position of witnesses
 - Path of bullets fired

Evidence

- Photographs and videotape of scene and items of evidence
- Officer firearms and ammunition
- Firearm: serial number, make, model, caliber, type holster
- Ammunition: type, manufacturer, number of rounds fired
- Collect expended bullets and cartridge casings
- Suspect Information
- Description
- Prior record
- Parole/probation and related information
- Complaint taker and dispatcher voice and data transmissions
- MDT logs
- Officer's and suspect's clothing
- Vehicles
- Description
- Evidence booked
- Disposition, e.g. impound
- Autopsy results
- Brief prosecutors office
- Debrief senior staff