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I. General Policy

The primary duty of all law enforcement is to preserve the life of all individuals. To this end, deadly force may be used only as a last resort. In order to ensure safety, security and maintenance of order in situations in which application of force may be necessary, and in order to ensure protection of the legal rights of citizens, physical force shall only be used when absolutely necessary to gain or regain control of resistive or assaultive subjects during arrest or other legitimate law enforcement functions.

When application of force is required, only the minimum amount of force reasonably necessary to safely gain or regain control of a subject shall be applied. In general, the following factors shall be used to determine whether use of force is "objectively reasonable" in a given situation:

- the severity of the crime alleged
- whether the suspect poses an imminent threat to the safety of agents or others
- whether and how the suspect is actively resisting arrest or attempting to evade arrest by flight

Use of force shall be based on the modes in the *Intervention Options* of the State of Wisconsin's Defensive and Arrest Tactics System. Non-physical force options, which are the lowest levels of force in the *Intervention Options*, are preferred and shall be used whenever possible and feasible. Because presence and dialog are not always effective or appropriate in gaining control, agents may escalate the degree of force used based on the actions of the person they are attempting to control.

The concept of escalating/de-escalating degrees of force is based on an agent's reaction to a specific action of the person the agent is attempting to control. Agents are not required to begin a contact with dialog and escalate step by step through the *Intervention Options* until control is gained if it is reasonably believed that the tactic would be ineffective or inappropriate based on the actions of the person the agent is attempting to control.

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Whatever situation an agent faces, the agent assesses the totality of the circumstances, in light of the agent’s training, experience, and other factors such as officer-subject factors, environmental factors, and safety considerations. The agent chooses the intervention option the agent feels is reasonably necessary to gain control of the subject, or the agent may choose to disengage. Any time a particular intervention option fails to result in control, the agent has the option of disengaging and/or escalating to a higher level of force in order to attain control.

Whether or not the agent's use of force was appropriate, reasonable, necessary, or even lawful, will be evaluated based upon the standard of "objective reasonableness", as established by the U.S. Supreme Court in Graham v. Connor, 490 U.S. 386 (1989). This evaluation will be based upon the totality of the circumstances from the perspective of a reasonable agent with similar training and experience, without the advantage of 20/20 hindsight, and in circumstances that are tense, uncertain, and rapidly evolving.

Application of any level of force must de-escalate when control of a subject has been gained or regained and/or the subject has ceased resisting.

II. Definitions

- A. **Deadly Force** - The intentional use of a firearm or other instrument that creates a high probability of death or great bodily harm or a chokehold.
- B. **Deadly Force Justification** – Behavior which has caused or imminently threatens to cause death or great bodily harm to yourself or others.
- C. **De-Escalate** – to take action or communicate verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary.

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- D. **Defensive and Arrest Tactics (DAAT)** - Arrest and defensive tactics guidelines adopted by the Law Enforcement Standards Board. DAAT is a system of alternative uses of force based on intervention options.
- E. **Great Bodily Harm** - Bodily injury which creates substantial risk of death, causes serious permanent disfigurement, or causes a permanent or protracted loss or impairment of the function of any body member or organ or other serious bodily injury. (*Section 939.22(14), Wis. Stats.*)
- F. **Greater Danger Exception** – The exception to the target isolation rule, which allows that an agent may fire at a subject without target isolation if the imminent threat of death or great bodily harm to the agent or another from the subject is a greater danger than is the risk of the agent firing and hitting a bystander.
- G. **Intervention Options** – Defined escalation in the seriousness of force to guide personnel in the use of reasonably necessary force: from presence to the use of dialog to the use of control alternatives to the use of protective alternatives to the use of deadly force.
- H. **Non-Deadly Force** – Force that is not likely to cause death or great bodily harm. In general, refers to any application of force which does not fall into the category of deadly force.
- I. **Preclusion** – The elimination of all other viable alternatives.

III. Use of Deadly Force

- A. An agent may use deadly force only when the agent reasonably believes that the agent or another person is in imminent danger of death or great bodily harm. Even with such



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justification, the agent will only apply deadly force if non-deadly force options have proven ineffective or would clearly be ineffective in the situation. Deadly force must never be resorted to unless an agent reasonably believes that a lesser degree of force would fail to protect the agent or another person from death or great bodily harm (i.e. preclusion).

- B. Before using deadly force, agents shall (if reasonable) identify themselves, order the suspect to desist, and threaten to use deadly force. However, it is recognized that certain situations may present conditions where such verbal instructions are not desirable insofar that it would lead an agent to reasonably conclude that doing so would result in the death or great bodily harm to the agent or another person. An agent may threaten the use of deadly force only if authorized to use such force under the terms of this policy.
- C. An agent may not use deadly force:
1. Solely in defense of property.
 2. Solely to execute a lawful search.
 3. Solely to effect an arrest for a crime against property (e.g., car theft, burglary, etc.).
- D. Target-Specific Directed Fire

Target-specific directed fire is an application of deadly force that may be appropriate in certain limited situations. It is purposeful, controlled, sustained fire directed at a perpetrator who has caused or imminently threatens to cause death or great bodily harm to you or others, BUT whom you may not be able to clearly observe. The purpose of target-specific directed fire is to stop the threat when no other reasonable course of action would allow officers to perform a rescue, escape from danger, or otherwise prevent death or great bodily harm.



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1. Before using target-specific directed fire, agents must meet imminent threat criteria (intent, weapon, delivery system) and the preclusion requirement.
 2. Agents must achieve target acquisition, identification, and isolation OR satisfy the greater danger exception before shooting.
 - a. Agents must ACQUIRE a specific target (i.e., the identified suspect's firing point, such as a window, door, etc.).
 - b. Agents must IDENTIFY the target as the correct target by observing clear indicators of the suspect's location, although they may not be able to observe the suspect himself/herself.
 - c. Agents must ISOLATE the target by knowing the suspect is alone in the location OR that other people are not at risk from shots fired OR must satisfy the greater danger exception.
 3. When these criteria are met, agents may deliver sustained fire at the suspect's location for the duration of time necessary to perform a rescue or other task, thereby stopping the threat (or at least preventing the suspect from firing at agents).
 4. Agents will use carefully-aimed shots directed at the suspect to stop the threat, and only when the suspect's actions justify the use of deadly force, and only so long as the suspect's actions persist, and a justifiable threat remains present.
- IV. Use of Non-Deadly Force
- A. An agent may apply non-deadly force to gain or regain control of a resistive or assaultive subject while attempting to implement an arrest or other legitimate law enforcement function.

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Agents shall de-escalate a situation to minimize the likelihood that force will become necessary, whenever possible. In applying force, agents will only apply the minimum level of force necessary to safely gain or regain control of a subject. This is to be done in accordance with the *Intervention Options* that are the basis of Wisconsin's DAAT system.

B. Levels of non-deadly force:

1. Presence and Dialog. The agent will attempt to gain compliance through the use of presence and dialog (Professional Communications), or verbalization techniques. This may involve giving the subject orders and directions, or even ultimatums.
2. Control Alternatives. The agent will attempt to overcome passive resistance, active resistance, or the threat of either through the use of control alternatives. Control alternatives include escort holds, compliance holds, control devices (OC spray), and passive countermeasures.
3. Protective Alternatives. The agent will attempt to overcome continued resistance, assaultive behavior, or the threat of either, through the use of protective alternatives. Protective alternatives include active countermeasures, incapacitating techniques, and intermediate weapons (baton). The baton may be used only when it is reasonably apparent that a lesser degree of force would be inadequate to gain or regain control of a resistive subject, thus making it necessary to impede the subject. The agent will not intentionally strike a subject above the shoulders (neck or head) unless such action would be justified under the use of deadly force guidelines.

V. Follow-Through Procedures

Following a situation involving the use of force, the agent will initiate appropriate follow-through procedures:

A. Stabilization



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1. Applications of physical restraints (such as handcuffs) after gaining control of a subject shall not be considered use of force. Instead, such application of physical restraints shall be considered stabilization of the subject to prevent further resistance and/or injury to the subject, the agent, or others.
2. An agent shall handcuff arrested persons with their hands behind their back, unless in the judgment of the arresting agent there exists a substantial and reasonable reason not to do so. When used, handcuffs shall be double-locked.
 - a. Flex-cuff ties are a supplement to regular handcuffs, to help facilitate multiple arrests, not a substitute for handcuffs.
 - b. Only handcuffs and flex-cuff ties issued by DOR or approved by the SAC or OCI Director may be carried on- or off-duty.
3. Once the subject has been handcuffed, the agent will conduct a search for weapons, items of contraband, and/or evidence.
4. An agent may handcuff a person who is not under arrest if the agent reasonably believes the person poses a danger to the agent or another person.

B. Monitoring Subject

1. The agent will perform an initial medical assessment to determine if injuries are present, and, if so, the extent of such injuries.
 - a. Determine the level of consciousness.
 - b. Check airway, breathing and circulation (ABCs).
 - c. Perform a body check for severe bleeding or gross deformities.
 - d. Treat to the agent's level of training.

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- e. If appropriate, activate the emergency medical system.
2. If at any time a subject requests medical attention, the agent is required to ensure that the subject is attended to by the appropriate medical personnel.
 3. The agent will continue to monitor the subject while he/she remains in the agent's custody.
- C. Escort/Transportation
1. During escort or transportation of a subject, the agent will use proper techniques to ensure safety, prevent escape, and prevent injury to anyone else involved. Whenever possible, suspects will be transported by local police/sheriff's department, or a state police vehicle equipped for transportation of suspects.
 2. Agents' vehicles do not have cages, cameras, or other safety mechanisms desirable for transportation of suspects. Transportation of suspects in agents' vehicles may only occur as a last resort or in a life-threatening emergency where no other alternative is available or feasible.
 3. In the unlikely event that a suspect is transported in an agent's vehicle in accordance with this policy, suspects will:
 - a. be searched for weapons before being placed into the vehicle,
 - b. ride in the rear seat on the passenger's side. Whenever possible, another agent or law enforcement officer will ride in the rear seat next to the suspect and behind the driver,

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- c. be handcuffed, behind the back, and the handcuffs double locked while being transported, and
- d. be secured with the vehicle's safety belt, whenever practical.

VI. Media Inquiries

Under no circumstances will agents give statements to the news media inquiring about a Use of Force incident, unless prior approval is granted by SAC, OCI Director, Division Administrator or DOR Communications Director. Agents will refer all media inquiries to the DOR Communications Director.

VII. Forcefully Entering Land or a Building

- A. An agent may use a reasonable amount of force to enter onto land or into a building if such force is necessary to execute a legal search or a felony arrest.
- B. Force may only be used to execute an arrest if the agent has probable cause to believe the suspect is inside the building.
- C. In all instances, only the amount of force reasonably necessary to make entry may be used.
- D. Before using any force to enter a building or enclosure, agents must:
 - 1. knock,
 - 2. identify themselves as law enforcement officers or police,
 - 3. announce their purpose, and

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4. wait a reasonable time to be voluntarily admitted.

E. The requirements of this policy section may be waived if:

1. The agent obtains an arrest warrant or search warrant authorizing the execution without complying with the requirements of this policy (e.g. "no knock" search warrant).
2. The agent is in hot pursuit of a suspect who has committed a felony. In such cases, the agent may forcefully enter a building in pursuit of that suspect without securing an arrest warrant, but must adhere to the notice requirements of this policy, except as provided below.
3. Exigent circumstances exist when the agent reasonably believes that compliance with this policy section may:
 - a. endanger the agent's own life or the life of another agent,
 - b. result in the destruction of evidence, or
 - c. endanger the life of a hostage or third party.

VIII. Defense of Third Persons

- A. An agent may exert only as much force to defend a third person from harm from another as the third person could lawfully exert to overcome the force.
- B. An agent may only use deadly force to defend a third person if the third person is being

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threatened with imminent death or great bodily harm.

IX. Defense of Property

- A. An agent may reasonably exert such force as necessary to defend the agent's property or the property of a third person as the third person may exercise.
- B. An agent may never use deadly force solely to protect property.

X. Warning Shots

Under no conditions may a "warning shot" be fired.

XI. Chokeholds

It is recognized that there are examples around the country of individuals suffering great bodily harm or death as the result of law enforcement officers applying chokeholds (i.e. sustained, substantive pressure to the neck of an individual that constricts their windpipe). Chokeholds are not a trained technique within the Unit or the DAAT System. Considering this, the use of chokeholds will be considered the use of deadly force.

XII. Moving Vehicles

An agent should not discharge a firearm at or from a moving vehicle unless in self-defense or where it is reasonably necessary to prevent imminent death or great bodily harm. Agents shall not intentionally place themselves in the path of a moving vehicle, but if this unintentional deadly threat situation would occur, the agent will first attempt, if possible, to move out of the path of the vehicle rather than discharging the agent's firearm.

XIII. Tactical Equipment

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It is the responsibility of the agent to maintain all issued use-of-force equipment, including handcuffs, OC spray, and batons, and to ensure their equipment is functional. Any use-of-force equipment not issued by DOR must be approved by the SAC or OCI Director prior to its use. The SAC or OCI Director will consult with a Unit DAAT Instructor prior to approval/denial of any equipment.

A. Baton

1. Only batons issued to an agent by DOR or approved by the SAC or OCI Director may be carried on- or off-duty.
2. Agents will carry a baton when they believe the use of force is probable. It is recognized that there may be times when carrying a baton is not feasible (e.g., during undercover work). The decision to carry the baton should be made by the agent, considering whether the agent believes it is feasible or the use of force is probable.
3. Agents will be trained in the use of the baton in DAAT training sessions.

B. Oleoresin Capsicum (OC) Spray

1. OC chemical aerosol is a personal defense spray used to control subjects as an alternative to physical confrontation, in a response to active resistance or its threat.
2. Only the OC chemical aerosol issued to an agent by DOR may be carried on- or off-duty.
3. Agents will carry OC spray when they believe the use of force is probable, except as provided. It is recognized there may be times when carrying OC spray is not feasible (e.g., during undercover work). The decision to carry OC spray should be made by the agent, considering whether the agent believes it is feasible or the use of force is probable.
4. After using OC spray on a subject, the subject should be monitored and verbally

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reassured that they are safe and will be okay. As soon as possible, the subject should be moved into fresh air, and the affected area should be decontaminated by flushing with fresh water. Medical assistance is required if the subject has not recovered within 45 minutes, is wearing contacts that cannot be removed without jeopardizing agent safety, or has another medical condition that requires attention.

5. Agents may use OC spray as an effective means of controlling animals only when necessary and reasonable under the circumstances.
6. After an agent utilizes any OC spray, the agent shall be issued a new canister of OC spray.
7. Agents will be trained in using OC spray at DAAT training sessions.

C. Electronic Control Device (ECD)

ECD's will not be issued to agents by DOR. Agents are not certified nor trained in the use of ECD's. Agents will not carry ECD's either on- or off-duty.

XIV. Reporting Use of Force Incidents

A. Use of Non-Deadly Force

In any of the following situations, the agent engaged in or any agent observing the use of force shall notify the SAC or OCI Director immediately and submit a detailed, written report. The SAC or OCI Director will review the incident and report, in consultation with a Unit DAAT Instructor, to ensure that the Use of Force was appropriate and complied with this policy.

1. Whenever an agent uses non-deadly force that results in injury or a complaint of an injury to a person.

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2. Whenever an agent uses oleoresin capsicum (OC) spray.
3. Whenever an agent uses a tactic or technique in the protective alternatives mode of the *Intervention Options* which includes active countermeasures, incapacitating techniques, and baton.

B. Deadly Force

Reports of incidents involving the use of deadly force, whether or not death results, shall be made in accordance with the Unit's Critical Incident Policy.

XV. Informal Review

- A. At the discretion of the SAC or OCI Director, there may be an informal review of an incident involving the use of non-deadly force. The purpose of the review will be to evaluate possible training needs, the suitability of current policies and procedures, the suitability of available equipment, etc.
- B. Participants in an informal review will include all agents involved in the incident, a Unit DAAT Instructor, the lead agent of the investigation, if applicable, and any other employee assigned by the SAC or OCI Director.
- C. After the review has been completed, the findings will be reported to the SAC and OCI Director.

XVI. Duty to Report

- A. It is the duty of each agent to report any use of force encounters in which he/she was engaged or had observed to the SAC or OCI Director as soon as possible, in accordance

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with Section XIV. of this policy.

- B. Agents must report any violations of this policy committed by another agent. Each agent has a duty to immediately take reasonable action to intervene, if possible, whenever he/she observes a violation of this policy by another agent and/or in order to prevent or stop excessive force by another agent or law enforcement officer.
1. No agent may be discharged, disciplined, demoted, or denied promotion, transfer, or reassignment, or otherwise discriminated against with regard to employment, or threatened with any such treatment, because they did any of the following:
 - a. reported, or is believed to have reported, any violation of this policy,
 - b. initiated, participated in, or testified in, or is believed to have initiated, participated in, or testified in, any action or proceeding regarding a violation of this policy,
 - c. provided any information, or is believed to have provided any information, about a violation of this policy, or
 - d. took any steps in compliance with this policy.