



MIDDLETON POLICE DEPARTMENT

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SUBJECT: **Use of Force**

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PURPOSE

The purpose of this policy is to establish guidelines for the use of force by sworn personnel to effect the detention, seizure, or arrest of a person; in self-defense or defense of another; to prevent or intercede in an attempt at self-injury; in defense of property; and in fulfilling the community caretaker function. Proper use of force decisions, based on reasonableness, ensure due process for citizens and provide protection for officers and the Department.

This policy is based on the Defensive and Arrest Tactics (DAAT) program established by the Wisconsin Department of Justice – Law Enforcement Standards Board.

POLICY

The Middleton Police Department believes in the value and sanctity of every human life, and we strive to protect and preserve the lives of all. Department members will act with the foremost regard for the preservation of human life and the safety of all persons. Officers of the Middleton Police Department shall use only the amount of force reasonably necessary to achieve a lawful objective.

DEFINITIONS

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.

Assaultive Behavior

Direct actions or conduct that generates bodily harm to the officer(s) and/or another person(s).

Bodily Harm

[939.22\(4\)](#) of the Wisconsin Statutes defines Bodily Harm as physical pain or injury, illness, or any impairment of physical condition.

Critical Incident

- A. Any use of deadly force by an officer which results in serious injury or death to any person;
- B. Any intentional use of deadly force by an officer, including discharge of a firearm toward another person, whether or not the person is injured;
- C. An in custody death;
- D. Any incident in which an officer is actively engaged, which results in the death or serious injury of any person, including the officer (for example, a serious motor vehicle crash involving a squad car).
- E. A death of an individual that results directly from an action or omission of a law enforcement officer while the law enforcement officer is on duty or while the law enforcement officer is off duty but performing activities that are consistent with his or her law enforcement duties.

Deadly Force

The intentional use of a firearm or other instrument that creates a high probability of death or great bodily harm. Behavior which justifies deadly force is defined as: Any behavior which has caused or imminently threatens to cause death or great bodily harm to you or another person or persons.

De-escalation

A concept that involves an officer's use of time, distance, and relative positioning in combination with professional communication skills to attempt to stabilize a situation and reduce the immediacy of threat posed by an individual.

Defensive and Arrest Tactics (DAAT)

A system of verbalization skills coupled with physical alternatives. It is the specific system formulated, approved, and governed by the Wisconsin Department of Justice – Law Enforcement Standards Board.

Electronic Control Device

An Electronic Control Device is a conducted energy weapon that utilizes compressed nitrogen to deploy two small probes. These probes are connected to the weapon by high-voltage insulated wire. When the probes make contact with the target, it transmits powerful electrical pulses along the wires and into the body of the target. This produces involuntary contraction of skeletal muscle tissue, overriding the motor nervous system, blocking command & control of the human body, directly stimulating motor nerve and muscle tissue, causing incapacitation.

Disturbance Resolution

The conception model for an officer's use of the intervention options in the DAAT model. See appendix A for more details.

Excited Delirium Syndrome

A state of extreme mental and physiological excitement characterized by extreme agitation, hyperthermia, hostility, and exceptional strength and endurance without apparent fatigue.

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 any other serious bodily injury. (SS [939.22\(14\)](#))

Intervention Options

Trained techniques for intervening and gaining control in a disturbance. The techniques are categorized into five modes: presence, dialogue, control alternatives, protective alternatives, and deadly force, each reflecting the need for an increasing level of control. See appendix B for more details.

Lawful Force

A physical act by a police officer in the performance of duty when it is used to accomplish a legitimate law enforcement goal and the level of force used is reasonable considering all the facts and circumstances of the incident.

Non-Deadly/Non-Lethal Force

An amount of force that, under normal circumstances, would not be expected to result in great bodily harm or death.

Objective Reasonableness Standard

The standard established by the U.S. Supreme Court in *Graham v. Connor* that reasonableness should be judged under the totality of the circumstances from the perspective of a reasonable officer at the scene with similar training and experience. The three elements of the standard are:

1. The severity of the alleged crime at issue.
2. Whether the person poses an imminent threat to the safety of officers and/or others.
3. Whether the person is actively resisting seizure or attempting to evade seizure by flight.

Oleoresin Capsicum (Pepper Spray)

Oleoresin Capsicum (OC) is a powerful inflammatory agent that occurs naturally in cayenne peppers. OC has a low likelihood of causing injury, but a high potential for control. OC is biodegradable and all symptoms should disappear within 15 to 45 minutes with no after effects.

Passive Resistance

Non-compliant and non-threatening resistance to lawful orders.

Physical Restraint

Holding, restraining, pushing, pulling, or other physical manipulation without the use of any weapon by one or more officers acting alone or in concert to control a person or to affect an arrest.

Reasonable Belief

A conclusion reached by an ordinary, prudent, and reasonably intelligent police officer that a certain fact situation exists under the totality of circumstances perceived by that officer at the time that officer acted.

Reasonable Force

A physical act by a police officer in the performance of duty used to accomplish a legitimate law enforcement goal and objectively reasonable under the circumstances as perceived by the officer at the time the officer acted. The totality of circumstances perceived by the officer can include statements made by the person or a known prior history of resistive or assaultive behavior.

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.

USE OF ONLY NECESSARY FORCE

Police officers shall exert no more force than is reasonably necessary in the discharge of their sworn duty. Officers shall exercise extreme care in the use of deadly force and ensure that the use of deadly force is consistent with all applicable federal, state, and local laws as well as this policy. Should any portion of the Use of Force Policy be less restrictive than any applicable laws, the more restrictive shall have precedence.

When Necessary Force May Be Used

Sworn officers of this agency are authorized to use "*Necessary Force*" toward another person without their consent when one or more of the following circumstances exist or an officer reasonably believes they exist:

- A. Detaining a person reasonably suspected of criminal involvement.
- B. Affecting an arrest.
- C. Overcoming resistance.
- D. Preventing escape, or to retake following an escape.
- E. Protecting oneself or another from physical harm.
- F. Maintaining order.
- G. Taking into protective custody a subject who poses either a threat to him/herself or others.
- H. Enforcing an order of the court.
- I. In executing any other duty imposed by law.

Degree of Force That May Be Used

Officers shall use only the degree of force that a reasonable officer on the scene would believe necessary to control the situation and/or accomplish lawful objectives. In determining the degree of force that is reasonably necessary, an officer shall consider the following factors:

- A. The existence of alternative methods of control.

- B. Officer-subject factors, including physical size, relative strength, age, and skill level of the subject.
- C. The nature of the encounter.
- D. The behavior, actions, or statements of the subject.
- E. Subject's ability to escalate force rapidly, i.e., proximity to weapons.
- F. Exigent conditions such as availability of backup, number of persons involved, etc.

All applications of force shall terminate when an officer determines that a subject is fully under control.

Officers shall use de-escalation techniques and other alternatives to higher levels of force consistent with his or her training whenever possible.

Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to safely do so, intervene to prevent the use of such excessive force. Officers shall promptly report these observations to a supervisor.

Verbal Commands

Control of a person through verbal commands is a lesser degree of force and may be an alternative to the use of physical force and/or non-deadly weaponry.

- A. It is recognized that this method alone is not always effective or appropriate in gaining compliance and it may become necessary to escalate the degree of force.
- B. When it is determined that verbal commands alone are neither effective nor appropriate, an officer may escalate the degree of force based on the behavior and/or actions of the person (s)he is attempting to control.
- C. Whenever possible, an officer should continue to give verbal directions and commands while using higher levels of force.

Intervention Options

- A. Intervention options available to officers fall into five categories, or modes, each with a different purpose:

Mode	Purpose
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

- B. The concept of escalating/de-escalating degrees of force is based on an officer's reaction to a specific action of the person (s)he is attempting to control. Officers are not required to begin a confrontation at the verbal command level and escalate step-by-step until control is gained. Which mode an officer chooses in a given situation depends on the officer's

tactical evaluation and threat assessment. The criteria, as articulated in the landmark case of *Graham vs. Connor*, is whether the level and degree of force is **objectively reasonable**.

- C. Once a person has stopped resisting or attempting to escape, or is under control, the amount of force used should be reduced to the minimum necessary to maintain control of the subject.

Responsibility to Monitor Subject for Signs of Injury

Whenever physical force is used to control a subject, it is the officer's responsibility to monitor the subject for signs of injury. If an injury is such that it requires medical treatment, every effort will be made to provide such treatment, by the officer and/or by requesting medical aid. If the subject refuses medical treatment for his/her injury this fact shall be documented in the officer's report. Officers should use their medical training and other resources available to them to determine if the injury is treatable.

USE OF DEADLY FORCE

Sworn officers of this agency have the authority to discharge firearms or use other deadly force options in connection with the performance of official police duties under, and only under, the following circumstances:

- A. To protect the officer or another person(s) from apparent death or great bodily harm.
- B. After exhausting or ruling out all other reasonable means to effect the arrest or capture, or prevent the escape, of a person whom the officer knows or has reasonable grounds to believe has committed or attempted to commit a felony involving the use or threatened use of deadly force and the officer reasonably believes that the person will cause death or great bodily harm if the person's apprehension is delayed. (Tennessee v. Garner)
- C. In situations where target-specific directed fire is justified.
- D. To destroy a dangerous animal or one so badly injured that humanity requires its relief from further suffering. The latter case requires, when practical, an owner authorization to destroy prior to use of a firearm to destroy a domesticated animal. Officers who destroy an injured animal must be especially sensitive to the presence of bystanders and witnesses that may be emotionally attached to the animal.
- E. Unnecessarily or prematurely drawing or exhibiting a firearm limits an officer's alternatives in controlling a situation, creates unnecessary anxiety on the part of citizens, and may result in an unwarranted or unintentional discharge of the firearm. An officer's decision to draw or exhibit a firearm should be based on the tactical situation and the officer's reasonable belief that there is a substantial risk that the situation may escalate to the point where deadly force may be justified. When an officer has determined that the use of deadly force is not necessary, the officer shall, as soon as practical, secure or holster the firearm.
- F. If chemical or electric weapons are employed (or threatened) against an officer, if reasonably possible, (s)he should attempt to protect their eye area, control breathing, disengage, and maintain weapon control. The fact that a subject is armed with or uses chemical or electric weapons does not in and of itself justify the use of deadly force. In determining the appropriate response, an officer shall consider the situational factors described in "Use of Only Necessary Force". It is recognized that an officer will likely be

completely vulnerable if successfully attacked with these weapons and that deadly force may be necessary to protect the officer from death or great bodily harm.

- G. Before using deadly force, officers shall identify themselves and state their intent, where feasible. The use of deadly force shall not be threatened unless such force would be justified under this policy.

Deadly Force Against a "Fleeing Felon"

Use of deadly force against a fleeing felon will be limited to the force allowed, as stated in this policy and applicable law.

Medical Care

Whenever force is used, the subject shall be monitored for injuries. When safe to do so, officers shall provide medical care consistent with his or her training. Medical care may include providing basic first aid, requesting EMS, and/or arranging for transportation to a medical facility.

In all situations of where deadly force is used, or where required by this policy, EMS shall be summoned as soon as practical to provide aid as necessary.

Copies and Instructions to All Personnel

All sworn personnel will be issued copies of and demonstrate their understanding of this policy before being authorized to carry any firearm. The Middleton Police Department will also provide annual training on this policy, de-escalation techniques, and relevant legal updates. Additionally, the Department requires an annual review and test on this policy.

Unauthorized Discharge of Firearms

- A. An attempt to halt a person because of a mere suspicion and/or one who simply flees to avoid arrest.
- B. From a moving vehicle, unless "Use of Deadly Force" applies.
- C. At a moving vehicle, unless "Use of Deadly Force" applies (also see High-Speed Pursuit Policy for special restrictions in pursuits).
- D. To affect the arrest or prevent the escape of a misdemeanor.
- E. An attempt to recover a stolen vehicle when the only facts known to the officer pertain to the offense of stealing a vehicle.
- F. Warning shots.
- G. At unseen subjects, (for example, through a door or into a building) unless a deadly force threat exists.
- H. When the officer is in doubt as to whether or not (s)he has legal justification to use deadly force.
- I. Under any circumstances not authorized by this Policy.

USE OF NON-LETHAL WEAPONS

Prohibited Tactics and Weapons

- A. All types of strangle and choke holds, including lateral vascular neck restraints, or other similar holds which restrict blood flow to the brain or the ability to breathe are prohibited, except in situations where deadly force is justified.
- B. The use by an officer of an impact weapon to strike a blow above the shoulders is prohibited except when the officer reasonably believes there exists a threat of apparent death or great bodily harm. This section is not intended to apply to accidental strike to the head due to resistance. An impact weapon is any item used to gain control of a subject by striking.
- C. The carrying or use of "filled" batons, numchucks, brass knuckles, saps, and sap gloves is prohibited.
- D. Department approved batons are the only authorized impact weapons. The department recognizes that emergency situations involving other objects and instruments may occur.

Oleoresin Capsicum (Pepper Spray)

Officers, who have been trained in and certified for use of OC by a certified Wisconsin DOJ D.A.A.T. instructor, may carry and use department issued and approved OC. All authorized officers in a uniformed patrol capacity are required to carry department issued OC on their duty belt in department issued holders. Sworn administrative personnel and officers in non-uniform assignments may carry OC on an as needed basis. Before using OC, officers should identify themselves, and state their intent to use OC, where feasible.

- A. Officers are permitted to use OC when necessary to overcome active resistance or its threat.
- B. Mere passive resistance, verbal arguments against being arrested, and/or running away, without posing an articulable threat of bodily harm to officer or others, do not justify the use of OC.
- C. OC may be used on animals only if they demonstrate a threat to the officer or other persons.
- D. When using OC, officers shall consider the potential for cross-contamination to the user, other officers and bystanders.
- E. Absent extraordinary circumstances, officers should not utilize OC if it appears children less than two years of age are in the area that would be contaminated.
- F. Blood should be the primary test for persons arrested for an alcohol related driving offense if they have been sprayed with OC.

Medical Aid and Decontamination Procedures

Departmental personnel who use OC against a person shall ensure the person is decontaminated as soon as practical after the person has been subdued. At a minimum, officers shall:

- A. Summon EMS as soon as possible to provide aid as necessary.
- B. Expose the person to fresh air and flush exposed areas with large amounts of cold water as soon as practical.
- C. Inform the subject additional relief may be gained by showering and washing affected areas with soap and water. Do not apply salves, creams, or lotions.
- D. Monitor the subject for 45 minutes after application and, if incarcerated, notify confinement personnel of the use of OC. Transport to a medical facility shall be arranged if there is no recovery within 45 minutes, an adverse reaction occurs, there are contact lens related complications, or if requested by the subject.
- E. Ventilate any enclosed areas where OC was used for at least 45 minutes.

- F. If circumstances permit, and it can be done without endangering departmental personnel, reasonable efforts to decontaminate animals should be made or the information conveyed to the animal's owner.

Carrying of OC Off-Duty

The carrying of Oleoresin Capsicum while off duty is limited to the circumstances and conditions stated in this Policy.

Off-duty officers may, at their discretion, carry OC. Off-duty officers carrying OC shall possess department issued police credentials and, if practical, identify themselves as police officers before taking any police action. Off-duty officers acting under color of law will comply with department policies.

An off-duty officer will not consume or be under the influence of alcoholic beverages or any other drug when carrying Department issued OC.

Less Lethal Impact Projectiles

Less Lethal Impact Projectiles provide officers with an additional use of force intervention option. Their use is authorized when a subject's behavior poses a threat of significant physical harm. The use of Less Lethal Impact Projectiles is considered an intermediate force option and their use is not a substitute for deadly force. The use of Less Lethal Projectiles shall be in accordance with this policy and the Middleton Police Department's overall policy regarding the use of force.

Training

Less Lethal Impact Projectiles may only be used by members of the Middleton Police Department who have attended and successfully completed an authorized training course as designated by the Middleton Police Department. The use of Less Lethal Impact Projectiles shall be in compliance with this training and Middleton Police Department policy.

At least biennially, members of the Middleton Police Department will receive training and show an acceptable level of proficiency in the use of Less Lethal Impact Projectiles.

Less Lethal Impact Projectile Weapon and Storage

- A. The MIPD Less Lethal Weapon shall consist of a dedicated Remington model 870 12-gauge shotgun and approved ammunition. All such shotguns will be equipped with an orange colored stock and fore grip to assist on scene officers and users in ready identification of the weapon as being less lethal. The shotguns will be stored in patrol vehicles in a locked shotgun mount. The shotgun will be unloaded while in storage and will only be loaded for actual deployment or training.
- B. Only approved less lethal impact projectiles will be stored with the shotgun. The rounds will be stored in a receiver mounted shell holder attached to the shotgun.

Deployment

- A. The deployment and use of Less Lethal Impact Projectiles shall be in accordance with MIPD approved training. The department recognizes that use of force situations are dynamic. Consequently, specific authorization for Less Lethal deployment by a supervisor or OIC is not required. However, supervisory or OIC notification and/or authorization is

recommended in situations that allow sufficient time for the notification and authorization process to occur.

- B. Whenever possible or practical, a two person loading procedure will be followed. In all cases, the shotgun chamber and magazine shall be checked prior to loading to ensure that no rounds are in the weapon. Each round shall be inspected and verified as a MIPD authorized Less Lethal Impact Projectile before it is loaded into the weapon.
- C. Less Lethal Impact Projectiles should, whenever possible, be deployed from a position of cover or concealment.
- D. Less Lethal Impact Projectiles are not a substitute for lethal force. Therefore, Less Lethal Weapons shall not be deployed unless another officer, providing cover with a lethal firearm, is also available on scene.
- E. The officer deploying a Less Lethal Weapon shall, whenever possible, advise other officers in the area of its intended use.
- F. Primary target areas for Less Lethal Impact Projectiles are the thighs, lower legs, calves, and buttocks. Secondary target area is the abdominal area. Intentional deployment of impact projectiles to the areas of the chest, spine, head, neck, and face is considered deadly force.
- G. After Less Lethal Impact Projectiles are fired at a subject, officers should reassess the threat and take appropriate steps to stabilize and control the subject and the scene.
- H. Once stabilized, the subject should be assessed for injury. The subject should be advised that Less Lethal Impact Projectiles have been used and that he/she will receive appropriate medical treatment.
- I. If possible, EMS should be placed on standby prior to the deployment of Less Lethal Impact Projectiles and/or be called to the scene to evaluate and/or treat the subject if the injuries warrant immediate medical treatment. No EMS personnel shall be on the immediate scene until the subject is secured.
- J. Officers should avoid Less Lethal Impact Projectile deployments on the following unless exigent circumstances are present:
 - 1. Visibly pregnant women
 - 2. Elderly persons
 - 3. Small, pre-teen children
 - 4. Persons in control of a motor vehicle or other machinery
 - 5. Persons running away
 - 6. Persons in bodies of water
 - 7. Persons in elevated positions

Evidence

Once the subject and scene have been secured, an attempt shall be made to recover the fired projectile(s). Any recovered projectile(s) shall be retained as evidence.

Consideration should be given to video recording the use of Less Lethal Impact Projectiles, if possible or practical. Any and all recordings shall be retained as evidence.

Medical Treatment Requirement

- A. Department personnel who use less lethal impact projectiles against a person shall ensure the person is monitored for injury as soon as practical after the person is under control. In all cases, as soon as practical, EMS will be summoned to the scene or location of prisoner transport.

- B. All persons who have been struck by Less Lethal Impact Projectiles shall be taken to an emergency room for medical clearance. Photographs shall be taken of impact areas and any injuries resulting from the use of Less Lethal Impact Projectiles. Any photographs taken shall be retained as evidence.
- C. If, due to the nature of injuries, immediate emergency medical treatment and transport by EMS is necessary, the arresting officer shall remain with the subject during treatment/transport, if practical.

Reporting Impact Projectile Use

- A. All officers and supervisors or OIC's involved in the deployment of Less Lethal Impact Projectiles shall complete a MIPD Critical Incident Report, accompanied with a narrative report detailing their involvement in the incident.
- B. The narrative report of an officer who deploys Less Lethal Impact Projectile(s) shall minimally include the following:
 - 1. Subject (behavior, actions, weapons(s) involved)
 - 2. Estimated distance to subject at time of deployment
 - 3. Number of projectiles fired and impact locations of each
 - 4. Medical attention and aftercare
 - 5. Other pertinent information supporting the officer's decision to deploy Less Lethal Impact Projectiles

Electronic Control Device

Electronic Control Devices (ECDs) provide officers with an additional use of force intervention option. Electronic Control Devices are a less lethal force weapon utilized by trained personnel that cause Neuromuscular Incapacitation (NMI) to a combative or potentially combative subject. The use of this weapon is intended to incapacitate the subject with a minimal potential for causing death or great bodily harm. The use of Electronic Control Devices shall be in accordance with this policy and the Middleton Police Department's overall policy regarding the use of force.

Training

Electronic Control Devices may only be used by members of the Middleton Police Department who have attended and successfully completed an authorized training course as designated by the Middleton Police Department. The use of Electronic Control Devices shall be in compliance with this training and Middleton Police Department Policy.

Members of the Middleton Police Department will receive training and show an acceptable level of proficiency in the use of authorized Electronic Control Devices. The content and frequency of the training will be based on the manufacturer's recommendations.

Carrying of Electronic Control Devices

Electronic Control Devices shall be carried by uniformed patrol officers on their duty belt attached to the reaction side to allow officers to readily identify them as less lethal weapons and ensure that they will not be mistaken for their duty firearm. Officers will be allowed to carry Electronic Control Devices in a leg holster on their reaction side if approved by the Chief of Police or his designee. The Electronic Control Device shall be carried in a department approved holster in a cross draw manner. Plain clothes officers who carry an Electronic Control Device are subject to the same restrictions.

Only Electronic Control Devices approved by the Middleton Police Department shall be carried by officers. The Taser X2 is the only authorized Electronic Control Devices currently approved by the Department.

Testing Procedures for Electronic Control Devices

Axon, manufacturer of the Taser X2, recommends a function test (spark test) prior to each shift. The only way to determine the proper functioning of all components is to conduct a daily function test, which is required unless circumstances prevent an employee from completing one.

A **Taser X2** Electronic Control Device (X2 ECD) is spark tested with the cartridges loaded. A second officer is not required to perform an X2 spark test.

To perform a function test:

- A. Point the ECD in a safe direction (in the briefing room use the designated test location).
- B. Keep your hand fingers away from the front of the ECD.
- C. Shift the safety switch to the up (ARMED) position. Keep all fingers away from the trigger and keep the ECD pointed in a safe direction. While performing a spark test, **DO NOT touch the trigger at any time.**
- D. Use your thumb to press and hold the ARC switch for a full 5 second cycle. Verify the arc rides across the face of all loaded cartridges between the arc deflector metalized labels.
 1. View the arc from the top or side of the ECD. Do not point the ECD at your face or have it near your face.
- E. Look at the CID (Central Information Display) and verify the following:
 1. No critical or major fault icons display on the upper-right corner of the CID.
 2. The cartridge information matches the cartridges inserted in the X2 firing bays.
 3. LO BATT is not displaying in the CID.
 4. Battery is above 20% capacity (more than one bar visible).

Deployment

- A. An Electronic Control Device may be used by trained personnel when a subject is threatening to actively resist or is actively resisting an officer and the subject poses an articulable threat to an officer or another person. 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 or when other exigent circumstances exist.
 1. 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.
 2. Passive resistance and/or the act of running away without posing an articulable threat of harm to officers or others does not permit the use of Electronic Control Devices.
- B. An officer shall not brandish, display or threaten use of an Electronic Control Device unless they can reasonably conclude its use may become justified and is anticipated.
- C. An officer equipped with a Taser X2 ECD has the option and ability to display a Warning Arc to gain compliance from a person who is actively resisting or threatening to actively resist arrest, without firing probes at the subject.
- D. Each and every application of an Electronic Control Device must be legally justified.

- E. When using an Electronic Control Device in drive-stun mode to gain compliance from a suspect who is “actively resisting” arrest, the officer must give the suspect reasonable opportunity to comply with the officer’s commands prior to each Electronic Control Device’s application. Specifically, the officer:
 - 1. must perceive that the suspect is “actively resisting”;
 - 2. must be certain that the suspect is capable of compliance with the officer’s commands;
 - 3. if practical, give a warning prior to each application of the Electronic Control Device;
 - 4. must give the suspect time to recover from the “extreme pain” experienced during the Electronic Control Device application;
 - 5. must give the suspect a reasonable amount of time to regroup; and must give the suspect a reasonable opportunity to consider the consequences of refusal to comply with commands before each ECD application.
- F. Officers should avoid Electronic Control Device deployments on the following unless exigent circumstances are present:
 - 1. Visibly pregnant women
 - 2. Elderly persons
 - 3. Small, pre-teen children
 - 4. Persons in control of a motor vehicle or other machinery
 - 5. Persons engaged in peaceful civil disobedience
 - 6. Persons running away
 - 7. Persons in bodies of water
 - 8. Persons in elevated positions
- G. The reporting requirements contained in the policy must provide that an officer is required to include in a report specific information indicating that all of these guidelines were followed prior to the application of an Electronic Control Device.
- H. In each instance when an Electronic Control Device is deployed on an incident, a determination will be made regarding the need for lethal cover.
 - 1. Lethal cover shall be required in all cases in which a subject possesses a firearm.
- I. Department personnel who use an Electronic Control Device against a person shall ensure the person is monitored for injury as soon as practicable after the person is under control. In all cases, as soon as practical, EMS will be summoned to the scene, or location of prisoner transport.
- J. Officers and Paramedics must recognize the behaviors and elements associated with the potentially life threatening medically significant event known as Excited Delirium. **Excited Delirium** is a medical condition that is usually brought on by stimulant drug abuse or non-compliance with psychiatric medications. Any person who is delirious requires prompt medical evaluation and treatment. The delirious person is likely to manifest an acute behavioral disturbance. These individuals can appear normal until they are questioned, challenged or confronted. When confronted or frightened these individuals can become oppositional, defiant, angry, paranoid and aggressive. Further confrontation, threats and use of force will almost certainly result in further aggression and even violence. Attempting to restrain and control these individuals can be difficult because they frequently possess unusual strength, pain insensitivity and instinctive resistance to any use of force. The failure of officers to recognize this life-threatening condition may delay the urgent help that is needed to save the affected person. (Also see Excited Delirium Protocol in 7.1.01, p 8.)

- K. If an adverse reaction to the Electronic Control Device occurs, or if requested by the subject, transport to a medical facility shall be arranged.
- L. If the probes are imbedded in sensitive areas, i.e. neck, face, groin, or the breast of a female, officers shall arrange transport to a medical facility for removal. If the probes are imbedded in other non-sensitive tissue areas, a trained officer may remove them according to the trained procedure.
- M. After the probes have been removed they shall be handled as a biohazard and packaged according to trained procedures.

Reporting Electronic Control Device Use

- A. All officers who use or threaten the use of an Electronic Control Device against a person or animal shall complete a MIPD Critical Incident Report, accompanied with a narrative report detailing their involvement in the incident. This does not include verbal threats of use when the Electronic Control Device is not displayed.
- B. The narrative report of an officer who uses an Electronic Control Device shall minimally include the following:
 - 1. Subject (behavior, actions, weapon(s) involved)
 - 2. Number of probes fired and impact locations
 - 3. Number and duration (if known by reporting officer) of firings of an Electronic Control Device applied to subject.
 - 4. Aftercare and medical attention (if needed)
 - 5. Other pertinent information supporting the officer's decision to use conducted energy weapon
- C. The internal data recorded by the Electronic Control Device shall be downloaded and included with report as soon as practicable.
- D. All trigger activations (i.e.: deployment in use of force incident or accidental) of the Electronic Control Device shall be reported to the shift supervisor or OIC as soon as practical. Standard testing procedures do not apply.

Evidence Collection

Following a deployment of the Electronic Control Device (which involves the firing of the probes at a subject) and the subject and scene have been secured, a reasonable effort should be made to collect the fired probes, wires and spent cartridge. Once collected, these items shall be entered as evidence and packaged in accordance with the department's evidence collection/packaging policy.

REPORTING USE OF FORCE

Purpose of Use of Force Reports

The purpose of filling out the Use of Force Report is for the immediate documentation of the force used so that should a complaint be filed, the pertinent facts would be readily available. The reports will also be used to assist in evaluating the incident, policy, training, and equipment. The mere existence of one or more Use of Force Reports cannot be used in an officer's performance evaluation. Furthermore, since the report merely records a historical event, the mere existence of one or more Use of Force Reports cannot be the basis for discipline. Force which is justified is permissible, regardless of the number of usages.

Use of Force Situations Requiring Reporting

The following are examples of situations where a Use of Force Report and detailed incident report must be completed, however, they are required in any situation which clearly involves a use of force.

- A. An officer is injured in a use of force situation, or injured as the result of an unlawful use of force against the officer.
- B. An officer exercising police authority uses force which causes death or any visible or apparent physical injury, or which results in the subject saying that they are injured.
- C. Whenever lethal or less lethal weapon(s) are used.
- D. An officer exercising police authority uses any object to strike a subject.
- E. An officer exercising police authority uses force which in any way causes a subject to suffer a blow to the head.
- F. An officer exercising police authority decentralizes or physically removes or drags a struggling subject from one place to another.
- G. An officer uses OC, tear gas, or other chemical irritant. In the event that such irritants are used to disperse rioters, mobs, crowds, or barricaded subjects, the Shift Commander or Officer-in-Charge on the scene shall initiate the Use of Force Report.
- H. An officer discharges his/her departmentally sanctioned firearm, regardless of duty status and regardless of whether the discharge was accidental or intentional. Recreational and range use are exempt.
- I. An officer exercises police authority on a subject resulting in the subject losing consciousness.
- J. When the level of force used is a "Compliance Hold" or higher in the intervention options.
- K. When a firearm is pointed at any person.
- L. When any agency member witnesses or is party to any apparent unauthorized Use of Force by a member of this or any other law enforcement agency.
- M. When injuries or property damage is caused by a Middleton Police canine.
- N. When a Middleton Police canine is deployed off lead.
- O. Any time a Middleton Police canine is deployed with the intent to physically apprehend someone whether successful or not.
- P. When required by the Shift Commander for situations, acts, and omissions that should be documented and reviewed but are not explicitly covered by policy.

Method of Reporting Use of Force

Each officer who uses force shall make a verbal report to the on-duty Shift Supervisor as soon as circumstances permit, but in no case later than the end of his/her tour of duty. He/she shall file a detailed incident report and Use of Force Report as soon as practical thereafter describing all the circumstances surrounding the incident. If the officer is hospitalized during the tour and incapable of filing the required reports, his/her on-duty supervisor is responsible for filing as complete a report as possible pending further departmental investigation. Off-duty officers who, under color of law, are involved in a use of force situation are subject to the same reporting requirements and procedures as on-duty officers. Dispatchers and other employees may be required to file a report or memorandum in some situations.

Shift Supervisor's Responsibility

- A. The Shift Supervisor is responsible for evaluating use of force incidents, and completing the Shift Supervisor's portion of the Use of Force Report. An investigation is required for any "critical incident" involving the use of force. The Shift Supervisor shall promptly conduct or coordinate this investigation. The information gathered shall include at a minimum the following information:
 - 1. Witness information and statement
 - 2. Subject information and statement
 - 3. Event information - time and location
- B. The Chief of Police shall be notified as soon as possible whenever injuries have been inflicted by or to a department employee sufficient to cause death, great bodily harm or hospitalization.
- C. Absent the objection of the injured person, the Shift Supervisor shall have photographs taken of the injuries. If consent for photographs cannot be obtained it shall be noted in the report. Employees with visible injuries shall be photographed.
- D. If an officer encounters a degree of resistance sufficient to justify a charge of resisting/obstructing, or battery to a police officer, these charges will be made immediately.
- E. An officer who discharges a firearm at a human being or at a vehicle in which human beings are contained or who is involved in any other use of force or traffic accident which results in death or great bodily harm shall be required to submit to a timely chemical test or tests for the purpose of determining the presence of alcohol or drugs.

REVIEW OF USE OF FORCE INCIDENT

Administrative Review of Use of Force Incidents

- A. All reported uses of force will be reviewed by the Shift Commander to determine whether:
 - 1. Department rules, policy or procedures were violated.
 - 2. The relevant policy was clearly understandable and effective to cover the situation.
 - 3. Department training requires revision.
- B. All Use of Force reports shall be forwarded to the Chief of Police or his/her designee. All Use of Force reports shall be retained and the data derived therefrom shall be compiled and analyzed at least annually to assess the effectiveness and adequacy of policy, training, equipment, and personnel. If analysis at any point throughout the year shows any patterns of concern, the Operations Captain and applicable shift commander will be notified.
- C. All critical incidents involving Use of Force shall be forwarded to the Chief of Police or his/her designee, and if appropriate, the Critical Incident Review Board.

Critical Incident Review Board

For the purposes of this section, a critical incident is defined as one where:

- A. An officer is injured in a use of force situation, or injured as the result of an unlawful use of force against the officer.
- B. A subject receives an injury requiring medical treatment, whether such treatment is accepted or not.
- C. Deadly Force is used.
- D. A firearm is discharged, whether on-duty or off-duty. (This standard does not apply to firearms training, hunting, authorized destruction of injured animals or participation in legitimate sporting events).

- E. There is an alleged or actual unauthorized use of force.
- F. A review is requested by the Agency Administration.
- G. A review is requested by either party to address a Use of Force issue in a disciplinary action.
- H. A civil lawsuit or claim for damages is filed.
- I. A Middleton Police canine causes injury to a person.

All Critical Incidents involving the use of force shall be formally reviewed within one month by a Critical Incident Review Board. The review board will review all reports, statements, and any other relevant information or materials, and may take testimony. The purpose of the review is to determine whether:

- A. The force used was within policy.
- B. The relevant policy was clearly understandable and effective to cover the situation.
- C. Department training is adequate or requires revision.
- D. Department equipment is adequate or requires modification.

Report of Findings

The Critical Incident Review Board shall make a written report of findings to the Chief of Police. This report should include the relevant facts and circumstances surrounding the incident. All findings of policy violations or policy, training or equipment deficiencies shall be reported to the appropriate unit for resolution and/or discipline.

ADMINISTRATIVE LEAVE OF DUTY

Whenever an officer is directly involved in a critical incident resulting in death or serious bodily harm, or the discharge of a firearm toward another person, the officer shall be placed on administrative leave of duty. Officer(s) will remain on administrative leave until the completion of any required investigations and the fulfillment of the requirements of this policy. Their return must be cleared by the Chief of Police. Prior to the termination of administrative leave, the involved officer(s) will be consulted to determine the best plan for a return to duty.

The purpose of this standard is twofold: (1) to protect the community's interest when officers may have exceeded the scope of their authority in a critical incident and (2) to shield officers who have not exceeded the scope of their authority from possible confrontations with the community. This leave is not a suspension and is in no way meant to be seen as a disciplinary action or any indication of wrongdoing on the part of the officer(s).

As soon as practical after a critical incident, the Chief or his/her designee will work with the involved officer(s) to define his/her responsibilities and expectations during administrative leave. This discussion shall include, but is not limited to, whether the officer can: return to work in an administrative capacity, carry a weapon on or off duty, wear a uniform, or drive police vehicles.

PSYCHOLOGICAL DEBRIEFING

In order to help the officer involved cope with the stress the incident has created a psychological debriefing may be done by a Critical Debriefing Team. This shall be done in the period 24 to 72 hours after the incident. Anything said during a debriefing is strictly confidential and off the

record. It has been found that such debriefings greatly aids in the effective psychological handling of such incidents by those involved. The officer will, at any time, for a period of up to 14 months after the incident, be given the option of seeking professional help and counseling which will be paid for by the Department, if not covered through the City's Employee Assistance Program (EAP) or by insurance. However, the officer must set up time outside his/her regular duty times. This assistance, if not covered through the City (EAP) or by insurance, must be approved in advance by the Chief of Police. This counseling will be confidential, except the Department may be advised as to the Officer's ability to function as a Police Officer.

APPENDIX A – DISTURBANCE RESOLUTION

APPROACH CONSIDERATIONS

Decision-Making

- Justification
- Desirability

Tactical Deployment

- Control of Distance
- Relative Positioning
- Relative Positioning with Multiple Subjects
- Team Tactics

Tactical Evaluation

- Threat Assessment Opportunities
- Officer/Subject Factors
- Special Circumstances
- Level/Stage/Degree of Stabilization

INTERVENTION OPTIONS

MODE

A. Presence

PURPOSE

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

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

APPENDIX B – INTERVENTION OPTIONS

Mode	Tactic(s)	Purpose
Presence	Professional Presence Open Stance Ready Stance Defensive Stance	To present a visible display of authority
Dialogue	Tactical Communication Search Talk Persuasion Light Control Talk Heavy Control Talk	To verbally persuade
Control Alternatives	Escort Holds Blanket the Arm Escort Position Compliance Holds Come-along Pressure Points Mandibular Angle Hypoglossal Control Devices O.C. Electronic Control Device Passive Countermeasures Decentralizations Secure-the-Head Hug-Yourself Lower-Your-Center Pull-In/Push-Down	To safely initiate physical contact To overcome passive resistance To overcome active resistance or its threat
	Protective Alternatives Active Countermeasures Vertical Stuns Focused Strikes Incapacitating Techniques Diffused Strike Intermediate Weapons Baton Less Lethal Shotgun	To overcome continued resistance, assaultive behavior, or their threats
Deadly Force	Firearm	To stop the threat