West Salem Police Department

Policy Manual

Use of Force

300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner.

In addition to those methods, techniques, and tools set forth below, the guidelines for the reasonable application of force contained in this policy shall apply to all policies addressing the potential use of force, including but not limited to the Control Devices and Techniques and Conducted Energy Device policies.

300.1.1 DEFINITIONS

Definitions related to this policy include:

Deadly force - The intentional use of a firearm or other instrument that creates a high probability of death or great bodily harm.

Feasible - Reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.

Force - The application of physical techniques or tactics, chemical agents, or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed, or restrained.

Imminent - Ready to take place; impending. Note that imminent does not mean immediate or instantaneous.

Totality of the circumstances - All facts and circumstances known to the officer at the time, taken as a whole, including the conduct of the officer and the subject leading up to the use of force.

Respiratory restraints/choke hold – A physical maneuver that restricts an individual's ability to breathe for the purposes of incapacitation.

Intervention options - An element of Disturbance Resolution in DAAT containing five modes in which an officer can intervene with a subject.

Objectively reasonable - The standard by which police use of force is judged. The reasonableness of an officer's use of force is judged from the perspective of a reasonable officer on the scene, and its calculus must embody an allowance for the fact that police officers are often forced to make split-second decisions about the amount of force necessary in a particular situation.

Passive resistance - Non-compliant and non-threatening behavior.

Reasonable force - A physical act by an officer in the performance of duty when it is used to accomplish a legitimate police objective and the level of force used is objectively reasonable considering known facts and circumstances at the time of the incident.

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.

Defensive and Arrest Tactics (DAAT) - A System of verbalization skills coupled with physical alternatives

300.2 POLICY

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

Officers must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties.

The West Salem Police Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation, and a careful balancing of all interests.

300.2.1 DUTY TO INTERCEDE AND REPORT

Any officer present and observing another law enforcement officer or a member using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force (Wis. Stat. § 175.44).

Any officer who observes another law enforcement officer or a member use force that is potentially beyond that which is objectively reasonable under the circumstances shall report these observations to a supervisor as soon as feasible (Wis. Stat. § 175.44).

300.2.2 PERSPECTIVE

When observing or reporting force used by a law enforcement officer, each officer should take into account the totality of the circumstances and the possibility that other law enforcement officers may have additional information regarding the threat posed by the subject.

300.3 USE OF FORCE

The West Salem Police Department adopts the Defensive and Arrest Tactics System. This is a system designed for all officers for the primary purpose of self defense. This system includes the Incident Response and Disturbance Resolution Models which provide general guidelines that define the degree and type of force to be used in controlling suspects. All West Salem Police Officers shall be trained and act in accordance with the DAAT system per State Training and Standard Bureau standards.

An overview of the Defense and Arrest Tactics can be found here: See attachment: DAAT.pdf

Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by this department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

300.3.1 ALTERNATIVE TACTICS - DE-ESCALATION

When circumstances reasonably permit, officers should use non-violent strategies and techniques to decrease the intensity of a situation, improve decision-making, improve communication, reduce the need for force, and increase voluntary compliance (e.g., summoning additional resources, formulating a plan, attempting verbal persuasion).

300.3.2 USE OF FORCE TO EFFECT AN ARREST

A law enforcement officer may use reasonable force to arrest a person or execute a warrant. Additionally, a law enforcement officer making a lawful arrest may command the aid of any person, and such person shall have the same power as that of the law enforcement officer (Wis. Stat. § 968.07; Wis. Stat. 968.14).

300.3.3 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include but are not limited to:

- (a) Immediacy and severity of the threat to officers or others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.

- (c) Officer/subject factors (e.g., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The effects of suspected drug or alcohol use.
- (e) The individual's mental state or capacity.
- (f) The individual's ability to understand and comply with officer commands.
- (g) Proximity of weapons or dangerous improvised devices.
- (h) The degree to which the individual has been effectively restrained and his/her ability to resist despite being restrained.
- (i) The availability of other reasonable and feasible options and their possible effectiveness.
- (j) Seriousness of the suspected offense or reason for contact with the individual.
- (k) Training and experience of the officer.
- (I) Potential for injury to officers, suspects, and others.
- (m) Whether the individual appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.
- (n) The risk and reasonably foreseeable consequences of escape.
- (o) The apparent need for immediate control of the individual or a prompt resolution of the situation.
- (p) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (q) Prior contacts with the individual or awareness of any propensity for violence.
- (r) Any other exigent circumstances.

300.3.4 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Officers may only apply those pain compliance techniques for which they have successfully completed department-approved training. Officers utilizing any pain compliance technique should consider:

- (a) The degree to which the application of the technique may be controlled given the level of resistance.
- (b) Whether the individual can comply with the direction or orders of the officer.
- (c) Whether the individual has been given sufficient opportunity to comply.

The application of any pain compliance technique shall be discontinued once the officer determines that compliance has been achieved.

300.3.5 CHOKE HOLD

The use of a choke hold, which is the intentional and prolonged application of force to the throat or windpipe, is limited to circumstances where deadly force is authorized and if applied, is subject to the same guidelines and requirements as a carotid control hold (Wis. Stat. § 66.0511).

300.3.6 USE OF FORCE TO SEIZE EVIDENCE

In general, officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, officers are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, officers should not intentionally use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted. Officers are encouraged to use techniques and methods taught by the West Salem Police Department for this specific purpose.

300.4 DEADLY FORCE APPLICATIONS

When reasonable, the officer shall, prior to the use of deadly force, make efforts to identify him/ herself as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts.

Use of deadly force is justified in the following circumstances involving imminent threat or imminent risk:

- (a) An officer may use deadly force to protect him/herself or others from what he/she reasonably believes is an imminent threat of death or serious bodily injury.
- (b) An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the individual has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to any other person if the individual is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if an officer reasonably believes that the individual has a weapon or is attempting to access one and intends to use it against the officer or another person. An imminent danger may also exist if the individual is capable of causing serious bodily injury or death without a weapon, and the officer believes the individual intends to do so.

300.4.1 MOVING VEHICLES

Shots fired at or from a moving vehicle involve additional considerations and risks, and are rarely effective.

When feasible, officers should take reasonable steps to move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants.

An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the imminent threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others.

Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle.

300.5 REPORTING THE USE OF FORCE

Any use of force by a member of this department shall be documented promptly, completely, and accurately in an appropriate report, depending on the nature of the incident. The officer should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances.

To collect data for purposes of training, resource allocation, analysis, and related purposes, the Department may require the completion of additional report forms, as specified in department policy, procedure, or law. See the Report Preparation Policy for additional circumstances that may require documentation.

300.5.1 NOTIFICATIONS TO SUPERVISORS

Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances:

- (a) The application caused a visible injury.
- (b) The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.
- (c) The individual subjected to the force complained of injury or continuing pain.
- (d) The individual indicates intent to pursue litigation.
- (e) Any application of the TASER device or control device.
- (f) Any application of a restraint device other than handcuffs, shackles, or belly chains.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was struck or kicked.
- (i) An individual alleges unreasonable force was used or that any of the above has occurred.

300.5.2 REPORTING TO WISCONSIN DEPARTMENT OF JUSTICE

Statistical data regarding all qualifying use of force incidents is to be reported to the Wisconsin Department of Justice as required by Wis. Stat. § 165.845. For the purposes of this section, a qualifying use of force incident means any incident (Wis. Stat. § 165.845):

- (a) Involving the discharge of a firearm by an officer at or in the direction of a civilian.
- (b) Involving the discharge of a firearm by a civilian at or in the direction of an officer.
- (c) Involving any action taken by an officer in response to an act of resistance that results in great bodily harm or death (Wis. Stat. § 939.22).

(d) Involving an act of resistance taken by a civilian against an officer that results in great bodily harm or death.

300.6 MEDICAL CONSIDERATIONS

Once it is reasonably safe to do so, medical assistance shall be obtained for any person who exhibits signs of physical distress, has sustained visible injury, expresses a complaint of injury or continuing pain, or was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed. Individuals should not be placed on their stomachs for an extended period, as this could impair their ability to breathe.

Based upon the officer's initial assessment of the nature and extent of the individual's injuries, medical assistance may consist of examination by an emergency medical services provider or medical personnel at a hospital or jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

The on-scene supervisor or, if the on-scene supervisor is not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Individuals who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics, and imperviousness to pain (sometimes called "excited delirium"), or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away.

See the Medical Aid and Response Policy for additional guidelines.

300.7 SUPERVISOR RESPONSIBILITIES

A supervisor should respond to a reported application of force resulting in visible injury, if reasonably available. When a supervisor is able to respond to an incident in which there has been a reported application of force, the supervisor is expected to:

- (a) Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- (b) Ensure that any injured parties are examined and treated.

- (c) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas.
 - These photographs should be retained until all potential for civil litigation has expired.
- (d) Identify any witnesses not already included in related reports.
- (e) Review and approve all related reports.
- (f) Determine if there is any indication that the individual may pursue civil litigation.
 - 1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.
- (g) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy noncompliance or if for any reason further investigation may be appropriate.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

300.7.1 LIEUTENANT RESPONSIBILITY

The Lieutenant shall review each use of force by any personnel within his/her command to ensure compliance with this policy and to address any training issues.

300.8 POLICY AVAILABILITY

The Chief of Police or the authorized designee should ensure that this policy (Wis. Stat. § 66.0511):

- (a) Is made available free of charge within three business days of the request.
- (b) Is publicly available on the department website and updated promptly upon amendment.

300.9 TRAINING

Officers will receive periodic training on this policy and demonstrate their knowledge and understanding.

Subject to available resources, officers should receive periodic training on:

- (a) Guidelines regarding vulnerable populations, including but not limited to children, elderly, pregnant persons, and individuals with physical, mental, or intellectual disabilities.
- (b) De-escalation tactics, including alternatives to force.

300.10 USE OF FORCE ANALYSIS

At least annually, the Lieutenant should prepare an analysis report on use of force incidents. The report should be submitted to the Chief of Police. The report should not contain the names of officers, suspects, or case numbers, and should include:

West Salem Police Department

Policy Manual

Use of Force

- (a) The identification of any trends in the use of force by members.
- (b) Training needs recommendations.
- (c) Equipment needs recommendations.
- (d) Policy revision recommendations.

Policy Manual

Attachments

DAAT.pdf

Defense and Arrest Tactics (DAAT): A system of verbalization skills coupled with physical alternatives.

DAAT Concepts:

- Control is a perception based on an officer's training, experience and the fact situation.
- Control is not a 50/50 proposition.
- Proper police action balances safety and efficiency.
- · Legal standards govern and limit the use of force

DAAT Rules:

- No officers are injured
- No suspects are injured needlessly
- No one is accepted/detained or released improperly

When Can Officers Use Force?

- To achieve and maintain control of resistive subjects.
- To detain persons reasonably suspected of criminal behavior.
- To make lawful arrests.
- In defense of self or others.
- To prevent escapes.

Key Rules for Use of Force:

- The purpose is control.
- Escalation does not need to follow step by step through intervention options. (Preclusion)
- You can always disengage and/or escalate.
- Once control is achieved, you must de-escalate the level of force to that needed to maintain control.
- You must always maintain a position of advantage.

Categories of Force:

A trained technique.

Positioning

3 Types of EDP's:

Short term

Long Term

of danger to officers

attention

Chemical Abuser

EARLY WARNING SIGNS

Signals or certain behaviors

provided by the subject that are

· Conspicuously ignoring

Excessive emotional

Exaggerated movement

Ceases all movement

Known violent history

often associated with a high level

• A dynamic application of a trained technique.

1 inside 1

• Not trained by justified under the circumstances.

INCIDENT RESPONSE (RESPOND)

REPORT

- · Become aware
- Plan response
- Arrive/Assess
- Alarm/Inform

EVALUATE

- Look for Dangers
- · Determine back up needs
- Enter when appropriate/ tactically sound

STABILIZE

- Subject/s
- Scene

PRESERVE

- Life
 - Conduct an initial medical assessment
 - Treat to level of training
 - Continue to monitor subject
- Evidence

ORGANIZE

- Coordinate additional responding units (if necessary)
- Communicate with dispatch and others
- Organize the collection of evidence (if appropriate)

NORMALIZE

- Provide for long term monitoring (as appropriate)
- Restore scene to normal
- Return radio communications to normal

DOCUMENT/DEBRIEF

- Debrief self, others, subjects
- Document incident appropriately

DISTURBANCE RESOLUTION

1.APPROACH CONSIDERATIONS

A. Decision-Making

- Justification
- Desirability

B. Tactical Deployment

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

C. Tactical Evaluation

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

1

3. FOLLOW THROUGH CONSIDERATIONS

2. INTERVENTION

OPTIONS

CONTROL OF DISTANCE

- Public >12 ft
- Social 4-12 ft
- Personal 1.5-4 ft
- Intimate 0-1.5 ft
- Danger Zones
- Unarmed Less than 10 ft
- Club or Edged Weapon Any distance where the officer reasonably perceives an imminent threat of death or great bodily harm
- Firearm In the line of sight unbroken by cover (something that would stop the bullet).

THREAT ASSESSMENT OPPORTUNITIES

- Level of Resistive Tension (agitation in a person's body)
- Early Warning Signs
- Pre-attack Postures
- Indications of mental illness, emotional disturbance, or medically significant behavior
- Weapon Control Factors

OFFICER/SUBJECT FACTORS

- Numbers
- Age
- Size
- Relative Strength
- Skill Level

PRE-ATTACK POSTURES

Behaviors that may indicate imminent danger of physical assault

- Boxer Stance
- Hand set
- Shoulder Shift
- Target Glance
- Thousand Yard Stare

SPECIAL CIRCUMSTANCES

Factors or situation that may justify rapid escalation of force or selection of higher force options

- Reasonable perception of threat
- Special knowledge of subject
- Sudden assault
- Subject's ability to escalate force rapidly
- Your physical positioning
- Injury or exhaustion
- Equipment or training
- Availability of backupOther special circumstances

LEVEL/STAGE/DEGREE OF STABILIZATION

- Presence stabilization
- Verbal stabilization
- Standing stabilization
- Wall stabilizationGround stabilization
- Special restraints

INTERVENTION OPTIONS MODE **PURPOSE** (in bold) GOAL (in italics) A. Presence **Open Stance** To present a visible display of 2. Ready Stance authority 3. Defensive Stance **B.** Dialogue 1. Search Talk 2. Persuasion To verbally persuade 3. Light Control Talk 4. Heavy Control Talk C. Control Alternatives To overcome passive resistance, active resistance, or their threats 1. Escort Holds • Blanket the Arm To safely initiate physical contact Escort Position 2. Compliance Holds Come Along Pressure Points To overcome passive resistance Mandibular Angle Hypoglossal 3. Control Devices (OC/ECD) Oleoresin Capsicum To overcome active resistance • Electronic Control Devices or its threat 4. Passive Countermeasures Secure the Head Hug Yourself To Decentralize Lower Your Center • Pull in-Push Down **D. Protective Alternatives** To overcome continued resistance, assaultive behavior, or their threats 1. Active Countermeasures Vertical Stuns Focused Strikes · Reaction Hand Strike · Reaction Forearm Strike Strong Hand Strike To create dysfunction Strong Forearm Strike Reaction Front Kick • Reaction Knee Strike • Strong Angle Knee Strike · Strong Angle Kick 2. Incapacitating Technique • Diffused Strike from the front To cause immediate temporary • Diffused Strike from the rear cessation of violent behavior 3. Intermediate Weapons Baton Baton Jab • Baton Jab-Multiple Strikes Angle Strike To impede • Angle-Cross Strike Multiple/Overload Strikes E. Deadly Force To stop the threat FOLLOW-THROUGH CONSIDERATIONS Application of restraints, if necessary A. Stabilize B. Monitor/Debrief

REACT

- Request Cooperation
- **E**xplain Reason
- Allow Choice
- Check Decision (Is there anything I can say to?)
- Take Action

De-escalation:

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.

DONE

- Danger
- **O**verriding Concern
- No Progress
- Escape

G.U.N.

- Grab
- Undo
- Neutralize

Use of force restrictions

US Constitution

- Wis State Stats
- Wis Admin Code
- Agency Policy

Color Codes:

White - Unaware

Yellow - Relaxed and alert **RED - Action State**

Black - Blind Panic

Passive Resistance: Non-threatening and non-complaint behavior

Active Resistance: Behavior which physically counteracts an officers control efforts and which creates risk of bodily harm to the officer, subject and/or other person.

Continued Resistance: Maintaining a level of counteractive behavior that is not controlled by an officer's current efforts.

Graham Vs. Connor

Use-of-Force must be objectively reasonable

Deadly Force Definition: The intentional use of a firearm or other instrument that creates a high probability of death or great bodily harm.

Deadly Force Justification: Behavior which has caused or imminently threatens to cause death or great bodily harm to you or another person or persons.

Great Bodily Harm: Bodily injury that creates a substantial risk of death or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily injury.

Imminent Threat Criteria:

Imminent means "about to happen.' Suspect displays:

- Intent
- Weapon Delivery System

Target Requirements:

- Acquisition: The process of locating your adversary.
- **Identification:** The process of recognizing the subject as the adversary placing you/others in "Imminent Danger".
- Isolation: The process of separating the subject from innocent persons.

Preclusion: The officer reasonably believes all other options have been exhausted or would be ineffective.

Greater Danger Exception: Shooting without Target Isolation if the consequence of not stopping the threat would be worse than the possibility of hitting an innocent person/s..

Defense of Self or Others: You may use deadly force when a subject poses an imminent threat of death or great bodily harm to you or to another person or persons.

C. Search

D. Escort

E. Transport F. Turn-Over/Release If appropriate If necessary

If necessary

Removal of restraints, if necessary

STABILIZE

- Presence stabilization
- Verbal stabilization
- Standing stabilization
- Wall stabilization Ground stabilization
- Special restraints

Monitor/Debrief

- Calm self and partner Calm subject
- Provide initial medical assessment
- Reassure the subject
- Rebuild subjects self esteem