



POLICY & PROCEDURE

SLINGER POLICE DEPARTMENT

SUBJECT: **USE OF FORCE**

SCOPE: All Sworn Personnel

DISTRIBUTION: Policy & Procedures Manual

REFERENCE: WI State Statutes: 66.0511, 66.312, 939.22(14), 939.45, 939.48, and Chapter 941; DAAT Incident Response and Disturbance Resolution Model, WI Act 75

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INDEX AS: Control Devices
Deadly Force
Firearms
Less Lethal Weapons
Non-Deadly Force
Ramming with Police Vehicles
Rendering Medical Aid
Use of Force
Warning Shots

PURPOSE: The purpose of this Policy & Procedure is to provide Slinger Police Officers with guidelines on the use of deadly and non-deadly force, and provide guidelines for reporting use of force incidents.

This Policy & Procedure consists of the following numbered sections:

- I. POLICY
- II. DEFINITIONS
- III. SOURCE OF MANDATE
- IV. USE OF FORCE

- V. APPLICATION
- VI. MEDICAL ASSISTANCE REQUIREMENT
- VII. USE OF NON-DEADLY FORCE
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I. POLICY

- A. It is the policy of the Slinger Police Department that sworn personnel use only the minimum amount of physical force reasonable and necessary to arrest, apprehend, or restrain a suspect. Force may also be used in defense of self or others. Slinger Police Department will require sworn personnel review this policy for training at least once annually, as well as related legal updates as available.

The level and amount of force which an officer uses must be reasonable and necessary to accomplish the law enforcement objective. The U.S. Supreme Court, in the case of Graham v. Connor said that use of force must be “objectively reasonable” in the given situation. The factors which in general enter into a determination as to whether force used was “objectively reasonable” include:

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

In making a determination as to the reasonableness of force, courts recognize that law enforcement officers have to make split-second decisions and reactions. That necessity is taken into consideration. Recognizing our legal and moral obligation to use force wisely and judiciously, it is the policy of Slinger Police Department that deadly force shall never be resorted to until every other reasonable means of apprehension or defense has been exhausted.

II. DEFINITIONS

- A. **DEADLY FORCE:** In Wisconsin, an officer may use deadly force when the officer believes it is necessary to prevent death or great bodily harm to him/herself or others. In Wisconsin, the definition of deadly force applied by police is the use of any means or instrumentality intended to or likely to cause death. Therefore, the justification for deadly force is the immediate threat of death or great bodily harm, but the application of deadly force is that action which is likely to cause death.
- B. **DEFENSIVE AND ARREST TACTICS (DAAT):** A system of verbalization skills coupled with physical alternatives. This definition reflects the goal of gaining voluntary compliance. Achieving the objective by verbal persuasion is always preferable to having to use physical intervention.
- C. **EXCESSIVE FORCE:** The use of more force than is reasonable. This will not affect the validity of the arrest. It will expose the officer to a civil suit, discipline, or both, and in aggravated circumstances possible criminal liability.
- D. **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 other serious bodily injury.
- E. **GREATER DANGER EXCEPTION:** The greater danger exception is the one exception to the target isolation rule (See Definition: Target Requirements). This exception allows the officer to shoot without target isolation if the consequences of not stopping the threat would be worse than the possibility of hitting an innocent person. The greater danger exception is a deadly force factor.
- F. **IMMINENT THREAT:** Imminent threat means that there is a significant likelihood, based on known facts, of death or great bodily harm if the situation is not immediately brought under control. In order to be imminent there must be the displayed **intent** to cause great bodily harm or death to the officer or others, a **weapon** capable of causing great bodily harm or death, and a **delivery system** or means of inflicting harm. Imminent threat is a deadly force factor.
- G. **JUSTIFICATION FOR THE USE OF DEADLY FORCE:** Behavior which has caused or imminently threatens to cause death or great bodily harm to the officer or another person or persons.

- H. NON-DEADLY FORCE: Any use of force other than that which is considered deadly force.
- I. PRECLUSION: Deadly force is used as a last resort. Before deadly force is used, all other force options should have been exhausted or considered ineffective (precluded.) Preclusion is a deadly force factor.
- J. TARGET REQUIREMENTS: Before engaging an imminent threat with deadly force, the following three target requirements must be met. Target requirements are a deadly force factor.
 - 1. TARGET ACQUISITION: The acquiring of an actual target (ex. using a firearm to deliver deadly force, target acquisition is putting your sights on the subject(s) causing the imminent threat)
 - 2. TARGET IDENTIFICATION: Means that you have identified your target as the source of the imminent threat.
 - 3. TARGET ISOLATION: Means that you can shoot at your target without the danger of harming innocent people.
- K. LESS LETHAL: Force that is highly unlikely to cause death or serious injury to a suspect.
- L. TARGET SPECIFIC DIRECTED FIRE: Purposeful, controlled, sustained fire directed at a perpetrator who has caused or imminently threatens to cause death or great bodily harm to officers or others, but whom the officer may not be able to clearly observe.

III. SOURCE OF MANDATE

A. §66.312 Law Enforcement Agency Policies on Use of Force

DEFINITION: In this section, "law enforcement agency" has the meaning given under §165.83(1)(b).

USE OF FORCE POLICY: Each person in charge of a law enforcement agency shall prepare in writing and make available for public scrutiny a policy or standard regulating the use of force by law enforcement officers in the performance of their duties.

IV. USE OF FORCE

- A. Slinger Police Department recognizes the DAAT system's five key rules in the use of force by its officers:

- B. The purpose for use of force is to gain control in pursuit of a legitimate law enforcement objective. Legitimate law enforcement objectives include:
1. To achieve and maintain control of resistive subjects;
 2. To detain persons reasonably suspected of criminal behavior;
 3. To make lawful arrests;
 4. To defend officers or others;
 5. To prevent escape.
- C. If verbalization is effective in gaining control, it is always preferable to physical force.
- D. Officers may initially use the level and degree of force that is reasonably necessary to achieve control. They need not escalate step-by-step through the Intervention Options in Disturbance Resolution. As the situation dictates, officers may move from any mode to any other if it's reasonable to believe that a lower level of force would be ineffective.
- E. At any time, if the level of force used is not effective to gain control, officers may disengage and/or escalate to a higher level of force.
- F. Once officers have gained control of a subject, they must reduce the level of force to that needed to maintain control.
- G. Officers must always maintain a position of advantage.
- H. An officer's use of force must be "objectively reasonable" in light of the facts and circumstances known to the officer at the time. Some issues to consider when deciding if a particular use of force is reasonable include:
1. The severity of the alleged crime at issue.
 2. Whether the suspect poses an imminent threat to the safety of officers and/or others.
 3. Whether the suspect is actively resisting or attempting to evade arrest by flight.
 4. Whether the suspect is believed to be armed.
 5. The suspect's criminal history, including propensity to resist officers.
- I. The use of more force than is reasonable will not affect the validity of the arrest. It may, however, expose the officer to civil litigation, department discipline, or both, and in aggravated circumstances, possible criminal liability.

- J. Officers shall display as much regard for the offender's safety and welfare as is appropriate under the circumstances. Unless circumstances dictate otherwise, all arrested persons shall be handcuffed and searched prior to being transported in a police vehicle. All persons being transported shall be seated in an upright position, seat-belted, and continuously monitored. Any restraint configuration resembling "hogtying" is strictly prohibited.
- K. The use of chokeholds are prohibited, except in those situations where the use of deadly force is allowed by law.

V. APPLICATION

- A. This policy and procedure shall apply to all sworn supervisory and non-supervisory personnel.

VI. MEDICAL ASSISTANCE REQUIREMENT

- A. All Department personnel who engage in the use of deadly or non-deadly force within the scope of their employment shall:
 - 1. Check the subject for injuries and administer first aid if required.
 - 2. Summon an ambulance, paramedics, rescue unit, or appropriate medical aid if necessary.
 - 3. Maintain close personal observation and keep in close physical contact with the subject while continuing to provide first aid while the subject is in your custody.
 - 4. All subjects that have had less lethal munitions deployed on/to their person are required to be seen by a medical professional in a hospital setting.
 - 5. Sanctity of Human Life:
 - a. Per statute 175.44(2)(a), in serving the community, law enforcement officers shall make every effort to preserve and protect human life and the safety of all persons. Law enforcement officers shall also respect and uphold the dignity of all persons at all times in a nondiscriminatory manner.

VII. USE OF NON-DEADLY FORCE

- A. Sworn personnel may use only the amount of physical force necessary to consummate an arrest based on probable cause for violation of state law or municipal ordinances. Necessary force may also be used in the apprehension of a violent emotionally or mentally disturbed person, or in the subduing and restraining of an unruly, combative or abusive person.

While the use of reasonable physical force may be necessary in situations which cannot be otherwise controlled, force may not be resorted to unless other reasonable alternatives have been exhausted or would clearly be ineffective under the particular circumstances. Officers are permitted to use whatever force is reasonable and necessary to protect themselves or others from bodily harm. **The use of excessive and unwarranted force or brutality will not be tolerated under any circumstances and may subject the officer to disciplinary action, criminal and civil liability.**

B. In utilizing the use of force, the following chronological steps shall be adhered to unless the totality of circumstances requires utilizing more assertive measures pursuant to this policy.

1. Consider your reasons for interacting with the subject, i.e. do you have reasonable suspicion, probable cause, etc.
2. Observe the subject's actions upon initial involvement or approach, position of hands, etc.
3. Address the subject in a courteous manner. Present questions calmly and directly.
4. If you desire to arrest the subject, advise them, and direct them to do what you want.
5. If the subject ignores your command, utilize passive control (placing hand on their elbow to direct – escort position)
6. If the subject pulls back, continue to talk to them, only now apply more active control.
7. If the subject attempts to fight back, assume a self-defense posture. Attempt to regain control, get subject down and handcuff if possible.
8. If the subject attempts to kick, punch or strike you, assume a self-defense posture, regain control utilizing only the amount of force necessary. **If the subject stops fighting, use only the amount of force necessary to obtain compliance. (De-escalate)**

C. USE OF OLEORESIN CAPSICUM SPRAY (OC)

1. The use of Oleoresin Capsicum Spray is authorized. This spray is to be considered a control device used as a Control Alternative. Its proper use is to overcome active resistance or its threat. The best target area for the spray is the face.

D. USE OF BATON

1. The use of the baton is authorized. The baton is to be considered an intermediate weapon. Its proper use is to impede a subject, not to cripple, maim, or kill. The best target areas for the baton are legs, wrists or forearms.
2. Striking above the shoulders is considered a non-target area due to the potential for causing permanent injury or death. Any intentional striking to this area shall require individual justification in which Deadly Force would be authorized.
 - a. It is recognized that because of a person's own resistance, the accidental, unintentional striking of a person above the shoulders may occur. If that happens, the officer must articulate this in detail in the report of the incident and will seek immediate medical attention for the subject if treatment is necessary.

E. USE OF HANDCUFFS

1. An officer shall place handcuffs on any individual who is in custody when the officer reasonably believes the individual may become violent, attempt to escape, or pose a danger to himself/herself or others.
2. Whenever possible or feasible, handcuffs shall be placed on an individual with arms to the rear and palms facing outward. Handcuffs should be secure, allowing the wrists to turn slightly inside the cuff and double locked.
3. After placing handcuffs on an individual, officers should exercise caution to prevent the person in custody from falling, and shall provide physical escort to the person when walking.
4. When removing handcuffs from a person, officers are to hold the unfastened handcuff securely to prevent it from being used as a weapon, and also maintain control of the individual, would he/she become unruly.

F. HOGTYING

1. The hogtying of a suspect is never allowed.

G. USE OF ELECTRONIC CONTROL DEVICES

1. The use of ECD's is regulated in Policy & Procedure 5.02.

H. USE OF KINETIC HIGH ENERGY IMPACT PROJECTILES (BEANBAGS)

1. Kinetic energy impact projectiles, commonly referred to as "beanbag rounds," may be utilized by trained Department personnel in circumstances where non-deadly force may be appropriate for resolving a situation where someone poses a significant threat to their self or others, and when the risk associated with closing on the subject(s) to take control precludes other alternatives.

2. Officers may use Kinetic High Energy munitions flexible and non-flexible in deadly force situations when the use of deadly force is justified.
 3. Officers may include in the decision to use kinetic energy impact projectiles information known to them at the time of the incident, including (but not limited to) conduct of or statements made by a subject, witness or prior history of resistive or assaultive behavior.
- I. When utilized, the Department places the use of high energy kinetic energy impact projectiles and other less lethal munitions at the level of an Intermediate Weapon as a Protective Alternative. "Less lethal" is defined as force that is highly unlikely to cause death or serious injury to a suspect.
1. An officer should not brandish, display or threaten the use of a kinetic energy impact weapon unless they can reasonably conclude its use may become justified.
 2. When high energy kinetic impact projectiles (beanbag rounds) are used against the body of a person, the officer shall notify a supervisor and complete a Use of Force report.
 3. Only Department authorized kinetic energy impact projectiles that have been issued may be used.
 4. All current shotguns used by this Department are intended for the less lethal program and have orange stocks and forends.
 5. High energy kinetic energy impact projectiles may be delivered to a subject's body in accordance with the following guidelines:
 - a. Officers must be at least 20 feet away from a subject when high energy kinetic munitions are deployed, using a two-officer verification system when practical.
 - b. Officers need to make a conscious effort to adjust from a high point of aim (chest and head) to a low point of aim (lower abdomen / legs) to reduce the injury potential.
 - c. Primary Impact Areas: Zone 1 consists of large muscle groups like the buttocks, thighs, calves. The groin should not be intentionally targeted.
 - d. Secondary Impact Area: Zone 2 consists of medium muscle groups the abdominal area.
 - e. Third Impact Area: Zone 3 this zone carries the greatest potential for serious or fatal injury and should only be considered when maximum effectiveness is desired to meet a level of threat escalating to deadly force. This area includes; the chest, spine, head, neck and kidneys.

- f. It is recognized that because of a person's own resistance, the accidental, unintentional striking of a person in a non-desired target area may occur. If that happens, the officer must articulate this in detail in the report of the incident and will seek immediate medical attention for the subject if treatment is necessary.
6. In each instance where high energy kinetic impact projectiles are deployed at an incident, a determination should be made regarding the need for lethal cover.
7. Subjects who are struck by a kinetic energy impact projectile shall be evaluated by a medical professional in a hospital setting.
8. Photographs of injuries sustained by all people struck with high kinetic energy impact projectiles by the Slinger Police Department will be taken and included with the written report.
9. Spent high energy kinetic impact munitions deployed on a subject should be collected when practical and logged into property.
10. Trained officers shall complete a qualification course and a written examination at least once every 1 year concerning the use of this weapon. When practical scenario-based training will be administered.
11. Less lethal impaction launchers and munitions ideally should be inspected every 30 days by the less lethal instructor(s).

VIII. INVESTIGATION AND REPORTING OF NON-DEADLY USE OF FORCE

- A. The officer's immediate supervisor shall be responsible for the immediate (or as soon as practical) review of an incident involving the use of non-deadly force by an officer. He/She shall require the involved officer to submit a detailed incident report, and shall provide a copy of the report to the Chief of Police. Additionally, officers must complete the Slinger Police Department Use of Force document, with the white copy being placed in the case file and yellow/canary copy being submitted to supervision for review.
- B. If there is no shift supervisor available, the Officer in Charge shall weight the severity of the situation, the potential for officer and departmental liability, and the procedural correctness by the officer. The Officer in Charge shall exercise due discretion in determining whether an off-duty supervisor shall be summoned to investigate. Supervision must be notified when practical when officers use force.
- C. The officer's immediate supervisor shall insure that proper departmental procedures were followed during and after the incident and shall take appropriate departmental action as required. Supervision is required to track all use of force incidents on an internal departmental database and report use of force incidents to the Chief of Police.

- D. In the event an officer(s) of the Department resorts to using a firearm, by deployment or display, a baton, OC Spray, or any other weapon, or combination thereof, or physical force greater than empty hand control, the officer shall complete a "Use of Force Document" prior to the end of their shift, and submit it to supervision for review.
- E. Upon receiving this preliminary report, the Chief of Police may request further investigation.
- F. Slinger Police Department will conduct a documented annual analysis of use-of-force incidents to identify trends that could reveal the need for training, equipment, or policy modifications. This analysis will be documented in the Department's annual report.
- G. Slinger Police Department will submit Use of Force and Arrest-Related Death Data (UFAD) to the Wisconsin Department of Justice through TraCS as required.

IX. USE OF DEADLY FORCE

- A. A law enforcement officer may use deadly force only as a last resort when the law enforcement officer reasonably believes that all other options have been exhausted or would be ineffective. A law enforcement officer may use deadly force only to stop behavior that has caused or imminently threatens to cause death or great bodily harm to the law enforcement officer or another person. If both practicable and feasible, a law enforcement officer shall give a verbal warning before using deadly force.
- B. Deadly force is force that is intended to or likely to cause death.
- C. Deadly force decision making should be based on the totality of the circumstances known to the officer at the time, and should take into consideration the deadly force factors as outlined below:
 - 1. Imminent threat (Weapon, intent, delivery system)
 - 2. Target Requirements (Identification, Acquisition, Isolation)
 - 3. Greater Danger Exception (Considered when target isolation cannot be accomplished)
 - 4. Preclusion (No other reasonable force option is available or is ineffective)
- D. When these deadly force factors have been satisfied, an officer's use of deadly force is legitimate and justified.
- E. Warning shots are prohibited.
- F. The intentional use of deadly force to prevent suicide or solely to protect property is prohibited.

- G. As a last resort, officers may use deadly force to prevent a subject's escape, but only when the officer has probable cause to believe the subject has committed a crime involving the infliction or threatened infliction of serious physical harm and when a high probability exists that the subject(s) if not apprehended may cause death or great bodily harm. (Tennessee v. Garner)
- H. Officers may fire their weapons at a moving vehicle only when deadly force is directed at the officer or others under exigent circumstances and as a last resort. Whenever possible, officers shall move out of an oncoming vehicle's path, rather than fire at the vehicle. Officers may fire from a moving vehicle only when deadly force is directed at the officers and officers should whenever possible attempt to remove themselves from the immediate danger.
- I. Target Specific Directed Fire is an application of deadly force that is authorized 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 officers or others, but whom the officer 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.
- J. Officers may kill an animal if the officer or another person is threatened with serious bodily harm by the animal or otherwise to provide for the safety of the general public.
- K. Officers may kill an animal that has been so badly injured that its destruction would prevent further suffering.
- L. The value of human life is immeasurable in our society. Police officers have been delegated the awesome responsibility to protect life and property and apprehend criminals. These responsibilities include the officers having the ability and responsibility for protecting his/her own life. Society must be reluctant to license deadly force by police officers, but supports its lawful use by officers when it is used reasonably to prevent grave bodily injury or death to the officers or an innocent victim.

X. USE OF VEHICLES

- A. Intentionally ramming and forcing a suspect off the roadway into a stationary object constitutes deadly force, and is authorized as a last resort pursuant to the conditions of this policy.

XI. RESTRICTION ON USE OF FIREARMS

- A. Police officers shall adhere to the following restrictions when their weapon(s) are exhibited:

1. Except for maintenance or during training, police officers shall not draw or exhibit their firearms unless circumstances create reasonable cause to believe that it may be necessary to use the weapon in conformance with this policy.
2. Decisions to discharge firearms at or from a moving vehicle shall be governed by this agency's Use of Force Policy and are prohibited if they present an unreasonable risk to the officer or others.
3. A written report shall be completed when a firearm is discharged, either intentionally or accidentally, while an officer is engaging in subject control.

XII. INVESTIGATION OF POLICE INVOLVED SHOOTINGS / IN-CUSTODY DEATHS

A. Investigations of police involved shootings and all in custody deaths will be handled as dictated in Policy & Procedure 6.15: Officer Involved Death. Exceptions: Firearms discharge, training, ballistics examination, and incidents involving the destruction of an animal.

B. Duty to Report

1. Wisconsin Act 75 creates Wis. Stat. 175.44(3) which imposes a mandatory requirement that law enforcement officers who "witness" a use of force that does not comply with Wis. Stat. 175.44(2)(b) and (c) report the violation as soon as practicable. The statute only applies the requirement to officers who witness a violation in the course of their official duties.
2. If multiple officers witness an unlawful use of force, it is each officer's individual duty to report it to their supervisor.

C. Duty to Intervene

1. A law enforcement officer shall, without regard for chain of command, intervene to prevent or stop another law enforcement officer from using force that does not comply with the standards under Wis. Stat. 175.44 in the course of that law enforcement officer's official duties if all of the following apply:
 - a. The law enforcement officer observes the use of force that does not comply with the standards under 175.44(2)(b) or (c).
 - b. The circumstances are such that it is safe for the law enforcement officer to intervene.
2. A law enforcement officer who intervenes as required shall report the intervention to their immediate supervisor as soon as practicable after the occurrence of the use of such force.

3. Whistleblower Protections: No law enforcement officer may be discharged, disciplined, demoted, or denied promotion, transfer, or reassignment, or otherwise discriminated against in regard to employment, or threatened with any such treatment, because the law enforcement officer reported, or is believed to have reported, any noncompliant use of force as required under Wis. Stat. 175.44(3) or (4); intervened to prevent or stop a noncompliant use of force as required under 175.44(4); initiated, participated in, or testified in, or is believed to have initiated, participated in, or testified in, any action or proceeding regarding a noncompliant use of force; or provided any information, or is believed to have provided any information, about noncompliant use of force as required under 175.44(3) or (4).

XIII. PSYCHOLOGICAL SERVICES

- A. The Department will make every effort to provide or make available, psychological services for the officer, and/or the officer's family, when an officer is involved in a shooting incident involving injury or death.
- B. Psychological services shall not be related to any departmental investigation of the incident. The counseling sessions will remain protected by the privileged physician-patient relationship, and no reports of the sessions, or information discussed will be filed with the department.

XIV. MEDIA RELEASES

- A. All media releases will be cleared by the Chief of Police.

Dean A. Schmidt
Chief of Police

This Policy & Procedure cancels and supersedes any and all written directives relative to the subject matter contained herein.

This Policy & Procedure is for Slinger Police Department use only and does not apply in any criminal or civil proceeding and should not be construed as a creation of higher legal standards of safety or care in an evidentiary sense with respect to third party claims. Violations of this directive will only form the basis for departmental administrative sanctions in a recognized judicial setting.

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