

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. This policy adheres to all applicable federal, state and local laws.

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.

Great Bodily Harm - A 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 great bodily harm.

Objectively Reasonable - This term means that, in determining the necessity for force and the appropriate level of force, officers shall evaluate each situation in light of the known circumstances, including, but not limited to: the severity of the alleged crime at issue, whether the suspect poses an imminent threat to the safety of officers and/or others and whether the suspect is actively resisting or attempting to evade arrest by flight.

DAAT Training Manual - The most current edition of the Defensive and Arrest Tactics manual used by compiled by the State of Wisconsin.

Hortonville Police Department

Policy Manual

Use of Force

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 Hortonville 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.

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 should report these observations to a supervisor as soon as feasible.

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

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

Hortonville Police Department

Policy Manual

Use of Force

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.

Officers may escalate their use of force when a lower force option has failed, or when a lower force option would be clearly ineffective. Officers may use force legitimately when it is needed to achieve control in five specific situations:

- (a) To achieve and maintain control of resistive subjects
- (b) To detain persons reasonably suspected of criminal behavior
- (c) To make lawful arrests
- (d) To defend themselves or others
- (e) To prevent escape
- (f) To take a person into custody for emergency detention or protective custody

When an officer of the Hortonville Police Department uses force of their law enforcement duties, their use of force must fit into one of these categories:

- (a) A trained technique
- (b) A dynamic application of a trained technique
- (c) A technique not trained but justified under circumstances

300.3.1 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).

300.3.2 DEFENSE AND ARREST TACTICS (DAAT)

The Hortonville Police Department recognizes Wisconsin's system of Defensive and Arrest Tactics (DAAT) as the standard for the use of force in the State of Wisconsin. The department also recognizes that this is a recruit level standard, and that advanced standing training in techniques outside of Wisconsin's DAAT system may be authorized, provided the techniques are tactics are found to be objectively reasonable.

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.

Hortonville Police Department

Policy Manual

Use of Force

- (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.
- (l) 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.

Hortonville Police Department

Policy Manual

Use of Force

300.3.5 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.

300.3.6 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).

Officers Hortonville Police Department shall, when safe, reasonable and based on the totality of circumstance - attempt to persuade a subject to voluntarily comply or reduce the need to use a higher level of force.

Gaining voluntary compliance enhances officer and public safety, helps officers defuse situations, migrates unintended consequences, and establishes police legitimacy and community trust.

De-escalation procedures include:

- (a) Creating distance and a buffer zone between the officer and the subject
- (b) Attempting to establish an effective line of communication with the subject, considering factors such as mental illness, possible intoxication, and potential medical or physical conditions.
- (c) Considering other available resources, including specialized units, Mental Health Officers or CCIT trained officers, and negotiators.

Officers shall take into consideration a subject's ability to understand and communicate effectively, present lawful orders, and request cooperation with clear and concise direction; and attempt to establish trust and cooperatively de-escalate situational conflict.

When officers encounter subjects, who do not voluntarily comply, reasonable levels of force may be used to resolve the situation.

300.3.7 PROHIBITIONS

The following are prohibitions:

The use of Choke Holds are prohibited except in situations where the use of deadly force is allowed by law. A chock hold is defined as a physical maneuver that restricts an individuals ability to breathe for the purpose of incapacitation.

A "headlock" is not considered a chock hold. A headlock is a technique whereby an officer encircles an individual's head (e.g.' an arm around the crown or base of the head to control movement).

Unless trained in the use of the Lateral Vascular Neck Restraints (a specific trained technique), it is prohibited except in situations where the use of deadly force is allowed by law.

Use of Force

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 great bodily harm.
- (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 great bodily harm or death, and the officer reasonably believes that there is an imminent risk of great bodily harm 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 great bodily harm or death without a weapon, and the officer believes the individual intends to do so.

Behavior that justifies an officer's use of deadly force is **that which has caused or imminently threatens to cause death or great bodily harm to you or another person or persons.** (Source: State of Wisconsin DAAT Manual)

- **Imminent** - (Source: State of Wisconsin DAAT Manual) The word imminent means "about to happen." An imminent threat is an immediate threat. For a subject's threat to be considered imminent, it must meet the three criteria:
 - Intent
 - Weapon
 - Delivery System
- **Preclusion** - (Source: State of Wisconsin DAAT Manual) Before you can use deadly force, you must reasonably believe that all other options have been exhausted or would be ineffective. In other words, deadly force situations, an officer will not have time or the ability to try other options - If feasible, an officer should give a verbal warning before firing, but this is not always possible, and in some cases may not be desirable. A verbal warning is feasible if you have sufficient time, distance, and/or cover from the subject posing the deadly threat, such that the verbal warning would not increase or prolong the danger to an officer or other innocent people.
- **Target Requirement** - (Source: State of Wisconsin DAAT Manual) If an officer has determined that they face a threat that meets the requirements to permit the use

Hortonville Police Department

Policy Manual

Use of Force

of deadly force, and they have decided to shoot, they must still fulfill three target requirements:

- Target acquisition
- Target identification
- Target isolation

One exception to the requirement for target isolation is the **greater danger exception**. This exception allows an 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.

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.

300.4.2 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.

Before using target-specific directed fire, officers must meet the imminent threat criteria (intent, weapon, delivery system) and preclusion requirement. Officers must achieve target acquisition, identification, and isolation, or else satisfy the greater danger exception, before shooting.

- Officers must acquire a specific target - they would not be justified in shooting into every window that overlooked the victim.
- Officers need to identify the target as the correct target by observing clear indicators of the suspect's location, although they may not be able to observe the suspect himself/herself. (Indicators could expand the target; for example, observation may reveal multiple perpetrators and/or multiple shooting positions).
- Officers must isolate the target by knowing the perpetrator is alone in the location or that other people are not at risk from shots fired, or must satisfy the greater danger exception. When these criteria are met, officers deliver sustained fire at the suspect's location for the duration of time necessary to perform the rescue or other task, thereby stopping the threat (or at least preventing the perpetrator from firing at officers).

Hortonville Police Department

Policy Manual

Use of Force

The only difference between target-specific directed fire and the "traditional" law enforcement use of deadly force is that the suspect's location is inferred rather directly observed.

300.4.3 DEFENSE OF SOCIETY AT LARGE

Deadly force may be used to apprehend a fleeing criminal suspect who has used or threatened to use deadly force against someone, and presents a continued threat to the public if not, immediately apprehended.

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 CHIEF OF POLICE

Chief of Police 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 CEW 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. (Application of protective alternatives)
- (i) An individual alleges unreasonable force was used or that any of the above has occurred.
- (j) Any use of force at the level of decentralization or above, consistent with Wisconsin DAAT manual shall be reported to a supervisor.

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.

Use of Force

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) When possible, separately obtain a recorded interview with the individual upon whom force was applied. If this interview is conducted without the individual having voluntarily waived his/her *Miranda* rights, the following shall apply:
 1. The content of the interview should not be summarized or included in any related criminal charges.
 2. The fact that a recorded interview was conducted should be documented in a property or other report.

Hortonville Police Department

Policy Manual

Use of Force

3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- (d) 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.
 1. These photographs should be retained until all potential for civil litigation has expired.
- (e) Identify any witnesses not already included in related reports.
- (f) Review and approve all related reports.
- (g) 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.
- (h) 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 CHIEF OF POLICE RESPONSIBILITY

The Chief of Police 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

This policy shall be made available to the public at no charge upon request (Wis. Stat. § 66.0511(2)).

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.

Use of Force

300.10 USE OF FORCE ANALYSIS

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

- (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.