



TOWN OF EAST TROY POLICE DEPARTMENT POLICY		TITLE: General Order 2017-003 Use of Force	
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AUTHOR:  Don P Jensen Sr.		SPECIAL INSTRUCTIONS: This policy rescinds the previous Department Use of Force policies including Use of Force Policies 5.001 and 5.009	

## I. PURPOSE

Our community, the Wisconsin State Legislature, the judiciary and the Town of East Troy Police Department place great value on safety and preservation of life. You carry weapons capable of delivering deadly force to protect you or others from immediate threats of death or serious bodily harm. Your basic responsibility to protect life calls for you to exhaust other reasonable means for control in most instances before using deadly force. Treat your choices to use force with utmost seriousness. Your assessment, knowledge and judgment must dictate use of force... not emotions. In seconds you will make decisions that others may review for days. Exceeding reasonable applications of force may expose you to disciplinary action, civil liability and criminal prosecution.

## II. POLICY

Safety and protection of human life are primary aims of the Town of East Troy Police Department. Within that context officers may meet force with force to a level necessary for the circumstances. Force is sometimes necessary to effect lawful purposes, to protect the lives of officers, or to protect the lives of the public. Objective Reasonableness; In *Graham v. Connor* the U.S. Supreme Court sets forth a guide to the objectively reasonable standard to determine whether the force applied was excessive. The "objective reasonableness" test: \* Judgment and Level of Force -- A situation may call for immediate force at any level. Good judgment dictates application of force. Escalate force only if the level tried was inadequate, or the situation escalates.

#### 5.1.4

The use of force against another for the purpose of affecting an arrest is privileged if all the conditions are met. The principal condition is that although force is privileged to affect an arrest, it is not privileged if the means employed are in excess of those which the actor reasonably believes to be necessary. Although a police officer's privilege of self-defense is pertinent to this issue, a police officer in making or attempting to make an arrest for a criminal offense is acting for the protection of the public interest and is permitted even a greater latitude than when he acts in self-defense. The police officer is not liable unless the means which are used are clearly excessive. The principle is clear that one who has police authority to maintain the peace has a privilege to use force and the question then becomes simply whether the force was excessive for the accomplishment of the purpose. The reasonableness of the force depends upon the facts of each case.

#### 5.1.5

If a suspect has what the officer believes to be contraband in their mouth, the officer should attempt to verbally direct the person to open their mouth and/or spit out the substance.

- A) If the suspect fails to cooperate, and the officer believes the suspect has swallowed drugs, the suspect should be transported to the emergency room.
- B) Upon arrival at the hospital, the officer should tell the ER staff that they believe the suspect has swallowed drugs. The concern is for the suspect's health and not evidence gathering. **If** the ER decides to pump the stomach, then emesis may be searched for drug evidence.
- C) It is understood that officers may retrieve less evidence and that some evidence will be lost. The emphasis must be placed upon securing the safety of the person in our custody and control.

### 5.2 TERMS USED IN THIS GENERAL ORDER/ POLICY

#### 5.2.1

Active Countermeasures - These are a series of unarmed hand strikes, foot strikes, forearm strikes, knee strikes or body stuns that an officer may choose from to gain control of a subject who is offering active physical resistance or attack. Active Countermeasures are tactics whose purpose is to create dysfunction. They are in the Protective Alternatives mode under Intervention Options.

#### **5.2.11**

Excessive Force – The use of more force than is reasonable will not affect the validity of the arrest. It will expose the officer to civil suit, discipline or both, and in aggravated circumstances possible criminal liability also.

#### **5.2.12**

Great Bodily Harm (Wisconsin State Statute 939.22(14)) - "Great bodily harm" means 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.

#### **5.2.13**

Imminent Danger - The criteria for the use of deadly force. This would include self-defense, defense of another, or defense of the community at large, when an action of another would result in a high probability of death or great bodily harm. There are three components that comprise "immanency". These components must be present: intent, weapon, and delivery system.

#### **5.2.14**

Impact Weapon - See "Baton".

#### **5.2.15**

Intervention Options – are divided into five modes, each reflecting the need for an increasing level of control. The five modes are presence, dialog, control alternatives, protective alternatives and deadly force. Each mode consists of one or more tactics to accomplish specific purposes.

#### **5.2.16**

Non-deadly Force - An amount of force which under normal circumstances might cause bodily harm but would not be expected to result in death or serious bodily harm.

#### **5.2.17**

Passive Counter Measures - These are decentralization techniques, which are used to direct subjects, who cannot be controlled in a standing, seated and/or kneeling position to the ground.

#### **5.2.18**

Passive Resistance – Non-compliant and non-threatening behavior.

#### **5.2.19**

Use of Force Review Supervisor – Supervisor charged with ensuring that use of force reports are reviewed and tracked.

## 5.4 INTERVENTION OPTIONS

### 5.4.1

While primary target areas have been identified in Intervention Options, the Department recognizes that sudden or dynamic movement on the part of the suspect may cause inadvertent strikes to non-target areas. Officers will be required to fully explain the circumstances of such a strike in their report.

### 5.4.2

In utilizing Intervention Options, the officer uses force in reaction to other people's behavior and selects the appropriate response from the modes and tactics provided in the intervention options.

### 5.4.3

Force is to be applied on an individual basis. Each officer, upon his/her evaluation of the conflict must decide for themselves based on knowledge, training, experience, personal limitations, and/or subject factors what level of force will result in control.

### 5.4.4

It is recognized that an officer may choose the appropriate tactic in the intervention options to gain control. It is not necessary for the officer to attempt each lesser level of force first before applying another level of force if it would be inappropriate to do so.

### 5.4.5

It is recognized that an officer would want to evaluate the amount of force being displayed by a subject and choose an appropriate intervention option response to gain control. Taking into consideration officer/subject factors, environmental factors, and special circumstances, it is further recognized that an officer may need to respond with a force option that is higher than the force being displayed by the subject in order to gain control. However, once control is attained, the officer must de-escalate and select the appropriate intervention option to maintain control.

### 5.4.6

Generally, strikes to the head are not acceptable. Because of the higher propensity of injury, strikes (punches) to the head (face) are reserved for special situations. The **only** force option trained to strike the head is the reaction hand strike to the chin. Its purpose is to stop forward momentum, set up follow-up strikes or to provide a momentary distraction to give an officer time to create distance to disengage and/or escalate. Face strikes (punches) may also be used as dynamic applications on highly aggressive and assaultive subjects and/or subjects that have a decided advantage over the officer and the officer does not have the time or the ability to access the trained force option. However, untrained strikes to the head are not to be

## INTERVENTION OPTIONS

Mode	Tactic	Purpose
Presence	Professional Presence	To present a visible display of authority
Dialog	Tactical Communications	To verbally persuade
Control Alternatives	Escort Holds	To safely initiate physical contact
	Compliance Holds (Pressure points & wrist compression)	To overcome passive resistance
	Oleoresin Capsicum (OC Aerosol Spray)	To overcome active resistance or its threat
	Electronic Control Device	To overcome active resistance or its threat
	Passive Countermeasures	To decentralize
Protective Alternatives	Active Countermeasures (Hand, forearm, knee, foot strikes & body stuns)	To create dysfunction
	Incapacitating Techniques (Diffused strike)	To cause the immediate, temporary cessation of violent Behavior
	Expandable baton	To impede a subject
Deadly Force	Firearm or other instrument, the use of which would result in a high probability of death	To stop the threat

#### **5.5.4**

Before using deadly force, the officer should, if reasonably possible, identify himself/herself, and give some warning of the imminent use of deadly force.

#### **5.5.5**

Officers may also have a need to use their firearms in order to end the life of a dangerous, injured, sick, diseased, or similarly suffering animal. The officer will not do so unless it can be done with a maximum of safety, and with due regard for the people in the area, the terrain, and the site at which the animal is located.

### **5.6 DRAWING AND DISPLAY OF A FIREARM**

#### **5.6.1**

An officer will draw and display a firearm in the low-ready position, only when there are reasonable grounds to believe that he/she or others are in possible danger.

#### **5.6.2**

An officer will only point a firearm (target acquisition) at a subject when the officer has a reasonable belief that danger is imminent and that deadly force may be necessary.

### **5.7 AUTHORIZED POLICE IMPACT WEAPON**

#### **5.7.1 WOODEN BATON**

The section will be retained for future use.

#### **5.7.2 EXPANDABLE BATON**

Officers will have the option of carrying the department approved expandable baton.

### **5.8 WEARING OF AND USING THE AUTHORIZED IMPACT WEAPON**

#### **5.8.1**

Officers will wear a baton when on duty, and assigned to a function whose primary responsibility is enforcement, or those directly responsible for supervising enforcement personnel.

A) The department requires Court Officer wear the issued expandable baton.

B) Those officers who are operating in covert or undercover assignments are exempt from this requirement.

### **5.10.5**

After use of an aerosol chemical restraint on a subject, and after the subject is under control; the officer will assess the medical needs of the person. Removing the subject to an area of fresh air, and flushing the affected area with soap and water should be sufficient immediate care. If additional care is needed, the officer should request paramedics and will promptly notify his/her supervisor.

### **5.10.6**

Officers will wear the issued chemical aerosol restraint when on duty and assigned to a function whose primary responsibility is enforcement, or those directly responsible for supervising enforcement personnel.

A) Those officers who are operating in covert or undercover assignments are exempt from this requirement.

### **5.10.7**

Use of aerosol chemical restraint will require a written incident report detailing the circumstances of its application.

## **5.11 USE OF FORCE DOCUMENTATION**

### **5.11.1**

Officers shall complete a written report of all force used as soon as possible after completing his/ her investigation. If any force greater than an Escort hold is used, photographs or video will be taken of the suspect (area where force was applied), documentation of medical treatment and or decontamination. Medical clearance if needed from ER provided to booking as well as case file. Any Tactic higher than a Compliance Hold, the Chief or Supervisor will be called and apprised as soon as possible following the arrest or incident.

## References

Commission on Accreditation for Law Enforcement

CALEA sets out the following mandatory standards for law enforcement agencies with 1 to 24 employees:

5.2.19, 5.4, 5.11, 5.11.1\*