

RICHLAND CENTER POLICE DEPARTMENT POLICY and PROCEDURES		TITLE: Use of Force		
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I. Purpose

The purpose of this policy is to provide officers of the Richland Center Police Department with guidelines for the use of deadly and less lethal force.

II. Policy

It is the policy of the Richland Center Police Department that officers shall use only that amount of force that is reasonably necessary to achieve a lawful objective. The force used by an officer should only be the amount reasonably required to overcome the resistance being offered by an offender or the person the officer is trying to control.

A. 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. State Statute 175.44

Any officer who observed 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. State Statute 175.11

III. Discussion

It must be stressed that the use of force is not left to the unfettered discretion of the involved officer. This is not a subjective determination. The use of force must be objectively reasonable. The officer must only use that force which a reasonably prudent officer would use under the same or similar circumstances.

IV. Definitions

- A. **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.
- B. **Assaultive Behavior**- Direct actions or conduct that generates bodily harm.
- C. **Authorized Equipment**- Equipment either issued and/or approved for use by the Richland Center Police Department.
- D. **Baton**- A police impact weapon used to impede an adversary by striking parts of the body. Conventional batons are made of wood or plastic; expanding batons are constructed of a series of telescoping metal shafts.
- E. **Bodily Harm**- Physical pain or injury, illness, or any impairment of physical Condition. State Statute 939.22 (4).
- F. **Deadly Force** – The intentional use of a firearm or other instrument that creates a high probability of death or great bodily harm.
- G. **Deadly Force Justification** – Behavior which has caused or imminently threatens to cause death or great bodily harm to you or another person or persons.
- H. **Defensive and Arrest Tactics (DAAT)** - A training program for Wisconsin law enforcement officers that is a system of verbalization skills coupled with physical alternatives.
- I. **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. State Statute 939.22 (14).
- J. **Imminent Threat**- 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 three criteria: intent, weapon and delivery system.
- K. **Less lethal Force** – The intentional application of force for the purpose of encouraging compliance, overcoming resistance or its threat, or preventing serious injury without posing significant potential of causing death.
- L. **Objectively Reasonable**- The standard by which many actions of a police officer are judged. Would your actions be judged appropriate by a reasonable officer with similar training and experience, based on the totality of circumstances and the information known to you at the time you acted?

- M. Oleoresin Capsicum (O.C.)** - Is an inflammatory agent that is a mixture of an oily resin and a naturally occurring essential oil derived from varieties of the red pepper plant. It creates a variety of physical effects that may result in confusion and disorientation, thus disrupting the subject's ability to resist or continue to resist. Used as an alternative to physical confrontation in the controlling of resistive or combative subjects, or aggressive animals.
- N. Preclusion**- The elimination of all other viable alternatives.
- O. Reasonably Believes**- Means that the actor believes that a certain fact situation exists and such belief under the circumstances is reasonable even though erroneous. State Statute 939.22 (32).
- P. Choke Hold**- a physical maneuver that restrict an individual's ability to breathe for the purposes of incapacitation.
- Q. Totality of the Circumstances**- Represents all information known to the officer at the moment action is taken. These are the facts used to judge the appropriateness of the action.

V. Procedures

A. General Use of Force Provisions.

1. As a Wisconsin Law Enforcement Officer, your legitimate use of force is limited by a hierarchy of laws and standards. These include the following:
 - a. The United States Constitution.
 - b. Wisconsin law.
 - c. Policy and Procedure of the Richland Center Police Department.
 - d. Officer training.
2. To maintain uniformity of training, the Richland Center Police Department adopts the State of Wisconsin, Defensive and Arrest Tactics (DAAT) concept, and the use of force guidelines contained in the Disturbance Resolution Model. The current Disturbance Resolution Model is contained in Annex A of this policy.
3. State Statute 939.45 (Privilege), the same law that gives citizens the right to use force in defending themselves, another person and/or their property, gives an officer the right to use force to detain and arrest. The concept of "privilege" means that if you are acting in good faith and seeking to achieve a legitimate law enforcement objective, you can legally use force that would otherwise be

considered a criminal act. Law enforcement may exercise privilege to use force in the following circumstances:

- a. When the officer's conduct is in defense of persons or property.
 - b. When the officer's conduct is in good faith and is an apparently authorized and reasonable fulfillment of any duties of public office.
 - c. When the officers conduct is a reasonable accomplishment of a lawful arrest.
4. The use of force is only authorized when an officer reasonably believes it is necessary to control a person under the following circumstances:
- 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.
5. Officers cannot use force to punish someone for something he or she has said or done. Officers cannot use force to retaliate against someone who has offended or angered them. Officers cannot use force to show someone who's boss. Officers cannot use force to teach someone a lesson. The purpose of an officer's use of force is to control.
6. Officers shall use only that level of force believed to be objectively reasonable to control a situation. This reasonableness shall be judged under the totality of the circumstances by a reasonable officer at the scene with similar training and experience. Considerations for "objectively reasonable" are:
- a. The severity of the alleged crime.
 - b. Whether the suspect poses an imminent threat to the safety of officers and/or others.
 - c. Whether the suspect is actively resisting or attempting to evade arrest by flight.
7. The purpose for the use of force is to gain control in pursuit of a legitimate law enforcement objective. If verbalization is effective in gaining control, it is always preferable to physical force.

8. Because verbal commands are not always effective or appropriate in gaining compliance, officers may escalate the degree of force based on the actions of the person they are attempting to control. The use of force shall always be in reaction to the actions of other people. You need not escalate step-by-step through the intervention options. As the situation dictates, you may move from any mode to any other if you reasonably believe that a lower level of force would be ineffective.
9. When justified in using force, officers are not obligated to desist because resistance is encountered or threatened. Officers may not only stand their ground, but may press forward to achieve a lawful objective or overcome resistance with the force reasonably necessary to gain control.
10. At any time, if the level of force officers are using is not effective to gain control, officers may disengage and/or escalate to a higher level of force. Officers must always maintain a position of advantage.
11. Once a person is under control, officers are required to revert to the lowest degree of force necessary to maintain that control.
12. The degree of force an officer chooses should be based on his/her tactical evaluation and threat assessment of the situation. Based upon the totality of the circumstances known at the time and in light of the officers training and experience, the officer should choose a tactic/procedure that is objectively reasonable and is consistent with one of the following.
 - a. The tactic/procedure utilized is a trained technique.
 - b. The tactic/procedure is a dynamic application of a trained technique.
 - c. The tactic/procedure is not trained, but justifiable under the circumstances.
13. Whenever feasible, officers shall identify themselves and make known the purpose of the arrest unless the officer reasonably believes that his/her identity and purpose are otherwise known by, or cannot reasonably be made known, to the person being arrested.
14. Justification for the use of force must be limited to what reasonably appears to be the facts known or perceived by the officer at the time the officer decides to act. Facts unknown to the officer, no matter how compelling, cannot be considered in later determining whether the force used was justified.

B. Deadly Force Authorized.

1. The use of deadly force is authorized under any of the following circumstances, only after all other reasonable options of effecting the arrest or subduing the suspect have been exhausted or would prove to be ineffective in stopping the threat:
 - a. When an officer reasonably believes that deadly force is necessary to protect oneself from imminent death or great bodily harm.
 - b. When an officer reasonably believes that deadly force is necessary to protect another person from imminent death or great bodily harm.
 - c. To effect the arrest or prevent the escape of a suspect when an officer reasonably believes the suspect has committed, or attempted to commit, a felony involving the use or threatened use of deadly force, when a high probability exists that the suspect, if not immediately apprehended, may cause death or great bodily harm.
 - d. To protect oneself or another from an animal which an officer reasonably believes may cause great bodily harm if not immediately controlled, or to end the suffering of an animal gravely injured or diseased, when the officer reasonably believes that deadly force can be used without harm to the officer or others.
2. Before using deadly force, an officer shall, if reasonably possible, identify themselves and order the suspect to desist from unlawful activity.
3. Nothing in this policy and procedure shall prevent an officer from drawing the firearm (handgun, rifle, shotgun, as appropriate) during the course of an arrest or investigation when the officer deems it necessary for his/her safety or the safety of another person. The trigger finger shall rest alongside of the receiver, outside of the trigger guard, until such time as the actual pulling of the trigger is authorized.

4. Deadly Force Restrictions.

- a. Warning shots, attention shots or shots to summon aid are generally prohibited and may be utilized only under extremely rare and unusual circumstances and then only when in compliance with all other requirements of this policy.
- b. Firing at or from a moving vehicle is generally prohibited and may be utilized only in rare and unusual circumstances and then only when in compliance with all other requirements of this policy.

- c. Indiscriminate firing through doors, walls or into the darkness at targets that are not clearly identified is prohibited.
- d. Officers shall not use deadly force when its use unreasonably risks the lives of innocent bystanders unless justified in rare and unusual circumstances under the “greater danger exception” to the target isolation rule. The greater danger exception may justify an officer shooting without target isolation if the consequences of not stopping the threat would be worse than the possibility of hitting an innocent person.

5. Use of Force Techniques / Edged Instruments.

- a. The intentional punching, striking, or grabbing the throat (trachea), blocking, or restricting the carotid neck arteries creates a substantial likelihood of death or great bodily harm and is therefore considered deadly force and shall be used only in accordance with this policy.
- b. The intentional use of a Choke Hold which is a physical maneuver that restrict an individual’s ability to breathe for the purposes of incapacitation, is a prohibited technique that creates a substantial likelihood of death or great bodily harm and is therefore considered deadly force and shall be used only in accordance with this policy.
- c. “Force to Stop” techniques during motor vehicle pursuits include a roadblock with no escape route and the intentional ramming of a suspect vehicle. Both these techniques are considered to be an application of deadly force and shall only be used as a last resort in situations where the use of deadly force by officers is justified.
- d. Members of the department are permitted to carry folding knives for utility purposes while on duty. The use of the knife against a person creates a substantial likelihood of death or great bodily harm and is therefore considered deadly force and shall be used only in accordance with this policy.

C. Less Lethal Force Authorized

1. Use of Oleoresin Capsicum (O.C.) Spray.

- a. The use of O.C. spray falls under Control Alternatives in the intervention options of the Disturbance Resolution Model, “*to overcome active resistance or its threat*” (see Appendix A).
- b. The department will supply the O.C. spray authorized to be carried on duty. The O.C. spray canister will be carried and stored in a holster on the duty belt.

- c. Officers may use O.C. spray when they reasonably believe that they are facing active resistance, or its threat, from a subject. O.C. spray is not to be used against subjects who are offering passive resistance. Examples of passive resistance include refusal to comply with verbal commands, going limp, stiffening of limbs without struggling or verbal arguments against being arrested.
- d. O.C. spray may be used as a control technique against an aggressive animal(s).
- e. Officers shall use O.C. spray in accordance with the techniques taught by certified instructors.
- f. O.C. spray shall not be used once an individual is subdued and under control.
- g. As soon as practical, after the individual is under control, the individual should be provided with an opportunity to eliminate the effects of the irritant by:
 - 1. Washing and flushing the affected areas with water. In many circumstances, the flushing with water may have to wait until the subject's arrival at a secure facility.
 - 2. Expose the subject to fresh air.
 - 3. Allow the person to remove contact lenses and contaminated clothing.
- h. Officers shall monitor the subject for a reasonable amount of time and summon medical attention, if necessary, or if the subject requests it.

2. Use of Police Baton

- a. The use of the baton falls under Protective Alternatives in the intervention options of the Disturbance Resolution Model, "*to overcome continued resistance, assaultive behavior, or their threats*" (see Appendix A).
- b. A baton may be used against an actively aggressive person when the officer reasonably believes a lesser degree of force would be insufficient to control the situation.

- c. Officers shall use only department authorized batons and techniques.
- d. An officer shall never intentionally strike a person's head with a baton unless such action is justified under the use of deadly force.
- e. Department authorized batons are the only approved impact weapons. However, the department recognizes that emergency self-defense situations involving other objects and instruments may occur.

3. Electronic Control Devices – See Policy 500.08.

4. Pepperball – See Policy 500.02.

5. Use of restraining devices (handcuffs) – See Policy 700.06
“Transportation of Prisoners”.

ANNEX A

DISTURBANCE RESOLUTION

(First approved by the Law Enforcement Standards Board on March 2002 and revised March 2007)

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 |

2) INTERVENTION OPTIONS

- | <u>MODE</u> | <u>PURPOSE</u> |
|-----------------------------------|---|
| A. Presence | To present a visible display of authority |
| B. Dialogue | To verbally persuade |
| C. Control Alternatives | To overcome passive resistance, active resistance, or their threats |
| D. Protective Alternatives | To overcome continued resistance, assaultive behavior, or their threats |
| E. Deadly Force | To stop the threat |

3) FOLLOW-THROUGH CONSIDERATIONS

- | | |
|-----------------------------|---|
| A. Stabilize | Application of restraints, if necessary |
| B. Monitor/Debrief | |
| C. Search | If appropriate |
| D. Escort | If necessary |
| E. Transport | If necessary |
| F. Turn-Over/Release | Removal of restraints, if necessary |