

**RACINE COUNTY SHERIFF'S DEPARTMENT
POLICY & PROCEDURE**

SUBJECT: USE OF FORCE – SWORN POLICY		PROCEDURE: 390.100 C	
DATE ISSUED: 9/15/20	EFFECTIVE DATE: same	CANCELS: 390.100B	PAGE: 1 OF 7

PURPOSE:

- A. Deputies have the privilege to use force when it becomes necessary in the performance of their official duties. They shall only use the amount of force that is objectively reasonable to accomplish their objectives. Use of force will be assessed based upon the Deputy's perception at the moment force was used, in conjunction with the totality of the circumstances.

- B. This department recognizes and respects the value of each citizen. The purpose of this policy is to provide Deputies with guidelines in determining the proper use of force. This shall be based on the standards provided by the State of Wisconsin Department of Justice Law Enforcement Training and Standards Bureau DAAT system and provided to each Deputy through training. DAAT is defined as a system of verbalization skills coupled with physical alternatives.

KEY DEFINITIONS:

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

Active resistance- Behavior which physically counteracts an officer's 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.

Assaultive Behavior- Direct actions or conduct that generate bodily harm or creates a substantial risk to generate bodily harm.

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 serious bodily injury.

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

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

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Contact Officer Override- A corollary of the concept of shared responsibility. It means that cover officers have the proactive responsibility to intervene in a situation if the contact officer behaves inappropriately or is otherwise not handling the situation effectively.

Debriefing- This a conversation that happens post incident. It should communicate what happened and was it going to happen. This conversation should include any known charges, a verbal check of medical needs, and addressing of any immediate concerns. (i.e. A car being towed, or a family member being contacted for childcare)

POLICY:

The decision to use force and the amount of force to be used should be based on the totality of circumstances of the incident.

1. A Deputy may use force:
 - 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 bring an unlawful situation safely under control.

APPROACH CONSIDERATIONS

In your initial approach to a disturbance, you need to do three things:

- Make a contact decision
- Deploy your resources

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- Evaluate the threat level

Decision Making

Decision making considers whether the officer can legally contact the subject(s), and whether making contact is desirable. If the contact is not voluntary, and the officer does not have legal standing to initiate contact, the officer should not initiate an encounter. If intervention would be tactically foolhardy without additional resources, it would not be desirable to intervene until those resources arrive.

Tactical Deployment

Tactical deployment is concerned with making decisions about locating yourself and your partners in relation to the subject or situation. For example, if you have an unarmed subject who is making verbal threats to fight with you, you will want to stay far enough away that you are out of reach of the subject's hands and feet. If instead, the subject has a knife, you will need to stay even farther away. How you position yourself in relation to the subject(s), and how you and your partner(s) work together come under the heading of tactical deployment.

Tactical Evaluation

In your tactical evaluation you assess the potential hazards in the contact, and decide how best to minimize them. If your tactical evaluation leads you to conclude that a situation is too dangerous to try to manage alone—in other words, you would be unlikely to succeed in controlling it—then in most cases, you will simply position yourself tactically and wait until you have sufficient backup. It's not about courage—it's about control. You may be brave enough to face the danger alone, but the goal is to accomplish your law enforcement objective, and that requires that you be able to control the situation.

During tactical evaluation you will assess whether the person presents a threat to the safety of yourself or others, and if so, to what degree. You should consider many different factors to evaluate the degree of threat posed by the person, including threat assessment opportunities, officer/subject factors, special

circumstances, and level/stage/degree of stabilization. Each of these will be examined in more detail in the next chapter.

Tactical evaluation is not a one-time thing. You must continually reassess the level of threat throughout your encounter. Situations are not static—they can change in an instant. You need to remain flexible and able to adapt to

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changing circumstances. Stay alert for any indications that the situation has changed, and be ready to respond appropriately.

INTERVENTION OPTIONS

If initial approach leads you to decide to intervene, you have a range of responses open to you. These are outlined in the Intervention Options, which identify the various tactics available to you as an officer. Much of your time in DAAT will be devoted to learning these techniques.

Intervention Options are divided into five modes, each reflecting the need for an increased level of force to gain control. Although the Intervention Options are divided into five modes, you can begin with any mode and move from one mode to any other mode as appropriate—Intervention Options are not necessarily a sequential progression. You are authorized to use the amount and level of force that is reasonably necessary to control a subject. If dialog—talking with a person—is enough to control him or her, then you need not use more force. On the other hand, some situations may be so extreme that you need to use deadly force. At any time, if a different level of force is appropriate, you can use it.

Here are five key rules for use of force:

1. The purpose for 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.
2. You may initially use the level and degree of force that is reasonably necessary to achieve control. You need not escalate step-by-step through the Intervention Options.
3. At any time, if the level of force you are using is not effective to gain control, you may disengage and/or escalate to a higher level of force. This involves transitioning to a different level of force or different tactics based on the totality of circumstances.
4. Once you have gained control of a subject, you must reduce the level of force to that needed to maintain control.
5. You must always maintain a position of advantage.

In determining the amount of force to be used, A Deputy may initially use the level and degree of force that is reasonably necessary to achieve control. You need not escalate step-by-step through the Intervention Options. At any time, if the level of force an officer uses is not effective to gain control, they may disengage and/or escalate to a higher level of force. This involves

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transitioning to a different level of force or different tactics based on the totality of circumstances.

The amount of force a Deputy may use should be based on the following *Intervention Options*:

Modes Within Intervention Options

The five modes each serve a different purpose and include different tactics and techniques.

1. *Presence*

The first mode, Presence, reflects the fact that sometimes all that is needed to control a situation is the presence of an officer. The purpose of this mode is to "present a visible display of authority."

2. *Dialogue*

The second mode, Dialogue, covers the range of tactical communication from very low-level questioning to very directive commands. The purpose of dialogue is to persuade subjects to comply with an officer's lawful directives. The specific techniques used are covered extensively in Professional Communication Skills.

3. *Control Alternatives*

The third mode, Control Alternatives, includes a wide range of tactics and tools for controlling subjects. These are divided into four groups: escort holds, compliance holds, control devices, and passive countermeasures. This mode includes both empty-hand techniques such as applying an escort hold or directing a subject to the ground and tools such as Oleoresin Capsicum (OC) spray, commonly called "pepper spray," and electronic control devices (ECDs). The purpose of Control Alternatives is to overcome passive resistance, active resistance, or their threats.

4. *Protective Alternatives*

The fourth mode, Protective Alternatives, include tactics and tools to protect an officer while also overcoming continuing resistance. The tactics include focused strikes that temporarily disrupt a subject's ability to continue to resist or assault, a diffused strike that can cause an immediate—though temporary—cessation of a subject's violent behavior and the use of baton strikes to impede a subject. The purpose of Protective Alternatives is to overcome continued resistance, assaultive behavior, or their threats.

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2. ***Deadly Force***

The fifth mode, Deadly Force, represents the highest level of force available to law enforcement officers. The purpose of deadly force is to stop the threat

FOLLOW-THROUGH CONSIDERATIONS

STABILIZE

When a subject has been stabilized, it means that he or she has stopped resisting and is in a position where you can apply handcuffs. A subject can be stabilized verbally, if he or she complies with your verbal directions, or the subject can be stabilized physically against a vertical surface, such as a wall, or on the ground using the three-point position

In some cases, you may choose to order a subject to the ground for stabilization, rather than decentralize him or her yourself. An example might be if you were arresting at gunpoint a suspect in a serious crime. Rather than give up the tactical advantage of having the person at gunpoint, which would be necessary if you were to perform a decentralization, you decide to order the subject down.

Once an arrested subject is stabilized, you should handcuff him or her with hands behind the back. Only if there is a clear medical reason not to do so should you consider making an exception—but you still must ensure that the subject is properly controlled.

MONITOR/DEBRIEF

Once a subject has been handcuffed, especially if you used physical force to control the subject, you have a custodial responsibility for the subject's health and safety. When you monitor a subject, you are carrying out this duty.

Debriefing serves two important psychological functions: enabling the participants to come full circle and completing the transaction.

To come full circle means to return to the point at which you started. Nearly all police contacts start with verbalization. After a physical confrontation, it is important to bring the level back down to verbalization at the conclusion. This coming full circle helps both officers and subjects regain their composure and return to normal. Debriefing also helps to complete the transaction and provide proper closure to each contact. After any contact involving a possibility of illness or injury—which certainly includes contacts involving physical intervention—you must conduct an initial medical assessment to find out if the subject (or anyone else) requires medical care. The stress of a physical struggle or foot chase, especially when combined with drug use, may cause sudden and severe changes in a person's condition. In some cases,

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these can be life-threatening emergencies. (As always, when dealing with possible contact with blood and/or other body fluids, use appropriate personal protective equipment, including gloves and/or a mask.)

SEARCH

The term "searching" is often applied both to frisks and to searches, but the two are quite distinct. A frisk is a pat down of a subject's outer clothing for the purpose of discovering any concealed weapons. It is done when an officer has articulable facts that the officer or someone else is in danger from the subject. A search is a thorough checking of the subject, including emptying the pockets of the clothing, looking for weapons, contraband, or evidence of a crime.

Frisk

If you reasonably suspect, based on articulable facts, that a subject is committing, has committed, or is about to commit a crime, you may detain him or her temporarily to investigate. This sort of detention is commonly called a Terry stop, because it arose from Terry v. Ohio.²⁶ If you additionally have reasonable suspicion, based on articulable facts, that you or someone else is in danger from the subject, you may conduct a limited search (a frisk) for weapons or objects that could be used as weapons.

Before conducting a frisk, make sure that the subject is controlled. He or she may be placed in an escort hold or compression hold, or even handcuffed. If you have another officer available, you can use team tactics to control and frisk the subject. In some cases, verbal stabilization may be sufficient. Regardless of the type of stabilization, always position yourself at the subject's 2½. Do not frisk from the front.

Search

You must thoroughly search all subjects in custody before transporting or turning them over, and any time that you accept custody of a subject from another agency. Officers have been killed by prisoners who were not thoroughly searched, and who were able to access and use a weapon, even when handcuffed. Thorough searching is critical to officer safety.

Important: Use appropriate personal protective equipment, such as fluid-resistant and/or puncture-resistant gloves whenever possible.

Proper searching requires that you search all areas of the body, including parts, such as the groin, that are ordinarily private. While this is likely to be not entirely comfortable for either officer or subject, it is necessary because of the potential safety risk if an area is left unsearched. A systematic and professional procedure

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can minimize the discomfort associated with searching. While a same-sex search is ideal, that is not always possible or feasible. Because ensuring the safety of both officers and the public outweighs gender concerns in an arrest, an officer of either sex may search a subject of either sex.

Always maintain a professional demeanor when searching a subject. Never make remarks that could be construed as demeaning, sexist, racist, or otherwise inflammatory.

TRANSPORT

If you must transport an arrested person to another location, such as a jail, you are responsible for that individual's safety during transport. Normally you will transport a subject in the rear seat of your squad (transporting in the front seat is not recommended, because of safety issues).

TURNOVER/RELEASE

When you turn over a subject to jailers or other authorities, or when a handcuffed subject is to be released, you must safely remove the handcuffs. Two methods are available, depending on the degree of compliance the subject exhibits: Compliant subject handcuff removal and Multiple officer handcuff removal

Compliant Subject Handcuff Removal This method is appropriate with a cooperative subject. You should nevertheless have a cover officer present. Similar to Compliant Subject Handcuffing, you will verbally stabilize the subject before removing the handcuffs.

Multiple Officer Handcuff Removal If a subject is very resistive and aggressive, or has previously been violent, evaluate whether it is appropriate to remove the handcuffs at all. If you determine that it is appropriate, be sure that the subject has been stabilized by several officers before handcuff removal.

CONCLUSION:

When force is used to accomplish a lawful police objective, a Deputy(s) may be required to answer to the court or the community as to the reasonableness of the amount of force used. When force is used and/or if an injury is sustained, the incident shall be documented in report form containing the circumstances and the justification for the force used.

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SPECIAL CIRCUMSTANCES AND CONSIDERATIONS

CONTACT OFFICER OVERRIDE

Wisconsin Law Enforcement Standards Bureau Professional Communication's training includes the concept of Contact Officer Override and Racine County Sheriff's Office acknowledges this concept as integral to the use of force policy.

This concept grows out of the *contact-cover* principle, a mode of police/jail operation that gives officers different roles. In this mode, one officer serves as the *contact officer* (making actual contact with a subject) while another officer (or more than one) serves as a *cover officer* (observing to ensure that all goes well and ready to intervene if necessary).

Contact officer override is a corollary of the concept of shared responsibility. It means that cover officers have the proactive responsibility to intervene in a situation if the contact officer behaves inappropriately or is otherwise not handling the situation effectively. One of the ways in which a contact officer might behave inappropriately is through verbal communication to a subject. Inappropriate communication might involve unwarranted anger, use of profanity, threats, or other unacceptable and unprofessional responses. In other words, there are no innocent bystanders. As professionals, we are responsible for each other.

RESPIRATORY RESTRAINT

The use of a respiratory restraint is limited to circumstances where deadly force is authorized and if applied, any use is subject to the following:

- a) At all times during the application of a respiratory restraint, the response of the individual should be monitored. A respiratory restraint should be discontinued when circumstances indicate that the application no longer reasonably appears necessary.
- b) Any individual who has had a respiratory restraint applied, regardless of whether he/ she was rendered unconscious, shall be promptly examined by paramedics or other qualified medical personnel, and should be monitored until such examination occurs.
- c) The deputy shall inform any person receiving custody, or any person placed in a position of providing care, that the individual has been subjected to a respiratory restraint and whether the individual lost consciousness as a result.

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- d) Any deputy attempting or applying a respiratory restraint shall promptly notify a supervisor of the use or attempted use of such hold.

REFERENCE: *Defensive and Arrest Tactics*, A Training Guide for Law Enforcement Officers, Wisconsin Department of Justice, Law Enforcement Standards Board, April 2002.

Use of Force by Wisconsin Jail Officers: Basic Concepts, Wisconsin Department of Justice, Training and Standards Bureau, March 2003.

Professional Communication, A Training Guide for Law Enforcement Officers, Wisconsin Department of Justice, Law Enforcement Standards Board, April 2002

Wisconsin Statute # 66.0511(2) - (2) *Use of force policy*