

Village of Lake Hallie Police

414 – Use of Less Lethal Force

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I. PURPOSE

It is understood that unintended or incidental casualties are risked wherever force is applied, but the correct use of less lethal force techniques attempt to minimize the risk of casualties (e.g. serious/permanent injuries or death) as much as possible.

II. POLICY

Recognizing our legal and moral responsibility to use force wisely and judiciously, it is the policy of this department that force shall never be resorted to until officers reasonably believe it is necessary in the performance of their legal duties.

III. DEFINITIONS

As used in this policy, less lethal force refers to the use of any weapon, or instrument, or any other physical action taken by an officer which when used is NOT likely to cause death.

IV. PROCEDURES

A. The use of less lethal force is only authorized when an officer reasonably believes it is necessary to control a person under any of the following circumstances:

1. Detaining a person reasonably suspected of criminal involvement.
2. Effecting an arrest.
3. Overcoming resistance.
4. Preventing escape.
5. Protecting oneself or another.
6. Maintaining order.

B. Force shall never be used when a person has ceased to resist or attempt escape.

C. Degrees of Less Lethal Force

1. Officers shall only use the degree of force a reasonable person would believe is necessary to control the situation. In determining the degree of force that is reasonably necessary, an officer shall consider the following factors:
 - a. The existence of alternative methods of control.
 - b. Physical size, strength and weaponry of the person as compared to that of the officer's.
 - c. The nature of the encounter.
 - d. Actions of the person.
 - e. Exigent conditions (i.e., availability of back-up, number of persons involved, etc.).

2. Five Modes within Intervention Options:
 - a. 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.
 - b. 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.
 - c. 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, tools such as Oleoresin Capsicum (OC) spray, commonly called “pepper spray”, and electronic control devices (ECDs/Taser). The common thread is that all these tactics and tools are used to control subjects who are resisting or threatening to resist.
 - d. 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 difference between Protective Alternatives and the Control Alternatives category is that with Protective Alternatives the purpose is not only to control the subject, but also to protect the officer.
 - e. Deadly Force - represents the highest level of force available to law enforcement officers. The power to use deadly force is the most awesome responsibility given to law enforcement officers.

(See Disturbance Resolution Model in Appendix 1)

D. Control of a person through verbal commands shall always be the alternative to the use of physical force and/or less lethal weaponry. It is recognized that this method is not always effective or appropriate in gaining compliance and it then becomes necessary to escalate the degree of force. When it is determined that verbal commands are neither effective nor appropriate an officer may escalate the degree of force based on the actions of the person they are attempting to control.

1. The concept of escalating/de-escalating degrees of force is based on an officer's reaction to a specific action of the person he/she is attempting to control. The attached chart is offered as a general guideline for understanding this concept.

(NOTE: Officers are not required to begin a confrontation at the verbal command level and escalate step-by-step until control is gained if the officer reasonable believes his/her reaction would be ineffective/inappropriate based on the actions of the person they are attempting to control. Once a person is under control, officers are required to revert to the lowest degree of force necessary to maintain that control.

E. The use of the Police Baton

1. All officers will be trained in the use of the baton according to the standards set by Wisconsin Training and Standards.
2. A police baton may be used only when an officer reasonably believes a lesser degree of force would be insufficient to control the situation.
3. An officer shall never strike a person's head with a baton unless such an action is justified under the use of deadly force. This section is not intended to apply to an accidental strike to the head as a result of resistance.
4. Officers shall only use approved baton techniques.
5. Department-approved batons are the only authorized impact weapons. The use of other devices, flashlights, radios, firearms, etc., are not recommended to be used as impact weapons; however, the department recognizes that emergency self-defense situations involving other objects and instruments may occur.

F. The use of Pepper Spray (O.C.)

1. Pepper Spray will only be approved for use by officers who have been trained in the use and aftercare of the department approved and issued pepper spray.
2. Pepper Spray may only be used by an officer when it is reasonably apparent that a lesser degree of force would be insufficient to control the situation.

3. An officer shall direct a one second burst or multiple one half second bursts of Pepper Spray at the eyes, nose and mouth of an individual attempting to keep a distance of two to four feet from the individual.
4. Pepper Spray shall not be used once an individual is subdued and under control.
5. Once the suspect is under control, he/she shall be provided with an opportunity to eliminate the effects of the pepper spray by flushing with water if available or by being allowed to air dry as soon as possible. Upon entry to the jail the suspect should be allowed to flush the affected areas with copious amounts of cold water. If the suspect is wearing contact lenses, he/she should be allowed to remove the lenses as soon as possible and flush their eyes with water. If full recovery does not occur within 60 minutes the subject should be taken to the hospital for treatment. Hospital staff should be advised that the subject was sprayed with a capsaicin mix.
6. If the application of pepper spray takes place within a building or vehicle, the area should be ventilated for approximately 45 minutes to eliminate the pepper spray from the area.
7. Officers who face a suspect armed with pepper spray should take protective action by blocking against its use, protect eyes and breathing properly, disengaging from the suspect and employing weapon control techniques.
8. Officers facing a suspect armed with pepper spray should realize that they are completely vulnerable if it is successfully used against them, therefore they may consider the use of deadly force as a response to being threatened or sprayed with pepper spray.

G. Use of Chemical Agents other than Pepper Spray

An officer discharging any chemical agents other than Pepper Spray (such as tear gas) shall only do so upon the order and under the supervision of a superior officer.

H. Use of Less Lethal Impact Munition/Bean Bag Rounds

Less lethal impact munitions are intended to impede/subdue a subject when other methods are impractical or would present a serious threat to the life of the subject, officers, or other citizens. The department has incorporated the use of less lethal impact munitions to de-escalate potentially violent confrontations. The use of these munitions may be called for in situations including, but not limited to, combative/violent subjects, armed, and non-compliant subjects.

1. In order to minimize the potential for causing death or serious physical injury, the use of less lethal munitions shall be in accordance with department approved training and Policy and Procedure.
2. Only personnel who have received department approved training in less lethal impact munitions will be assigned and authorized to use them during actual operations.
3. Officers may utilize less lethal impact munitions during situations where training and experience indicate that other controls would be less effective or prove dangerous to the officer or others. Approval of a department supervisor should be obtained prior to deployment. If a supervisor is unavailable, sound professional judgment and Department Policy and Procedure will govern the use of less lethal impact munitions.
4. Personnel trained in the use of less lethal impact munitions will only use department issued munitions.
5. Less lethal impact munitions will only be placed into the department issued shotgun when two officers are present. Impact munitions **will not** be carried **on** the weapon or **in** the weapon **until deployment** of the weapon for a less lethal impact situation.
6. Deployment of less lethal impact munitions will be done in the following manner. When a situation warrants the use of less lethal munitions, a shotgun will be loaded in the following manner:
 1. The officer deploying the less lethal shall first clear/empty their shotgun of all lethal rounds; to include any ammo stored in the stock/on the stock, or any ammo carrier affixed to the shotgun.
 2. All lethal rounds will be placed into a secure place away from the person deploying less lethal.
 3. The shotgun shall be visually and physically checked by a second officer to determine that all lethal rounds have been removed from and on the shotgun.
 4. The second officer will then confirm that the deploying officer is placing less lethal impact munitions into the shotgun. The second officer will visually and physically check the rounds the deploying officer is placing into the shotgun to confirm that only less lethal rounds are placed into the shotgun.
 5. The deploying officer, when deploying less lethal impact munitions, will have a cover officer for the safety of this Officer and all others involved at the scene. The cover officer will be armed with a lethal weapon for the safety of the deploying officer.
 6. Persons subdued by the use of less lethal impact munitions shall have a medical clearance done before admission to the jail setting.

I. Use of Choke Holds

The department does not authorize the use of chokeholds as a less lethal use of force. Chokeholds can cause great bodily harm or death and should be considered use of deadly force under Department Policy 420.

J. Reporting the Use of Force

It shall be the responsibility of any officer who uses physical force or any of the following weapons, items, or devices indicated below to complete an original or supplementary report on the incident involved and to specifically note the circumstances necessitating and manner of such use:

1. Firearms (e.g., striking with or pointing of any firearm),
2. Police baton (e.g., the striking, blocking or pushing of any person),
3. Chemical Agents (e.g., the use of any chemical agent), Pepper Spray, tear gas, etc.
4. Restraining devices (e.g., the application of handcuffs or other restraining devices),
5. Physical force (e.g., striking, punching, less lethal impact munitions, pushing, or restraining any person).

K. Reporting Excessive Use of Force

In accordance with 2021 Wisconsin Act 75 (Effective January 2022, WI SS. 175.44), it is an active duty officer's obligation to intervene in and report noncompliant uses of force by other officers. In accordance with Act 75, it will be required of all officers acting in the course of their official duties to do the following:

1. Use appropriate levels of force in all situations
2. Using of force instruments (taser, baton, OC Spray, etc.) in their primary designed way, unless other exigent circumstances exist
3. An officer shall report to an immediate supervisor any witnessed unlawful use of force by an officer that does not comply with policy, State Law and Wisconsin Training and Standards, as soon as practicable after the occurrence.
 - A. An officer who intentionally fails to report/intervene in noncompliant use of force as required, may be subject to department disciplinary action and/or face criminal/civil action.
4. An 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 standards (WI SS. 175.44) if the below A. and B. apply.

- A. The law enforcement officer observed the use of force that does not comply with standards under sub 175.44(2), (b), or (c).
- B. The circumstances are such that it is safe for the officer to intervene.
 - 1. The officer is still required to notify an immediate supervisor as soon as practicable of the event.
- 5. All other statutory requirements set forth in 175.44 must be followed.

L. Use of Department Approved Duty Instruments

Officers shall have initial training in the use of handcuffs and all authorized and issued weapons or instruments of force before they are authorized to carry and use them in the line of duty. They also shall be required to take part in authorized refresher training programs in their use, as authorized by the department.