

NECEDAH POLICE DEPARTMENT POLICY AND PROCEDURES

DIVISION: Operations	EFFECTIVE DATE: January 1, 2011	REVIEW DATE: Annual	NO: NPD-14
SUBJECT: Use of Force		REFERENCES: WI SS 66.0511(2)	REVIEWED: Jan 2022

I. POLICY

It is the policy of the Necedah Police Department to set forth guidelines on the use of force as authorized by law and supported by the Necedah Police Department in the performance of law enforcement duties by sworn department officers.

II. OVERVIEW

Use of force is a privilege provided law enforcement officers to legally perform their duties. This privilege is governed by legal and ethical limitations: WI Statute 939.45(3)(4).

At all times, officers will use only the amount of force that they deem necessary to achieve and maintain control of subjects. The safety of other officers and innocent bystanders will not be jeopardized; unless their safety has already been endangered and this endangerment necessitates escalation of force.

The use of deadly force is considered the last option to accomplish lawful objectives and to protect yourself and others from imminent threat of death or great bodily harm. Officers should be trained and mentally prepared to use deadly force as well as being able to de-escalate from deadly force in order to affect the arrest of felons and other suspected criminals.

The misuse of physical force and/or deadly force may have long lasting legal and ethical ramifications. Officers may be subject to criminal charges, civil liability, and departmental discipline, including termination.

Unjustified and/or excessive use of force causes the public to react with indignation and undermines the public trust in police.

III. USE OF FORCE – OBJECTIVE

The objective of the use of force is to achieve and maintain control of resistive subjects.

You will have achieved and maintained control when people are complying with your legal directions or are restrained so that they cannot resist.

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Sometimes, you will be able to control people solely by communicating with them. At other times, you may have to physically subdue them or use “empty-hand” control techniques for compliance with your directions.

You may, in order to achieve and maintain control, have to use an impact weapon or even use deadly force. These may be necessary and justified options for use of force.

Once you have gained control of a resistive person, you may then need to use handcuffs and/or restraints to maintain control. The Necedah Police Department recognizes the State of Wisconsin Defensive and Arrest Tactics Outline and the Disturbance Resolution.

IV. DEFINITIONS

- A. **Deadly Force**: the use of a firearm or other instrument which would result in a high probability of death.
- B. **Deadly Force Behavior**: that which has caused or imminently threatens to cause death or great bodily harm to you or another person.
- C. **Non-Deadly Force**: that use of force the officer deems necessary but reasonable, be it physical or non-physical, but not deadly.
- D. **Imminent Threat**: criterion for imminent threat: The person you’re intending deadly force must have displayed, or indicated intent to, cause great bodily harm or death to you or another, a weapon capable of inflicting great bodily harm or death and the delivery system for the utilization of that weapon.

It is understood that officers will encounter a full range of behavior in the performance of their duty and that force is one tool and a privilege given by law to the officer to adequately and professionally perform his/her duty.

V. USE OF DEADLY FORCE

PROCEDURE: Deadly force may be used by officers of the Necedah Police Department in the performance of their duties under the following circumstances:

1. **Self-Defense**: When an officer reasonably believes that deadly force intervention is necessary to protect themselves from the imminent threat of death or great bodily harm.
2. **Defense of Another**: When an officer reasonably believes that deadly force intervention is necessary to protect another person from the imminent threat of death or great bodily harm.
3. **Arrest/Dangerous Crime**: When the officer reasonably believes that the actor has committed, or is attempting to commit a dangerous crime and the officer reasonably believes that there is substantial risk that the actor will cause death or great bodily harm to the officer or another person if apprehension is delayed.

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4. **Preventing Escape:** When the officer is preventing the escape of an actor (arrested for, charged with or convicted of a dangerous crime) from a federal, state or local correctional facility and when the officer reasonably believes that there is a substantial risk that an escape will cause death or great bodily harm to the officer or another person if apprehension is delayed.

USE OF ISSUED OR AUTHORIZED FIREARMS

- A. **Minimizing the Risk of Death:** When a firearm is used, it is with the realization that death could occur, but the use of the firearm may not, in all situations, be with the intent that such will be the result. The firearm must be used in such a manner that there isn't substantial risk of hitting an innocent bystander.
- B. **Drawing of Firearm:** Nothing in this policy and procedure shall prevent the officer from drawing the firearm (shotgun, rifle or handgun, as appropriate) during the course of an arrest or an investigation when the officer deems it necessary for his/her safety or the safety of another person. The trigger finger shall rest alongside the receiver, outside of the trigger guard, until such time as the actual use of deadly force (pulling of the trigger) is authorized.
- C. **Permissible Discharge of a Firearm:** An officer may discharge their issued firearms under the following circumstances:
 1. In the performance of his/her duty, after all other reasonable means of effecting the arrest or subduing the suspect have been exhausted and only when deadly force is otherwise authorized by this policy.
 2. For the purpose of animal euthanasia.
 3. For the purpose of firearms training or sanctioned competitions.
- D. **Prohibited Conduct/Discharge:**
 1. Indiscriminate firing through doors, walls or into the darkness at targets that are not clearly identified.
 2. Indiscriminate firing in the direction of or over the heads of a crowd.
 3. Warning shots.
 4. Firing at or from a moving vehicle (Firing at or from a moving vehicle may be permitted under exigent circumstances and will be dealt with on a case by case basis).
- E. **Securing a Discharged Weapon:**
 1. Any authorized firearm discharged by an officer while on duty or off-duty, which results in injury or death to any person, shall be secured by a supervisor. A replacement primary service handgun will be issued to the officer upon turning over their discharged primary service handgun.
 2. The secured firearm shall be treated as evidence. This procedure applies in those situations where an investigating officer from another police agency does not take

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the weapon into custody. The weapon will be properly secured and shall be held until it is no longer required as evidence.

- F. **Surrendering Firearm:** An officer shall use every tactical device at his or her disposal to avoid surrendering an issued or authorized weapon (except for the purpose mentioned above).

REPORTING REQUIREMENTS

- A. Whenever an officer uses OC, ECD, baton, less lethal impact munitions, tire deflation device, firearm or any other weapon; the officer shall immediately report the incident as soon as practical. The officer shall submit a detailed written report of the incident to their supervisor using the Offense/Incident report, Use of Force report and any applicable supplements. This procedure includes any occasion when the officer uses force, which the officer claims was done in the performance of his/her duties as an officer of the department.
- B. Copies of the report(s) will be forwarded to the appropriate offices. The Offense/Incident and Use of Force reports are not required when the weapon is used for the purpose of firearms training, practice, or sanctioned competitions.

USE OF NON-DEADLY FORCE

A. DEFINITION

- 1. **Non-Deadly Force:** Use of non-deadly force is authorized when an officer believes, based on the totality of circumstances, training and experience, they would be successful in gaining control of a person.
- B. The control process as outlined in the DAAT System is the structure that law enforcement personnel can utilize to safely and professionally perform their mission and function in society. The control process also is the basis for explaining and justifying officer's decisions to respond, take action, and attain control. The process outlines the officer's responsibilities once control has been established and a subject(s) is in custody.

Officers are not authorized to use indiscriminate force. Instead, officers are statutorily required to adhere to the use of only "reasonable and necessary" force. This requirement mandates the officer to use only necessary force to meet like force that will minimize injury to both you and the subject.

- C. The Use of Non-Deadly 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.

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6. Maintaining order.
- D. Officers will use the lowest possible level of force to achieve control. The officer's selection of that level of force to be used will be based on evaluation that includes, but is not limited to, the following:
1. The existence of alternative methods of control.
 2. Sex, age, size, skill, strength, demeanor, history, and weaponry compared to the officer.
 3. Nature of encounter.
 4. Exigent circumstances (availability of backup, number of persons, etc.)
- E. Officers shall not continue to use force, except for physical restraint, after an individual has ceased to resist or has discontinued attempting to escape or elude apprehension.

USE OF LESS LETHAL WEAPONS

- A. Taser X26
1. Only departmental members trained in the use of the Taser X26 will be allowed to carry it on duty.
 2. The use of the Taser X26 is permitted by officers under the following circumstances:
 - a. A person is actively aggressive toward the officer.
 - b. After an officer has indicated to a subject that the officer intends to apprehend or restrain the person, that person indicates to the officer by words and/or actions that they intend to physically resist the officer's efforts to apprehend or restrain them or intends to cause bodily harm to the officer.
 - c. Mere passive resistance or verbal argument against being arrested do not permit the use of the Taser X26 without words and/or actions showing intent to physically resist or harm the officer.
 - d. When the officer reasonably believes, considering all the information available to the officer, that efforts at mere physical restraint would be ineffective or would unreasonably subject the officer or others to bodily harm.

Examples:

- Dealing with a mentally ill subject who is perceived to be violent.
- Warrant service where the subject is perceived to be violent.
- Violent persons under the influence of drugs and/or alcohol.
- Persons expressing the intent and having the means to commit suicide.

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- When deemed a reasonable alternative to lesser force options that will likely be ineffective or greater force options that may be inappropriate given objective circumstances.
 - **Subjects who exhibit unusual behaviors or continue to remain extremely physically resistant after being exposed to the Taser should be evaluated for Excited Delirium. If Excited Delirium is suspected, EMS should be summoned immediately. Danger signs to watch for would include bizarre or violent behavior, signs of overheating (naked in public or cold place), slurring or slowness of speech, self-mutilation, and disturbances in breathing patterns or loss of consciousness. For a formal explanation of Excited Delirium see below.**
3. When the Taser X26 is used against a person or animal, the user will notify their supervisor.
 4. Removal of probes will ordinarily be done by the officer who discharged the Taser utilizing proper techniques for barb removal.
 - Subjects that have probes embedded in sensitive tissue areas such as neck, throat, face, breast or groin will be transported to a medical facility for barb removal and any necessary treatment.
 5. The expended Taser cartridge will not ordinarily be retained for evidence, however, should any person suffer serious injury the cartridge shall be properly inventoried and stored for evidence.
 6. After any incident where the Taser X26 has been deployed, the following procedures shall be followed:
 - a. The supervisor will take custody of the deployed Taser.
 - b. The supervisor will download the deployed Taser X26 data and that data will then be attached to the case file.
 - c. The deployed Taser X26 will then normally be returned to service.

Excited Delirium

Excited Delirium is a potentially life threatening condition and is a state of characterized by a severe disturbance in the level of consciousness and a change in mental status over a relatively short period of time, manifested by mental and physiological arousal, agitation, hostility, and heightened sympathetic stimulation.

Persons in this state are often physically resistant and continue to be so after the application of the restraints. Strong force or repeated applications of force may be necessary to bring a person in this state under control. It should be recognized that the use of force, even though appropriate for the circumstances, may serve to exacerbate the person's level of agitation.

B. Oleoresin Capsicum Aerosol (OC)

1. Departmental members trained in the use of OC shall carry same on duty.
2. The use of OC is permitted by officers under the following circumstances:
 - a. A person is actively aggressive towards the officer

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- b. After an officer has indicated to a subject that the officer intends to apprehend or restrain the person, that person indicates to the officer by words and actions that they intend to physically resist the officer's efforts to apprehend or restrain them or intends to cause bodily harm to the officer.
 - c. Mere passive resistance or verbal arguments against being arrested do not permit the use of OC without words and actions showing intent to physically resist or harm the officer.
 - d. When the officer reasonably believes, considering all the information available to the officer, that efforts at mere physical restraint would be ineffective or would unreasonably subject the officer or others to bodily harm.
3. When OC is used against a person or animal, the user will notify their supervisor.
 4. Officer who use OC against a person shall ensure the person is decontaminated as soon as practical after the person has been subdued. At a minimum officers will:
 - a. Expose the person to fresh air and flush exposed areas with large amounts of cold water as soon as possible.
 - b. Remove contact lenses and contaminated clothing. Inform the person clothing should be washed thoroughly.
 - c. Do not apply salves, creams, or lotions and inform the subject that additional relief may be gained by showering and washing affected areas with soap and water.
 - d. Monitor subject for one-half hour after application and if incarcerated, notify confinement personnel of OC use. If an adverse reaction occurs, or if requested by the subject, transport to a medical facility.
 - e. If circumstances permit, and OC has been used on an animal, efforts should be made to contact possible owner and advise them of the incident and care procedures.
 5. Any canister of OC that has been discharged in the line of duty should be turned in to a supervisor and replaced.
 6. Any canister of OC that reaches a level that is not acceptable for duty shall be replaced as soon as reasonably possible by a supervisor upon request, and confirmation of unacceptable level, by said supervisor.

C. Police Baton

The authorized impact weapon of the Necedah Police Department will be the expandable baton.

1. If lower force options have not worked to gain control of a subject, or if such lower force options would clearly be ineffective, you are justified in escalating to the impact weapon.
2. The purpose of using a baton is to impede a subject so as to deter his/her continued resistance or assaulting behavior.
3. Officers will follow the procedures for baton use as outlined in the DAAT system. Strike areas will be those referred to in the DAAT

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outline. It is understood that accidental strikes to a non-primary target area may occur due to the resistance and assaulting behavior of subjects.

4. Department issued/approved batons are the only authorized impact weapon and is also the only authorized impact weapon according to the DAAT system. It is recognized, however, that emergency situations may necessitate the use of other objects or instruments.

D. Documentation

The use of Non-Lethal Force by any member of the Necedah Police Department will be documented by said officer in his/her incident report or on a reporting form provided by the Department.

EXTENDED RANGE IMPACT WEAPONS

The goal of extended range impact weapons (ERIW), otherwise commonly referred to as “less lethal” weapons, is to protect life and property of citizens we serve. The availability of less lethal devices can assist officers in de-escalation of potentially violent confrontations and provide additional alternatives to the use of deadly force.

Definitions

- A. Less Lethal Force: The intentional application of force through the use of less lethal impact munitions for the purpose of encouraging compliance, overcoming resistance or preventing serious injury without posing a significant potential of causing death.
- B. Less Lethal Impact Munitions: Refers to less lethal projectiles, flexible or not-flexible, that can be fired, launched or otherwise propelled, which are intended to impede/subdue a subject with a reduced potential for causing death or serious physical injury. Examples of less lethal impact projectiles include, beanbags, launch able wooden, foam or rubber batons, rubber pellets and other like items.
- C. Less Lethal Impact Munitions Weapon: A dedicated weapon that is readily recognized as being different than the standard issued weapon, which will be used for deploying less lethal impact munitions.

PROCEDURES

- A. Guidelines for Use of Less Lethal Impact Munitions:
 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 training, policies and procedures of the Necedah Police Department.
 2. Only personnel who have received approved training in less lethal impact munitions will be assigned and authorized to use them during actual operations.
 3. Less lethal impact munitions may be utilized by officers, during situations where training and experience indicate that other controls would be less effective or prove dangerous to law enforcement or others.

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4. Approval from a supervisor should be obtained prior to deployment. If a supervisor is unavailable, the use of less lethal impact munitions will be governed by sound professional judgment and policies and procedures of the Necedah Police Department.
5. There is a broad range of scenarios in which use of less lethal impact projectiles may be justified. Major factors to consider when deciding whether such use is justified include the following:
 - a. Seriousness of any crime committed by the individual
 - b. Whether the individual is armed and, if so, the level of threat.
 - c. Propensity of the individual to be violent.
 - d. The urgency of the situation and potential impact of actions that may be committed by the suspect.
 - e. The ability of the officer to use a less lethal impact munitions against the suspect in accordance with policy and training.
 - f. The potential for collateral damage to officers, other persons, or property should the less lethal impact munitions incapacitate the threatening subject. (e.g., the threatening subject is or is allegedly holding a triggering device connected to explosives or other destructive devices).
6. Consideration may be given to the use of less lethal impact munitions against those who are posing a threat of death or great bodily harm to themselves or others.

B. Deployment and Follow up:

1. Less lethal impact munitions weapons shall be designated for deployment of less lethal impact munitions and shall be definitively marked by paint or other conspicuous distinguishing features as authorized by the Necedah Police Department. These weapons shall not be used for any other purpose, shall be loaded only with less lethal impact munitions and shall be kept only by authorized personnel in a manner designated by the department.
2. Where possible, officers should inform other officers in the immediate vicinity that less lethal impact munitions will be deployed in order that the shot will not precipitate the use of firearms by other officers.
3. Threatening subjects who are struck with a less lethal impact munitions should be restrained immediately and transported to a medical facility for examination.
4. The use of less lethal impact munitions is a use of force and the officer shall immediately report the incident as soon as practical. The officer shall submit a detailed written report of the incident to their supervisor using the Offense/Incident report, Use of Force report and any applicable supplements.
5. A use of force review shall be completed in any situation involving the discharge of less lethal impact munitions weapon. The depth of any review or investigation shall be determined by the Police Administrator or designee, based on the extent

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of the threatening subject's injuries and a review of the circumstances surrounding the incident.

C. Training:

1. Less lethal impact munitions shall be directed at target areas based on the circumstance at hand, established safety priorities, the exigency of the situation and the level of force that is authorized.
2. Officers authorized to deploy less lethal impact munitions shall receive designated training and certification as required by the Necedah Police Department.

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- 5. Transport If necessary.
- 6. Turn over / Release. Removal of restraints, if necessary.