



POLICY & PROCEDURE

HARTLAND POLICE DEPARTMENT

SUBJECT: USE OF FORCE

SCOPE: All Department Personnel

DISTRIBUTION: Policy & Procedure Manual

REFERENCE: WI State Statutes: 66.0511(2), 939.22, 939.45, 939.48, and Chapter 941; Defensive and Arrest Tactics (DAAT) A Training Guide for Law Enforcement Officers (December 1, 2020), WI DOJ

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PURPOSE: The purpose of this Policy & Procedure is to establish policies and procedures regarding the use of force, and to identify the responsibilities of officers of the Hartland Police Department when using force or after it has been used.

This Policy & Procedure consists of the following numbered sections:

- I. POLICY
- II. DEFINITIONS
- III. DEFENSIVE AND ARREST TACTICS (DAAT)
- IV. USE OF FIREARMS
- V. USE OF VEHICLES - BLOCKADES, BARRIERS, AND RAMMING
- VI. USE OF NON-DEADLY FORCE
- VII. USE OF RESTRAINTS

I. POLICY

A. The Hartland Police Department recognizes and respects the value and special integrity of each human life. In vesting police officers with the lawful authority to use force to protect the public welfare, a careful balancing of all human interests is required. Therefore, it is the policy of this Department that police officers shall use only force that is reasonably necessary to effectively bring an incident under control, while protecting the lives of the officer or another. Deadly force shall never be resorted to until every other reasonable means of apprehension or defense has been exhausted or there is no other reasonable recourse.

II. DEFINITIONS

ACTIVE RESISTANCE: Behavior which physically counteracts an officer's control efforts and which causes a risk of bodily harm to the officer, subject, and/or other persons.

CHOKEHOLD: A physical maneuver that restricts an individual's ability to breathe for the purpose of incapacitation.

CONDUCTED ENERGY WEAPON (CEW): A non-lethal force weapon that causes electro-muscular disruption to a combative, violent, or potentially combative, violent subject. The use of this device is intended to incapacitate the subject with a minimal potential for causing death or great bodily harm.

DEADLY FORCE: The intentional use of a firearm or other instrument that creates a high probability of death or great bodily harm.

DE-ESCALATION: An officer's use of time, distance, and relative positioning in combination with Professional Communication Skills to attempt to stabilize a situation and reduce the immediacy of threat posed by an individual.

DEFENSIVE AND ARREST TACTICS (DAAT): A system of verbalization skills coupled with physical alternatives.

GREAT BODILY HARM: (§ 939.22(14), Wis. Stats.) 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.

IMMINENT THREAT: An imminent threat is a threat that an officer reasonably feels is about to happen. To meet the criterion of "imminent threat", the person whom the officer is intending to use deadly force against must have all of the following:

1. A weapon capable of inflicting great bodily harm or death (conventional or unconventional weapon);
2. A displayed or indicated intent to cause great bodily harm or death to the officer or another person;

3. A delivery system for utilizing the weapon, or the capacity for utilizing the weapon, which has the means to inflict harm;

NON-DEADLY FORCE: That amount of force which does not meet the definition of deadly force, but which is an amount of force which, in normal circumstances, can cause bodily harm.

OBJECTIVELY REASONABLE: The standard by which many actions of a police officer are judged: Would your actions be judged appropriate by a reasonable person based on the totality of circumstances and the information know to you at that time?

PASSIVE RESISTANCE: Non-compliant and non-threatening behavior.

PRECLUSION: The officer reasonably believes all other options have been exhausted or would be ineffective.

PRIVILEGE: Section 939.45, Wis. Stats., states certain conduct is defensible from prosecution under certain circumstances. The defense of privilege can be claimed: conduct is in defense of persons or property, conduct is in good faith, and conduct is a reasonable accomplishment of a lawful arrest.

REASONABLE FORCE: That force which the reasonableness should be judged under the totality of the circumstances from the perspective of a reasonable police officer at the scene with similar training and experiences.

SELF-DEFENSE: The act of defending one's person by physical force (§ 939.48, Wis. Stats.). "The actor may intentionally use only such force or threat thereof as he or she reasonably believes is necessary to prevent or terminate the interference. He or she may not intentionally use force which is intended or likely to cause death or great bodily harm unless he or she reasonably believes that such force is necessary to prevent imminent death or great bodily harm to him- or herself or another."

TOTALITY OF THE CIRCUMSTANCES: Represents all information known to the officer at the moment action is taken and the facts used to judge the appropriateness of the action.

III. DEFENSE AND ARREST TACTICS

A. The Hartland Police Department adopts the Defensive and Arrest Tactics System. This is a system designed for all police officers for the primary purpose of self-defense and control. This system includes the Incident Response and Disturbance Resolution Models which provide general guidelines that define the degree and type of force to be used in controlling suspects. All Hartland Police Officers shall be trained in the DAAT system per State Training and Standard Bureau standards.

1. An officer shall only use that amount of force which is necessary and reasonable in the performance of his/her law enforcement duties.

2. An officer shall de-escalate the level of force to the amount of force needed to maintain control of an individual who has ceased to resist.
 3. Any officer present and observing another officer 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. An officer who observes another employee use force that exceeds the degree of force permitted by law should promptly report these observations to a supervisor.
 4. When an individual only offers passive resistance to arrest, the officer shall remove and transport such an individual with as much regard to the individual's safety and welfare as reasonable, practical, and possible.
 5. When utilizing the Disturbance Resolution Model, the officer must use the minimum necessary force in responding to other people's behavior by escalating or de-escalating within the Intervention Options.
 6. Use of Force Training will be conducted annually and will include various control techniques.
- B. Incident Response Model: The following is the Incident Response RESPOND Model adopted by the State of Wisconsin DAAT Advisory Committee.

INCIDENT RESPONSE – RESPOND MODEL

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|---|--|
| R | <p>Report</p> <ul style="list-style-type: none"> *Become aware *Plan response *Arrive/Assess *Alarm/Inform |
| E | <p>Evaluate</p> <ul style="list-style-type: none"> *Look for dangers *Determine backup needs *Enter when appropriate/tactically sound |
| S | <p>Stabilize</p> <ul style="list-style-type: none"> *Subject(s) *Scene |
| P | <p>Preserve</p> <ul style="list-style-type: none"> *Life <ul style="list-style-type: none"> -Conduct an initial medical assessment (as trained) -Treat to level of training -Continue to monitor the subject(s) *Evidence |

- (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 **de-escalate** the level of force to that needed to maintain control.
 - (5) You must always maintain a position of advantage.
- b) The five modes each serve a different purpose and include different tactics and techniques.

Mode	Purpose
A. Presence	To present a visible display of authority
B. Dialog	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

A. 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.” Much as drivers are careful not to exceed the speed limit when they share the road with a marked squad, the simple presence of an officer in uniform or otherwise identified is enough to prevent people from starting or continuing to behave aggressively or otherwise create a disturbance.

B. 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.

The PCS arbitration technique REACT can be practically applied as a de-escalation tool as it offers verbalization steps to communicate with an individual that is initially non-compliant.

Request cooperation
Explain reason
Allow choice
Check decision
Take action

C. Control Alternatives: The third mode, Control Alternatives, includes a wide range of tactics and tools for controlling subjects. 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 conducted energy weapons (CEWs). The common thread is that all these tactics and tools are used to control subjects who are resisting or threatening to resist.

The mode of Control Alternatives includes four tactics/tools:

- Escort Holds
- Compliance Holds
- Control Devices (OC spray, CEW's)
- Passive Countermeasures

The goal of control devices (OC spray and CEW's) is to overcome active resistance or its threat. Active resistance, unlike passive resistance, involves a subject who is physically counteracting an officer's control efforts under circumstances in which the behavior itself, the environment in which the behavior occurs, or officer/subject factors create a risk of bodily harm.

The criterion of active resistance or its threat means that in general, control devices would not be appropriate to use against verbal aggression, against people who are running away, against children and older persons, and against persons engaged in peaceful civil disobedience-unless reasonably justified by the circumstances covered in Approach Considerations.

Verbal Aggression - Verbal aggression occurs when a suspect is being argumentative, and/or confrontational with an officer. While this behavior alone can be difficult for an officer to deal with, Professional Communication skills are the preferred method. However, if arbitration is unsuccessful (REACT), and an officer/subject factor comparison dictates lesser levels of force would be ineffective, then a control device could be a viable alternative.

People who are running away - Before deploying a control device (in this case, a CEW would be a better choice than OC spray) during a foot pursuit, ask yourself, "What will the suspect force me to do when I catch him?" If the subject would force you to decentralize him or her during initial physical contact, using a CEW might be a better choice, as the risk of injury to the officer and subject would be less with a CEW as opposed to a passive countermeasure. On the other hand, if you don't think the subject would require you to immediately take him or her to the ground, then a CEW would probably not be the best choice. In that case you could safely respond with a lower level of force.

Another way to think about the situation is to apply the three criteria from *Graham v. Connor* to determine whether using a control device would be reasonable:

- The severity of the alleged crime at issue: Is it a retail theft or a substantial battery?
- Whether the suspect poses an imminent threat to the safety of officers and/or others: What is the suspect doing when you decide to use force?
- Whether the suspect is actively resisting or attempting to evade by flight. Is the suspect able to offer active resistance and/or flee?

D. Protective Alternatives: Protective Alternatives is the fourth mode in Intervention Options. These interventions are designed to protect officers in situations when they face subjects continuing to resist or threatening to assault.

The overall purpose is to overcome continued resistance, assaultive behavior or their threats. Continued resistance means that an individual is maintaining a level of counteractive behavior that is not controlled with the officer's current level of force. Assaultive behavior occurs when an individual's direct actions or conduct generates bodily harm to the officer(s) and/or another person(s).

The mode of Protective Alternatives includes three tactics:

- Active Countermeasures
- Incapacitation Techniques
- Intermediate Weapon

Active Countermeasures – The purpose of active countermeasures is to create a temporary dysfunction of an actively resistive or assaultive subject. The goal is to direct the subject to the ground for stabilization, handcuffing, and other follow-through procedures. Active countermeasures include two categories of techniques:

- Vertical stuns
- Focused strikes

Incapacitating Techniques – The goal of incapacitating techniques is to cause the immediate, temporary cessation of violent behavior. One such technique is taught in the DAAT system: the Diffused Strike.

Intermediate Weapon – The goal of using intermediate weapons is to impede a subject, preventing him or her from continuing resistive, assaultive, or otherwise dangerous behavior. Intermediate weapons include a variety of impact and other weapons designed to impede subjects. The intermediate weapon included in the DAAT program is the straight baton.

E. Deadly Force: The fifth mode, Deadly Force, represents the highest level of force available to law enforcement officers and the authority to use deadly force is the greatest responsibility given to law enforcement officers, refer to Policy & Procedure 5.02: Deadly Force.

While Wisconsin law (WI. Statute 939.45) affords officers the protection of privilege “when the actor’s conduct is a reasonable accomplishment of a lawful arrest,” the conduct must be reasonable. Using deadly force in the absence of a significant threat would not be reasonable. Wisconsin law specifically limits the use of deadly force in self-defense (WI. Statute 939.48(1)) as follows:

“the actor may not intentionally use force which is intended or likely to cause death or great bodily harm unless the actor reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or herself.”

The same limitation is extended to use of force to defend a third person, in WI. Statute 939.48(4).

The use of deadly force is prohibited to prevent suicide or solely to protect property.

Subject behavior that justifies an officer’s use of deadly force is behavior which has caused or imminently threatens to cause death or great bodily harm to you or another person or persons. Preclusion must be met before an officer can use deadly force. Officers must reasonably believe that all other options have been exhausted or would be ineffective. Deadly force is always a last resort.

The use of chokeholds is prohibited unless deadly force is justified.

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 |

IV. USE OF FIREARMS

- A. Sworn personnel are authorized to carry and use weapons under the authority and powers granted to them by Wisconsin State Statutes and exemptions granted under various statutes found in WI. Statutes: Chapter 941. Officers must also follow the requirements set forth in Policy & Procedure 12.01: Firearms and Ammunition.
- B. Officers may display Department authorized firearms when they have reasonable suspicion to believe that the use of deadly force may be necessary. Officers need not be under attack, but only be reasonably apprehensive that the situation may lead to circumstances outlined in the Use of Deadly Force section of this Policy & Procedure. Department authorized firearms should not be displayed under any other circumstances.
 - 1. This section is intended to allow the officer to have the firearm ready in circumstances such as answering a silent alarm or confronting a suspect whom there is reasonable suspicions to believe may be armed, or any other situation which may cause the officer to have reasonable fear for his/her life.
- C. Whenever safety permits and time allows, officers shall identify themselves and state their intent to shoot prior to using a firearm. Officers are to fire their weapons to stop an assailant from completing a potentially deadly act. The primary target is the central nervous system, to stop the threat and to minimize danger to innocent bystanders.
- D. Firearms shall not be discharged when it appears likely that an innocent person may be injured unless failure to discharge will result in the greater danger exception. The greater danger exception allows you to shoot without target isolation if the consequence of not stopping the threat would be worse than the possibility of hitting an innocent person.
- E. Warning shots shall not be fired under any circumstances.
- F. Officers shall not discharge a firearm at or from a moving motor vehicle except as the last measure of self-defense of oneself or another, and only then if the officer believes that the suspect has or is intent upon causing death or great bodily harm to oneself or another person. If this decision is made, consideration must be given to the safety of innocent bystanders and possible innocent passengers in the vehicle.

- G. Target-specific directed fire is defined as purposeful, controlled, sustained fire directed at a perpetrator who has caused or imminently threatens to cause death or great bodily harm to you or others, but whom you may not be able to clearly observe. The purpose of target-specific directed fire is to stop the threat when no other reasonable course of action would allow officers to perform a rescue, escape from danger, or otherwise prevent death or great bodily harm. Before using target-specific directed fire, officers must meet the imminent threat criteria (intent, weapon, delivery system) and preclusion requirement. Officers must achieve target acquisition, identification, and isolation, or else satisfy the greater danger exception, before shooting.
- H. An officer may also discharge a firearm under the following circumstances:
 - 1. During range practice or competitive sporting events.
 - 2. To destroy an animal that represents a threat to public safety, or as a humanitarian measure where the animal is seriously injured.
- I. Prior to being authorized to carry a firearm on duty for the Hartland Police Department, officers must meet the following three requirements:
 - 1. Officers shall receive training in the safe handling and operation of Department issued and authorized firearms. Officers must demonstrate their understanding of Department Policy & Procedures and state laws pertaining to deadly weapons and the use thereof.
 - 2. Officers must be certified by the State of Wisconsin in the use of firearms.
 - 3. Officers must qualify with a Hartland Police Department Firearms Instructor.

V. USE OF VEHICLES-BLOCKADES, BARRIERS, AND RAMMING

- A. The following may only be employed by a police officer if the use of deadly force would be authorized:
 - 1. The use of roadblocks with no escape route.
 - 2. Ramming of a fleeing vehicle by a police vehicle.
 - 3. Also refer to Policy & Procedure 6.02: Vehicle Pursuits.

VI. USE OF NON-DEADLY FORCE

- A. An officer shall use only the minimum amount of force that is reasonably necessary to perform his/her duties. The amount of force which may be employed is determined by the circumstances of a situation, including, but not limited to:
 - 1. The nature of the incident or offense.

2. The behavior of the subject against whom force is to be used, actions by third parties who may be present.
 3. Physical conditions.
 4. The feasibility or availability of alternative actions.
- B. The reasonableness of the force used will be judged in the light of the circumstances as they appeared to the officer at the time he/she acted, and not as they appear from a subsequent, more thorough knowledge of the circumstances.
- C. The officer making an arrest has the right to use only that amount of force reasonably necessary to affect the arrest and maintain control of the arrested individual.
- D. Officers may use reasonable force to:
1. Overcome an offender's resistance to or threat to resist a lawful arrest or detention.
 2. Prevent the escape of an offender or arrested person.
 3. Protect a third person from bodily harm or death.
 4. Protect himself/herself from bodily harm or death.
- E. When an individual offers only passive resistance to arrest, an officer shall take such person into custody and transport such individual with as much regard to the individual's safety and welfare as is reasonable, practical and possible.
- F. Officers shall not mistreat persons who are in their custody. Officers shall handle such persons in accordance with the law and department Policy & Procedures. The use of excessive and unwarranted force or brutality will not be tolerated under any circumstances and may subject the officer to disciplinary action.
- G. The DAAT Disturbance Resolution Model should be followed and adhered to at all times.
- H. Training for less lethal weapons shall occur at least biennially for officers authorized to use such weapons or techniques.

VII. USE OF RESTRAINTS

- A. It shall be understood that for the protection of both the person being restrained and the officer, use of restraints, such as handcuffs, reduces the likelihood of a struggle which could cause possible injury to the offender, the officer, or both.
- B. An officer may use restraining devices in order to:
1. Maintain control of subject

2. Prevent escape
 3. Protect him/her or others
- C. An officer shall not use restraining devices as punishment.
- D. It is a Policy & Procedure of the Hartland Police Department that all persons placed in protective custody or under arrest shall be properly handcuffed during transportation. The following use procedures are provided:
1. The officer shall use Department-approved restraints.
 2. Handcuffs shall be applied to the person's wrists behind his/her back unless not physically possible. The use of a belly-chain or restraint belt is permitted.
 3. Handcuffs shall be safety-locked upon placement on the person in order to negate any attempted tampering by the person and to assure that accidental tightening of the cuffs cannot occur.
 4. Handcuffs shall be closed to a light contact with offender's skin, but not so tightly as to produce pain. One may expect comments as to discomfort.
 5. Handcuffs shall not be closed so tightly as to intentionally cause physical injury to the person.
 6. Handcuffs (or any other restraining device) should be removed from the person upon arrival at a secure area within the Department, or upon transfer of custody to a responsible party. This procedure will not be affected should such removal be likely to result in physical harm to the offender, officers, or other person.
 7. Handcuffs shall not be used when it appears likely that the person's wrists or hands are too small, or for some other reason which would negate the restraining effects of handcuffs. In such circumstances, flex cuffs may be used.
- E. Handcuffing Prisoners Being Transported.
1. Prior to any transportation of persons in custody, they shall be searched for weapons.
 2. Subjects shall be handcuffed behind the back. The following factors, among others, may be taken into consideration in choosing alternate means of restraints:
 - a) Other restraining equipment is in use, such as, belly chains or restraint belts. Handcuffs may be used in front of the body when the prisoner is wearing a belt or belly-chain through which the handcuffs may be laced to securely pin the hands to prevent flailing about.

- b) Conditions exist that make it unreasonable or impossible to place handcuffs behind the subjects back. The officer should detail in his/her written report the unusual circumstances that existed and what alternative restraining device or techniques was used.
3. Prisoners shall be so placed in the police squad car that seat belts may be secured about the prisoner in order to enhance their safety during transportation.
4. The use of handcuffs shall not be viewed as an absolute provision of safety. Officers should continue to exercise all due care as to the safety and custody of prisoners.
5. Prisoners shall not be placed or transported while in a "hog-tied" position

F. Exceptions to Handcuff Requirements.

1. Officers shall always handcuff unless the officer can articulate exceptional circumstances. Officer discretion may be used in the following circumstances when deciding not to handcuff.
 - a) Persons who are temporarily incapacitated, such as by a serious wound to the lower arms, hands, etc. or a woman in an advanced stage of pregnancy, elderly, etc.
 - b) Juveniles who are either very young, or whom the officer has personal knowledge of, and as such, determines that the use of handcuffs is not an appropriate action.

G. Use of Force to Enter Private Property.

1. In lawfully entering the land of another to make a felony arrest (not for a misdemeanor or ordinance violation), an officer may use force reasonably believed necessary against persons on that land. An officer may use force to break and enter a fence, enclosure dwelling or other building.
2. Prior to forced entry into a building, the officer should knock on the door announcing that he/she is a police officer.

The officer shall announce that he/she is there to make an arrest and demand that the person inside open the door. Only after a reasonable period of time should the officer enter the door without it being opened from the inside. If an officer does break in, he/she should try to do as little damage as possible.

3. There are exceptions where police officers may enter without announcement and demand to make a lawful arrest. This occurs when an officer has good reason to believe that an announcement may:

- a) Help the suspect to escape.
 - b) Endanger persons.
 - c) Result in the destruction of evidence.
 - d) Permission from a judge to serve a “No Knock” search warrant.
4. When executing a search warrant, officers should first secure the area, and then enter the property.

Torin J. Misko
Chief of Police

This Policy & Procedure cancels and supersedes any and all previous written directives relative to the subject matter contained herein.

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