

MISHICOT POLICE DEPARTMENT POLICY/PROCEDURE	
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Policy #1001	

Purpose

This policy will provide guidelines for the use of deadly and non-deadly force by on duty law enforcement officers of the Mishicot Police Department. Officers of this department shall only use force necessary to accomplish lawful objectives.

It is the policy of this 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 the person the officer is trying to control.

Definitions

Objectively Reasonable / Reasonable Force: The standard established by the U.S. Supreme Court in *Graham v. Connor* says that reasonableness should be judged under the totality of the circumstances from the perspective of a reasonable officer at the scene with similar training and experience. Three elements of the standard include:

1. The severity of the alleged crime at issue
2. Whether the suspect poses an imminent threat to the safety of officers and/or others
3. Whether the suspect is actively resisting or attempting to evade arrest by flight

Tennessee V. Garner: The United States Supreme Court Case which strikes down fleeing felon rules and states a law enforcement officer would not be justified in shooting to stop someone from fleeing whom is known to have committed only a property crime or who has apparently committed a felony or misdemeanor that does not endanger life or threaten serious bodily harm.

Imminent: Likely to occur at any moment, impending.

Imminent Threat Criteria: Weapon, Intent and Delivery System. To be justified in using deadly force the subject's threat must have all three criteria.

Target Requirements: Target Acquisition, Target Identification, and Target Isolation.

Reasonably Believes: Means that an ordinary, prudent and reasonably intelligent police officer believes that a certain fact situation exists and such belief is reasonable under the circumstances known to the officer at the time the officer acted.

Excessive Force: More force than is reasonable will not affect the validity of the arrest; it may expose the officer to civil suit, discipline or both, and in aggravated circumstances possible criminal liability also.

Passive Resistance: Occurs when a subject refuses to comply with commands but does not attempt to engage in physical action which may cause bodily harm to the officer or other person, nor does the person threaten by actions or words to physically resist or flee.

Active Resistance: Physically counteracting an officer's attempt to control or take a person into custody, or attempts to flee, or threatening such actions.

Electronic Control Device (ECD): Electronic device that is designed to disrupt neuro-motor control allowing an officer to gain control of a resistive subject.

Taser: An ECD developed by Taser International and issued to officers of this department. Model X26 is the current issued ECD of this department.

AFID: Every time an ECD cartridge is deployed, small confetti-like identification tags called AFIDs are ejected. Each AFID contains the serial number of the cartridge deployed.

Drive Stun: The act of making contact with the ECD on a target without the cartridge on to deliver an electrical impulse to a focused area.

Great Bodily Harm: Wis. Stats. 939.22(14) 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.

Non-Deadly Force: Any use of force other than that which is considered deadly force. This includes any physical effort used to control or restrain another, or to overcome the resistance of another.

Deadly Force: The intentional use of a firearm or other instrument, the use of which would result in a high probability of death. Any use of force that is likely to cause death or great bodily harm.

Deadly Force Justification: Behavior which has caused, or imminently threatens to cause, death or great bodily harm to the officer or another person.

Choke Hold: A physical maneuver that restricts an individual's ability to breathe for the purposes of incapacitation.

Procedure

A. General Guidelines

1. Officers shall use only that amount of force that is objectively reasonable to control a situation, effect an arrest, or to control a person.
2. Officers shall not continue to use force more than is reasonably necessary to maintain control once control of the subject has been established.
3. Once control has been established the officer shall be responsible for monitoring the subject's condition and welfare.
4. Use of force instruments and techniques shall not be used punitively or for the purpose of coercion.
5. The use of choke holds is only allowable as a deadly force option, and shall not be used as a means of control absent the need by the officer to use deadly force.

B. Oleoresin Capsicum Spray (OC)

1. Officers, who have been trained and certified in the use of OC, shall carry a department approved OC canister while on duty. If the officer has a special duty assignment that does not make carrying OC feasible, the officer may be exempt from carrying OC for the assignment.

2. OC may be used by trained personnel when a subject is threatening to actively resist or is actively resisting, or poses a threat of harm to an officer or another person, and it appears that mere physical restraint by the officer may be ineffective.
 - Officers may also include in the decision to use this force option information known to the officer at the time of the incident, including conduct or statements of the subject or prior history of resistive or assaultive behavior
 - Passive resistance does not permit the use of OC
3. Department personnel who use OC against a person shall ensure the person is decontaminated as soon as practical after they are under control.
 - Continue to monitor the exposed person for any unusual reactions to the exposure. If the exposed person has an unusual reaction or requests medical attention, transportation to a medical facility shall be arranged
4. If circumstances permit, and it can be done without endangering department personnel, reasonable efforts to decontaminate animals should be made or the decontamination information conveyed to the animal's owner.

C. Electronic Control Device (ECD)

1. Qualification:
 - a. Officers must be trained and certified in the use of the issued ECD
 - b. Officers will only carry department approved ECD's, holsters and cartridges
 - c. At no time will officers make changes, adjustments, modifications, or attempt to disassemble an ECD
 - d. Officers shall immediately cease to carry an ECD or cartridge that they suspect may be defective or otherwise not in proper working condition. The defect will be reported to the Chief, who will make arrangements to get the defect corrected
 - e. Officers will conduct spark tests prior to the beginning of each shift and confirm that the ECD is in proper working order and holding a charge of no less than 30%

2. Criteria for Use:

- a. An ECD may be used when a subject is threatening to actively resist or is actively resisting, or poses a threat of bodily harm to an officer or another person, and it appears that mere physical restraint by the officer may be ineffective or subject the officer to bodily harm.
 - Officers may also include in the decision to use this force option information known to the officer at the time of the incident, including conduct or statements of the subject or prior history of resistive or assaultive behavior
 - Passive resistance does not permit the use of a ECD
- b. An ECD is not a substitute for deadly force. In each instance when an ECD is deployed to an incident, a determination will be made regarding the need for lethal cover. Lethal cover shall be required in all cases which a subject poses a threat with a deadly weapon.
- c. An ECD should not be knowingly used:
 - In obvious proximity to flammable liquids, gases, or any highly combustible materials that may be ignited by the device
 - When it is reasonable to believe that incapacitation of the subject may result in great bodily harm or death
- d. In non-lethal force situations, when possible and unless special circumstances exist, officers should avoid using an ECD on:
 - Persons in control of a vehicle
 - Pregnant women
 - People with an apparent debilitating illness

3. Deployment of an ECD

- a. Deployment of the ECD shall be in accordance with the department approved training that an officer has received:
 - Officers will not intentionally target the head and neck area of a subject
 - For maximum effectiveness, Tasers should be fired at upper center mass or the legs depending on clothing
 - Prior to deployment, an officer will make a reasonable assessment of the potential of injury to a

subject that is running, traveling at high speeds, or in an elevated position

- If practical, to warn persons in close proximity other than the suspect, officers should announce their intent to use an ECD before deployment by announcing "Taser, Taser"

4. Post Deployment

- a. Once a subject is safely secured; only trained officers shall remove the probes.
- b. Once the probes have been safely removed, the puncture site can be treated with a sanitizing element and a band-aid.
 - If the probe (s) penetrate a sensitive or soft tissue area such as face, neck, head, breast of a female, or genitalia of a female or male, only medical personnel shall remove them
 - Removed probes shall be treated as a biohazard and disposed of accordingly
- c. Officers shall monitor the subject for adverse reactions and inform the receiving agency (jail, secure detention, crisis center or others) that the subject has been tased. Whenever there is a doubt concerning the need for medical attention, it should be resolved through the examination of the subject by an appropriate medical facility.
- d. In the event an adverse reaction, or if requested by the subject, transportation shall be arranged to a medical facility.
- e. Photographs will be taken of the probe penetration areas should they penetrate the skin. Photographs should be taken of any other related injuries. If a drive stun technique has been used on a subject, photographs shall be taken of the area where the technique has been applied and any effected burn areas shall be depicted in the photos.
- f. Officers will collect the AFID's and secure/log them as evidence. If a drive stun was not used, the officer will also collect and secure the expended cartridge(s) as evidence.

5. Animal Deployment

- a. The use of an ECD on an animal should be based on the intent to provide safer, more humane and less traumatic conclusion to the incident.
- b. Officer's should be prepared to use other justified force if necessary.
- c. Officers may use an ECD on an animal if the officer reasonably believes that the animal is vicious and is threatening and/or attacking another person or other animal or if the animal is a public nuisance and needs to be controlled, and the use of other force in the officer's belief would not be appropriate or safe.
- d. Following deployment of a Taser, officers shall complete a Use of Force report and incident report. Said use of force report shall include the serial number of the Taser used and the AFID's.
- e. No person shall download the Taser data unless directed to do so by the Chief.

D. Incapacitating Techniques

1. Officers who have been trained in techniques such as the diffused strike or lateral vascular restraint may use such techniques to cause immediate, temporary cessation of violent behavior. These techniques usually render the subject temporarily unconscious.
 - Any officer utilizing such techniques shall as soon as practical have the subject evaluated by medical personnel.

E. Baton

1. Uniformed officers may carry an approved baton while on duty.
2. The use of batons is permitted to overcome continued active resistance or assaultive behavior or the threat of assaultive behavior when the officer reasonably believes that lesser force options would be ineffective or would subject the officer to bodily harm.
 - Officers may also include in the decision to use this force option information known to the officer at the time of the

incident, including conduct or statements of the subject or prior history of resistive or assaultive behavior

3. Officers should attempt to utilize the lower abdomen, legs, arms and shoulders as target areas (see State of Wisconsin DAAT Manual) Intentional impact of the head, neck, chest, groin or spinal column would be considered deadly force.
4. Subjects struck with a baton shall be transported to a medical facility for evaluation. Consider the need for EMS to respond to the incident location.

F. Use of Deadly Force

1. The use of deadly force is permissible under any of the following circumstances:
 - a. In the defense of another person who the officer has reasonable cause to believe is in imminent danger of death or great bodily harm.
 - b. In defense of one's self, when there is reasonable cause to believe one is in imminent danger of death or great bodily harm.
 - c. To effect the arrest or prevent the escape of a suspect who the officer has reasonable cause to believe 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 to another person.
 - d. To protect one's self 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 after considering public view, safety, and other reasonable dispositions.
2. When feasible, before using a firearm for deadly force, officers will identify themselves as a Police Officer and give verbal commands unless, due to tactical considerations, doing so would create more danger to the officer or others.
3. Generally, deadly force should not be used from a moving vehicle unless 1.a. or 1.b. in this section apply.

G. Pointing of Firearm at Person

1. If an officer points a firearm at a person in the course of duty and does not discharge the firearm, the officer shall detail those circumstances in an incident report. A use of force form is required.

D. First Aid and Medical Assistance

1. Whenever a person is injured as a result of force applied by an officer, officers on scene will immediately provide first aid and request medical assistance, if necessary, for the injured person as soon as it's safe to do so.

E. Officer Involved Shooting (OIS)

1. An officer involved in the shooting of another person which results in injury shall be allowed 48 hours for the purpose of rest, from the time of the shooting, prior to completing their statements and incident reports.
2. The officer involved should immediately seek the assistance of another law enforcement agency and turn command of the incident over to that agency's command staff. The Chief should also be immediately notified.
3. If death has occurred or is expected as a result of the shooting, of any person, an independent law enforcement agency, such as WI DCI, shall investigate the shooting.
4. An officer will be placed on paid administrative duties or leave following an OIS, until such time the Chief completes an internal investigation and determines the officer may return to regular patrol duty. This is not meant to serve as a punitive action.
5. The involved officer should control and preserve the scene and identify witnesses until the officer is relieved. The involved officer should not participate in the interview of witnesses. The collection of evidence should be completed by officers other than those involved in the shooting, unless immediate retrieval is warranted due to the safety of the public or to prevent evidence from being lost or destroyed.

H. Training

1. All officers shall participate and pass the WI T&S firearms qualifications course, at least annually.

2. All officers must have attended training in the use of OC and the ECD authorized by this department.

Department Use Only

This policy is for departmental use only and does not apply in any criminal or civil proceeding. Violations of this policy will only form the basis for departmental administrative sanctions.

Use of trained techniques are preferred; however, techniques not trained may be used as long as they fit the situation and the above guidelines. Techniques may be dynamically altered on the street

The use of excessive/unwarranted force/brutality will not be tolerated under any circumstances and may subject the officer to disciplinary action, criminal and civil liability.

When an officer is responsible for an accidental (unwanted) or intentional firearms discharge while on/off duty (other than during firearms training, hunting, and sporting or recreational activities), the officer shall complete a written report and forward it to the Chief.

Use of Force Documentation Checklist

I. Background Information.

- A. Day/date/time:
- B. Location/address/specific area:
- C. Officer(s) involved:
- D. Subject(s) involved:
- E. Witness(es):

II. Approach Considerations.

A. Decision making -- why did you initiate contact, i.e. justification and desirability?

1. Dispatched / duty assignment / uniformed?
2. Reasonable Suspicion.
3. Probable Cause.
4. Other reasons.

B. Tactical Deployment -- how did you approach?

1. Control of distance.
2. Positioning.
3. Team tactics.

C. Tactical Evaluation -- what were your perceptions.

1. Threat Assessment Opportunities?

a. Levels of Resistance - Describing what the subject is doing.

- (1). Unresponsive (Subject apparently unconscious).
- (2). Non-responsive (Subject conspicuously ignoring).
- (3). Dead-weight tactics (Subject decision not to assist his/her movement).
- (4). Resistive tension (Subject tightening up muscles).
- (5). Defensive resistance (Subject attempting to get away).
- (6). Aggressive resistance (Subject coming at / moving towards officers).
- (7). Physical assault (Subject personal weapons striking at officers).
- (8). Great bodily harm assault (Subject's actions/ability to cause harm).
- (9). Life threatening assault (Subject's ability to cause death).
- (10). Life threatening weapon assault (Subject's ability to cause death).

b. Early Warning Signs? Explain.

- (1). Conspicuously Ignoring.
- (2). Excessive Emotional Attention.
- (3). Exaggerated Movement.
- (4). Ceasing All Movement.
- (5). Known Violent Background.

c. Pre-attack Postures? Explain.

- (1). Boxer Stance.
- (2). Hand Set.
- (3). Shoulder Shift.
- (4). Target Glance.
- (5). Thousand Yard Stare.

d. Subject apparently "Emotionally Disturbed", i.e. mentally ill, under of influence of a drugs and/or alcohol, or is obviously in crisis and out of control? Explain.

e. Weapon Threat Assessment -- what weapons have you brought to the

scene? What weapons has the subject brought to the scene? What other weapons are available? Explain.

2. What were the Officer(s)/Subject(s) Factors?

- a. Number of Participants?
- b. Individual Factors Officer/Subject

- (1). Relative Ages.
- (2). (Sex) Relative Strengths.
- (3). Relative Sizes.
- (4). Relative Skill Levels.

3. Were there any Special Circumstances? Such as:

- a. Your Reasonable Perception of Threat.
- b. Sudden Assault.
- c. Your Physical Positioning.
- d. Subject's Ability to Escalate Force Rapidly.
- e. Your Special Knowledge about the Subject.
- f. Your Injury or Exhaustion.
- g. Other Special Circumstances.

4. Describing the Level/Stage/Degree of Stabilization achieved at each point of the disturbance:

- a. Presence Stabilization -- describe type and degree that the officer's or officers' physical presence stabilized the scene.
- b. Verbal Stabilization -- describe type and degree that the officer's verbal commands stabilized the scene.
- c. Standing Stabilization -- describe type, degree of stabilization, and if restraints were on yet.
- d. Wall Stabilization -- describe type, degree of stabilization, and if restraints were on yet.
- e. Ground Stabilization -- describe type, degree of stabilization, and if restraints were on yet.
- f. Special Restraints -- describe type, degree, and degree of immobilization.

III. Intervention Options

A. Presence

B. Dialog

C. Empty Hand Control

1. Escort Holds
2. Compliance Holds
3. Oleoresin Capsicum Spray
4. Passive Countermeasures
5. Active Countermeasures
6. Incapacitating Techniques

Note: The use of any force option is dependent on the officer's Tactical Evaluation of the situation that is based on Threat Assessment Opportunities, Officer(s) / Subject(s) Factors and Special Circumstances.

D. Intermediate Weapons.

E. Deadly Force.

Note: Summation of what happened in chronological order

IV. Follow-thru Considerations.

- A. Stabilization: Application of Restraints, if appropriate.
- B. Monitoring / Debriefing.
- C. Searching, if appropriate.
- D. Escorting, if necessary.
- E. Transportation, if necessary.
- F. Turnover: Remove Restraints, if necessary.

Note: Add additional comments

V. Investigative Findings.

- A. Background Information.
- B. Medical / Psychological History.
- C. Booking Information.
- D. Post-booking Information.
- E. Other Information.

** Also see attached Intervention Options appendix **

By Order of:
Paul Granger Chief of Police