

USE OF FORCE

Subject USE OF FORCE	
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Approved by Marshal Bradley Seymour	Effective date June 24, 2021
Records Management Statement Replaces 800-1 dated July 8, 2020	

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I. POLICY

It is the policy of the Village of Brownsville Police Department to establish guidelines regarding the use of force by its sworn personnel in the performance of their law enforcement duties. The Brownsville Police Department recognizes that these guidelines are supported by statutory and case law and that the application of force by department sworn personnel must be deemed reasonable.

II. OBJECTIVES

The key objective of this policy is to provide sworn personnel with an awareness and understanding that all force utilized in the performance of their duties needs to be objectively reasonable as outlined in the case law of *Graham v. Connor*.

Considerations for "objectively reasonable" are the severity of the alleged crime, imminent threat to the safety of sworn personnel and/or others, and/or the suspect is actively resisting or attempting to evade arrest by flight. This reasonableness shall be judged under the "totality" of the circumstances by a reasonable officer at the scene with like experience and training.

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- I. **Electronic Control Device (ECD)** – in the present context, this term refers to a weapon designed to disrupt a subject’s central nervous system by means of deploying battery powered electrical energy sufficient to cause uncontrolled muscle contractions and override an individual’s voluntary motor responses.
- J. **Employee** – as used in this policy, is intended to apply to sworn personnel falling within the statutory definition of peace officer [s. 939.22(22)].
- K. **Felony** – a crime punishable by imprisonment in the Wisconsin state prisons is a felony. Every other crime is a misdemeanor [s. 939.60].
- L. **Force** – the intentional application of physical force other than deadly force.
- M. **Great Bodily Harm** – 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 [s. 939.22(14)].
- N. **High Risk Vehicle Contact** – a vehicle contact in which the officers' perception of danger is very high. Typically, these contacts involve multiple officers utilizing hand and/or long guns, ordering of vehicle occupants out one at a time, etc.
- O. **Impact Weapon** – all objects and instruments that are used, or are designed to be used, to apply force to another person by coming into physical contact with that person. Impact weapons include, but are not limited to, the expandable baton, riot baton and less lethal impact munitions.
- P. **Less Lethal Force** – the intentional application of force for the purpose of encouraging compliance, overcoming resistance or its threat, or preventing serious injury without posing significant potential of causing death.
- Q. **Less Lethal Impact Munitions** – refers to munitions, flexible or non-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 munitions include, drag stabilized beanbags, stabilized rubber rounds and other Department approved items.
- R. **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.
- S. **Oleoresin Capsicum (O.C.)** – refers to a less-than-lethal product derived from the extract of the capsicum pepper plant, which causes inflammation over areas of contact (the face, eyes, nose, and mouth). Used as a control alternative against resistive or combative subjects, or aggressive animals.
- T. **Peace Officer** – any person vested by law with a duty to maintain public order or to make arrests for crime, whether that duty extends to all crimes or is limited to specific crimes. "Peace officer" includes a commission warden [s. 939.22(22)].

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- B. Accomplishing Objectives – When justified in using force, employees are not obligated to desist because resistance is encountered or threatened. Employees may not only stand their ground, but may press forward to achieve a lawful objective, overcoming resistance with the force reasonably necessary to accomplish the mission.
- C. Justification Limited to Facts Known to Employee – Justification for the use of force or deadly force must be limited to what reasonably appears to be the facts known or perceived by the employee at the time the employee decides to act. Facts unknown to the employee, no matter how compelling, cannot be considered in later determining whether the force used was justified or unjustified.
- D. Employee Identification – Whenever feasible, employees shall identify themselves and make known the purpose of the arrest unless the employee reasonably believes that his/her identity and purpose are otherwise known by or cannot reasonably be made known to the person to be arrested. This is particularly important when the officer is dressed in civilian attire.
- E. Use of Handcuffs – Employees of the Village of Brownsville Police Department shall handcuff all persons arrested for a felony. Whenever a person is arrested for a misdemeanor, a violation of a traffic regulation or other offense, the decision to handcuff is the officer's. Generally, if the person arrested is to be transported in a patrol vehicle, the arrested person should be handcuffed behind the back for the safety of the employee. When available, patrol vehicles equipped with cages should be used to transport prisoners. Whenever handcuffs are used, they shall be checked for fit and double-locked. All prisoners being transported in Village of Brownsville Police Department vehicles shall be searched prior to transportation.
- F. Use of Oleoresin Capsicum (O.C.) – The use of O.C. will fall under control alternatives in the intervention options of the Disturbance Resolution Model, *“to overcome active resistance or its threat.”*
- G. Prohibited Weapons – Employees are prohibited from carrying on their person or in a Village of Brownsville Police Department vehicle, any unauthorized guns, knives, chemical agents, ammunition, or any other instruments which are designed to be used as defensive or offensive weapons, except those confiscated by the employee and being transported as evidence or for storage.
 - 1. Examples of prohibited weapons include, but are not limited to:
 - a. black-jacks
 - b. sling-shots
 - c. slap-sticks
 - d. saps
 - e. sap gloves
 - f. electric shocking devices (excluding Electronic Control Devices (ECD's) purchased and/or issued by the Department)
 - g. brass knuckles

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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. Less lethal impact munitions may be utilized by trained employees during situations where training and experience indicate that other controls would be less effective, or prove dangerous, and viewed as reasonable under the protective alternatives within the Disturbance Resolution Model (see Attachment 1).

VI. USE OF DEADLY FORCE

The use of deadly force is justifiable in the performance of an officer's duty when confronted by a subject, or subjects, which exhibit behavior that has caused or imminently threatens to cause death or great bodily harm to the employee or another person or persons, and only after other reasonable options have been exhausted or would prove to be ineffective is deadly force justified. This justification may include the use of deadly force against a fleeing subject provided the officer reasonably believes that the subject poses an imminent threat of death or great bodily harm to others or the community at large (Tennessee v. Garner).

The use of a choke hold to control an individual is not authorized except in life-threatening situations or in self-defense. [s. 66.0511(2)]

VII. USE OF ISSUED OR AUTHORIZED FIREARMS

- A. Minimizing the Risk of Death – When a firearm is used, there is a realization that death could occur; however the intent of a firearms use is to stop the threat, not kill. Target requirements are necessary in ensuring that there is no substantial risk of hitting an innocent bystander, with the understanding that target isolation may not always be met due to a greater danger.
- B. Drawing of Firearm – Nothing in this policy and procedure shall prevent the employee from drawing the firearm (shotgun, rifle or handgun, as appropriate) during the course of an arrest or an investigation when the employee deems it necessary for his/her safety or the safety of another person. The trigger finger shall rest alongside of the receiver, outside of the trigger guard, until such time as the actual pulling of the trigger is authorized.
- C. Permissible Discharge of a Firearm – Department employees may discharge their issued firearms under the following circumstances:
 1. In the performance of their duty, when confronted by a subject, or subjects, which exhibit behavior that has caused or imminently threatens to cause death or great bodily harm to the employee or another person or persons, and only after other reasonable options have been exhausted or would prove to be ineffective.
 2. Firing at or from a moving vehicle is generally prohibited and may be utilized only in rare and unusual circumstances and then only when in compliance with all other requirements of this policy.
 3. For the purpose of firearms training, sanctioned competitions, or animal euthanasia.

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- B. As soon as subject control or restraints is reasonably accomplished, officers will then be responsible for procuring the appropriate medical treatment for any injuries which may have been incurred by the arrested subject.
- C. A description of the injuries incurred by the arrested subject and all medical treatment provided or made available will be included in an incident report detailing the use of force.

X. ELECTRONIC CONTROL DEVICES – TASER X26 & M26

- A. When available, taser (ECD) trained officers assigned to patrol functions shall carry a taser unit while on duty.
- B. An electronic control device may be used by trained personnel when a subject is threatening to actively resist or is actively resisting an officer and the subject poses an articulable threat of harm to an officer or another person. It may also be used when the subject poses a threat of harm to himself or herself such as self-inflicted injury or a suicide attempt.
 - 1. The definition of active resistance generally prohibits, for example, use of control devices against verbal aggression; people who are running away; children and older persons; an/or persons engaged in peaceful disobedience, unless there is justification of reasonableness from Approach Considerations.
 - 2. 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. Mere passive resistance (e.g. refusal to comply with verbal commands, going limp, stiffening of limbs without struggling or verbal arguments against being arrested, etc.) without posing an articulable threat of harm to the officers or others does not permit the use of an electronic control device.
 - 4. Officers shall not use electronic control devices when in obvious proximity to flammable liquids, gases or any highly combustible materials that may be ignited by the device.
 - 5. Absent extenuating circumstances, officers should not use electronic control device on a woman if they have knowledge that she is pregnant.
- C. In each instance when an electronic control device is deployed during an incident, a determination will be made regarding the need for lethal cover.
 - Lethal cover shall be required in all cases in which the subject possesses a firearm.
- D. Village of Brownsville Police Department personnel who use an electronic control device against a person shall ensure the person is monitored for injury as soon as practical after the person is under control.
- E. If an adverse reaction to the electronic control device occurs, or if requested by the subject, transport to a medical facility shall be arranged.

BROWNSVILLE POLICE DEPARTMENT

USE OF FORCE

NUMBER <p style="text-align: center;">800-1</p>

VILLAGE OF BROWNSVILLE POLICE DEPARTMENT

USE OF FORCE REPORT (O.C. SPRAY)

OFFICER: _____ COMP. # _____

SUBJECT'S NAME: _____ DOB: _____

SUBJECT'S ADDRESS: _____

AGE: _____ WEIGHT: _____ HEIGHT: _____

TYPE OF INCIDENT: _____ DATE/TIME: _____ / _____

LOCATION: _____ CHARGES:

WITNESSES (name & address): _____

USE OF FORCE ACTIVITY: _____

WAS SUBJECT: INTOXICATED Y - N; ARMED Y - N
 RESISTING Y - N; FLEEING Y - N

NATURE OF INCAPACITATION, if any: _____

O.C. (OLEORESIN CAPSICUM) CONTAMINATION; DECONTAMINATION EFFORTS AND RESULTS: _____

DID SUBJECT COOPERATE WITH DECONTAMINATION: Y - N

OFFICER SIGNATURE: _____ BADGE: _____

CHIEF'S REVIEW: _____

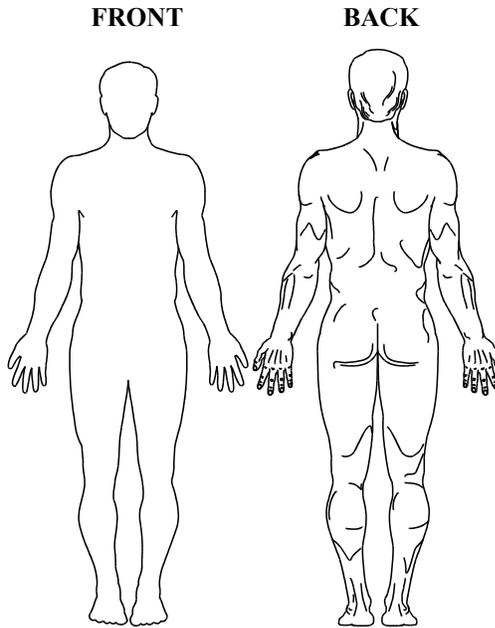
CHIEF'S SIGNATURE: _____ DATE: _____

USE OF FORCE INSTRUCTOR REVIEW: _____

INSTRUCTOR SIGNATURE: _____ DATE: _____

APPLICATION AREAS

(Place "X's" where probes hit suspect AND "O's" where stunned)



Officer Signature: _____ Badge #: _____

Chief's Review:

Chief's Signature: _____ Date: _____



Use of Force Instructor Review:

Instructor Signature: _____ Date: _____