

SHEBOYGAN FALLS POLICE DEPARTMENT POLICY		TITLE: USE OF FORCE	
ISSUE DATE: 01/01/2019	LAST UPDATE: 12/22/21	SECTION: Operational	FILE NAME: 2.2
POLICY SOURCE: Chief of Police / Director of Public Safety			TOTAL PAGES: 11
SPECIAL INSTRUCTIONS:			

I. PURPOSE

The purpose of this policy is to provide Sheboygan Falls Police Department sworn personnel with the guidelines for the use of deadly and non-deadly force. Proper use of force decisions, based on reasonableness, ensure due process for citizens and provide protection for the officer and the Department.

II. POLICY

It is the policy of the Sheboygan Falls Police Department that all law enforcement officers shall make every effort to preserve and protect human life and the safety of all persons. All sworn personnel shall use only the amount of force that is objectively reasonable and necessary to arrest, restrain, or control a suspect. Deadly force shall never be resorted to until every other reasonable means of apprehension or defense has been exhausted or would have been proven ineffective. Officers of the Sheboygan Falls Police Department shall also respect and uphold the dignity of all persons at all times in a nondiscriminatory manner.

This policy is based on the Defense and Arrest Tactics (DAAT) program of the State of Wisconsin as developed by the Training and Standards Board (Department of Justice-Bureau of Training and Standards).

Police officers should identify themselves and state their intent to shoot before using a firearm whenever safety permits.

III. DEFINITIONS

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

Deadly Force: The intentional use of a firearm or other instrument, the use of which would result in a high probability of death.

Deadly Force Justification: Any behavior which has caused or imminently threatens to cause death or great bodily harm to you or another person or persons.

Defense and Arrest Tactics: A system of verbalization skills coupled with physical alternatives. It is the specific system formulated, approved and governed by the State of Wisconsin Training and Standards Board.

Excessive Force: The use of more force than is reasonable. The use of excessive force will not affect the validity of an arrest. However, it will expose the officer to a civil suit, discipline, or both, and in aggravated circumstances, possible criminal liability.

Electronic Control Device: A Neuro-Muscular Incapacitation weapon that disrupts the body's ability to communicate messages from the brain to the muscles causing temporary motor skills dysfunction to a subject. Commonly known as a Taser.

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.

Intervention Options: Trained techniques recognized in the DAAT system. These techniques may include additional techniques trained and authorized by the Sheboygan Falls Police Department.

Kinetic Energy Impact Projectiles: Flexible or non-flexible projectiles, which are intended to incapacitate a subject with minimal potential for causing death or great bodily harm when compared to conventional projectiles.

Law Enforcement Officer/ Officer: Any person employed by the state or any political subdivision of the state (including the City of Sheboygan Falls) for the purpose of detecting and preventing crime and enforcing laws or ordinances and who is authorized to make arrests for violation of the laws or ordinance that the person is employed to enforce. "Law enforcement officer" includes a university police officer as defined in Wis § 175.42(1)(b). Per Wis §165.82(2)(c).

Less-Lethal Force Philosophy: A concept of planning and forced application, which meets operational objectives, with less potential for causing death or great bodily harm than conventional police tactics.

Non-Deadly Force: That amount of control where the level of force is not likely to result in a high probability of death.

Objectively Reasonable: In determining the necessity for force and the appropriate level of force, officers shall evaluate each situation in light of the known circumstances, including, but not limited to, the seriousness of the crime, the level of threat or resistance presented by the subject and the level to the community.

Reasonable Force: A physical act by a police officer in the performance of duty

when used to accomplish a legitimate law enforcement goal and the level of force used is reasonable considering all the facts and circumstances known to the officer at the time of the incident.

Reasonably Believes: Information 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.

IV. PROCEDURE

It is the intent of the Sheboygan Falls Police Department that its officers utilize the Wisconsin Law Enforcement Standards Board (WLESB) Disturbance Resolution Outline (below) for how officers deal with situations in which they must intervene to resolve a disturbance.

When using force, a law enforcement officer is required to act in good faith to achieve a legitimate law enforcement objective. A law enforcement officer is authorized to use force that is objectively reasonable based on the totality of the circumstances, including:

- A. The severity of the alleged crime at issue
- B. Whether the suspect poses an imminent threat to the safety of law enforcement officers or others.
- C. Whether the suspect is actively resisting or attempting to evade arrest by flight.

Wis State Stat §175.44(2)(b)

DISTURBANCE RESOLUTION

The outline presents a more specific model of how to proceed when responding to any disturbance or potential disturbance (i.e., serving an arrest warrant on someone). Any use of force shall be objectively reasonable based on the totality of the circumstances standard which aligns with the United States Supreme Court Decision in Graham v. Connor (1989).

A. APPROACH CONSIDERATIONS

1. *Decision-Making*
 - a. *Justification*
 - b. *Desirability*
2. *Tactical Deployment*
 - a. *Control of Distance*
 - b. *Relative Positioning*
 - c. *Relative Positioning with Multiple Subjects*

- d. *Team Tactics*
- 3. *Tactical Evaluation*
 - a. *Threat Assessment Opportunities*
 - b. *Officer/Subject Factors*
 - c. *Special Circumstances*
 - d. *Level/Stage/Degree of Stabilization*

B. INTERVENTION OPTIONS

If the initial approach leads an officer to intervene, officers have a range of responses open to them. These are outlined in the Intervention Options, which identify the various tactics available to an officer.

Intervention Options are divided into six modes, each reflecting the need for an increasing level of control. Although the Intervention Options are divided into five modes, officers can move from one mode to another as appropriate. Officers are authorized to use the amount and level of force reasonably necessary to control a subject. For example, if dialog—talking with a person—is enough to control them, officers do not need to use more force. On the other hand, some situations may be so extreme that officers need to use deadly force. At any time, if a different level of force is appropriate, officers can use it. Here are six key rules for the use of force:

1. *The purpose of using force is **to gain control** in pursuit of a legitimate law enforcement objective. If verbalization is effective in gaining control, it is always preferable to physical force.*
2. *Officers may initially use the level and degree of force that is reasonably necessary to achieve control. Officers need not escalate step-by-step through the Intervention Options. As the situation dictates, an officer may move from any mode if the officer reasonably believes that a lower level of force would be ineffective.*
3. *At any time, if the level of force an officer is using is not effective to gain control, the officer may **disengage** and/or **escalate** to a higher level of force.*
4. *Once officers have gained control of a subject, they must **reduce** the level of force to that needed to maintain control.*
5. *Officers must always maintain a position of advantage.*

MODE	PURPOSE
<i>A. Presence</i>	<i>To present a visible display of authority</i>
<i>B. Dialogue</i>	<i>To verbally persuade</i>
<i>C. Control Alternatives</i>	<i>To overcome passive resistance, active resistance, or their threats</i>
<i>D. Protective Alternatives</i>	<i>To overcome continued resistance, assaultive behavior, or their threats</i>
<i>E. Deadly Force</i>	<i>To stop the threat</i>

In any use of force, officers should be prepared to explain where the force was in the Intervention Options and why they resorted to the level of force they did. When an officer uses force as a part of their law enforcement duties, their use of force must be either a trained technique, a dynamic application of a trained technique, or a technique not trained but justifiable under the circumstances. An officer must detail this information clearly in an incident report.

C. FOLLOW-THROUGH CONSIDERATIONS

The third part of Disturbance Resolution is Follow-Through Considerations, which refers to an officer's actions after using force. These are critical. Once an officer has taken the step of putting someone in custody, officers are responsible for that person's well-being. Even if the officers have to use force to subdue them, once officers achieve control, they must mentally and physically shift gears to follow-through procedures. These fall naturally into six phases:

- | | |
|-----------------------------|--|
| <i>1. Stabilize</i> | <i>Application of restraints, if necessary</i> |
| <i>2. Monitor/Debrief</i> | |
| <i>3. Search</i> | <i>If appropriate</i> |
| <i>4. Escort</i> | <i>If necessary</i> |
| <i>5. Transport</i> | <i>If necessary</i> |
| <i>6. Turn-Over/Release</i> | <i>Removal of restraints, if necessary</i> |

V. AUTHORIZED LESS-LETHAL WEAPONS

A. AEROSOL PEPPER PROJECTOR:

1. **Aerosol Pepper Projector:** The Aerosol Pepper Projector, Oleoresin Capsicum (OC), has been authorized for use by the Sheboygan Falls Police Officers. The Department-issued OC aerosol will be First Defense brand OC with a non-flammable carrier with a non-toxic

propellant. No chemical agent is authorized or allowed. (This excludes CN and CS-based defense sprays from use.)

2. Officers will be trained in the use of OC, and be familiar with its various uses.
3. The Aerosol Pepper Projector is used to overcome passive and/or active resistance or its threat. Officers who use an Aerosol Pepper Projector must use it consistent with DAAT Training and the WLESB.
4. After using OC on a subject, and after the subject is under control, the officer will assess the person's medical needs. Removing the subject to fresh air and flushing the area with cold water may be used as immediate care. If additional care is needed, the officers should request EMS.

B. BATON:

1. Sheboygan Falls Police Officers are authorized to carry a 21 and 26-inch expandable baton or a 26-inch wooden baton (for special assignments approved by a supervisor). The expandable baton will have a black handle and a silver or black shaft.
2. A baton is a tool used by officers to overcome continued resistance, assaultive behavior, or threats.
3. Officers who utilize the baton as an impact weapon will use it consistent with DAAT Training and the WLESB.
4. After utilizing a baton on a subject, the officer will assess the person's medical needs after the subject is under control. If additional care is needed, the officers should request EMS.

C. ELECTRONIC CONTROL DEVICE (ECD):

1. Sheboygan Falls Police Officers are authorized to carry a Taser X26 or X26P.
2. The Taser X26 and X26P are approved Electronic Control Devices and may be used to overcome active resistance or their threats.
3. Officers who utilize the Taser X26 or X26P in this manner will use it consistent with DAAT Training, the WLESB, and additional Sheboygan Falls Department Policy. (Refer to SFPD ECD Policy 9.8)
4. After deploying the Taser X26 or X26P on a subject, the officer will assess the person's medical needs after the subject is under control. If additional care is needed, the officers should request EMS.

D. KINETIC ENERGY IMPACT PROJECTILES:

1. Only trained Sheboygan Falls Police Officers are authorized to utilize Specialty Impact Munitions. Specialty Impact Munitions are commonly known as "Bean Bag" rounds. They are fired from a department-issued Remington 870 shotgun with orange-colored stock

and forearm.

2. An authorized Specialty Impact Munition may be utilized to overcome continued resistance, assaultive behavior, or threats and when it is reasonably apparent that a lesser degree of force would be inadequate to control the situation.
3. The goal of Specialty Impact Munitions is to impede a subject, preventing them from continuing resistive, assaultive, or otherwise dangerous behavior.
4. The acceptable primary target areas for the Specialty Impact Munitions are buttocks and thighs. Secondary target areas include the shoulder, arm, lower abdominal, and leg/knee areas.
5. Officers who utilize Specialty Impact Munitions will be consistent with DAAT and Firearms Training, the WLESB, and any additional Sheboygan Falls Department Policy.
6. After deploying Specialty Impact Munitions on a subject, the officer will assess the person's medical needs, and the officers will request EMS after the subject is under control.

VI. AUTHORIZED ON DUTY FIREARMS:

A. DUTY WEAPON:

While on duty, officers shall carry a department-issued Smith and Wesson, M&P .40 caliber pistol. The department recognizes there may be a requirement for a special use weapon by officers working plain clothes or undercover. These weapons must be approved by the Chief of Police or designee. The officer utilizing the weapon must have received training and qualify with a range officer before utilization.

B. SHOTGUN:

The Sheboygan Falls Police Department's authorized shotgun shall be the Remington 870, slide action shotgun, 12 gauge.

C. TACTICAL RIFLE:

The department authorized tactical rifle shall be AR15 based weapon approved by the Chief of Police and Firearms Instructors. Only authorized department-issued tactical rifles shall be used by on-duty officers.

D. AMMUNITION:

1. Ammunition to be used for on-duty law enforcement purposes shall be that ammunition approved by the Chief of Police and issued by a Department Firearms Instructor and specified as duty ammunition. No substitutions will be allowed.
2. The approved and issued handgun duty ammunition is a 180 grain .40 S&W caliber type issued by a Department Firearms Instructor.
3. The approved and issued tactical rifle duty ammunition is a 55 grain, .223 caliber style issued by a Department Firearms Instructor.

VII. DEADLY FORCE:

- A. A law enforcement officer may use deadly force only to stop behavior that has caused or imminently threatens to cause death or great bodily harm to the law enforcement officer or another person.
- B. A law enforcement officer may use deadly force only as a last resort when the law enforcement officer reasonably believes that all other options have been exhausted or would be ineffective.
- C. If both practicable and feasible, a law enforcement officer shall give a verbal warning before using deadly force.

VIII. RESTRICTIONS ON THE USE OF FIREARMS

- A. All due care shall be used to prevent injury to citizens.
 1. Warning Shots will not be fired for any reason.
 2. The use of a firearm at a moving vehicle is considered deadly force and must meet the requirements of Deadly Force in section XI and Fleeing Suspects in section XII of this policy.
 3. Carrying or use of unauthorized backup firearms is prohibited.

IX. CHOKE HOLD

- A. The Choke Hold restraint is prohibited, except in those situations where deadly force is allowed by law. Any use of a choke hold shall be treated and reported as deadly force.

X. FLEEING SUSPECT

- A. Officers shall not use deadly force against a fleeing suspect unless **BOTH of the following conditions are met**
 1. Deadly force is necessary to prevent the escape and
 2. The officer has probable cause to believe that the suspect poses a significant threat of death or serious injury to the officer or others

XI. AUTHORIZED RESTRAINTS**A. HANDCUFFS:**

1. Sheboygan Falls Police Officers are authorized to carry Peerless or Smith and Wesson brand, chain or hinged style, all-metal handcuffs. Handcuffs can be silver or black.
2. An officer shall place handcuffs on any individual detained for a lawful reason or when an officer reasonably believes the individual may become violent, attempts to escape, or poses a danger to themselves or others. While the actual decision to use or not use handcuffs is left to the officer's reasonable assessment of the individual being taken into custody.
3. Handcuffs shall be used when transporting all prisoners.
4. Whenever possible or feasible, officers shall handcuff suspects with their arms to the rear and palms facing outward. Handcuffs should be

- secure, allowing the wrists to turn slightly inside the cuff and be safety locked to prevent continuous tightening. Officers may choose to handcuff an individual in front due to the suspect's physical disability.
5. After placing handcuffs on an individual, officers should exercise caution to prevent the person in custody from falling and provide physical escort when walking.
 6. Plastic handcuffs may be used when officers take into custody several persons when a prisoner requires multiple restraints or for special circumstances to prevent escape.
 7. A restraint belt may be used in addition to handcuffs or approved plastic restraints as trained by a certified DAAT instructor.
 8. The hog tying of a suspect is never allowed.

XII. USE OF FORCE TRAINING:

A. Non-Deadly Force

1. All sworn personnel will receive designated training and certification as required by this Department and shall re-qualify in the Defensive and Arrest Tactics (DAAT) System as deemed appropriate.
2. A State Certified DAAT Instructor will provide training.
3. Overall performance rating will be determined by competency-based evaluation.
4. Officers not attaining minimum training standards will receive remedial instruction from a certified DAAT Instructor. Officers unable to qualify after remedial training will be referred to the Chief of Police for an evaluation of fitness for duty.
5. All use of force training will be documented and retained in the Department's training files.

B. Deadly Force

1. All sworn personnel will participate and qualify annually in the State of Wisconsin Handgun Qualification Course.
2. A State Certified Firearms Instructor will provide training.
3. Performance rating will be based on the standards set by the State of Wisconsin Handgun Qualification Course.
4. Officers not attaining minimum training standards will receive remedial instruction from a Certified Firearms Instructor. Officers unable to qualify after remedial training will be referred to the Chief of Police for an evaluation of fitness for duty.
5. All use of force training will be documented and retained in the Department's training file.

XIII. DUTY TO INTERVENE

- A. Any law enforcement officer, without regard for chain of command, who observes an improper use of force shall intervene and stop the inappropriate use of force when it is safe and reasonable to do so.

- B. Any officer that witnesses an instance of noncompliant use of force with or without intervention shall immediately report the incident in writing to a lieutenant or higher as soon as practicable. The supervisor will investigate the circumstances associated with the use of force.
 - 1. Failure to report noncompliant use of force may be criminally charged under Wis State Statute §175.44(3)(b). If multiple law enforcement officers witness the noncompliant use of force each law enforcement officer must immediately report the use of force as soon as practicable.
 - 2. The written documentation must include nature of the incident, time and date, the noncompliant use of force, and the reason knowledge that the use of force is noncompliant.
 - 3. If a Sheboygan Falls law enforcement officer is working in a multiagency task force and witnesses noncompliant use of force during their official duties, the law enforcement officer shall as soon as practicable report it to their multiagency supervisor and in writing to their Sheboygan Falls Police Department immediate supervisor.
- C. In accordance with Wisconsin 2021 Act 75, Off-Duty Sheboygan Falls Police Officers are required to intervene when they see use of force that is not compliant with the State of Wisconsin Use of Force Intervention Options when it is safe to do so. Safety issues for an off-duty officer intervention might include but are not limited to:
 - 1. Is the officer in the jurisdiction of the City of Sheboygan Falls Police Department?
 - 2. Is the officer in uniform or otherwise immediately identifiable as a law enforcement officer?
 - 3. Is the observed use of force in the context of an ongoing tactical situation?
 - 4. Is the officer's intervention likely to escalate the situation?
 - 5. Is the off duty officer known to the on duty officer(s)? If the off duty officer is not known to the on duty officer(s), it may reduce the safety of intervening as the on duty officer(s) would have no basis to believe that the off duty officer was actually an officer. This could result in on duty officers using force against off duty officers.
 - 6. Off duty officers typically do not have all of their protective equipment, such as ballistic resistant vest, ECW, OC, handcuffs, firearm, etc. The lack of equipment is something which the off duty officer should consider when deciding if it is safe to intervene.
 - 7. Off duty officers are typically not in uniform, and it is likely that they will not easily be recognizable as a law enforcement officer.

XIV. WHISTLEBLOWER PROTECTIONS

- A. No law enforcement officer may be discharged, disciplined, demoted, or denied promotion, transfer, or reassignment, or otherwise discriminated against in regard to employment, or threatened with any such treatment,

because:

1. The law enforcement officer reported, or is believed to have reported any noncompliant use of force as outlined in this policy or Wisconsin State Statute.
2. The law enforcement officer intervened to prevent or stop a noncompliant use of force as outlined in this policy or Wisconsin State Statute.
3. The law enforcement officer initiated, participated in, or testified in, or is believed to have initiated, participated in, or testified in, any action nor proceeding regarding the noncompliant use of force.
4. The law enforcement officer provided any information, or is believed to have provided any information, about noncompliant use of force as outlined in this policy or Wisconsin State Statute.

XV. WEAPONS MAINTENANCE:

- A. Officers will keep their issued firearms and all department weapons in clean and serviceable condition. A supervisor, firearms instructor, or DAAT instructor will periodically and randomly inspect to ensure the firearms and department weapons are in proper condition.
- B. If at any time a firearm malfunction develops which cannot be corrected through corrective action drills, the firearm will be immediately taken out of service for inspection/repair. A replacement firearm shall be issued immediately. ECD malfunctions will also be assessed and taken out of service for inspection/repair in the same manner. Aerosol Pepper Projector will be taken out of service and replaced when needed by a DAAT Officer. All other issued weapons and handcuffs are the responsibility of the officer to repair/replace when needed.
- C. A Department administrator will maintain an official record of each weapon issued to each sworn Department member.

Retention: Permanent
Distribution: All Personnel
Supersedes:
Updated: December 22, 2020
September 1, 2021
December 22, 2021

By: Eric J. Miller
Chief of Police