

Use of Force

300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force (Wis. Stat. § 66.0511(2)).

While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner.

In addition to those methods, techniques, and tools set forth below, the guidelines for the reasonable application of force contained in this policy shall apply to all policies addressing the potential use of force, including but not limited to the Control Devices and Techniques and Conducted Energy Device policies.

300.1.1 DEFINITIONS

Definitions related to this policy include:

Deadly force - Force reasonably anticipated and intended to create a substantial likelihood of causing death or great bodily harm. Deadly force includes the intentional use of a firearm or other instrument that creates a high probability of death or great bodily harm.

De-escalation - De-escalation is a concept that involves 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.

Feasible - Reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.

Force - The application of physical techniques or tactics, chemical agents, or weapons to another person. It is not a use of force when a person allows themselves to be searched, escorted, handcuffed, or restrained.

Imminent - About to happen, impending. An imminent threat is an immediate threat.

Totality of the circumstances - All facts and circumstances known to the officer at the time, taken as a whole, including the conduct of the officer and the subject leading up to the use of force.

300.2 POLICY

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

Officers must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties.

Nekoosa Police Department

Nekoosa Police Department Policy Manual - update 12/29/23

Use of Force

The Nekoosa Police Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation, and a careful balancing of all interests.

300.2.1 DUTY TO INTERVENE AND REPORT

Any officer present and observing another law enforcement officer or a member using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intervene to prevent or stop the use of unreasonable force (Wis. Stat. § 175.44).

Any officer who intervenes and/or observes another law enforcement officer or a member use force that is potentially beyond that which is objectively reasonable under the circumstances shall report these observations and/or intervention to a supervisor as soon as practicable after the occurrence of the use of force (Wis. Stat. § 175.44).

300.2.2 PERSPECTIVE

When observing or reporting force used by a law enforcement officer, each officer should take into account the totality of the circumstances and the possibility that other law enforcement officers may have additional information regarding the threat posed by the subject.

300.3 USE OF FORCE

Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by this department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

Nekoosa Police Department

Nekoosa Police Department Policy Manual - update 12/29/23

Use of Force

300.3.1 USE OF FORCE TO EFFECT AN ARREST

A law enforcement officer may use reasonable force to arrest a person or execute a warrant. Additionally, a law enforcement officer making a lawful arrest may command the aid of any person, and such person shall have the same power as that of the law enforcement officer (Wis. Stat. § 968.07; Wis. Stat. § 968.14).

300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include but are not limited to:

- (a) Immediacy and severity of the threat to officers or others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- (c) Officer/subject factors (e.g., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The effects of suspected drug or alcohol use.
- (e) The individual's mental state or capacity.
- (f) The individual's ability to understand and comply with officer commands.
- (g) Proximity of weapons or dangerous improvised devices.
- (h) The degree to which the individual has been effectively restrained and his/her ability to resist despite being restrained.
- (i) The availability of other reasonable and feasible options and their possible effectiveness.
- (j) Seriousness of the suspected offense or reason for contact with the individual.
- (k) Training and experience of the officer.
- (l) Potential for injury to officers, suspects, and others.
- (m) Whether the individual appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.
- (n) The risk and reasonably foreseeable consequences of escape.
- (o) The apparent need for immediate control of the individual or a prompt resolution of the situation.
- (p) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (q) Prior contacts with the individual or awareness of any propensity for violence.
- (r) Any other exigent circumstances.

Nekoosa Police Department

Nekoosa Police Department Policy Manual - update 12/29/23

Use of Force

300.3.3 USE OF FORCE TO SEIZE EVIDENCE

In general, officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, officers are discouraged from using force solely to prevent a person from swallowing evidence or contraband.

300.3.4 ALTERNATIVE TACTICS - DE-ESCALATION

When circumstances reasonably permit, officers should use non-violent strategies and techniques to decrease the intensity of a situation, improve decision-making, improve communication, reduce the need for force, and increase voluntary compliance (e.g., summoning additional resources, formulating a plan, attempting verbal persuasion).

300.3.5 ALTERNATIVE TACTICS - CHOKEHOLDS

In the instance when force is used, officers should not intentionally use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted. The application of techniques that restrict blood flow to the head such as "choke holds" carotid holds or other vascular neck restraints are prohibited except where the justified use of deadly force is permitted by law.

300.3.6 ADDITIONAL REQUIREMENTS

Any use of force by an officer shall be undertaken in good faith to achieve a legitimate law enforcement objective.

300.4 DEADLY FORCE APPLICATIONS

An officer may use of deadly force when justified. Deadly force justification is defined as behavior which has caused or imminently threatens to cause death or great bodily harm to you or another person/s. The use of deadly force is justified under the following circumstances:

- (a) An officer may use deadly force to protect him/herself or others from what he/see reasonably believes would be an imminent threat of death or great bodily harm.
- (b) An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the person has committed, or intends to commit, a felony involving the infliction or threatened infliction of great bodily harm or death, and the officer reasonably believes there is an imminent risk of great bodily harm or death to any other person if the subject is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, when feasible.

Imminent means "about to happen." An imminent threat is an immediate threat. For a subject's threat to be considered imminent, it must meet three criteria;

- Intent-The subject must indicate their intent to cause great bodily harm or death to you or someone else.
- Weapon-The subject must have a weapon capable of inflicting great bodily harm or death.
- Delivery System-The subject must have a means of using the weapon to inflict harm.

Nekoosa Police Department

Nekoosa Police Department Policy Manual - update 12/29/23

Use of Force

300.4.1 PURPOSE OF DEADLY FORCE

The purpose for using deadly force is to stop a threat. When the threat stops, you must stop shooting. Your judgment as to whether the threat has stopped is based on your reasonable perception of the totality of the circumstances at the time.

300.4.2 TARGET REQUIREMENTS

If you have determined that you face a threat that meets the requirements to permit a deadly force response, and you have decided to shoot, you must still fulfill three target requirements:

- Target acquisition-you have acquired the an actual target to shoot at
- Target identification-you have identified your target as the source of the imminent threat
- Target isolation-you can shoot at your target without danger of harming innocent people

There is one exception to the target isolation rule, which is called the greater danger exception. This exception allows you to shoot without target isolation if the consequences of not stopping the threat would be worse than the possibility of hitting an innocent person.

300.4.3 PRECLUSION

You may use deadly force to respond to behavior, but only if no other reasonable option is available. Deadly force is a last resort. You must be able to articulate deadly force is a last resort, if possible, you attempted to escalate through other mode and tactics, and that all options except for deadly force were closed. This concept is called preclusion.

In many deadly force situations, you will not have time or the ability to try other options. If a subject is a few feet away from you suddenly pulls a gun and threatens to shoot you, generally the only reasonable response is to fire your gun. There is simply not enough time to try alternatives. If feasible, you should give a verbal warning before firing, but this is not always possible, and in some cases may not be desirable.

300.5 REPORTING THE USE OF FORCE

Any use of force by a member of this department shall be documented promptly, completely, and accurately in an appropriate report, depending on the nature of the incident. The officer should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances.

To collect data for purposes of training, resource allocation, analysis, and related purposes, the Department may require the completion of additional report forms, as specified in department policy, procedure, or law. See the Report Preparation Policy for additional circumstances that may require documentation.

300.5.1 NOTIFICATIONS TO SUPERVISORS

Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances:

Nekoosa Police Department

Nekoosa Police Department Policy Manual - update 12/29/23

Use of Force

- (a) The application caused a visible injury.
- (b) The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.
- (c) The individual subjected to the force complained of injury or continuing pain.
- (d) The individual indicates intent to pursue litigation.
- (e) Any application of the electronic control device or control device.
- (f) Any application of a restraint device other than handcuffs, shackles, or belly chains.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was struck or kicked.
- (i) An individual alleges unreasonable force was used or that any of the above has occurred.

300.5.2 REPORTING TO WISCONSIN DEPARTMENT OF JUSTICE

Statistical data regarding all qualifying use of force incidents is to be reported to the Wisconsin Department of Justice as required by Wis. Stat. § 165.845. For the purposes of this section, a qualifying use of force incident means any incident (Wis. Stat. § 165.845):

- (a) Involving the discharge of a firearm by an officer at or in the direction of a civilian.
- (b) Involving the discharge of a firearm by a civilian at or in the direction of an officer.
- (c) Involving any action taken by an officer in response to an act of resistance that results in great bodily harm or death (Wis. Stat. § 939.22).
- (d) Involving an act of resistance taken by a civilian against an officer that results in great bodily harm or death.

300.6 MEDICAL CONSIDERATIONS

Once it is reasonably safe to do so, medical assistance shall be obtained for any person who exhibits signs of physical distress, has sustained visible injury, expresses a complaint of injury or continuing pain, or was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until the individual can be medically assessed. Individuals should not be placed on their stomachs for an extended period, as this could impair their ability to breathe.

Based upon the officer's initial assessment of the nature and extent of the individual's injuries, medical assistance may consist of examination by an emergency medical services provider or medical personnel at a hospital or jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

The on-scene supervisor or, if the on-scene supervisor is not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a

Nekoosa Police Department

Nekoosa Police Department Policy Manual - update 12/29/23

Use of Force

description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Individuals who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics, and imperviousness to pain, or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away.

See the Medical Aid and Response Policy for additional guidelines.

300.7 SUPERVISOR RESPONSIBILITIES

A supervisor should respond to a reported application of force resulting in visible injury, if reasonably available. When a supervisor is able to respond to an incident in which there has been a reported application of force, the supervisor is expected to:

- (a) Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- (b) Ensure that any injured parties are examined and treated.
- (c) When possible, separately obtain a recorded interview with the individual upon whom force was applied. If this interview is conducted without the individual having voluntarily waived his/her *Miranda* rights, the following shall apply:
 - 1. The content of the interview should not be summarized or included in any related criminal charges.
 - 2. The fact that a recorded interview was conducted should be documented in a property or other report.
 - 3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- (d) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas.
 - 1. These photographs should be retained until all potential for civil litigation has expired.
- (e) Identify any witnesses not already included in related reports.
- (f) Review and approve all related reports.
- (g) Determine if there is any indication that the individual may pursue civil litigation.
 - 1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.

Nekoosa Police Department

Nekoosa Police Department Policy Manual - update 12/29/23

Use of Force

- (h) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy noncompliance or if for any reason further investigation may be appropriate.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

300.7.1 ASSISTANT CHIEF RESPONSIBILITY

The Assistant Chief shall review each use of force to ensure compliance with this policy and to address any training issues.

300.8 POLICY AVAILABILITY

The Chief of Police or the authorized designee should ensure that this policy (Wis. Stat. § 66.0511):

- (a) Is made available free of charge within three business days of the request.
- (b) Is publicly available on the department website and updated promptly upon amendment.

300.9 TRAINING

Officers shall receive annual training on this policy and demonstrate their knowledge and understanding.

Subject to available resources, officers should receive periodic training on guidelines regarding vulnerable populations, including but not limited to children, elderly, pregnant persons, and individuals with physical, mental, or intellectual disabilities.

300.9.1 ADDITIONAL TRAINING REQUIREMENTS

The Department adopts the Defensive and Arrest Tactics (DAAT) training system per the Wisconsin LESB. Officers shall also be trained on the DAAT system.

300.9.2 TRAINING REQUIREMENTS

Required annual training shall include:

- (a) Legal updates.
- (b) De-escalation tactics, including alternatives to force.
- (c) The duty to intervene.
- (d) The duty to request and/or render medical aid.
- (e) Warning shots (see the Firearms Policy).
- (f) All other subjects covered in this policy (e.g., use of deadly force, chokeholds and carotid holds, discharge of a firearm at or from a moving vehicle, verbal warnings).