

# BAYSIDE POLICE DEPARTMENT

**GENERAL ORDER**

**SECTION: 5100**

**ORDER: 5104**

**ISSUE DATE: Reissued May 11, 2006**

**REVIEW DATE: September 1, 2020**

**LAST REVIEW: May 17, 2018**

**SUBJECT: USE OF FORCE**

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## I. INTRODUCTION

The purpose for which a police officer is legally entitled to use force are few. One may legally use force to defend oneself or others from harm, to gain control of unlawful situations and persons, and/or to overcome resistance to arrest. Guidelines regarding how, when and to what degree officers may use the various methods, or types of force with which they are provided is the purpose of this General Order. All sworn personnel shall be issued copies of and be instructed in this General Order before being authorized to carry a firearm. Periodic reviews of this policy are mandated.

It is the intention of the Bayside Police Department to adhere to all applicable Federal, State, and local laws.

This policy is for Departmental use only; it may not apply in any civil or criminal proceeding. The Department policy should not be construed as a creation of a higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this directive will only form the basis for Departmental administrative sanctions. It is the violation of law that will form the basis for civil and criminal sanctions in a recognized judicial setting rather than a violation of this policy.

## II. GENERAL POLICY

Police officers operate within a legal framework, which defines the amount of force that may be used. When it becomes necessary to employ force, officers must use *only that amount which is necessary* to overcome the force or resistance with which they are faced. The decision to employ a specific method and degree of force must be based upon the officer's professional evaluation of the specific circumstances existing, and one's level of proficiency in those methods of force with which they are provided.

The value of human life is immeasurable in our society. Police officers have been delegated the awesome responsibility to protect life and property and apprehend criminal offenders. The apprehension of criminal offenders and protection of property must at all times be subservient to the protection of life. The intentional use of deadly force against other persons is justified only when the officer is in jeopardy of death or great bodily harm, or when defending another person from death or great bodily harm. This also includes the use of deadly force to affect the capture or prevent the escape of a suspect whose freedom is reasonably believed to represent an imminent threat of great bodily harm or death to the officer or other persons. A "fleeing felon"

cannot be presumed to pose an imminent threat to life of others unless he/she has demonstrated his dangerousness through recent acts, threats, recklessness, or total disregard for human life and the safety of others. The type and degree of force an officer decides to employ must be calculated to be only that amount necessary to overcome the threat or resistance facing the officer and no more.

In making a determination as to the reasonableness of force, courts recognize that law enforcement officers have to make split-second decisions and reactions. The reasonableness of the force used must be judged in the light of the circumstances as they appeared to the officer at the time, and which an ordinary prudent and intelligent officer, in the same situation, would have deemed reasonable under the circumstances. In addition to this policy officers are also governed by Wisconsin Statute 939.48; Self-defense and defense of others.

### **III. DEFINITIONS**

This Department has adopted the Defensive and Arrest Tactics System (DAAT), which has been adopted by the State of Wisconsin, Department of Justice, Bureau of Training and Standards. This system of verbalization skills coupled with physical alternatives is the approved Department response for officers to establish control over potentially disruptive, uncooperative or violent subjects.

- A. Non-Physical Force includes the officer's use of dialogue and/or physical presence. This is generally the least amount of force available to an officer and does not cause physical discomfort or injury. (The degree to which this force might be applied could range from a soft-spoken voice to one uncomfortably loud, to request, demand, or order compliance of other persons).
- B. Less Than Deadly Force is the use of weapons or actions in such a manner not designed or likely to cause death or great bodily harm including the officer's use of physical strength, handcuffs, electronic control device, impact projectiles, chemical agents or baton to overcome resistance or defend against attack. The degree of force used by the officer may involve merely grasping a person's arm to limit their movement, or may involve as much force as handcuffing, or defensively striking an individual using active countermeasures. Less Than Deadly Force training shall be conducted on no less than a biennial basis.
- C. Deadly Force is the use of weapons or actions designed to likely cause death or great bodily harm. This includes an officer's defensive use of a firearm or other instrument or means capable of causing death or great bodily injury. The degree of deadly force could range from the officer's display of a firearm, pointing of a firearm in conjunction with the threat of intended use, or the intentional discharge of a firearm.
- D. Great Bodily Harm as defined in Wisconsin Statute 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.

- E. Chokeholds – defined as a physical maneuver or technique that restricts an individual’s ability to breathe for the purpose of incapacitation.
- F. Imminent Threat is considered an impending likelihood of trouble; in this context, “Imminent Threat” of death or great bodily harm to the officer or another is a justification for the use of force.
- G. Greater Danger Theory is defined as the only reason for shooting if the target has not been “isolated” and if the failure to shoot would place those innocent persons and/or yourself and other officers in greater danger of death or great bodily harm.
- H. Reasonable Belief is the belief formed when facts or circumstances the officer knows, or know, are such as to cause any ordinary, prudent and reasonable intelligent officer to act or think in a similar way under similar circumstances, even though such belief may later be determined to be erroneous.
- I. Intervention Options are a range of force options included within DAAT, available to an officer where each mode reflects the need for an increasing level of control. Formerly called the Force Option Continuum.
- J. Last Resort are those situations where certain immediate and drastic measures must be undertaken by an officer in order to protect human life. Force used in these situations may involve the use of techniques or weapons not covered or authorized by policy, however, must still comply with the reasonable and necessary standard set forth in *Graham v. Conner*.
- K. Control is established when a subject is voluntarily complying with the legal directions of an officer or restrained so that they are forced to comply with the officer’s legal direction.
- L. Hobble Restraint is a belt-type restraint used to secure a subject’s legs and ankles in order to restrict the subject’s ability to kick or run.
- M. Taser is a conducted energy weapon that affects the sensory and motor functions of the central nervous system. The purpose of the Taser is to overcome active resistance or the threat of active resistance. The Taser falls within the Empty Hand Control Mode of the Intervention Options. All officers of this Department will be properly trained and required to carry the Taser.
- N. Specialty Impact Munitions are munitions which can be fired, launched or otherwise propelled for the purpose of encouraging compliance, overcoming resistance or preventing serious injury without posing a significant potential of death.

#### **IV. INTERVENTION OPTIONS**

- A. Wisconsin Defensive And Arrest Tactics (DAAT) provides the basis for proper use of force by Wisconsin Law Enforcement Officers. Force levels are identified under Intervention Options as part of Disturbance Resolution. Refer to attachment: Disturbance Resolution.
- B. Officers are expected to attempt to establish and maintain control through the use presence and dialogue. However, an officer may escalate to control, through the use of any or all force options, as deemed necessary and reasonable. It is legitimate to escalate quickly through Intervention Options, or skip steps, depending upon tactical evaluation.
- C. During the initial approach or contact, the officer(s) must attempt to determine the extent or degree to which the subject(s) present a threat to the officer and other persons. Officers should use this threat assessment to help identify safety concerns and potential responses.

#### **V. PROCEDURES**

- A. Officers should evaluate the incident to determine the level of force necessary to achieve control.
- B. Once control is achieved, officers must adjust their use of force to that level which is reasonable in order to maintain control.
- C. Officers shall use equipment and control techniques that are authorized by the Department and consistent with their current training. Less than lethal equipment issued and required to be worn by every officer are a Taser, collapsible baton and OC spray. A shotgun equipped to fire impact projectiles is also mounted in each Department squad car. These less than lethal weapons will be used in accordance with any applicable State Statute, Department policy and training received. Training in less than lethal weapons shall be conducted no less than biennially.
- D. Handcuffing and searching will be accomplished through application of current training techniques as taught through DAAT.
- E. Handcuffs may be used in a non-arrest situation provided that the use of handcuffs is reasonable and necessary.
- F. The trained target areas for the baton are the knee area, elbow area and lower abdominal area.
- G. A hobble restraint may be used for a subject who is violently resisting or there is the threat of resistance or escape. Officers shall not “hog tie” or place a subject in

a position that hinders breathing for extended periods to avoid positional asphyxia.

- H. The Taser is a conducted energy weapon (CEW) that affects the sensory and motor functions of the central nervous system. The purpose of the Taser is to overcome active resistance or the threat of active resistance. Both pepper spray and Taser fall within the Empty Hand Control Mode of the Intervention Options. All officers of this Department will be properly trained and required to carry the Taser X26P and pepper spray. CEW exposure should be of the shortest reasonable duration in order to accomplish lawful objectives, reassess subject behavior, reaction, and resistance before initiating or continuing exposure. If a CEW deployment is ineffective in incapacitating a subject or achieving compliance, consider alternative control measures in conjunction with or separate from the CEW.
- I. Specialty impact munitions are munitions that can be fired, launched or otherwise propelled for the purpose of encouraging compliance, overcoming resistance or preventing serious injury without posing a significant risk of death. Specialty impact munitions include pepper spray, pepper balls, Tasers, and bean bag and rubber projectiles. Bean bags and other projectiles will fall within the Incapacitating Techniques mode of the Interventions section of the Disturbance Resolution Model. All officers will be trained in the use of any specialty impact munitions utilized by this Department.

## **VI. DEADLY FORCE**

Deadly force is any use of force that creates a substantial risk of causing death or serious bodily injury, consistent with U.S. Supreme Court precedent. Behavior which justifies the use of deadly force is that which has caused, or imminently threatens to cause, death or great bodily harm to the officer or another person.

- A. Officers are authorized to use deadly force to:
  - 1. Protect the officer or others from an imminent threat of death or great bodily harm; and/or
  - 2. To prevent the escape of a person whom the officer has probable cause to believe has committed a serious, violent crime and creates an unreasonable risk or significant threat of death or serious physical injury to the officer, another person, or the community at large if not apprehended.
  - 3. A verbal warning should be given unless it is not feasible to do so in the particular circumstance before deadly force is used to prevent escape.
- B. To meet the criterion of “imminent threat,” the person to whom the officer is intending deadly force must have all the following:

1. The displayed or indicated intent to cause great bodily harm or death to the officer or another person.
  2. A weapon capable of inflicting great bodily harm or death (conventional or unconventional weapon).
  3. The delivery system for utilization of that weapon, (i.e. the capacity for utilization of the weapon).
- C. After an officer has determined that deadly force is necessary to stop a person and all other reasonable alternatives having been precluded and has determined to shoot a firearm at that person, the officer must fulfill certain “target requirements”. These include the following:
1. Target Acquisition is the detection, identification, and location of a target in sufficient detail to permit the effective employment of lethal means.
  2. Target Identification: Even if the target has been “acquired”, the officer cannot shoot at this target until the target has been identified as the individual placing the officer and/or others in “imminent danger”.
  3. Target Isolation: The officer must make every effort to isolate the target from other innocent persons, unless the Greater Danger Theory is applicable.
- D. An officer shall not threaten the use of deadly force unless he would be justified under this policy to use such force. Before using deadly force, the officer should, if possible:
1. Attempt to identify him/herself
  2. Order the suspect to desist from the imminently threatening activity, and;
  3. Threaten to use deadly force if the officer’s lawful order is not obeyed.
- E. No distinction shall be made relative to the age or sex of the intended target of deadly force.
- F. Chokeholds – defined as a physical maneuver or technique that restricts an individual’s ability to breathe for the purpose of incapacitation.
1. Chokeholds (also known as lateral vascular neck restraints) are considered deadly force and a “last resort” technique.
  2. Officers are not allowed to use chokeholds or similar maneuvers that put pressure on a person's airway or cervical (neck) vascular system as a takedown or control technique unless the use of deadly force is authorized or indicated where allowed by law.
- G. Deadly force against an animal is justified under the following circumstances:

1. For self defense.
  2. To prevent substantial harm to the officer or another, or
  3. When the animal is so badly injured that humanity requires its relief from further suffering, with approval from the shift commander.
- H. Officers are not authorized to shoot at or from a moving vehicle unless as a “Last Resort” or when the Greater Danger Theory applies.
- I. Warning shots are not authorized unless deadly force is justified and as a “Last Resort”.

## **VII. DUTY TO INTERVENE**

- A. An officer shall, without regard for chain of command, intervene to prevent or stop another law enforcement officer from using force that does not comply with the subsections above while in the course of that law enforcement officer's official duties if all of the following apply:
1. The officer observes the use of force that does not comply with the standards described above, and
  2. The circumstances are such that it is safe for the officer to intervene.
- B. An officer who intervenes as required shall report the intervention to his or her immediate supervisor as soon as is practicable after the occurrence of the use of such force.
- C. Refer to 2021 Wisconsin Act 75 – 175.44

## **VIII. USE OF FORCE INCIDENTS / REPORTING**

- A. Officers shall closely monitor all subjects who were physically subjected to the use of force. Appropriate medical attention shall be requested for subjects who were injured or complain of injuries resulting from the use of force. All use of force incidents whether it involves a firearm, lethal force, or less than lethal force shall generate an incident report.
1. Medical attention should be summoned for those people who cannot recover from the effects of OC spray within 45 minutes of exposure.
  2. Medical attention shall be summoned for those people who have an adverse reaction or do not recover from the effects of a Taser application. Medical attention shall be summoned for anyone struck with a bean bag and/or rubber projectile, or any impact munitions. Medical attention should be summoned for anyone an officer feels in his/her opinion sustained any type of injury or reaction that they believe could have an adverse effect on the subject's condition. Medical attention should also be summoned for anyone that requests medical attention.

3. If the Taser probes are imbedded in sensitive tissue areas (such as neck, face, groin, or the breast area of a female) the officer shall arrange transport to a medical facility for removal. If the probes are imbedded in non-sensitive tissue areas, officers may remove them according to trained procedures. Removed probes shall be handled as a biohazard, packaged accordingly, and destroyed.
- B. Officers shall notify the shift supervisor as soon as practical whenever force is used. Any firearm discharges other than in a training situation will also be reported. An incident report will also be generated.
- C. All use of force incidents at or above a Taser application shall be documented on a Use of Force Report. The officer shall document the circumstances requiring the use of force and the force level used. The report shall be reviewed by the shift supervisor for reasonableness and policy compliance. All Use of Force Reports shall be forwarded to the Chief or appropriate command staff for review. Refer to Attachment: Use of Force Report
- D. In cases where deadly force was used against a person, whether or not any injury occurred, or where the subject received significant injuries from the use of non-deadly force, a supervisory investigation shall be conducted.

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**Defensive and Arrest Tactics (DAAT):** A system of verbalization skills coupled with physical alternatives.

<p><b>DAAT Concepts:</b></p> <ul style="list-style-type: none"> <li>Control is a perception based on an officer's training, experience and the fact situation.</li> <li>Control is not a 50/50 proposition.</li> <li>Proper police action balances safety and efficiency.</li> </ul>	<p><b>DAAT Rules:</b></p> <ul style="list-style-type: none"> <li>No officers are injured.</li> <li>No suspects are injured needlessly.</li> <li>No one is accepted/detained or released improperly.</li> </ul>	<p><b>Safety Priorities:</b></p> <ul style="list-style-type: none"> <li>You.</li> <li>Fellow Officers.</li> <li>Civilians.</li> <li>Criminals.</li> </ul>
<p><b>When Can Officers Use Force?</b></p> <ul style="list-style-type: none"> <li>To achieve and maintain control of resistive subjects.</li> <li>To detain persons reasonably suspected of criminal behavior.</li> <li>To make lawful arrests.</li> <li>In defense of self or others.</li> <li>To prevent escapes.</li> </ul>	<p><b>Key Rules for Use of Force:</b></p> <ul style="list-style-type: none"> <li>The purpose is control.</li> <li>You can always disengage and/or escalate.</li> <li>Escalation does not need to follow step by step through options.</li> <li>Once control is achieved, you must reduce the level of force to that needed to maintain control.</li> <li>You must always maintain a position of advantage.</li> </ul>	<p><b>Categories of Force:</b></p> <ul style="list-style-type: none"> <li>A trained technique.</li> <li>A dynamic application of a trained technique.</li> <li>Not trained by justified under the circumstances.</li> </ul>

**INCIDENT RESPONSE (RESPOND)**

**REPORT**

- Become aware
- Plan response
- Arrive/Assess
- Alarm/Inform

**EVALUATE**

- Look for Dangers
- Determine back up needs
- Enter when appropriate/tactically sound

**STABILIZE**

- Subject/s
- Scene

**PRESERVE**

- Life
  - Conduct an initial medical assessment
  - Treat to level of training
  - Continue to monitor subject
- Evidence

**ORGANIZE**

- Coordinate additional responding units (if necessary)
- Communicate with dispatch and others
- Organize the collection of evidence (if appropriate)

**NORMALIZE**

- Provide for long term monitoring (as appropriate)
- Restore scene to normal
- Return radio communications to normal

**DOCUMENT/DEBRIEF**

- Debrief self, others, subjects
- Document incident appropriately

**DISTURBANCE RESOLUTION**

**1. APPROACH CONSIDERATIONS**

**A. Decision-Making**

- Justification
- Desirability

**B. Tactical Deployment**

- Control of Distance
- Relative Positioning
- Relative Positioning with Multiple Subjects
- Team Tactics

**C. Tactical Evaluation**

- Threat Assessment Opportunities

**Officer/Subject Factors**

- Officer/Subject Factors

**Special Circumstances**

- Special Circumstances

**Level/Stage/Degree of Stabilization**

- Level/Stage/Degree of Stabilization

**2. INTERVENTION OPTIONS**

**3. FOLLOW THROUGH CONSIDERATIONS**

**CONTROL OF DISTANCE**

Public	>12 ft
Social	4-12 ft
Personal	1.5-4 ft
Intimate	0-1.5 ft

**THREAT ASSESSMENT OPPORTUNITIES**

- Resistive Tension (Level of agitation in a person's body)
- Early Warning Signs
- Pre-attack Postures
- Indications of mental illness, emotional disturbance, or medically significant behavior
- Weapon Control Factors

**OFFICER/SUBJECT FACTORS**

- Age
- Size
- Relative Strength
- Skill Level

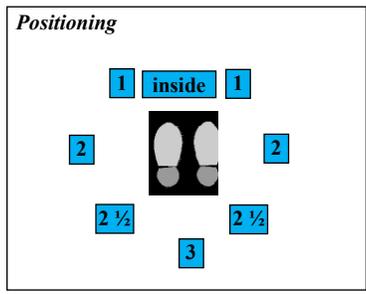
**SPECIAL CIRCUMSTANCES**

Factors or situation that may justify rapid escalation of force or selection of higher force options

- Reasonable perception of threat
- Special knowledge of subject
- Sudden assault
- Subject's ability to escalate force rapidly
- Your physical positioning
- Injury or exhaustion
- Equipment or training
- Availability of backup
- Other special circumstances

**LEVEL/STAGE/DEGREE OF STABILIZATION**

- Presence stabilization
- Verbal stabilization
- Standing stabilization
- Wall stabilization
- Ground stabilization
- Special restraints



**EARLY WARNING SIGNS**

Signals or certain behaviors provided by the subject that are often associated with a high level of danger to officers

- Conspicuously ignoring
- Excessive emotional attention
- Exaggerated movement
- Ceases all movement
- Known violent behavior

**PRE-ATTACK POSTURES**

Behaviors that may indicate imminent danger of physical assault

- Boxer Stance
- Shoulder Shift
- Hand set
- Target Glance
- Thousand Yard Stare



MODE	PURPOSE
<b>A. Presence</b>	
1. display of	<b>Open Stance</b> To present a visible <b>Ready Stance</b> authority <b>Defensive Stance</b>
2.	
3.	
<b>B. Dialogue</b>	
1.	<b>Search Talk</b> <b>Persuasion</b> To verbally persuade <b>Light Control Talk</b> <b>Heavy Control Talk</b>
2.	
3.	
4.	
<b>C. Control Alternatives</b>	
1. <b>Escort Holds</b>	To overcome passive resistance, active resistance, or their threats To safely initiate physical contact
<ul style="list-style-type: none"> <li>Blanket the Arm</li> <li>Escort Position</li> </ul>	
2. <b>Compliance Holds</b>	Come Along Pressure Points To overcome passive
<ul style="list-style-type: none"> <li>resistance</li> </ul>	
3. <b>Control Devices(OC/ECD)</b>	Mandibular Angle Hypoglossal Oleoresin Capsicum To Electronic Control Devices or it's
<ul style="list-style-type: none"> <li>overcome active resistance</li> <li>threat</li> </ul>	
4. <b>Passive Countermeasures</b>	Secure the Head Hug Yourself To Decentralize Lower Your Center Pull in-Push Down
<ul style="list-style-type: none"> <li></li> </ul>	
<b>D. Protective Alternatives</b>	To overcome continued resistance, assaultive behavior, or their threats
1. <b>Active Countermeasures</b>	Vertical Stuns Focused Strikes To create dysfunction
<ul style="list-style-type: none"> <li>Reaction Hand Strike</li> <li>Reaction Forearm Strike</li> <li>Strong Hand Strike</li> <li>Strong Forearm Strike</li> <li>Reaction Front Kick</li> <li>Reaction Knee Strike</li> <li>Strong Angle Knee Strike</li> <li>Strong Angle Kick</li> </ul>	
2. <b>Incapacitating Technique</b>	Diffused Strike from the front To cause immediate temporary Diffused Strike from the rear cessation of violent behavior
<ul style="list-style-type: none"> <li></li> </ul>	
3. <b>Intermediate Weapons</b>	Baton Baton Jab Baton Jab-Multiple Strikes Angle Strike To impede
<ul style="list-style-type: none"> <li></li> </ul>	

**REACT**

- Request Cooperation
- Explain Reason
- Allow Choice
- Check Decision (Is there anything I can say to .....?)
- Take Action

**DONE**

- Danger
- Overriding Concern
- No Progress
- Escape

**Passive Resistance:** Non-threatening and non-complaint behavior

**Active Resistance:** Behavior which physically counteracts an officers control efforts and which creates risk of bodily harm to the officer, subject and/or other person.

**Continued Resistance:** Maintaining a level of counteractive behavior that is not controlled by an officers current efforts.

**Fighting Rules:**

- Be effective from the beginning.
- Never spar with anyone.
- Hit as hard as you can.
- Attempt to create a dysfunction.
- Get the confrontation over quickly.

**Assaultive Behavior:** Direct actions or conduct that generate bodily harm

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

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

**Great Bodily Harm:** Bodily injury that 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.

**Target Requirements:**

- Acquisition:** The process of locating your adversary.
- Identification:** The process of recognizing the subject as the adversary placing you/others in "Imminent Danger".
- Isolation:** The process of separating the subject from innocent persons.

**Imminent Threat Criteria/Attack Theory:**  
Imminent means "About to Happen"  
Suspect displays:

- Weapon
- Intent
- Delivery System

**Greater Danger Exception:**  
Exception to Isolation Rule.

**Preclusion:** The elimination of all other viable alternatives.

**FOLLOW-THROUGH CONSIDERATIONS**

A. <b>Stabilize</b>	Application of restraints, if necessary
B. <b>Monitor/Debrief</b>	
C. <b>Search</b>	If appropriate
D. <b>Escort</b>	If necessary
E. <b>Transport</b>	If necessary
F. <b>Turn-Over/Release</b>	Removal of restraints, if necessary

**STABILIZE**

- Presence stabilization
- Verbal stabilization
- Standing stabilization
- Wall stabilization
- Ground stabilization
- Special restraints

**Monitor/Debrief**

- Calm self and partner
- Calm subject
- Provide initial medical assessment
- Reassure the subject
- Rebuild subjects self esteem