| FORT ATKINSON POLICE DEPARTMENT POLICY | TITLE: **501 - Use of Force** | | |
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## I. PURPOSE

The purpose of this document is to establish a policy for the use of force by sworn personnel to affect the detention, seizure, or arrest, of a person. The policy also establishes guidelines for using force in self-defense or defense of another, to prevent or intercede in an attempt at self-injury, in defense of property, and in fulfilling the community caretaker function. The guidelines on proper use of force established in this policy will ensure due process for persons as well as provide protection for officers and the Department.

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).

## II. POLICY

It is the policy of the Fort Atkinson Police Department that officers shall use only that amount of force that is reasonably necessary to achieve a lawful objective. The force used shall be in accordance with the Constitution of the United States and the Constitution of the State of Wisconsin.

## III. DEFINITIONS

A. Defense and Arrest Tactics (DAAT): 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.

B. Intervention Options: Trained techniques recognized in the DAAT system. These techniques may include additional techniques trained and authorized by the Fort Atkinson Police Department and untrained techniques justified by the circumstances.

C. Reasonable Belief: A conclusion reached by an ordinary, prudent, and reasonably intelligent police officer that a certain fact situation exists under the totality of circumstances perceived by the officer at the time the officer acted.

D. Reasonable Force: An act by a police officer in the performance of duty used to accomplish a legitimate law enforcement goal and objectively reasonable under the totality of circumstances as perceived by the officer at the time the officer acted. The totality of circumstances perceived by the officer can include statements made by the person or a known prior history of resistive or assaultive behavior.

E. Objective Reasonableness Standard: The standard established by the U.S. Supreme Court in *Graham v. Connor,* and its progeny, which 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 are:

1. The severity of the alleged crime at issue.

2. Whether the person poses an imminent threat to the safety of officers and/or others.

3. Whether the person is actively resisting seizure or attempting to evade seizure by flight.

F. Bodily Harm: Physical pain or injury, or impairment of physical condition, but less severe than great bodily harm.

G. 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 any other serious bodily injury.

H. Non-Deadly Force: An amount of force that, under normal circumstances, would not be expected to result in great bodily harm or death.

I. Deadly Force: The intentional use of a firearm or other instrument that creates a high probability of death or great bodily harm.

J. Passive Resistance: Refusal to comply with a directive or command from an officer, but without behaviors likely to cause bodily harm to an officer or another.

K. Active Resistance: Behavior that physically counteracts an officer's control efforts and creates a risk of bodily harm to the officer or another person.

L. Assaultive Behavior: Conduct that creates an imminent risk of bodily harm to the officer or another person.

M. Electronic Control Device (ECD): A battery powered, non-deadly force device that uses propelled wires and probes or direct contact to conduct sufficient energy to affect the sensory and motor functions of the human and animal nervous system. The intended purpose of the device is to incapacitate and help control threatened or active resistance and/or violent persons or animals.

N. Passive Countermeasures: Techniques that use physical force to direct a subject to the ground. These techniques are designed to overcome active resistance or the threat of active resistance.

O. Active Countermeasures: Techniques that include stunning a subject against a vertical surface, and hand, elbow and leg strikes. The purpose of active countermeasures is to create a temporary dysfunction of an actively resistive or assaultive subject.

P. Incapacitating Technique: Diffused strike to the side of the neck. The goal of an incapacitating technique is to cause the immediate, temporary cessation of violent or assaultive behavior.

Q. Impact Weapon: A police baton or other object justified by the circumstances. The use of an impact weapon is to overcome continued resistance, assaultive behavior or the threat of such violence.

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

S. Excited Delirium Syndrome: A state of extreme mental and physiological excitement characterized by extreme agitation, hyperthermia, hostility, and exceptional strength and endurance without apparent fatigue.

## IV. PROCEDURE

A. General Guidelines

1. Officers shall use only that amount of force that is objectively reasonable to control a situation, effect a seizure, or control a person. The force decision shall be based on the DAAT system.

2. Officers shall not continue to use force beyond that which is objectively reasonable to maintain control once the subject has stopped resisting and control of the subject has been established.

3. Officer override is a trained concept that means officers have the proactive responsibility to intervene in a situation if another officer is behaving or performing inappropriately, using excessive force, using inappropriate force or otherwise not handling the situation safely or effectively. Secondary and/or back-up officers are required to continuously evaluate use of force situations and intervene or override to the safe benefit of the officers on scene, community at large and the suspect.

4. All persons arrested will be handcuffed, searched and then transported in a police vehicle, unless exceptional circumstances exist.

5. An officer shall not brandish, display, or threaten the use of any control devices, impact weapons, kinetic energy impact weapons, canine, or firearm unless he or she can reasonably conclude its use may become justified and anticipated.

6. When an officer uses any of the Intervention Options, he or she shall contact a supervisor as soon as practical and follow procedure outlined in the above referenced section.

B. Oleoresin Capsicum Spray (OC)

1. Officers who have been trained and certified in the use of OC, shall carry department issued OC while on duty. If an 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. Trained personnel may use OC 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. Passive resistance does not warrant the use of OC.

3. Generally, OC should not be sprayed directly at the eyes of a person from a distance of less than three feet because of an increased risk of eye injury from the pressure of the spray.

4. Department personnel who use OC against a person shall ensure the person is decontaminated as soon as practical after he or she is under control.

a. If possible, expose the person to fresh air and flush the exposed area with cold water.

b. Continue to monitor the exposed person for unusual reactions to the exposure. If the person has an unusual reaction or requests medical attention, transportation to a medical facility shall be arranged.

5. 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 Devices (ECD)

1. Only ECD units and accessories approved by the Chief of Police or his or her designee shall be permitted for carry and use by members of the department.

2. Officers who have successfully completed the agency approved training course and written test concerning ECD use are authorized to carry the device.

a. Uniformed officers shall carry an ECD while on duty if an ECD unit is available.

b. Non-uniformed officers may carry an ECD if an ECD unit is available.

3. Uniformed officers carrying an ECD may remove the baton from their duty belt. If the baton is removed it must remain reasonably accessible to the officer while on duty.

4. An ECD may be used when a subject is threatening to actively resist or is actively resisting an officer and the subject poses a threat of bodily 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. Passive resistance does not warrant the use of an ECD.

5. An ECD should not be used in a situation where the subject poses an imminent threat of great bodily harm or death to the officer or another person unless another officer is present and capable of immediately delivering deadly force.

6. The following factors, when reasonably perceived by the officer at the time of the incident, require elevated justification for deployment. Under the following conditions the risk of direct or secondary injury to the subject is elevated, thus the justification for ECD deployment is also elevated. The officer must balance the elevated risk of injury with the need for immediate apprehension. Factors warranting an elevated deployment justification include:

   a. Presence of flammable materials

   b. Subject located in an elevated position

   c. Subject operating a vehicle

   d. Subject running

   e. Subject obviously, or known to be, pregnant

   f. Subject in water sufficient to drown

   g. Subject obviously frail or infirm

7. ECD Deployment Methods

    a. The primary deployment method is to discharge the ECD cartridge, propelling the probes and probe wires.

    b. The back-up deployment method is to firmly drive the attached fired ECD cartridge into the subject's body (drive stun). Removing the ECD cartridge to apply a drive stun is discouraged because it provides limited effectiveness and has a higher propensity for causing minor burn marks or friction abrasions to the skin than probe deployment.

8. ECD Deployment Cycles

    a. Officers shall deliver only the number of deployment cycles reasonably necessary to control the subject.

    b. If cover officers are available, they should attempt to control the subject during the deployment cycles, if practical.

    c. If multiple cycles have been delivered and the subject still cannot be controlled, officers should consider escalation of force or should disengage.

9. Department personnel who use an ECD on a subject shall ensure the subject is monitored for injury as soon as practical after control is established. If an adverse reaction to the ECD occurs, or if requested by the subject, transport to a medical facility shall be arranged.

10. If the probes are imbedded in sensitive tissue areas, i.e. neck, face, groin, or the breast of a female, officers shall arrange transport to a medical facility for removal. If the probes are imbedded in other non-sensitive tissue areas, a trained officer may remove the probes according to the trained procedures.

11. The probes shall be handled as a biohazard using personal protective equipment, if practical. The cartridge, probes and wires shall be collected and packaged according to the trained procedure listed below.

    a. Collect probes, wires, and the cartridge as a unit, if possible. Do not break the wires from the probes or cartridge.

b. Gently press the probes into the wire channels that house the wires on the front of the cartridge.

c. Do not wrap or attempt to untangle the wires.

d. Place the whole cartridge unit into a paper bag.

e. Enter into evidence for 30 days. After the 30-day period it may be destroyed unless circumstances require retaining it longer.

12. When an ECD is used against a person or animal, the deploying officer shall include the model and unit number of the deployed ECD so the firing data can be downloaded.

13. Trained officers shall complete an ECD refresher course and written examination annually.

D. Intermediate Weapons/Impact Weapon: (baton)

1. Uniformed officers shall be required to have a department approved impact weapon available to them while on duty. (MANDATORY ON DUTY BELT IF ECD IS NOT CARRIED)

2. An intermediate/impact weapon may be used to impede a subject, preventing him or her from continuing resistive, assaultive, or otherwise dangerous behavior.

E. Kinetic Energy Impact Projectiles

1. Officers may only use Kinetic Energy Impact Projectiles and delivery systems that are authorized by the Chief of Police or his/her designee.

2. Trained department personnel may use kinetic energy impact projectiles when a subject poses an imminent threat of bodily harm to another person or a threat of great bodily harm to him or herself.

3. Kinetic energy impact projectiles should not be used in a situation where the subject poses an imminent threat of great bodily harm or death to an officer or another person (including the subject) unless another officer is present and capable of immediately delivering deadly force.

4. Kinetic energy impact projectiles may be delivered to the subject's body in accordance with the following guidelines:

   a. Primary Target Areas (legs and buttocks): The arms may also be targeted as a primary target under some circumstances. The officer must consider the proximity of the targeted portion of the arm to vital areas of the body. Primary target areas shall be considered when incapacitation is necessary but the threat is not imminent. Multiple impacts to the primary target areas should be considered before progressing to the secondary target area.
   b. Secondary Target Area (Lower Abdomen): The secondary target area will be considered when incapacitation is critical due to the imminent threat posed by the subject.

   c. Head/Neck/Chest area: Intentional impact to these areas will be avoided unless the use of deadly force is justified.

5. Subjects who are struck by a kinetic energy impact projectile shall be transported to a medical facility for examination.

6. Trained officers shall complete a kinetic energy impact projectile refresher course and written examination every two years.

F. Deadly Force

1. The intentional use of deadly force is permissible under the following circumstances:

   a. As a last resort, in the defense of one's self, or another person, when the officer reasonably believes he or she, or another person, is in imminent danger of death or great bodily harm.

   b. As the final alternative, to effect an arrest or prevent the escape of a fleeing felon whom the officer reasonably believes has committed a felony involving the actual or threatened use of deadly force. The officer shall also have probable cause to believe the suspected felon poses a significant threat of death or great bodily harm to the officer, or others, if not immediately apprehended.

   c. As the last resort, to euthanize a dangerous animal or one that is so seriously injured that humanity dictates

its removal from suffering, but only after careful consideration is given to the public's safety and whether other dispositions may be feasible.

2. The decision to discharge a firearm under the following circumstances shall be guided by Section 1, above. However, it shall be prohibited if it creates an unreasonable risk to the officer or others.

   a. From a moving vehicle

   b. At a moving vehicle

   c. When the target of the force is not clearly visible. Firing into a building or through a door is not permitted unless officers are being fired upon from within and no alternative means of cover is available.

3. Deadly force shall not be used when the officer is in doubt as to whether or not he or she has the legal justification to do so.

4. Officers shall not discharge a firearm as a warning.

5. Whenever feasible, officers shall identify themselves and issue a verbal challenge before using deadly force.

G. Pointing of Firearm

1. If an officer intentionally points a firearm at a person in the course of duty and does not discharge the firearm, the officer shall complete a written report detailing the circumstances of the incident. If multiple officers are involved, only the officer assigned to the call is required to complete a written report. A Use of Force report is not required.

H. First Aid and Medical Assistance

1. Officers who use force against a person shall ensure the subject is monitored for injury as soon as the scene is secured.

2. If an injury is observed or reported by the person, officers shall provide first aid and/or request medical assistance as needed.

3. In addition to visible injuries and those reported by the subject, officers should be observant for indicators that the subject is experiencing excited delirium syndrome.

4. If excited delirium syndrome is suspected, officers shall request an emergency response from EMS. Officers shall ensure the subject is continuously monitored until the subject is evaluated by EMS.

## I. Required Notifications and Reports upon Use of Force

1. Whenever an officer is responsible for an accidental or intentional discharge of a firearm while on or off duty (other than during firearms training, hunting or participation in sporting or recreational events), or the accidental or intentional use of deadly force by any means, the following notifications and reports shall be made:

   a. Intentionally discharged at a person

      (1) The officer will notify a supervisor as soon as possible.

      (2) The supervisor may make further notifications if needed.

      (3) The officer, unless incapacitated, should complete a written report describing the incident. These reports will be completed at the direction of the on-duty supervisor.

      (4) The supervisor will complete a Use of Force Supervisor Summary.

   b. Intentionally discharged at an animal

      (1) The officer will notify the Communications Center and a supervisor prior to discharge or immediately after if prior notification is not practicable.

      (2) An offense report is not required unless directed by a supervisor.

c. Accidental discharge not resulting in injury

(1) The officer will immediately notify a supervisor and complete a written report documenting the details of the incident.

(2) The supervisor may initiate an investigation into the incident.

d. Accidental discharge resulting in injury

(1) The officer will immediately notify a supervisor and render first aid or activate EMS as necessary.

(2) The officer will complete a written report to the Chief documenting the details of the incident.

(3) The supervisor will notify the Chief. The Supervisor may also notify an outside agency to initiate an investigation into the incident, after consultation with the Chief or designee.

2. When an officer uses any of the following Intervention Options listed below, he or she will contact a supervisor as soon as practical after the use of force and complete a written report documenting the incident. The Intervention Options necessitating this response include:

a. Electronic Control Devices

b. OC Spray

c. Incapacitating Techniques

d. Impact Weapons

e. Firearms/Deadly Force

3. The supervisor should respond to the scene. The supervisor will monitor the situation and take any immediate action as deemed necessary.

4. In addition to any other reporting requirements in this policy, whenever an officer uses force against another that results

in, or is alleged to have resulted in, injury or death to a person, the officer will prepare a written report describing the circumstances surrounding the use of force. This requirement can be delayed as required under this agencies policy for Officer Involved Deaths.

5. Annually, the Lieutenant of Investigations shall complete a written analysis of all incidents involving the use of physical force by officers.

6. Any/All of the required reports for any use of force incident can be delayed or not completed, at the discretion of the Chief of Police, or in his absence, the Lieutenant of Investigations.

J. Use of Force Review Team

1. The Use of Force Review Team shall consist of the following personnel:

   a. Investigations Commander (Chairperson)

   b. City Attorney

   c. One member selected by the Chief of Police

   d. One officer selected by the involved officer(s)

2. If the involved officer is incapacitated and cannot designate an officer to serve on the review team, the Chief of Police will direct the most senior patrol officer to select an officer to represent the involved officer. The selectee is subject to the approval of the involved officer(s) should the officer(s) cease to be incapacitated prior to the completion of investigation.

3. If the officer involved in a use of force incident is the Chief of Police or a Police supervisor, the Review Team members will coordinate with the Police & Fire Commission as to who will participate in the review team process. This may require the assistance of an outside agency.

4. The Use of Force Review Team may conduct an administrative review of the following uses of force:

   a. The accidental or intentional use of deadly force by an officer, whether or not injury or death occurs.

b. All incidents involving the accidental or intentional discharge of a firearm, excluding the intentional use to dispatch an animal or the use of kinetic energy impact projectiles, unless their use causes great bodily harm or death.

c. All incidents resulting in great bodily harm to a person by an officer's use of force.

d. Any additional situations as directed by the Chief of Police.

5. This administrative review shall be separate from any criminal investigation.

7. The purpose of this review is to determine whether the use of force was consistent with the policies and Rules and Regulations of the department.

8. Any/All review/assessment for a use of force incident may be delayed or not completed at the discretion of the Chief of Police.

8. Upon conclusion of the review, the Use of Force Review Team will submit to the Chief of Police a written report of their findings and conclusions. The report may include a description of how the review was conducted, a listing of all facts established by the review, any disagreement between members, and a recommended disposition.

8. The Use of Force Review Team report shall include a finding that the officer's use of force was:

a. Within policy

b. Out of policy

c. Out of policy, with extenuating circumstances

9. Any officer who uses force which results in death or great bodily harm to another person may be assigned to administrative duties, or may be placed on paid administrative leave at the discretion of the Chief of Police, pending the completion of the use of force review and final action of the Chief of Police.

K. Policy Distribution and Training

1. All sworn officers shall be issued copies of, and instructed in, the Use of Force Policy, before being authorized to carry a weapon (lethal and/or less lethal). The issuance and instruction shall be documented in the employee's field training checklist.

2. A copy of all future amendments or revisions to the Use of Force Policy shall be distributed electronically to all sworn personnel.

3. All officers shall receive annual refresher training on the Use of Force policy.

This policy and procedure is to be used in conjunction with all relevant existing Fort Atkinson Police Department policies, procedures, rules and regulations in such a manner as to further the pursuit of the department mission, vision, and goals.

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Adrian Bump Date
Chief of Police

**501 – Use of Force**

**Addendum A**

**November 24, 2020**

Standards for Certification on Safe Policing for Safe Communities

I. Compliance with Policy Requirements established under Executive Order No. 13929

A. Although it has been identified, explained, trained and reinforced specifically throughout this policy, our agency training and standards and the training and standards for law enforcement within the DAAT system under Wisconsin Training and Standards, Officers of the Fort Atkinson Police Department are again reminded that they shall use only that amount of force that is objectively reasonable to control a situation, effect a seizure, or control a person.

B. To appease the Federal Government and ensure eligibility for Federal Funds, it is required that this agency specifically note that the use of a chokehold as defined below is prohibited except in situations where the use of deadly force is allowed by law.

1. Officers of this agency will not randomly choke people or unreasonably place people into a chokehold.

2. The Fort Atkinson Police Department does not recognize, teach, or practice the application of chokeholds, strangle holds (airway) or vascular neck restraints.

3. A choke, strangle or vascular neck restraint of any type would be a technique not trained but may be justifiable under special circumstances when all other viable alternatives have been eliminated and the officer is faced with the imminent threat of great bodily harm or death to him/herself, other officers or citizens.

II. The definition of "Chokehold" as provided by the U.S. Department of Justice is:
A physical maneuver or technique that restricts an individual's ability to breathe for the purpose of incapacitation.

A. This agency acknowledges that a chokehold is a specific overt physical act made with intent to incapacitate another. This agency also recognizes that a head lock, accidental grasp around the neck area, blanketing of the head/neck techniques or other grasps, holds or restraints near or around the head/neck region are not chokeholds and do not fall under this prohibition.