

GENERAL ORDER

COTTAGE GROVE POLICE DEPARTMENT

DATE: 05/31/2015

WILEAG: 5.1.1, 5.1.2, 5.1.3 5.1.4, 5.2.1, 5.3.1, 5.3.2, 5.3.3

POLICY NUMBER: 5.1.1 Use of Force

SUBJECT: Use of Force & Officer Involved Shooting

SPECIAL INSTRUCTIONS:

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LAST REVISION: 06/4/2020

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I. PURPOSE

- A. The purpose of this procedure is to establish guidelines for the use of force by officers of the Cottage Grove Police Department. The procedure will adopt the Defense and Arrest Tactics (DAAT) system as set forth by the State of Wisconsin Law Enforcement Standards Board.

II. POLICY

- A. It is the policy of the Cottage Grove Police Department that officers use only the force that reasonably appears necessary to effectively bring an incident under control, while protecting the lives of the officer and others. The use of force must be objectively reasonable. The officer must only use that force which a reasonably prudent officer would use under the same or similar circumstances.

III. DISCUSSION

- A. An officer is charged with a great responsibility in determining the appropriate use of force in a situation. As such, it is incumbent on the officer to make decisions based on information and circumstances known or reasonably believed. An officer should consider if there is legal justification to contact an individual and if it is possible to control the situation now in question.
- B. The department subscribes to the Disturbance Resolution Model as put forth by the Wisconsin Department of Justice and Office of Training and Standards (attached to this policy). This model provides general guidelines that define the degree and type of force to be used, specifies intervention options and modes and specific techniques applicable within each of the tactics.

IV. DEFINITIONS

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

- B. Intervention Options – Trained techniques recognized in the DAAT system. A list of the trained intervention options shall be attached as Appendix A of this policy.
- C. Objective Reasonableness Standard – The standard established by the US Supreme Court in *Graham v. Connor*, which states 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:
 - a. Severity of the alleged crime at issue.
 - b. Whether the person poses an imminent threat to the safety of officers and/or others.
 - c. Whether the person is actively resisting seizure or attempting to evade arrest by flight.
- D. Passive Resistance – Non-compliant and non-threatening behavior.
- E. Active Resistance – Behavior which physically counteracts an officers control effort, and which creates a risk of bodily harm to the officer, subject, and/or other persons.
- F. Assaultive Behavior – Direct actions or conduct that generates bodily harm.
- G. 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.
- H. Active Countermeasures – To create a temporary dysfunction of an actively resistive or assaultive subject. These techniques include vertical stuns and focused strikes.
- I. Incapacitating Techniques – To cause the immediate, temporary cessation of violent behavior.
- J. Great Bodily Harm WI SS 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.
- K. Intermediate Weapon – To impede a subject, preventing him or her from continuing resistive, assaultive, or otherwise dangerous behavior.

- L. Conducted Electrical Weapon (CEW) – Instruments in which a safe amount of electricity is used to affect the sensory and/or motor nervous system of the body.
 - M. Preclusion – The elimination of all other viable alternatives.
 - N. Deadly Force – The intentional use of a firearm or other instrument that creates a high probability of death or great bodily harm.
- V. PROCEDURE
- A. Authorized Use
 - a. Law enforcement officers may use force legitimately only when it is needed to achieve control in specific situations:
 1. To achieve and maintain control of resistive subjects.
 2. To detain persons reasonably suspected of criminal behavior.
 3. To make lawful arrests.
 4. To defend themselves and/or others.
 5. To prevent escape.
 - B. Officer Training
 - a. When an officer uses force as part of his/her law enforcement duties, the use of force must fit into one of these categories:
 1. A trained technique.
 2. A dynamic application of a trained technique (not quite the classroom model, but as close to it as possible under the circumstances).
 3. A technique not trained but justified under the circumstances.
 - C. Intervention Options

- a. The mode an officer chooses in each situation depends on the officer's tactical evaluation and threat assessment. The criteria are whether the level and degree of force is objectively reasonable. Principles that apply:
 1. The purpose for use of 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. An officer may initially use the level and degree of force that is reasonably necessary to achieve control. An officer need not escalate step by step through the intervention options. As the situation dictates, the officer may move from any mode to another if s/he 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 or escalate to a higher level of force, in the officer's discretion.
 4. Once an officer has gained control of a subject, s/he shall reduce the level of force needed to maintain control.
 5. The officer must always maintain the position of advantage.

D. Force Options

- a. Oleoresin Capsicum Spray (OC): The purpose for using OC spray is to overcome active resistance or its threat. OC spray works by creating a variety of physical effects in the subject that may result in confusion and disorientation, thus disrupting the subject's ability to resist or continue to resist.
 1. Department Issued OC
 - OC spray is issued to all sworn officers of the Cottage Grove Police Department. All officers shall be trained bi-annually in the proper use of OC and officers assigned to patrol duties will be required to carry OC while on-duty. Officers may only carry and use department issued and approved OC.
 2. Use of OC Spray

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- OC 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.
- Generally, OC should not be sprayed directly at the eyes of a person from less than three feet because of an increased risk of eye injury from the pressure of the spray.
- OC spray shall not be used once the subject is subdued and under control.
- Department personnel who use OC against a person shall ensure the person is decontaminated as soon as practical after s/he is under control.

3. Decontamination

- Department personnel who use OC against a subject shall ensure the person is decontaminated as soon as practical after s/he is under control.
 - (i) Immediately notify the shift supervisor. Use professional communications skills to calm and reassure the subject. Advise the subject the effects will wear off in approximately 30-45 minutes.
 - (ii) Ask the subject if s/he is wearing contact lenses, and if so, allow him/her to remove them.
 - (iii) Ask the subject if they would like medical attention. Initiate EMS if requested or if you feel necessary.
 - (iv) Encourage the subject to open his/her eyes and blink.
 - (v) If possible, move the subject to fresh air and face the subject into the wind.
 - (vi) Rinse the subjects face and eyes with cold water, preferably from a running tap or hose. Advise the subject not to rub his/her eyes.

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- (vii) If available use (non-lotion) soap, preferably baby shampoo, and water to remove the resin from the skin. Do not use salves, creams, or lotions.
 - (viii) Get medical assistance under the following circumstances:
 - 1. If the subject requests it.
 - 2. If symptoms do not visibly improve after 45 minutes.
 - 3. If the officer observes any other problem or otherwise feels that medical assistance is warranted.
4. Officer Faced with the Threat of OC By Subject
- When an officer is faced with the threat of OC by a subject, the officer has the option to disengage or escalate.
5. When an Officer is Assaulted with OC
- Attempt to avoid being incapacitated by the spray by closing one or both eyes, blocking the spray with your hand, turning your head away, or holding your breath to avoid breathing the spray.
 - Seek to create distance, enough to be out of range of the spray.
 - Attempt to defuse the situation with professional communication skills.
 - Attempt to disarm the subject.
 - Escalate to a higher level of force.
 - The appropriate level of force depends on the totality of the circumstances, including the individual officer's own response to OC.

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- If an officer has previous experience with OC, they may have knowledge that they can fight through the effects. Or the officer may know that they become instantly incapacitated by the effects of OC.
 - The officer will conduct a tactical evaluation to determine the appropriate level of force.
- b. Conducted Electrical Weapon (CEW): CEW's are instruments in which a safe amount of electricity is used to affect the sensory and/or motor nervous system of the body allowing an officer to gain control of a violent or resistive subject.
1. The CEW is not a substitute for deadly force. In cases where a subject is believed to be armed with a dangerous weapon, an officer may not arm him/herself with an CEW unless another officer at the scene has the immediate ability to deliver deadly force. Officers armed with an CEW should continuously monitor and evaluate the ability of other officer's present at the scene to deliver deadly force.
 2. Carrying of CEW
 - Only CEW devices approved for use by the Chief of Police may be utilized by officers that have successfully completed the initial training and required yearly certification. Deployment and use of CEW devices will be in accordance with departmental training and procedure. The authorized CEW device for the Cottage Grove Police Department is the TASER X26 or Taser X26P which is manufactured by Axon Enterprise Inc.
 - Officers are not required to carry the CEW and can opt not to by providing a written memorandum to the Chief of Police.
 3. Weapon Readiness
 - Officers carrying an CEW must spark test it, consistent with training, at the beginning of their shift to ensure proper operation. Officers must also check the cartridges to make sure the blast doors are not compromised and that the cartridge is not expired. Expired or damaged cartridges must be turned into the TASER Coordinator.

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- CEW's will be carried in an approved holster, and with the safety switch in the "safe" position. The CEW must be carried on the opposite side of the body than the service handgun.
- Officers authorized to use an CEW may carry an additional spare cartridge. The spare cartridge shall be stored and carried in a manner consistent with training as approved by the department and in approved holders if worn on the duty belt or in a non-uniformed assignment.

4. Deployment

- The CEW is recognized as part of control alternatives in the Disturbance Resolution Model. Control alternatives is the third mode in intervention options. The goal of control devices is to overcome active resistance or its threat.
- The CEW may be used when a subject is threatening to actively resist or is actively resisting an officer and the subject poses a threat to an officer or another person. CEW's may also be used when the subject poses a threat of harm to him/herself such as self-inflicted injury or suicide attempt.
- The CEW shall not be brandished, displayed, or its use threatened unless it can be reasonably concluded that its use may become justified.
- Every effort shall be made to deploy an CEW at the preferred target areas which are the lower center of mass (below the chest) for front deployments and below the neck area for back deployments. Officers should avoid intentionally targeting the CEW on sensitive areas of the body such as head, throat, chest/breast, or known pre-existing injury areas without legal justification.
- A warning should be given prior to activating the CEW to the subject and to announce to officers that the CEW is going to be deployed unless to do so would place any other person at risk.

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- Upon deployment of an CEW against a subject, the subject shall be attempted to be handcuffed under power, depending on their tactical evaluation, as to limit the amount of cycles from the CEW the subject is exposed to.
- Deployment of an CEW against animals who are aggressive towards an officer or another person is authorized.

5. Drive Stun Deployment

- The CEW can be utilized in the drive stun mode in keeping with the guidelines of department training. Officers shall not intentionally target areas such as the neck or groin. It is important to note that when the CEW is deployed in this manner, it is:
 - (i) Primarily a pain compliance tool due to lack of probe spread.
 - (ii) Minimally effective compared to cartridge deployments.
 - (iii) More likely to leave marks on the subject's skin.
 - (iv) Subject to the same deployment use guidelines and restrictions as those of the CEW in cartridge deployments.

6. Medically Significant Behavior (Excited Delirium)

- Medically significant behavior includes a variety of behaviors that indicate a serious and potentially life-threatening medical condition is present.
- Repeated or prolonged application of an CEW can have an additive effect and could cause injury, especially in someone whose health is already compromised in some way, including by drug use, injury, or over-exertion, as can happen in people displaying medically significant behavior. Before each application of an CEW, as with any other use of force, reassess the situation. If use of the CEW is not providing effective control to permit taking the subject

into custody, consider whether it would be appropriate to disengage and/or escalate to another intervention option.

- Some of the below signs and behaviors have been associated with excited delirium:
 - (i) Agitation or excitement = increased activity and intensity.
 - 1. Aggressive, threatening or combative – gets worse when challenged or injured.
 - 2. Amazing feats of strength.
 - 3. Pressured loud speech.
 - 4. Sweating (or loss of sweating late).
 - 5. Dilated pupils/less reactive to light.
 - 6. Rapid breathing.
 - (ii) Delirium = confusion
 - 1. Disoriented.
 - 2. Person, place, time, purpose.
 - 3. Rapid onset over a short period of recent time.
 - 4. “He just started acting strange.”
 - 5. Easily distracted/lack of focus.
 - 6. Decreased awareness and perception.
 - 7. Rapid changes in emotions (laughter, anger, sadness).
 - (iii) Psychotic = bizarre behavior

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1. Though content inappropriate for circumstances.
 2. Hallucinations (visual or auditory).
 3. Delusions (grandeur, paranoia or reference).
 4. Flight of ideas/tangential thinking.
 5. Makes you feel uncomfortable.
- Responding to Medically Significant Behavior
 - (i) If a person is experiencing Excited Delirium or some other medical problem that is contributing to violent behavior, your response tactics should be geared to accomplish the following:
 1. Avoid increasing the subject's agitation or excitement.
 2. Minimize physical struggles with the subject.
 3. Get medical care for the subject as quickly as possible.
 4. Request backup and paramedics.
 5. Weigh the need for immediate control against the risk to the subject.
 6. The deployment of an CEW, may be required to make it possible to approach the subject.
7. Use of CEW Prohibited
 - Officers will not use the CEW in a punitive or coercive manner.
 - In a repetitive manner beyond a minimum amount of cycles necessary to place the subject into custody.

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- On a handcuffed or secured prisoner absent overtly assaultive behavior which could cause death or great bodily harm to the individual or another person.
- On any subject who does not demonstrate an overt intention to use violence or force against the officer or another person, or to flee to resist or avoid detention or arrest.
- On a fleeing subject where the sole justification for the use is the flight of the individual. The severity of the offense and other circumstances should be considered before use of the CEW on a fleeing subject.
- On a female subject who is known to the officer to be pregnant or exhibits physical signs of pregnancy unless the individual is displaying assaultive behavior that could be reasonably construed as possibly causing death or great bodily harm to an individual, the unborn child, or another person and this behavior cannot be dealt with in any other less intrusive fashion.
- On a subject who is known to the officer to be a juvenile or by their appearance is believed to be a juvenile unless the individual is displaying assaultive behavior that could be reasonably construed as possibly causing death or great bodily harm to the individual or another person and his behavior cannot be dealt with in any other less intrusive way.
- Where the subject is displaying passive resistance without posing a threat of harm to officers or others.
- In any environment where an officer knows that a potentially flammable, volatile or explosive material is present.
- In any environment where K9's are being utilized and a subject is being held by a K9 unless the individual is displaying assaultive behavior that could be reasonably articulated as possibility causing death or great bodily harm to the individual or another person.

- In any environment where the subjects fall, or incapacitation could reasonably result in serious injury or death.
- On elderly individuals unless justified under the circumstances.
- On subjects holding an infant or small child. Deployment on these individuals may result in the infant or small child being struck with a probe or being dropped by the individual.
- On a subject operating a motor vehicle.
- On a subject who is running away from you unless the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others.
- On a subject who is in a significant amount of water enough to drown.
- Persons engaged in peaceful civil disobedience or individuals displaying passive resistance.

8. Aftercare

- Officers are permitted to remove the probes from the subject only if they are not located in a sensitive area. Sensitive areas include, neck, face, groin, breast of female. If the probes are in a sensitive area, EMS shall be summoned for transport to a medical facility for removal.
- Subjects who have been subjected to CEW deployment will be monitored regularly while in department custody even if they have received medical care.
- The following subjects shall be transported by EMS to a medical facility for examination following the deployment of the CEW:

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- (i) Subject requests medical attention. Officers will ask any subject subjected to deployment of CEW if they desire medical attention.
- (ii) Is struck in a sensitive area.
- (iii) From individuals where officers have difficulty removing the probes.
- (iv) Does not appear to recover properly after being subjected to a deployment.
- (v) Is in a potentially susceptible population.
- (vi) Has been subjected more than three times consecutively.
- (vii) Has been subjected to a continuous energy cycle of 15 seconds or more.
- (viii) Has exhibited signs of extreme uncontrolled agitation or hyperactivity prior to CEW exposure or could be reasonably believed to be experiencing Excited Delirium.

- Photographs of the affected area should be taken after the probes are removed.
- When a deployment has occurred, the officer should treat the probes as a biohazard and dispose of them properly. The cartridge, wires, and AFID's shall be disposed of.

9. Reporting

- The deploying officer shall verbally notify the on-duty department supervisor as soon as practical after deployment of an CEW and complete the Cottage Grove Police Department CEW Use of Force form.
- All officers and supervisors involved in the use of an CEW shall complete a thorough department report. Included with the report, the officer shall identify the CEW used by listing the serial number of the CEW and the serial number

from the cartridge. The internal data recorded by the CEW shall be downloaded and included with the report.

- c. Intermediate Weapon/Impact Weapon (Baton): The goal of using intermediate weapons is to impede a subject, preventing him or her from continuing resistive, assaultive, or otherwise dangerous behavior.
 - 1. The appropriate target areas for the baton strikes are the lower abdominal area (baton jab) and the knee and elbow area (angle strike and angle cross strike).
 - 2. Uniformed officers shall be required to have a Cottage Grove Police Department approved impact weapon available to them while on duty. The approved impact weapon is a collapsible baton no longer than 26", a standard baton constructed of wood or product used in the manufacturing of such batons intended for law enforcement use. Officers will receive bi-annual training on the use of a baton.
 - 3. An impact weapon must be carried on the duty belt of a uniformed officer if an CEW is not carried. If an CEW is carried, the baton does not need to be carried on the duty belt.
 - 4. No subject shall be struck intentionally in the head unless the action is justified under the use of deadly force.

E. Use of Non-Traditional Weapons

- a. It is recognized that in certain situations, an officer may be attacked so suddenly, that the use of approved departmental techniques and/or weapons may be compromised. In these situations, the officer may utilize non-traditional weapons. This includes any object or instrument the officer may need to insure their survival or the survival of another. The use of non-traditional weapons must be consistent with this policy.
- b. It is recognized that officers may carry a folding knife or fixed blade on their person while on-duty.
 - 1. Folding Blades: Folding blade knives shall be of a quality standard design to meet the demands of work assignments as defined by departmental policy. The cutting edge of such knives shall not exceed four and one-half inches in length as measured from blade to handle.

2. Fixed Blades: The cutting edge of such instruments may not exceed eight inches in length.

F. Use of Less Lethal Projectiles:

The following procedures shall govern the use of less lethal projectiles during patrol operations:

- a. Dedicated less lethal shotguns and projectiles are to be deployed for use by sworn personnel in the following conditions:
 1. The shotguns and projectiles shall be secured and located inside the equipped patrol vehicles.
 2. Only officers trained in the proper use of less lethal projectiles should deploy them, and their use should be consistent with department training.
 3. Training will be conducted on a bi-annual basis or during field training.
 4. The department firearms or use of force instructors shall verify each round as being a less lethal round as it is being loaded into the weapon.
 5. Less lethal impact projectiles are not a substitute for deadly force. In a deadly force situation, officers may not arm themselves with a less lethal weapon unless another officer at the scene has the immediate ability to deliver deadly force. Officers armed with less lethal weapons should continuously monitor and evaluate the ability of other officers present to deliver deadly force.
 6. The officer deploying the less lethal impact projectile should, if possible, notify other officers in the area prior to deployment and without notifying the suspect. The notification is an attempt to avoid the sympathetic use of deadly force options.
 7. The officer deploying the less lethal projectile should refrain from using the head, neck, groin, and chest areas as a target area for the projectile unless the circumstances dictate it. Appropriate target areas are the lower arms, thighs, buttocks, legs, and abdomen.

The firing of less lethal impact projectiles must be evaluated using the criteria of this policy and the State of Wisconsin Intervention Options. Firing of less lethal impact projectiles at non-vital areas is considered non-deadly force and is considered to fall just above baton strikes (at the upper range of the "impact weapon" category) in the Protective Alternatives. The intentional deployment of

less lethal impact projectiles at the face, head, or neck is considered deadly force.

G. Use of Deadly Force

- a. Deadly force is to be used only as a last resort. The purpose of deadly force is to stop the threat. It should never be used unless the officer reasonably believes less force would be insufficient to defend the life or body of the officer or another person. Or in limited situations, to apprehend a dangerous felon or control an animal.
- b. Before using deadly force, officers should, if reasonably possible, identify themselves as a police officer, order the suspect to stop the unlawful activity and threaten to use deadly force if the order is not obeyed.
- c. An officer may use deadly force when the officer reasonably believes that their life or that of another is in imminent danger of death or great bodily harm based on the totality of the circumstances known to the officer at the time. Behavior which justifies the use of deadly force is behavior which has caused or imminently threatens to cause death or great bodily harm to you or another person or persons.
- d. Officers may use deadly force against a “fleeing felon” only when the officer reasonably believes that the action is within the circumstances of this policy. NOTE: A “fleeing felon” should not be presumed to pose an immediate threat to life in the absence of actions that would lead one to believe otherwise, such as a previously demonstrated threat to or wanton disregard for human life.
 1. Before using deadly force, officers should have probable cause to believe:
 - That the suspect committed, or attempted to commit, a crime of violence or threatened violence.
 - That the suspect was armed.
 - That the suspect presents a significant danger to the safety of present or future arresting officers, or to the public should arrest be delayed and that a warning to stop is feasible to deliver.

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- e. Should deadly force be employed by use of a firearm, officers should not generally discharge the firearm into a crowd, at a building or through openings or walls where the individual is not clearly visible to the officer.
- f. Prior to being able to carry a firearm officers will receive a copy of the Use of Force Policy and demonstrate their understanding of the policy.

H. Deadly Force Prohibitions

- a. Warning shots are prohibited.
- b. Firing a weapon from a moving vehicle unless there is reasonable cause to believe that the officer or another is in imminent danger of death or great bodily harm.
- c. Firing a weapon at a moving vehicle unless there is reasonable cause to believe that the officer or another is in imminent danger of death or great bodily harm. Or, deadly force regarding felons applies.
- d. Use of such force where there is unreasonable risk to the lives of innocent bystanders.

I. Deadly Force and Animals

- a. An officer may use deadly force to protect themselves or another from an animal that the officer reasonably believes may cause great bodily harm of not immediately controlled or to end the suffering of an animal gravely injured or diseased. The officer shall consider public view, safety and other reasonable dispositions in the determination to use deadly force. The firing of a weapon shall be in keeping with restrictions as noted elsewhere in this policy with attention paid to the risk to the public and/or property by this action.

J. Use of Non-Deadly Force

- a. Use of non-deadly force techniques and equipment is authorized for intervention in the following circumstances:
 - 1. To protect the officer or another from physical harm.
 - 2. To detain a person reasonably suspected of unlawful behavior.
 - 3. To affect an arrest.

4. To overcome active and/or passive resistance.
 5. To prevent escape.
 6. To bring an unlawful situation under control in a safe and effective manner.
- b. Officers should only use the degree of non-deadly force reasonably believed to be necessary to control a situation. The following factors should be considered:
1. Existence of alternative methods of control.
 2. Physical size, strength and weaponry of the subject compared to the officer.
 3. Nature of the encounter.
 4. Acts of the subject.
 5. Exigent conditions (i.e. availability of backup, number of subjects encountered, etc.).
 6. Severity of the offense.
 7. If the subject poses a threat to the officer or citizens.
 8. Active resistance to an arrest or attempts to evade arrest by flight.
- c. The only approved non-deadly force equipment is the officer's physical self, the collapsible baton, no longer than 26" in length; a standard baton constructed of wood or product used in the manufacture of such batons for law enforcement use that is approved by the department, Conducted Electrical Weapons (known as a TASER), oleoresin capsicum (OC) spray issued by the department, less lethal shotgun, handcuffs manufactured for law enforcement use and other restraint devices that may have been issued or approved by the department.
1. Handcuffs and other department issued restraining devices as needed shall be used on an individual in custody when there is reason to believe the subject may become violent, attempt

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escape or pose a danger to themselves or others. Use of handcuffs is mandatory on all persons who have aggressively resisted or attacked another person.

- Additional department approved restraining devices may be used if handcuffs prove to be insufficient in restraining an individual.
 - In emergencies where department approved restraining devices are not available, it is recognized that alternative devices may have to be employed. As soon as practical, approved devices should be substituted.
 - Persons placed in restraints shall be continuously monitored for breathing and circulation.
2. Batons should be used where there is a reasonable belief that a lesser degree of force is insufficient to control a situation.
- No subject shall be struck in or about the head unless the action is justified under the use of deadly force.
- d. The carrying of less than lethal force equipment while off-duty is prohibited except for one pair of handcuffs.

K. Non-Deadly Force Prohibitions

- a. Non-deadly force will not be used on persons who are offering passive resistance or are subdued and under control.
- b. Non-deadly force will not be used on handcuffed or restrained persons unless their actions are such that could be reasonably interpreted as active resistance and the use of non-deadly force would be warranted to meet criteria set forth elsewhere in this policy to attempt to control a subject to affect an arrest, prevent harm to the individual, the officer or another person.
- c. Non-deadly force will not be used on persons fleeing on foot unless criteria for use of force on persons involved in felonious acts as outlined elsewhere in this policy exist.

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- d. Non-deadly force will not be used from a moving vehicle unless there is reasonable cause to believe that the officer or another is in imminent danger of death or great bodily harm.
 - e. Non-deadly force will not be used against a person in a moving vehicle unless there is reasonable cause to believe that the officer or another is in imminent danger of death or great bodily harm. Or, deadly force regarding felons applies.
 - f. Non-deadly force will not be used where there is unreasonable risk to the lives of innocent bystanders.
- L. Use of Non-Traditional Weapons
- a. It is recognized that in certain, rare situations, an officer may be attacked so suddenly and/or viscously, that the use of approved departmental techniques and/or weapons is compromised. In these situations, the officer may utilize nontraditional weapons. This includes any object or instrument the officer may need to insure their survival or the survival of another. To the extent possible, the use must be consistent with this policy.
- M. After Control has been Established
- a. Once control of an individual has been gained, the officer must:
 - 1. Stabilize the individual to retain control using handcuffs or other department approved mechanical restraints designed for such temporary control.
 - 2. Perform a search of the individual for any weapons or contraband which may cause harm or pose a threat to the person and/or the officer.
 - 3. Evaluate the individual consciousness and injury or other potential medical situation which may require immediate or subsequent medical treatment.
 - 4. Place the individual in a location of safety and assure monitoring by the officer or another officer so designated.
 - 5. Transport the individual to an appropriate destination; hospital, police facility or detention center.

6. Turn over the individual to another law enforcement officer who is taking custody of the person for lawful purposes.
- b. Duty to Intervene
1. Officers are required to intervene in any situation where they see an officer using a force application that is unreasonably, unnecessarily, or illegally endangering a subject. These incidents shall be reported to the Chief of Police immediately for review.
- c. Medical Treatment After Use of Force
1. EMS shall be immediately summoned to begin or provide treatment for any injury to the individual where the officer reasonably believes there is the need for treatment or the individual claims such need. And, the individual shall be afforded necessary medical treatment for any injury or situation subsequently discovered or claimed after the initial incident. Medical treatment shall not be withheld from the individual under any circumstances.
 2. Where oleoresin capsicum (OC) has been utilized, officers shall:
 - As soon as reasonably possible move the individual into fresh air.
 - Rinse with water the face of the individual.
 - Attempt to calm and reassure the individual that their breathing will return to normal.
 - Monitor the individual for possible medical treatment need.
 - Summon EMS if the individual requests medical treatment or if the officer believes treatment is necessary.
- d. Where a Conducted Electrical Weapon (TASER) has been utilized, officers shall:

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1. Remove probes after the subject has been restrained. Probes that are in sensitive areas (neck, face, groin, breast of a female) will be removed by medical personnel.
2. Summon EMS to have the person evaluated for medical care need.

N. Use of Force Reporting and Review

- a. All use of force incidents shall be reported completely and accurately in a written/dictated department report by each officer who utilizes and/or observes such force regardless of the level of force or involvement of the officer.
- b. All use of force incidents that result in medical treatment for the individual or the summoning of EMS shall be verbally made known to a department supervisor by the officer involved (or another in a case where the officer involved is incapable of so doing) as soon as practical after the incident. A written/dictated report shall be completed thereafter.
- c. All situations where an officer displays a weapon, including a Conducted Electrical Weapon (TASER) or discharges same (other than for training) shall be verbally reported to a department supervisor by the officer involved (or another in a case where the officer involved is incapable of so doing) as soon as practical after the incident. A written/dictated report shall be completed thereafter.
- d. Officers who have knowledge of the use of force by another officer of this department or by a member of another police agency shall complete a written/dictated department report. This includes situations where:
 1. Knowledge is learned of the actions of a department member in a use of force incident that has not been reported by the officer using such force.
 2. In a mutual-aid situation where department officers observe another officer utilizing force of any type.
- e. All reports containing use of force information shall be forwarded to the Chief of Police for review.

1. Any investigations concerning the use of force will be conducted by the Chief of Police or his designee and a thorough written report will be prepared.

O. Personnel Status Pending Review

- a. Should an officer's use of force result in death or serious physical injury, that officer shall be temporarily relieved from field operations pending a review. An investigation will be conducted under the direction of the Chief of Police or another agency as circumstances dictate. The completed investigation will be reviewed by the Chief of Police, appropriate department/municipal legal counsel and the District Attorney.
- b. An officer involved in the use of force, or any incident, whether accidental or intentional, resulting in death or serious physical injury of an individual that relates to an officer's action or involvement shall be required to participate in a confidential post-incident debriefing session with a competent professional. The officer's spouse and immediate family, at their discretion, will be invited to participate in such debriefing.

P. Investigation of Officer Involved Shootings

- a. It is the policy of the Cottage Grove Police Department that officer involved shooting incidents be investigated with the utmost thoroughness, professionalism and impartiality to determine if officer actions conform with the law and the policies and procedures outlined in Major Crime Policy (see **MAJOR CRIME RESPONSE** Policy). The criminal investigation will be separate to any administrative review of the incident.
- b. On-Scene Responsibilities
 1. Officers involved at the scene of a shooting incident shall take those measures that are reasonably possible and appropriate to protect their safety and to preserve evidence essential to the investigation. This includes the following actions, undertaken in the order deemed appropriate:
 - Ensure that the threats to officer safety and the safety of others are over.

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- Secure and separate suspects.
- Relay information on fleeing suspects to the Communications Center and other on duty officers and work with them to establish a containment area.
- Request a supervisor and additional backup, Cottage Grove Fire Department, Deer Grove Paramedics, if necessary, and any other assistance required immediately.
- If injured, administer emergency first aid to one's self first, if possible. Then, administer basic first aid to suspects and others, as necessary, pending arrival of Deer Grove Paramedics.
- Holster any involved handguns or secure them in place as evidence. Secure long guns in the prescribed manner or in place as evidence. After the scene is secure and threats to officer are neutralized, do not open, reload, remove shell casings or in any other manner tamper with involved firearms.
- Take note of the time, survey the entire area for relevant facts, individuals who are present and who departed the scene, witnesses, potential suspects and suspect vehicles.
- As time and capabilities permit, before supervisory and other assistance arrives:
 - (i) Secure the area, establish a perimeter with crime scene tape and limit access to authorized persons necessary to investigate the shooting and assist the injured.
 - (ii) Protect evidence from loss, destruction or damage that is likely to occur before backup can arrive. Ensure that evidentiary items are not moved or, if moved, note the original location and position of persons, weapons, and other relevant objects and evidence.
 - (iii) Record the names, addresses, and phone numbers of all witnesses and other persons present at the

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shooting scene and request that they remain on hand to make a brief statement whether they say they saw the incident.

2. Supervisory Responsibilities at Scene

- Ensure the safety and determine the condition of the officer(s), suspect(s) and third parties. Summon the Deer Grove Paramedics if not yet summoned for officers, suspects and third parties.
- If an officer has been shot or otherwise injured in the shooting:
 - (i) Ensure that another officer accompanies and remains with the officer at the hospital.
 - (ii) Ensure that the involved officer's family is notified on a priority basis and in person when possible. Ensure that they are assigned transportation to the hospital or other location where they are needed as soon as possible.
 - (iii) Do not release the officer's name to the media or unauthorized parties. This will be done in accordance with **NEWS RELEASES AND PRESS RELATIONS** Policy.
 - (iv) Assign an officer to the family for security, support, control of the press and visitors, establishment of communications and related matters.
 - (v) Ensure that the clothing of officers and other injured persons is collected for potential evidentiary purposes and that related equipment of the officers is safeguarded.
- If the officer is not injured, move them away from the center of activity accompanied by another officer. Ensure that all necessary steps are taken consistent with department policy and procedures.

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- Confirm that the preliminary steps outlined in above Section C1 have been adequately addressed and, if not, take appropriate action to ensure that necessary actions are taken.
- Ensure that the immediate area is contained and detain any suspects therein.
- Make notifications to other personnel, to include:
 - (i) Chief of Police.
 - (ii) Supervisor(s).
 - (iii) District Attorney.
 - (iv) Member of the Clergy, if appropriate.
- Establish a command post, if necessary.
- Appoint a recorder to make a chronological record of activities at the scene, to include:
 - (i) Person present.
 - (ii) Actions taken by police personnel.
 - (iii) Identity of any personnel who enter the incident/crime scene, to include Rescue and Fire personnel.
- Establish a media staging area as time permits until a public information officer assumes responsibility.
- Begin doing the following:
 - (i) Locate and secure, or secure-in-place, the officer's weapon(s) and ammunition casings. Check the weapons of all officer's present for discharge.
 - (ii) Locate the suspect's weapon(s), ammunition and expended cartridges.

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- (iii) Collect information about the suspect, including name, physical description, address and other pertinent information.
- (iv) Locate and secure as evidence any clothing that may have been removed from the suspect by EMS or others.
- (v) Determine the original position of the officer(s) and the suspect at the time of the shooting.
- (vi) If the officer's actions or use of force, in an official capacity, causes serious physical injury to, or death of any human being the officer shall be placed on administrative leave.

3. Post Shooting Trauma

- Supervisory, investigative and other sworn and non-sworn personnel shall be familiar with and follow the provisions established by the department on dealing with post shooting emotional trauma of police personnel.
- All personnel shall be familiar with the provisions on employee mental health services with the Employee Assistance Program and should avail themselves of these services following officer involved shooting incidents where appropriate.
- Investigation of officer involved non-fatal shootings shall be the responsibility of the command staff or may be alternatively designated by the Chief of Police. Sub sections b. through k. apply for these non-fatal investigations being conducted by the Cottage Grove Police Department. Per WI SS 175.47, investigation of officer involved fatalities, to include fatal shootings shall be investigated by at least two investigators who are not employed by the Cottage Grove Police Department (sub section a. applies). The investigators from the outside agency shall provide a complete report in an expeditious manner to the Dane County District Attorney for a determination if the officer(s) involved in the death acted legally.

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- (i) It is the policy of the Cottage Grove Police Department that the Chief of Police or his designee shall contact the State of Wisconsin Division of Criminal Investigation (DCI) for all fatal officer involved deaths to include shootings.
- (ii) Ensure that tasks itemized in the previous sections have been appropriately and adequately completed. Take measures to ensure that any deficiencies in completing tasks are immediately remedied.
- (iii) Receive a general briefing and walk through by the supervisory officer regarding the circumstances surrounding the shooting.
- (iv) Ensure that the overall scene and evidentiary items are diagramed, photographed and videotaped. Videotape all persons present at the scene. Color photographs of the officer as s/he appears at the scene shall be taken, to include any injuries sustained.
- (v) Ensure thorough inspection of the scene and proper collection of all items and substances of evidentiary value.
- (vi) Locate and identify suspects, witnesses, rescue and fire personnel, as well as other first responders at the scene. Obtain electronically recorded statements from them.
- (vii) Notify the Medical Examiner.
- (viii) Ensure that notification is provided to next-of-kin of injured or deceased suspects.
- (ix) Conduct interviews with each officer involved.
 - 1. Only minimal, preliminary questions should be asked about the incident. The officer should be advised that a more detailed

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debriefing will be conducted later. A fully detailed debriefing should not take place for at least 24 hours after the shooting, this will allow the involved officer(s) time to sort out facts and “come down” from the perception altering effects of fight or flight reflex. International Association of Chiefs of Police recommends a three-day period to recover from the physical effects of “stress flood” or “adrenaline dump” after such critical incidents.

2. Any standard investigations that will occur concerning the incident should be discussed with the officers.
 3. The officers should be advised that they may seek legal counsel.
 4. The officers should be advised not to discuss the incident with anyone except a personal or Agency Attorney, Union Representative, or departmental investigator, until the conclusion of the preliminary investigation.
 5. Make clear to all officers beforehand as well as the media that administrative leave or light duty assignments are standard procedure in the wake of police use of deadly force and represent no departmental judgment or punitive intent against the officers.
- (x) Take any weapon fired by the officer(s) into custody and handle it as evidence. Firearms shall be taken from officers in a discrete manner and ensure that arrangements are made to replace them with other firearms or advise the officers that they will be returned or replaced later.

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- (xi) Where an officer has died, the Chief of Police shall ensure that the policies and procedures **LINE OF DUTY DEATH NOTIFICATION** Policy are followed.
 - (xii) Contact the medical examiner and attend autopsy of officer and/or suspect. Determine entrance and exit wounds, estimates of the shooter's position, and the presence of controlled substances in the decedent's blood or other related evidence.
 - (xiii) Obtain search warrants as necessary for searches of vehicles, containers, homes and vehicles.
 - (xiv) Develop a statement of preliminary basic facts for the media to be delivered by the Public Information Officer.
- c. Any employee, whose actions or use of force, in an official capacity, causes serious physical injury to, or death of any human being shall be placed on administrative leave pending a review of the incident. An investigation of non-fatal officer involved incidents will be conducted under the direction of the Chief of Police or may be conducted by another agency as circumstances dictate. Officer involved fatal incidents shall be investigated by the DCI. The completed investigation will be reviewed by the Chief of Police, and the District Attorney's Office. The following conditions shall apply to employees placed on administrative leave:
1. The employee shall verbally report his involvement prior to the period of administrative leave.
 - Conduct the interview in a private location away from sight and hearing of agency members and others who do not have a need or a right to the information.
 - Advise the officers not to discuss the incident with anyone except a personal or agency attorney, union representative or departmental investigator until the conclusion of the preliminary investigation.
 - Be cognizant of symptoms of post-traumatic stress, to include time and space distortions, confusion, hearing and visual distortion and emotional impairment, including

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shock (defer electronically recorded interviews if these symptoms are evident).

2. Unless physically unable to do so, the employee shall complete all required reports and avail himself to a recorded interview with investigators as designated by the Chief of Police within 48 hours of having been placed on administrative leave.
3. The assignment of administrative leave will not be interpreted to imply or indicate that the employee acted improperly.
4. The assignment of administrative leave will be without loss of pay or benefits, pending the results of the investigation.
5. The employee will remain available always for departmental interviews and statements regarding the incident.
6. Any employee involved in the use of force, or any incident, whether accidental or intentional resulting in death or serious physical injury of an individual, that relates to an employee's action or involvement, will be required to participate in a confidential post-incident debriefing session with a competent professional trained and experienced in Critical Incident Debriefing. Spouses and immediate family, at their discretion, will be invited to participate in the incident debriefing session.

BY ORDER OF THE CHIEF OF POLICE