



POLICY & PROCEDURE

PORTAGE POLICE DEPARTMENT

SUBJECT: **USE OF LESS LETHAL WEAPONS**

SCOPE: All Sworn Personnel

DISTRIBUTION: Policy & Procedures Manual

REFERENCE: WI State Statutes: 939.22(14), 939.45, 939.48, and Chapter 941; DAAT Incident Response and Disturbance Resolution Model

NUMBER: 5.02

ISSUED: 06/22/2021

EFFECTIVE: 06/22/2021

RESCINDS

AMENDS

WILEAG 5TH EDITION

STANDARDS: 5.1.1, 5.1.2, 5.1.3, 5.1.4, 5.2.1, 5.3.1, 5.3.2, 12.1.1.1, 12.1.1.3, 12.1.3.1, 12.1.3.5

PURPOSE: The purpose of this Policy & Procedure is to establish policies and procedures regarding the use of less lethal weapons, including de-escalation measures and to identify the responsibilities of officers of the Portage Police Department when using them or after they have been used.

This Policy & Procedure consists of the following numbered sections:

- I. POLICY
- II. DEFINITIONS
- III. PROCEDURES
- IV. TRAINING

I. POLICY

- A. It is the policy of the Portage Police Department to value and preserve human life therefore; officers shall use only the force, including less lethal force that is reasonably objective to gain and maintain control, while protecting the lives of the officer or others. Officers may include in their decision to use this force option, information known to the officer(s) at the time of the incident or conduct or statements by the subject or a prior history of resistive or assaultive behavior. Deadly force shall never be resorted to until every other reasonable means of apprehension or defense has been exhausted or precluded and SHOULD only be used as a last resort.

II. DEFINITIONS

- A. **DEADLY FORCE:** The intentional use of a firearm or other instrument, the use of which would result in a high probability of death or great bodily harm.
- B. **DE-ESCALATION-** Taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and / or resources can be called upon to resolve the situation without the use of force or without the reduction of force necessary.
- C. **DEFENSE AND ARREST TACTICS (DAAT):** A system of verbalization skills coupled with physical alternatives.
- D. **ELECTRONIC CONTROL DEVICE (ECD) :** A less lethal force device that causes electro-muscular disruption to a combative, violent, or potentially combative, violent subject. The use of this device is intended to incapacitate the subject with a minimal potential for causing death or great bodily harm. The device authorized for use by Portage Police personnel is manufactured by Taser ©. Taser refers to the device as a Conducted Energy Weapon (CEW). The Wisconsin Department of Justice Defense and Arrest Tactics system (DAAT) refers to the devices as an electronic control device (ECD).
- E. **GREAT BODILY HARM:** “Bodily injury which creates a substantial risk of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily injury.” WI State Statute 939.22(14)
- F. **NON-DEADLY FORCE:** That amount of force which does not meet the definition of deadly force, but which is an amount of force which, in normal circumstances, could cause bodily harm.
- G. **REASONABLE FORCE:** That force which an ordinary, prudent, and intelligent person with the same knowledge of the particular situation as the officer would deem necessary.

III. PROCEDURES

- A. **Oleoresin Capsicum (O.C.)**
 - 1. Only officers who have completed Defense and Arrest Training are authorized to carry O.C.
 - 2. The aerosol chemical control device authorized by the Department contains oleoresin capsicum (O.C.). No other aerosol chemical restraint is authorized or allowed without prior approval from the Chief of Police or designee. All O.C. must be non-flammable.
 - 3. When a person is actively resting or threatening to actively resist an officer and

other lesser force options are ineffective or have been precluded the officer may consider the use of O.C.

4. All uniformed officers issued O.C. aerosol will be required to carry it while on duty except for administrative personnel and other officers assigned to plain clothes duties or special assignments.
5. O.C. will be used consistent with the training provided by the department and/or the Wisconsin Training and Standards Bureau.

B. Electronic Control Device (ECD) use

1. Only officers who have completed the department's ECD training course and have been trained in the Defense and Arrest Tactics System shall be authorized to carry/use an ECD.
2. The ECD may be used by trained officers when a subject is threatening to actively resist or is actively resisting an officer, the subject poses an articulable threat of harm to another person, or when a subject poses a threat of harm to themselves such as self-inflicted injury or a suicide attempt. Active resistance, unlike passive resistance, involves a subject who is physically counteracting an officer's control efforts – under circumstances in which the behavior itself, the environment in which the behavior occurs, or the officer/subject factors create a risk of bodily harm.
3. The ECD is in the Control Alternatives section of the Intervention Options on the Disturbance Resolution Model.
4. Any use of the ECD shall be consistent with the manufacturer's recommendation and precautions.
5. Passive resistance without posing an articulable threat of harm to officers or others does not permit the use of an ECD.
6. An officer shall not brandish, display, or threaten the use of an ECD unless he or she can reasonably conclude its use may become justified and is anticipated.
7. In each instance that an ECD is deployed in an incident, consideration should be made regarding the need for lethal cover.
8. Officers who deploy an ECD against a subject shall ensure the subject is monitored for injury as soon as practical after the subject is under control.
 - a) Emergency medical services shall be provided to the person if an adverse reaction to the ECD occurs, if requested by the person, the officer has trouble removing the probes, the person received three or more cycles, prolonged exposure, the officer has reason to believe the person is more susceptible to injury, or the person has exhibited signs of medically significant behavior including signs of extreme uncontrolled agitation or hyperactivity.

- b) If the probes are imbedded in sensitive tissue areas, i.e. neck, face, groin, ear, etc, officers shall arrange transport to a medical facility for removal. If the probes are imbedded in other non-sensitive tissue areas, an ECD-trained officer may remove them according to the trained procedures.
 - c) After the probes have been removed, they shall be handled as a biohazard and disposed of according to the trained procedure. Photographs of the wound site shall be taken if practical.
9. Officers shall not carry an ECD near their firearm. Preferred placement would be on their reactionary side or the side on their body opposite where they carry their firearm.
10. Prior to the start of each shift, officers shall visually inspect the ECD and perform a function test. The function test will be conducted in the police garage with the ECD pointed into a garbage can. The function test should be performed with no other personnel in close proximity. Once the function test is successfully completed the ECD should be holstered for duty. If an ECD should fail the function test, the ECD should be immediately taken out of service and the officer should notify a supervisor and a department ECD instructor. Officers will replace the battery if it reads 40% or lower during the function test.
11. ECD's shall be treated as loaded at all times and be treated in the same manner as a firearm.
12. Officers shall deploy the least number of probes and least amount of cycles necessary to overcome resistance and establish control. Understanding two probes must be deployed to achieve neuro muscular incapacitation. The number of probes and cycles shall be reasonable to accomplish legitimate law enforcement objective. Additional probe deployments and re-energizing of the ECD must meet the criteria for use of an ECD.
13. Officers when feasible should announce the use of an ECD to alert other officers. Officers should aim the ECD at large muscle groups being the lower chest area and upper legs in the front and lower back and upper legs in the back. Officers may have to consider other target areas due to bulky clothing or subject placement.
14. Restrictions/Limitations on ECD Deployment
- a) The ECD should not be used in the following circumstances unless exigent circumstances are present, and those circumstances are clearly articulated:
 - When the officer knows the subject has come in contact with flammable liquids, or is in a flammable atmosphere.
 - When the subject is in a position where a fall may cause substantial injury or death.

- Punitively, for purposes of coercion, or in an unjustified manner.
- When a subject is handcuffed and offering no active resistance, or is offering resistance which may be overcome using lesser force.
- When the subject is visibly pregnant.
- When it is reasonable to believe that incapacitation of the subject may result in serious injury or death.
- In situations where the subject is in an elevated position where there is a high possibility that the subject may fall if incapacitated by the ECD.
- In situations where the subject is in close proximity to water where, if incapacitated by the ECD, there is a high probability that the subject could drown.
- When the subject is at the extremes of age (young or old) or physically disabled.
- When a person has an apparent debilitating illness.

15. Detention Facility Notification / ECD Use

- a) Upon use of an ECD on a subject who is subsequently placed in a detention facility, officers will notify detention personnel of such ECD use and any other details that may be appropriate (such as injury complaint).

16. Use of the ECD on Animals

- a) ECD may be used on animals when:

- (1) A vicious animal is threatening or attacking a person or other animal and the use of other force is not reasonable, or may not be desired given the situation.
- (2) An animal needs to be controlled for reason of public peace or safety, preservation of property, or other legitimate purpose; and the animal poses an active threat to officers in their efforts to perform their duties.

- b) Officers should be prepared to use other justified force if necessary.

- c) Officers should be prepared to apply conventional controls once the ECD has subdued the animal.

17. When an ECD is deployed, the officer shall notify a supervisor, and shall complete a report detailing the circumstances of the incident.

18. Trained officers shall complete a refresher course consistent with the

manufacturer's recommendations.

19. After any ECD deployment of probes, the officer shall obtain new probes from their shift supervisor and ensure they have a full cartridge load into the ECD as soon as practical. Once the cartridge is replaced with the new probes. The officer shall perform a function test.
20. After any ECD deployment of probes, the officer shall dock the battery into the Axon dock at the end of their shift and place a new battery into the ECD before returning the ECD to be used for duty.
21. Each ECD battery shall be placed in the docking station at least once every 20 days. Additionally, any battery depleted to 40% shall be placed in the docking station for recharging.

C. Batons

1. The baton may be used by an officer only when it is reasonably apparent that a lesser degree of force would be inadequate to control the situation. The baton may be used by an officer to impede a subject, preventing them from continuing active resistive, assaultive, or otherwise dangerous behavior.
 - a) Only those officers who have been trained in the Defense and Arrest Tactics System shall be allowed to carry or use a baton.
 - b) The acceptable primary target areas for the baton are the elbow, knee, and abdomen.
 - c) An intentional strike to the head with an impact weapon is considered deadly force and should only be used when justified under the use of deadly force. It is recognized that because of a person's own resistance, the environment, the dynamics of a physical confrontation, the accidental, unintentional striking of a person above the shoulders may occur. If a subject is struck in the head with an impact weapon either intentionally or unintentionally the officer will seek immediate medical attention for the subject.
 - d) Department-approved batons are the only authorized batons. Other devices, flashlights, radios, firearms, etc., are not recommended to be used as impact weapons; however, the department recognizes that emergency self-defense situations involving other objects and instruments may occur. Expandable or wooden batons are authorized providing the baton of choice is readily available for on-duty, uniformed officers.
 - e) When a baton is displayed or used against the body of a person, the officer should notify a supervisor and complete a use of force report.

2. The use of neck restraints with a baton or other device by personnel of the Portage Police Department is considered deadly force and generally prohibited unless all other lesser force options have been precluded and such a technique would be the only option for stopping a subject from imminently causing death or great bodily harm to the officer or another person.

D. Kinetic Energy Impact Projectiles (CTS Supersock 12-gauge Beanbag round).

1. Kinetic energy impact projectiles, commonly referred to as “beanbag rounds” may be used to impede a subject, preventing them from continuing active resistive, assaultive, or otherwise dangerous behavior. The bean bag rounds may also be used when a person poses a significant threat of harm to self or others and lesser force options have been precluded. Officers may include in the decision to use bean bag rounds information known to the officer at the time of the incident, including conduct of, or statements by the subject or prior history of resistive or assaultive behavior.
2. Only department authorized and issued bean bag rounds are to be used.
3. The bean bag rounds are considered to be a launched baton strike and fall in the category of intermediate weapons in the Disturbance Resolution Model of the Wisconsin DAAT System.
4. Only officers who have satisfactorily completed the department’s approved bean bag round training course and have been trained in the Defense and Arrest Tactics System shall be authorized to use bean bag rounds.
5. An officer should not brandish, display or threaten the use a shotgun loaded with bean bag rounds unless the officer can reasonably conclude its use may become justified and is anticipated.
6. Bean rounds will only be fired from a department designated shotgun equipped with orange stocks unless otherwise approved by the chief or designee.
7. An officer should preferably receive approval from the shift supervisor for the use of bean bag rounds.
8. Bean bags are not a replacement for deadly force. An officer should preferably have at least one additional officer providing lethal cover.
9. Less lethal shotguns can be deployed for mutual aid preferably with the approval of the shift supervisor and by trained Portage Police Department personnel only.
10. Bean Bag rounds will be loaded into a designated 12-gauge shotgun with one officer loading the bean bag rounds and a second officer preferably a supervisor verifying each round loaded is a less lethal bean bag round. The shotgun once loaded will have a breakable zip tie attached to indicate the shotgun is squad ready and loaded with less lethal bean bag rounds. The shotgun will be placed into the locking gun rack if the squad is equipped or in

the trunk if not.

11. At the start of each officer's shift, officers will inspect the shotgun to ensure the zip tie is intact. If the zip tie is found to be broken the officer will:
 - a. Remove the shotgun in the presence of another officer, preferably a supervisor.
 - b. Remove all rounds safely from the shotgun until the shotgun is completely unloaded.
 - c. Inspect all rounds that have been removed.
 - d. Load department authorized and issued bean bag rounds into the shotgun, the other officer/supervisor will also confirm each round is a less lethal bean bag round as each round is loaded into the shotgun.
 - e. Secure the shotgun back into the locked gun rack of the squad as it is now "Squad ready"
 - f. Place a breakable zip tie around the shotgun indicating that the shotgun has been loaded with bean bag rounds.

12. When using a shotgun loaded with bean bag rounds, the officer will verify the weapon is a designated less lethal shotgun and confirm the zip tie is intact prior to chambering a round. The zip tie indicating the weapon has been loaded with two people verifying each round loaded was a less lethal bean bag round.

13. Bean bag Rounds may be delivered to the subject's body in accordance with the following guidelines:
 - a) Primary Target Areas (lower extremities legs and buttocks): In addition to legs and buttocks, arms may also be considered 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 are considered when incapacitation is necessary but the threat is not imminent. In the event the officer does not impede the subject and gain control with one bean bag round, multiple rounds may be needed. As with active countermeasures, it may be necessary to deliver multiple bean bags to obtain control. Each bean bag fired must meet use of force requirements for an impact weapon, meaning the subject must still be exhibiting resistive, assaultive or otherwise violent behavior, still a danger to themselves or others and lesser force options have been precluded.

 - b) Secondary Target Areas (Head/Neck/Chest/ Kidney - back area) : Intentional impact to these areas is considered deadly force and should only be targeted when deadly force would be justified.

14. Special considerations when deploying impact munitions
 - a) Distance
 - i. The closer the target the greater potential for penetration
 - ii. The farther the target the more time a suspect has to recover from psychological and physiological effects

- iii. The further away a suspect is the less accurate the munition will be
- b) Clothing
 - i. Heavy clothing will dull the energy transfer from impact munitions
- c) Gender/Age/Disability
 - i. Bean bag rounds should only be used in extreme situations with people who are elderly, very young, could possibly be pregnant or otherwise disabled.
- d) Other force options
 - i. If there are enough officers, bean bag rounds could be used in conjunction with other force options such as O.C.
- e) Verbalization
 - i. Officers, when feasible, should announce the use of bean bag rounds to alert other officers.

15. Bean bag round distance and range

- a) Bean Bag rounds should be fired from at least 3 feet away from the subject. Firing within 3 feet increases the likelihood of significant injury and would be considered deadly force.
- c) Officers should avoid firing bean bag rounds when the distance between the officer and the subject is greater than 75 feet.

16. Actions following deployment

- a) If a subject is impacted with a bean bag round, Officers shall arrange for medical evaluation and medical clearance.
- b) When beanbag rounds are used, the officer should notify the chief or supervisor. The officer will complete a use of force report. The supervisor shall complete a supervisor's report of use of force.

IV. TRAINING LESS LETHAL WEAPONS

A. Training unless otherwise noted above will follow manufacture's or DAAT guidelines.

Keith J. Klafke
Chief of Police

This Policy & Procedure cancels and supersedes any and all written directives relative to the subject matter contained herein.

Initial 06/22/2021
Updated 07/09/2024
Updated 03/20/2026