

# VILLAGE OF PEWAUKEE POLICE DEPARTMENT

## POLICY MANUAL



Chapter 5	REVIEWED DATE 18 APR 18	ORIGINAL POLICY NUMBER 2.60, 2.61
Section 1		Previous Versions 18 APR 18, 01 JAN 07, 25 JUN 14
WILEAG Standard 6 <sup>th</sup> Edition	5.1.1, 5.1.2, 5.1.3, 5.1.4, 5.1.5, 5.1.6, 5.1.7, 5.1.8, 5.1.9, 5.1.10, and 5.1.11	TOTAL PAGES 1 of 1

## MANAGEMENT OF RESISTANCE / AGGRESSION

### Section 1

#### Use of Force

It is the policy of the Village of Pewaukee Police Department to require all sworn officers to follow the State of Wisconsin's Law Enforcement Training and Standard's system of Defensive and Arrest Tactics when making all use of force decisions. Officers of the Village of Pewaukee Police Department shall only use approved firearms (used with approved ammunition) that are mechanically sound and properly maintained. Only firearms with which an officer demonstrates proficiency may be used, on or off duty, pursuant to his/her authority as a police officer. All personnel shall follow the protocols set forth in the Procedures (5.1.1, 5.1.2, 5.1.3, 5.1.4, 5.1.5, 5.1.6, 5.1.7, 5.1.8, 5.1.9, 5.1.10, and 5.1.11).

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## MANAGEMENT OF RESISTANCE / AGGRESSION

### Section 2

#### Rendering Aid

It is the policy of the Village of Pewaukee Police Department to require all sworn officers to follow the State of Wisconsin's Law Enforcement Training and Standard's system of Defensive and Arrest Tactics when making all use of force decisions. Within this system there is the component "Preserve" which addresses the rendering of aid. All personnel shall follow the protocols set forth in the Procedures (5.2.1).

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## MANAGEMENT OF RESISTANCE / AGGRESSION

### Section 3

#### Reporting and Review

It is the policy of the Village of Pewaukee Police Department to require all sworn officers to follow the State of Wisconsin's Law Enforcement Training and Standard's system of Defensive and Arrest Tactics when making all use of force decisions. The Use of Force is looked upon as an extremely critical issue and shall only be used when reasonably necessary to gain control of a situation. Use of force incidents shall be tracked and reviewed by Department supervision. In addition to examining Use-of-Force reports as they are submitted, an annual analysis will be conducted in order to effectively ascertain trends over a significant period of time. Incidents involving deadly force will be thoroughly investigated to ensure that the actions taken by any officer were lawful and within the confines of the DAAT System and Wisconsin State Statutes. All personnel shall follow the protocols set forth in the Procedures (5.3.1, 5.3.2, 5.3.3, and 5.3.4).



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### MANAGEMENT of RESISTANCE / AGGRESSION

#### Section 1 Use of Force

Purpose: The purpose of this procedure is to provide officers clear direction in the use of force situations. Officers have the privilege to use force when it becomes necessary in the performance of their official duties. They shall only use the amount of force that is reasonably necessary to accomplish their objectives.

#### Definitions:

- A. Excessive Force - More force than is reasonable will not affect the validity of the arrest; it may expose the officer to civil suit, discipline or both, and in aggravated circumstances possible criminal liability also.
- B. Deadly Force – The intentional use of a firearm or other instrument that creates a high probability of death or great bodily harm.
- C. Deadly Force Requirement - With the subject causing imminent danger of great bodily harm or death to yourself or others, and other tactics have been exhausted or would be ineffective, department policy directs you to stop the subject's actions with the use of deadly force.
- D. Great Bodily Harm - (WI State Statute 939.22) Bodily injury which creates a substantial risk of death or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily injury.
- E. Imminent - Likely to occur at any moment; impending.
- F. Lawful Force - Physical act by an officer in the performance of duty when it is used to accomplish a legitimate police goal and the level of force used is reasonable considering known facts and circumstances at the time of the incident.



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- G. Necessary Force - Amount of force, applied against a person by any means, reasonably necessary to control a person, a situation or to achieve a legitimate law enforcement goal.
- H. Non-Deadly Force - The use of a weapon, instrument, hold or other action which is not deadly force but which may result in injury or which creates some degree of risk that a reasonable, prudent person would consider likely to cause injury.
- I. Objectively reasonable - Level/amount of force an officer uses must be reasonably necessary to accomplish the law enforcement objective (US Supreme Ct. Graham v. Connor); to determine whether force is objectively reasonable consider: severity of crime, whether suspect poses imminent threat to officer or others, and whether the suspect is actively resisting or attempting to evade arrest by flight.
- J. Physical Restraint - Holding, restraining, or other physical manipulation without the use of a weapon by one or more officers acting alone or in concert to control a person or to effect an arrest.
- K. "Hog-Tying" - The act of connecting ankle shackles to the hand cuffs of an apprehended individual, behind their back, via a strap/chain/rope short enough so as the person cannot straighten their legs and are forced to lie on their side or stomach
- L. Reasonably Believes - An ordinary, prudent and reasonably intelligent police officer believes that a certain fact or situation exists and such belief is reasonable under the circumstances known to the officer at the time the officer acted.
- M. Disturbance Resolution - A guideline set forth by Training and Standards that involves verbal and physical options to obtain law enforcement objectives.
  - 1. Disturbance Resolution Qualifiers:
    - a. Use of trained techniques are preferred; however, techniques not trained may be used as long as they fit the situation and the above guidelines. Techniques may be dynamically altered on the street.

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- N. Graham V. Connor - The United States Supreme Court Case that ruled that force is only to be applied by law enforcement officers when such use is "objectively reasonable" in a given situation, as determined by a "reasonable officer" at the scene. The factors which, in general, determine whether force is "objectively reasonable" include:
1. The severity of the alleged crime at issue;
  2. Whether the suspect poses an imminent threat to the safety of officers and/or others;
  3. Whether the suspect is actively resisting or attempting to evade arrest by flight.
- O. Tennessee V. Garner - The United States Supreme Court Case which strikes down fleeing felon rules and states a law enforcement officer would **not** be justified in shooting to stop someone from fleeing whom is known to have committed only a property crime or who has apparently committed a felony or misdemeanor that does not endanger life or threaten serious bodily harm.
- P. Imminent Threat Criteria - Weapon, Intent and Delivery System. To be justified in using deadly force the subject's threat must have all three criteria.
- Q. Target Requirements - Target Acquisition, Target Identification, and Target Isolation.
- R. Electronic Control Device (ECD) - A legitimate law enforcement tool with the purpose to overcome active resistance or its threat. Currently the chosen ECD tool at the Village of Pewaukee Police Department is the Taser.
- S. Target-Specific Directed Fire – A purposeful, controlled, sustained fire directed at a perpetrator, or their last known location, who has caused or imminently threatens to cause death or great bodily harm to you or others, but whom you may not be able to clearly observe.
- T. Neck Restraint (Choke Hold) – Any technique involving the use of an arm or other firm object to attempt to control or disable a subject by applying pressure against the windpipe, or the frontal area of the neck with purpose or intent or effect of controlling a subject's movement or rendering a subject unconscious by blocking the passage of air through the windpipe.



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“Choke Holds” are **prohibited** except in those circumstances when the use of deadly force is allowed by law.

- U. Deadly Force Incident - Any incident in which an officer used a firearm or other instrument that did or could *have* resulted in a high probability of death.
- V. Investigating Officer - A Supervisor or Officer assigned to investigate a use of force incident.
- W. Involved Officer - Officer(s) who utilized deadly force on/at a suspect and is the focus of the investigation.
- X. Support Officer - Officer assigned to the Involved Officer utilized to assist Involved Officer during the stressful aftermath of a use of force incident.
- Y. Use of Force Review Board - Internal panel charged, by the Chief, to review an incident and report their findings in a recommendation of action directed to the Chief.
- Z. Victim Officer - Officer who had deadly force used against them.
- AA. Witness Officer - Officer(s) also present at the incident, but not directly involved in the use of force.

### 5.1.1 Use of Force

1. The agency has a written directive governing the use of force, as required by §66.0511(2), Wis. Stats., that adheres to all applicable Federal, State, and local laws. The written directive shall include a requirement that when using force, an officer is required to act in good faith to achieve a legitimate law enforcement objective. Furthermore, the written directive must establish that an officer is only authorized to use force that is objectively reasonable based on the totality of circumstances, as outlined in §175.44(2), Wis. Stats., including:



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1. The severity of the alleged crime at issue.
2. Whether the suspect poses an imminent threat to the safety of law enforcement officers or others.
3. Whether the suspect is actively resisting or attempting to evade arrest by flight. The written directive must be publicly available on the agency's website.
  - a. An officer may use force:
    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 or others.
    5. To prevent escape.
    6. To bring an unlawful situation safely under control.
  - b. Intervention Options - In determining the amount of force to be used, officers may use one level of force higher than that being used or threatened against them. The amount of force an officer may use should be based on the following *Intervention Options*:
    1. PRESENCE - The first mode. Presence, reflects the fact that sometimes all that is needed to control a situation is the presence of an officer. The purpose of this mode is to *present a visible display of authority*.
    2. DIALOGUE - The second mode. Dialogue covers the range of tactical communication from very low-level questioning to very directive commands. The purpose of dialogue is to *verbally persuade* subjects to comply with an officer's lawful directives.
    3. CONTROL ALTERNATIVES - The third mode. It contains a wide range of tactics and tools for controlling subjects. The

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purpose of  
Control  
Alternatives  
are to  
overcome

*passive resistance, active resistance, or its threat.* The  
tactics within Control Alternatives are:

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<i>Tactic / Tool</i>	<i>Goal</i>
Escort Holds	To safely initiate physical contact
Compliance Hold	To overcome passive resistance
OC / ECD	To overcome active resistance or its threat
Passive Countermeasures	To decentralize

4. PROTECTIVE ALTERNATIVES - The fourth mode. It contains a wide range of tactics and tools for protecting officers managing resistive/assaultive subjects. The purpose of a Protective Alternative is *to overcome continued resistance, assaultive behavior, or its threat.* The tactics within the Protective Alternatives are:

<i>Tactic / Tool</i>	<i>Goal</i>
Active Countermeasures	To create dysfunction
Incapacitating Techniques	To cause the immediate, temporary cessation of violent behavior
Intermediate Weapons (Less Lethal Weapons)	To impede

5. DEADLY FORCE - The fifth mode. Deadly Force represents the highest level of force available to law enforcement officers with the purpose to *stop the threat.* Deadly Force is *the intentional use of a firearm or other instrument that creates a high probability of death or great bodily harm.*



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The definition of subject behavior that justifies an officer's use of

deadly force is any behavior, *which has caused or imminently threatens to cause death or great bodily harm to you or another person or persons.*

- a. A total roadblock is the complete obstruction of the roadway that does not allow the pursued vehicle an escape route. Total roadblocks should only be employed when deadly force is justified.
- b. The intentional ramming of a fleeing vehicle and the Pursuit Immobilization Technique (PIT) are not trained but are justified in a deadly force situation.
- c. "Warning shots" are prohibited.
- d. Officers may fire at an unarmed fleeing felon subject only if there is "probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others." This assessment is based on the totality of the circumstances.

#### 5.1.2 Use of Force Requirements

1. Prohibiting the use of choke holds except in life-threatening situations or in self-defense.
2. That once an officer has gained control of a subject then the officer must reduce the level of force to that needed to maintain control.
3. Once an officer has gained control of a subject, they must reduce the level of force to that needed to maintain control.

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#### 5.1.3 Duty to Report Noncompliance

1. An officer, who in the course of his or her duties, witnesses another officer use of force that does not comply with the standards outlined in § 175.44(2)(b) or (c), Wis. Stats. In the course that officer's official duties, shall report the noncompliant use of force to a supervisor as soon as it is practicable after the occurrence of the use of force.

#### 5.1.4 Duty to Intervene

1. An officer shall, without regard for chain of command, intervene to prevent or stop another officer from using force that does not comply with the standards outlined in §175.44(2)(b) or (c), Wis. Stats. in the course of that officer's official duties if all of the following apply:
  - a. The officer observes the use of force that does not comply with §175.44(2)(b) or (c), Wis. Stats.
  - b. The circumstances are such that it is safe for the officer to intervene.

#### 5.1.5 Whistleblower Protection

1. No law enforcement officer may be discharged, disciplined, demoted, or denied promotion, transfer, or reassignment, or otherwise discriminated against in regard to employment, or threatened with any such treatment, because the law enforcement officer reported, or is believed to have reported, any noncompliant use of force as required under §175.44 sub. (3) or (4); intervened to prevent or stop a noncompliant use of force as required under §175.44 sub. (4); initiated, participated in, or testified in,

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or is believed to have initiated, participated in, or testified in, any action or proceeding regarding a noncompliant use of force; or provided any information, or is believed to have provided any information, about noncompliant use of force as required under §175.44 sub. (3) or (4).

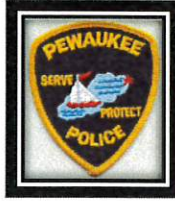
#### 5.1.6 Deadly Force

1. Deadly Force in Defense of Human Life
  - a. Refer to Procedure 5.1.1.1.b.5
  - b. An officer may use deadly force only as a last resort when the officer reasonably believes that all other options have been exhausted or would be ineffective, and only to stop behavior that has caused or imminently threatens to cause death or great bodily harm to the officer or another person.
2. Deadly Force Training Documentation
  - a. All sworn personnel shall receive training and demonstrate their understanding of the application of deadly force before being authorized to carry any firearm.
  - b. All sworn personnel are provided the definition of Deadly Force, as well as the justification to use Deadly Force upon initial hire and subsequently on a continual basis.

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- c. The written documentation is provided at all the prescribed Department firearms training dates throughout the year.

- D All personnel are required to read and sign the documentation acknowledging their understanding of this Procedure.

### 5.1.7 Warning of Use of Deadly Force

1. If both practicable and feasible, officers shall identify themselves and issue a verbal warning before deadly force.

### 5.1.8 Shooting at or from a Moving Vehicle

1. Firearms shall not be discharged at a moving vehicle unless:
  - a. A person in the vehicle is threatening the officer or another person with deadly force by means other than the vehicle; or
  - b. The vehicle is operated in a manner deliberately intended to strike an officer or another person, and all other reasonable means of defense have been exhausted or are not present or practical, which includes moving out of the path of the vehicle.

### 5.1.9 Warning Shots

1. Warning shots are strictly prohibited.



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#### 5.1.10 Use of Less Lethal Weapons

1. The Department utilizes Less Lethal Munitions and places it within the Protective Alternative mode (Procedure 5.1.1.1.b.4).
  - a. Currently only SCIT members utilize these devices under the guidance and direction of the SCIT Policies and Procedures.
2. Use of the Electronic Control Devices (ECD)
  - a. The Department uses Taser as its chosen ECD tool within the Control Alternatives mode.
  - b. Only trained officers may carry and deploy a Taser.
3. After a Taser application the following actions will be taken:
  - a. If a person has an adverse reaction to a Taser application, or if requested by the subject, transport to a medical facility shall be arranged.
  - b. If the probes are embedded in sensitive tissue areas (i.e. face, neck, groin, or breast of a female), the officer shall arrange transport to a medical facility for removal.
  - c. If the probes are embedded in non-sensitive areas, a trained officer may remove them according to trained procedures.
  - d. After probes have been removed, they shall be handled as a biohazard and packaged accordingly for safe disposal.
4. Chemical Control Device

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- a. 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 Chief designee. All O.C. shall be non-flammable.
- b. When an Officer is threatened with physical force or dealing with a resistive or combative person and lesser control factors are ineffective, a consideration should be given to the use of control devices.
- c. All Officers issued O.C. aerosol will be required to carry it while on duty unless replaced by an Electronic Control Device (ECD) in which case it must be in the squad. This rule shall not apply to administrative personnel and other Officers assigned to plain clothes duties within the Department.

### 5. Intermediate Impact Weapon- Batons

- a. An impact weapon shall be used only when an Officer reasonably believes a lesser level of force would be insufficient to control the situation. The use of a department-authorized baton is permitted against an actively aggressive person when an Officer reasonably believes the subject poses an articulate threat of bodily harm to a Deputy or another person. Officer shall include in their decision to use this force option information known to an Officer at the time of the incident, including conduct of or statements by the subject or prior history of resistive or assaultive behavior.
- b. An Officer shall not brandish, display or threaten the use of an impact weapon as a threat unless he/she can reasonably conclude its use



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may become justified and is anticipated.

- c. An Officer shall not strike a person above the shoulders with an impact weapon unless such action is justified under the use of deadly force:
  1. This directive does not apply to an accidental strike to the head as a result of resistance.
- d. Officer shall only use Department-approved baton techniques.
- e. Department-approved batons are the only authorized impact weapons. 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.
- f. When a baton is used against the body of a person other than for handcuffing or control holds administered with the baton, an Officer shall notify a Supervisor and complete an Incident Report.

### 5.1.11 Deadly Force Training Documentation

- a. All personnel shall receive, be trained in, and demonstrate their understanding of this policy before being authorized to carry any weapon in the course of their official duties.
3. On an annual basis, the firearms coordinator shall conduct training on the Use of Force policy and any related legal updates for all sworn personnel as part of the firearms training and



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qualification  
program. Additional  
training may occur as

dictated by changes to the policy and/or law regarding use of  
force.

4. Training of force techniques not covered in the Defensive and Arrest Tactics (DAAT) program established by the Wisconsin Department of Justice – Law Enforcement Standards Board (LESB) is permitted if the following conditions are met:
  - a. The technique is trained by an instructor who has received credible training in the performance and instruction of the technique and has maintained certifications in the training, where applicable.
  - b. The technique is evaluated for inclusion in the Intervention Options. This evaluation will consider the purpose and goal of the technique and the propensity for injury. When possible, the technique will be compared to LESB approved techniques to guide the decision, ultimately to be made by the Chief of Police or designee and a certified DAAT instructor.

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## MANAGEMENT of RESISTANCE / AGGRESSION

### Section 2      Rendering Aid

Purpose: The purpose of this procedure is to provide officers clear direction in the use of force situations. Officers have the privilege to use force when it becomes necessary in the performance of their official duties. They shall only use the amount of force that is reasonably necessary to accomplish their objectives.

#### Definitions:

- A. Excessive Force - More force than is reasonable will not affect the validity of the arrest; it may expose the officer to civil suit, discipline or both, and in aggravated circumstances possible criminal liability also.
- B. Deadly Force - The intentional use of a firearm or other instrument that creates a high probability of death or great bodily harm.
- C. Deadly Force Requirement - With the subject causing imminent danger of great bodily harm or death to yourself or others, and other tactics have been exhausted or would be ineffective, department policy directs you to stop the subject's actions with the use of deadly force.
- D. Great Bodily Harm - (WI State Statute 939.22) Bodily injury which creates a substantial risk of death or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily injury.
- E. Imminent - Likely to occur at any moment; impending.
- F. Lawful Force - Physical act by an officer in the performance of duty when it is used to accomplish a legitimate police goal and the level of force used is reasonable considering known facts and circumstances at the time of the incident.
- G. Necessary Force - Amount of force, applied against a person by any means, reasonably necessary to control a person, a situation or to achieve a legitimate law enforcement goal.
- H. Non-Deadly Force - The use of a weapon, instrument, hold or other action which is not deadly force but which may result in injury or which creates



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some degree of risk that a reasonable, prudent person would consider likely to cause injury.

- I. Objectively reasonable - Level/amount of force an officer uses must be reasonably necessary to accomplish the law enforcement objective (US Supreme Ct. *Graham v. Connor*); to determine whether force is objectively reasonable consider: severity of crime, whether suspect poses imminent threat to officer or others, and whether the suspect is actively resisting or attempting to evade arrest by flight.
- J. Physical Restraint - Holding, restraining, or other physical manipulation without the use of a weapon by one or more officers acting alone or in concert to control a person or to effect an arrest.
- K. "Hog-Tying" - The act of connecting ankle shackles to the hand cuffs of an apprehended individual, behind their back, via a strap/chain/rope short enough so as the person cannot straighten their legs and are forced to lie on their side or stomach
- L. Reasonably Believes - An ordinary, prudent and reasonably intelligent police officer believes that a certain fact or situation exists and such belief is reasonable under the circumstances known to the officer at the time the officer acted.
- M. Disturbance Resolution - A guideline set forth by Training and Standards that involves verbal and physical options to obtain law enforcement objectives.
  1. Disturbance Resolution Qualifiers:
    - a. Use of trained techniques are preferred; however, techniques not trained may be used as long as they fit the situation and the above guidelines. Techniques may be dynamically altered on the street.
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  1. The severity of the alleged crime at issue;
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- O. Tennessee V. Garner - The United States Supreme Court Case which strikes down fleeing felon rules and states a law enforcement officer would **not** be justified in shooting to stop someone from fleeing whom is known to have committed only a property crime or who has apparently committed a felony or misdemeanor that does not endanger life or threaten serious bodily harm.
- P. Imminent Threat Criteria - Weapon, Intent and Delivery System. To be justified in using deadly force the subject's threat must have all three criteria.
- Q. Target Requirements - Target Acquisition, Target Identification, and Target Isolation.
- R. Electronic Control Device (ECD) - A legitimate law enforcement tool with the purpose to overcome active resistance or its threat. Currently the chosen ECD tool at the Village of Pewaukee Police Department is the Taser.
- S. Target-Specific Directed Fire – A purposeful, controlled, sustained fire directed at a perpetrator, or their last known location, who has caused or imminently threatens to cause death or great bodily harm to you or others, but whom you may not be able to clearly observe.
- T. Neck Restraint (Choke Hold) – Any technique involving the use of an arm or other firm object to attempt to control or disable a subject by applying pressure against the windpipe, or the frontal area of the neck with purpose or intent or effect of controlling a subject's movement or rendering a subject unconscious by blocking the passage of air through the windpipe. "Choke Holds" are prohibited except in those circumstances when the use of deadly force is allowed by law.
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- W. Involved Officer - Officer(s) who utilized deadly force on/at a suspect and is the focus of the investigation.
- X. Support Officer - Officer assigned to the Involved Officer utilized to assist Involved Officer during the stressful aftermath of a use of force incident.
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AA. Witness Officer - Officer(s) also present at the incident, but not directly involved in the use of force.

#### 5.2.1 Medical Aid

1. Follow Through to Intervention Options
  - a. Officers have responsibilities after using force.
  - b. Where an officer used force to establish control over a subject, the officer must monitor the subject for injuries. This may include handcuffing, unless inappropriate (based on Defense and Arrest Tactics training).
  - c. An initial medical assessment must be conducted as follows:
    1. Determine the level of consciousness, using verbal and physical stimulus.
    2. Check airway, breathing, and circulation.
    3. Perform a body check for injuries (i.e. severe bleeding, gross deformities, etc.).
    4. Provide timely medical care necessary to your level of training and if needed or the subject requests it, activate EMS.
    5. Continue to monitor and remain with the subject until he / she is turned over to someone of equal or greater responsibility.
    6. Find out if there is a need for long-term monitoring of the subject because of special medical or mental health needs.



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## MANAGEMENT of RESISTANCE / AGGRESSION

### Section 3 Reporting and Review

Purpose: The purpose of this procedure is relevant to the investigation of "Use of Force" incidents and "Deadly Force" incidents involving officers of the Department. These procedures adopt, by reference, the current standard as developed by the Wisconsin Law Enforcement Training and Standards Defensive and Arrest Tactics and all applicable laws.

#### Definitions:

- A. Excessive Force - More force than is reasonable will not affect the validity of the arrest; it may expose the officer to civil suit, discipline or both, and in aggravated circumstances possible criminal liability also.
- B. Deadly Force - The intentional use of a firearm or other instrument that creates a high probability of death or great bodily harm.
- C. Deadly Force Requirement - With the subject causing imminent danger of great bodily harm or death to yourself or others, and other tactics have been exhausted or would be ineffective, department policy directs you to stop the subject's actions with the use of deadly force.
- D. Great Bodily Harm - (WI State Statute 939.22) Bodily injury which creates a substantial risk of death or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily injury.
- E. Imminent - Likely to occur at any moment; impending.
- F. Lawful Force - Physical act by an officer in the performance of duty when it is used to accomplish a legitimate police goal and the level of force used is reasonable considering known facts and circumstances at the time of the incident.
- G. Necessary Force - Amount of force, applied against a person by any means, reasonably necessary to control a person, a situation or to achieve a legitimate law enforcement goal.



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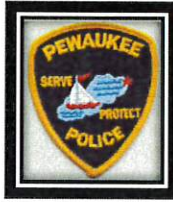
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- H. Non-Deadly Force - The use of a weapon, instrument, hold or other action which is not deadly force but which may result in injury or which creates some degree of risk that a reasonable, prudent person would consider likely to cause injury.
- I. Objectively reasonable - Level/amount of force an officer uses must be reasonably necessary to accomplish the law enforcement objective (US Supreme Ct. *Graham v. Connor*); to determine whether force is objectively reasonable consider: severity of crime, whether suspect poses imminent threat to officer or others, and whether the suspect is actively resisting or attempting to evade arrest by flight.
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- L. Reasonably Believes - An ordinary, prudent and reasonably intelligent police officer believes that a certain fact or situation exists and such belief is reasonable under the circumstances known to the officer at the time the officer acted.
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  - 1. Disturbance Resolution Qualifiers:
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1. The severity of the alleged crime at issue;
  2. Whether the suspect poses an imminent threat to the safety of officers and/or others;
  3. Whether the suspect is actively resisting or attempting to evade arrest by flight.
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- U. Deadly Force Incident - Any incident in which an officer used a firearm or other instrument that did or could *have* resulted in a high probability of death.
- V. Investigating Officer - A Supervisor or Officer assigned to investigate a use of force incident.
- W. Involved Officer - Officer(s) who utilized deadly force on/at a suspect and is the focus of the investigation.



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- X. Support Officer - Officer assigned to the Involved Officer utilized to assist Involved Officer during the stressful aftermath of a use of force incident.
- Y. Use of Force Review Board - Internal panel charged, by the Chief, to review an incident and report their findings in a recommendation of action directed to the Chief.
- Z. Victim Officer - Officer who had deadly force used against them.
- AA. Witness Officer - Officer(s) also present at the incident, but not directly involved in the use of force.

### 5.3.1 Use of Force Reporting

1. Firearm Discharged (except Training / Lawful Recreation Purposes)
  - a. An Incident Report must be generated when a firearm is discharged except in a training situation or for lawful recreational purposes. When a firearm is discharged, either intentionally or accidentally, while engaging in subject control, an incident report must be generated.
2. Action Results in Injury or Death
  - a. An Incident Report must be generated when an action results in, or is alleged to have resulted in, injury or death of another person.
3. Force Applied Through Lethal or Less Lethal Weapon
  - a. An Incident Report must be generated when force is applied through the use of a lethal or less lethal weapon.
4. Weaponless Physical Force Applied at Report Level
  - a. An Incident Report must be generated when physical force is utilized, with a minimum standard being a compliance hold.



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5. All above must be documented in the narrative of the Incident Report.

### 5.3.2 Post Use-of-Force Review

1. Anytime an officer uses force meeting the criteria in Procedure 5.3.1 (that does not involve the use of deadly force) the officer's on-duty supervisor will review the incident.
  - a. The supervisor will conduct a short de-briefing of the involved officers.
  - b. The supervisor can request a more detailed and formal incident debriefing and / or investigation if required.
  - c. If no supervisor is on-duty at time of incident the Involved Officer will notify his / her immediate supervisor, if unable to make notification the officer will then utilize the chain of command for notification.
  - d. The reviewing supervisor and / or any department member may request, through the chain of command to the Chief of Police, to have an incident reviewed in the form of an internal investigation.
2. Deadly Force Incident Investigation and Review
  - a. Anytime an officer is involved in a Deadly Force Incident, the Department will investigate the incident and review the report with utmost thoroughness, professionalism and impartiality to determine if the officer's actions conform with Department policy, training and state law. The Department will also take measures required to minimize the negative psychological trauma resulting from the officer's involvement in the deadly force incident. The

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Department will comply with all applicable laws for these types of incidents.

b. Initial Response Phase

1. Officer Responsibilities

- a. When safe to do so, advise dispatch, and activate EMS.
- b. When safe to do so, advise supervisor of the deadly force incident.
- c. Stabilize suspect when adequate back-up is on scene and provide medical attention when safe to do so.
- d. Stabilize scene for the preservation of evidence while identifying witnesses.
- e. Turn scene over to supervisor or Incident Commander.
- f. Provide information to supervisor in order to begin investigation.

2. Supervisory Responsibilities

- a. Respond to scene and ensure safety of officers and public.



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- b. Coordinate the stabilization of the suspect and proper medical attention response when scene is safe.
- c. Coordinate the securing of the scene, identification and segregation of witnesses.
- d. Initiate the Incident Command System.
- e. The on-scene supervisor shall ensure that the weapons of all other officers at the shooting scene have been inspected to determine if any other weapons were discharged. If so, those officers will also be considered "Involved Officers", and their weapons shall be recovered and the officer will be handled per Procedure 5.3.2.2.3.a.1
- f. A Support Officer shall be provided to the Involved Officer as soon as practical and feasible.
- g. If the Involved Officer must remain at the scene, move him/her to a quiet area, away from the scene of the incident with the Support Officer.
- h. Make notifications to the next member of the chain of command, and they will make notifications to other agency personnel including: Chief, Deputy Chief, Detective, Medical Examiner, if required, and the District Attorney.
- i. When practical and feasible, the Chaplain shall be contacted.

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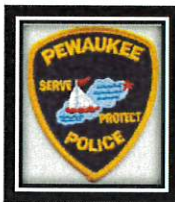
- j. Begin initial investigation until taken over by Investigating Officer(s).
- k. If an officer's injury rises to the level of great bodily harm:
  - 1. The officer shall be asked if they want a family member contacted.
  - 2. If the officer is unconscious or unable to respond, a member of the Department shall make personal contact, as soon as practical. If the person listed on the officer's personal information sheet is not available, the notifying person shall be someone who knows the family. The officer's family shall be transported to the medical facility.
  - 3. Assign an officer to the family for security, support, transportation, and any other related matters.
  - 4. Ensure that an escort officer remains with the Involved Officer during transport to the hospital and remains until relieved.
- l. If an officer is deceased in an incident:
  - 1. Ensure that another officer remains with the deceased officer until relieved.



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2. Personal notification shall be made to the deceased officer's family by the Chief of Police, accompanied by the person listed on the officer's personal information sheet. If he/she is not available, the accompanying person shall be someone who knows the family. It is permissible to have the Police Chaplain present during the notification.
  3. Assign an officer to the family for security, support, transportation, and any other related matters.
- m. Ensure the officer's name is not released to the media until authorized.

#### 3. Investigation Phase

##### a. Supervisor Responsibilities

1. Involved Officer
  - a. Debrief Involved Officer.
  - b. Discreetly recover the Involved Officer's weapon as evidence. Advise the officer his/her weapon will be returned as soon as possible. Ensure that the Support Officer is present prior to recovering the Involved Officer's weapon.

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- c. Advise Involved Officer that effective immediately he/she is being placed on paid administrative leave.
  - d. Have Involved Officer return to the station with the Support Officer.
  - e. A Department Use of Force Instructor shall be made available to assist the officer with properly documenting the incident. A written report shall be completed by the officer as soon as possible after 1 to 2 sleep cycles of the incident.
2. Victim Officer
    - a. Debrief the Victim Officer.
    - b. Investigative Responsibilities
      1. The Chief of Police and / or his / her designee will assign Detective(s) to investigate the incident.
      2. The Chief of Police and / or his / her designee will also coordinate and facilitate all matters related to Wisconsin State Statute 175.47



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3. A Detective(s) shall respond to the scene to coordinate the collection of evidence and assess witness information obtained during the Initial Response Phase.
  4. A Detective(s) and / or his / her designee(s), if required, is to ensure that the Involved Officer's clothing and equipment are collected for safekeeping and/or evidentiary purposes.
  5. A Detective(s) and / or his / her designee(s) shall be responsible for taking custody, as evidence, from the on-scene supervisor, any weapon discharged by an Involved Officer.
  6. A Detective(s) will complete the on-scene investigation and the Incident Commander has the authority to clear scene.
  7. It is the responsibility of the Chief of Police and / or his / her designee to provide status updates as the investigation proceeds.
  8. Upon completion of the investigation, the CID Commander will forward all reports to the District Attorney's office.
4. Follow-through Phase
- a. Administrative Responsibilities

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1. Involved Officer
  - a. The Involved Officer(s) whose actions or use of force results in a death or serious physical injury shall be removed from his/her line duty assignment pending administrative review. He/she will be assigned modified duty with days and times to be determined by the Chief.
  - b. The Involved Officer(s) may be granted paid administrative time off, but shall remain available during times specified by the Chief.
  - c. Any Involved Officer shall be required to undergo an evaluation by the agency's mental health specialist designated by the Chief of Police.
  - d. After the evaluation of the Involved Officer(s) the mental health specialist will advise the Chief of Police of his/her findings. Based on the findings, the Chief shall make a duty status determination.
  - e. The Involved Officer(s) will be required to re-qualify with his/her



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duty/assigned weapon, prior to  
returning to full duty.

2. A Witness Officer or a Victim Officer may request a referral to the Department mental health specialist. Upon receiving such a request, the duty supervisor shall initiate the following:
  - a. Immediately place the Witness or Victim Officer on modified duty status.
  - b. Contact the Chief of Police and / or his / her designee of the request.
  - c. An appointment, at the expense of the Department, will be made with the Department's mental health specialist.
  - d. After the evaluation of the Witness or Victim Officer(s) the mental health specialist will advise the Chief of Police of his/her findings. Based on the findings, the Chief shall make a duty status determination.

- b. After review by the District Attorney's office and adjudication of any criminal charges, the Chief of Police, or designee, shall convene a "Deadly Force

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Incident Review Board" to make the following decisions:

1. The Deadly Force Incident Review Board will consist of:
  - a. Chair - Chief of Police and / or his / her designee
  - b. A Sergeant; not Involved Officer's immediate supervisor.
  - c. Department Training Coordinator (if not certified trainer in DAAT, then a certified designee shall be selected)
2. The board's responsibility is to review the Deadly Force Incident and report their findings to the Chief of Police. The report will answer the following questions:
  - a. How did the Deadly Use of Force occur?
    1. Was the use of deadly force within Policy?
    2. Was the use of deadly force:
      - a. Accidental?
      - b. Intentional?



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#### c. Negligence?

3. Did the Involved Officer(s) employ procedures consistent with training?

4. Was the supervision adequate?

5. Is additional information needed to make a finding?

3. A majority report of the board shall be forwarded to the Chief of Police making one of the following findings:

a. That the use of force was in compliance with policy and training and no further action is required.

b. That the use of force was not in compliance with policy and training.

4. If it is found that the use of force was not in compliance with policy, training or state law, the Chief of Police shall determine if disciplinary action is warranted.

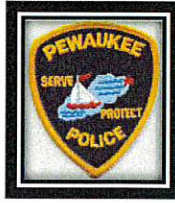
5. Long Term Follow-Up

a. As post-traumatic stress disorders (PTSD) may not arise immediately, as the officers may attempt to hide the problem, each supervisor is responsible for monitoring the behavior of

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Involved/Witness/Victim Officers following a  
Deadly Force Incident, for symptoms of PTSD.

- b. Any employee may recommend, through the chain of command, that an officer seek assistance or counseling from a specialist upon reasonable belief that stress may be disrupting the officer's duty performance.

#### 5.3.3 Post Use-of-Force Removal from Duty

##### 1. Involved Officer

- a. The Involved Officer(s) whose actions or use of force results in a death or serious physical injury shall be removed from his/her line duty assignment pending administrative review. He/she will be assigned modified duty with days and times to be determined by the Chief.
- b. The Involved Officer(s) may be granted paid administrative time off, but shall remain available during times specified by the Chief.
- c. Any Involved Officer shall be required to undergo an evaluation by the agency's mental health specialist designated by the Chief of Police.
- d. After the evaluation of the Involved Officer(s) the mental health specialist will advise the Chief of Police of his/her findings. Based on the findings, the Chief shall make a duty status determination.
- e. The Involved Officer(s) will be required to re-qualify with his/her duty/assigned weapon, prior to returning to full duty.

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2. A Witness Officer or a Victim Officer may request a referral to the Department mental health specialist. Upon receiving such a request, the duty supervisor shall initiate the following:
  - a. Immediately place the Witness or Victim Officer on modified duty status.
  - b. Contact the Chief of Police and / or his / her designee of the request.
  - c. An appointment, at the expense of the Department, will be made with the Department's mental health specialist.
  - d. After the evaluation of the Witness or Victim Officer(s) the mental health specialist will advise the Chief of Police of his/her findings. Based on the findings, the Chief shall make a duty status determination.

### 5.3.4 Use of Force Reporting and Analysis

1. The Chief of Police will direct that an Annual Use of Force Analysis shall be conducted to identify trends that indicate a need for:
  - a. Training modifications.
  - b. Equipment modifications.
  - c. Policy / Procedural modifications.
2. An annual analysis of a calendar year's (January 1<sup>st</sup> to December 31<sup>st</sup>) worth of data related to anytime an officer used force meeting the criteria set forth in Procedure 5.3.1 will be conducted in the first quarter of the preceding year to effectively ascertain trends over a significant



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period of time. Any modifications will be documented and maintained by the Chief of Police and / or his / her designee.

3. The Village of Pewaukee Police Department will submit a Use of Force and Arrest-Related Death Data (UFAD) to the Wisconsin Department of Justice through TraCS.