



POLICY & PROCEDURE

TURTLE LAKE POLICE DEPARTMENT

SUBJECT: **USE OF LESS LETHAL WEAPONS**

SCOPE: All Sworn Personnel

DISTRIBUTION: Policy & Procedures Manual

REFERENCE: WI State Statutes: 66.0511, 165.845
939.22(14), 939.45, 939.48, and Chapter
941; DAAT Incident Response and
Disturbance Resolution Model

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RESCINDS

AMENDS

WILEAG 5TH EDITION

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12.1.1.3, 12.1.3.1, 12.1.3.5

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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 Turtle Lake 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

V. REPORTING THE USE OF FORCE

VI. PUBLIC ACCESS TO POLICY & PROCEDURE

I. POLICY

- A. It is the policy of the Turtle Lake 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 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 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.
- B. **DE-ESCALATION:** Taking action or communicating verbally or non-verbally during a potential force situation in an attempt to stabilize the situation and reduce the threat without the use of force or with a reduction in the force necessary.
- C. **DEFENSIVE AND ARREST TACTICS (DAAT):** A system of verbalization skills coupled with physical alternatives.
- D. **CONDUCTED ENERGY WEAPON (CEW):** 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.
- 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. **NECK RESTRAINT:** an action taken by the use of any force or device to the neck area to restrain a person, including but not limited to:
 - 1. Choke Hold means the intentional and prolonged application of force to the throat, windpipe, or carotid arteries that prevents or hinders breathing or blood flow, reduces the intake of air, or reduces blood flow to the head.

G. **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, can cause bodily harm.

H. **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. 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 subdue a violently resisting subject, in self-defense, or in defense of a third person if lesser methods have failed, or if circumstances warrant the immediate use of the baton.

- a) Only those officers qualified in the Defensive 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) The intentional striking of an individual above the shoulders is prohibited. Generally, a strike to the head with an impact weapon is considered deadly force and should not be used, unless such an action is justified under the use of deadly force.

However, it is recognized that because of a person's own resistance, the accidental, unintentional striking of a person above the shoulders may occur. If that happens, the officer must articulate this in detail in the report of the incident and will seek immediate medical attention for the subject if treatment is necessary.

- 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 used against the body of a person, the officer should notify the Police Chief and complete an Incident Report.

2. The use of neck restraints with a baton or other device by personnel of the Turtle Lake Police Department is prohibited unless the situation requires the use of deadly force that would be justified.

B. Kinetic Energy Impact Projectiles (Beanbags).

1. Kinetic energy impact projectiles, commonly referred to as “beanbag rounds” may be utilized by trained Department personnel in circumstances where a level of force less than deadly force may be appropriate for resolving the situation, and when the risk associated with closing on the subject to take control makes other alternatives unsuitable.

The option to use kinetic energy impact projectiles may be used when a person poses a significant threat of harm to self or others and unarmed tactics have either been exhausted or would not be effective or safe given the circumstances.

Officers may include in the decision to use this force option 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. When utilized, the Department places the use of kinetic energy impact projectiles and other Less Than Lethal Munitions at the Intermediate Weapon Mode. Less-lethal is defined as the “intentional use of an instrument to impede a subject, the use of which would not cause death.”
3. An officer should not brandish, display or threaten the use of kinetic energy impact weapon unless he/she can reasonably conclude it use may become justified and is anticipated.
4. When kinetic energy impact projectiles (beanbag rounds) are used against the body of a person, the officer should notify the Chief of Police and will complete an Incident Report detailing the circumstances of the incident.
5. Only Department-authorized and issued kinetic energy impact projectiles may be used, whether delivered by a specialized launcher (37mm Less Lethal Launcher) or a 12 gauge shotgun.
6. When deploying a 12 gauge shotgun as a less-lethal option, the officer transitions the weapon from lethal ammunition to kinetic energy impact projectiles. Such transition procedure is be taught during training:
 - a) When possible, efforts should be made to have another officer observe the unloading of lethal ammunition from the shotgun and the loading a less-lethal kinetic energy impact projectiles into the shotgun.

- b) Once the shotgun has been transitioned from lethal ammunition to less-lethal ammunition, the weapon should be clearly marked as less-lethal weapon. This will be done by applying a piece of orange tape to the front portion of the weapon's barrel.
7. Kinetic energy impact projectiles may be delivered to the subject's body in accordance with the following guidelines:
- a) Primary Target Areas (legs and Buttocks): 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. Multiple impacts to the primary target areas should be considered before progressing to the secondary target area.
 - b) Secondary Target Area (Lower Abdomen): The secondary target area is considered when incapacitation is critical due to the imminent threat posed by the subject, but deadly force has not yet become necessary.
 - c) Head/Neck/Chest Area: Intentional impact to these areas is avoided unless the use of deadly force is justified.
8. In each instance where kinetic impact projectiles are deployed at an incident, a determination should be made regarding the need for lethal cover. Lethal cover is required in all cases in which the subject possesses a firearm.
9. Subjects who are struck by a kinetic energy impact projectile should be transported to a medical facility.

Impact Munitions

1. The Turtle Lake Police Department uses the DEFTEC Model 1440 tactical 4 shot launcher which will fire the following rounds only;
 - a) 40mm Projectile: Exact Impact Sponge Round (Blue Tip).
 - b) 40mm Projectile: CS Direct Impact Sponge Round.
 - c) 40mm Projectile: 32 caliber rubber ball round.
 - d) 40mm Projectile: Ferret Powder, CS.
2. Deployment of the launcher
 - a) The launcher will be carried in a case unloaded inside of the trained officer's squad.

- b) Only Department personnel trained on this launcher will be allowed to deploy it.
 - c) It will only be deployed with the approval of the shift supervisor.
 - d) It is not a replacement for deadly force and will not be deployed without at least one additional officer having lethal cover.
 - e) It can be deployed for mutual aid but at the approval of the supervisor and used by trained Turtle Lake Police Department personnel only.
3. Target Area Non-Deadly Force
- a) Lower extremities, Thighs and buttocks.
4. Target area Deadly Force
- a) Head, Neck, Upper Chest area (center mass), and Kidneys (Back Area)
5. Special considerations when deploying impact munitions
- a) Distance
 - (1) The closer the target the greater potential for penetration
 - (2) The farther the target the more time a suspect has to recover from Psychological and Physiological effects
 - (3) The further away a suspect is the less accurate the munition will be
 - b) Clothing
 - (1) Heavy clothing will dull the energy transfer from impact munitions
 - c) Gender
 - (1) Impact munitions should be used on pregnant female only in extreme situations and if deploying officer can justify its use
 - d) Age
 - e) Persons build
6. 40mm Impact safe minimum distance and range
- a) The 40mm exact impact round and 40mm direct impact cs round have a safe minimum distance of 5ft.

- b) The operator of the 40mm DEFTEC Model 1440 tactical 4 shot launcher shall not deploy an impact round closer than 5ft unless deadly force is justified
- c) The effective range of the 40mm exact impact round and 40mm direct impact round is 131 ft.
- d) The 40mm 32-Caliber rubber balls round has a minimum safe distance of 15 ft.
- e) The 40mm 32-Caliber rubber balls round has a effective range of 30 ft.

7. Actions following deployment

- a) If a person is impacted with a 40mm Exact Impact Sponge Round (Blue Tip) round, or a 40mm CS Direct Impact Sponge Round, Officers shall arrange for medical evaluation by requesting the Cedarburg Fire Department EMS to respond to check for possible injuries as soon as practical.

D. BOLA Wrap Restraint Device

1. Only a Department-approved BolaWrap 100 device that has been issued by the Department shall be utilized by personnel trained in its deployment and use.
2. A BolaWrap 100 device is not a substitute for deadly force.
3. All BolaWrap 100 devices shall be clearly and distinctly marked to differentiate them from the duty weapon and any other device.
4. Uniformed officers who have been issued the BolaWrap 100 device shall wear the device in an approved holster or with a metal Bola clip on their person.
5. BolaWrap® 100 devices should not be used on handcuffed persons unless they are actively resisting or exhibiting active aggression, and/or to prevent individuals from harming themselves or others.
6. Officers shall be responsible for ensuring that their issued BolaWrap 100 device is properly maintained and in good working order.
7. Officers shall not hold both a firearm and the BolaWrap 100 device at the same time.
8. Any deployment of the BolaWrap 100 shall comply with Policy & Procedure 5.01: Use of Force.
9. The BolaWrap® 100 is not intended to be a transportation restraint device and shall not be used as a substitute for a hobble or max restraints. Once the subject has been detained, the cord should be cut with an approved device and removed.

10. Consideration for the Use of the BolaWrap® 100 Device

- a) The BolaWrap® 100 device has limitations and restrictions requiring consideration before its use. The device should only be used when its operator can safely approach the subject within the operational range of the device.

Although the BolaWrap® 100 device is generally effective in controlling most individuals, officers should be aware that the device may not achieve the intended results and be prepared with other options.

- b) The use of the BolaWrap® 100 device on the individuals listed below should generally be avoided, unless an officer reasonably believes under the totality of the circumstances that other options would be ineffective or would present a greater danger to the officer, the subject, or others:
 - c) Individuals who are known to be pregnant.
 - d) Elderly individuals or obvious juveniles.
 - e) Individuals who are handcuffed or otherwise restrained.
 - f) Individuals detained in a police vehicle.
 - g) Individuals in danger of falling or becoming entangled in machinery or heavy equipment, which could result in death or serious bodily injury.
 - h) Individuals near any body of water that may present a drowning risk.
 - i) Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles).

11. Pre-Deployment Responsibilities

- a) A verbal warning of “Bola, Bola, Bola” should precede a BolaWrap® 100 device application, unless it would otherwise endanger the safety of officers or when it is otherwise not practicable due to the totality of the circumstances. The purpose of the warning is to:
 - (1) Provide the individual with a reasonable opportunity to voluntarily comply.
 - (2) Provide other officers and individuals with a warning that the BolaWrap® 100 device may be deployed.
 - (3) The fact that a verbal or other warning was given, or the reasons it was not given, shall be documented by the officer deploying the BolaWrap 100 device in the related report.

- b) The aiming laser should never be intentionally directed into the eyes of another as it may permanently impair his/her vision.
- c) The deploying officer should, if possible, assemble a sufficient number of officers to assist with taking the suspect into custody.
- d) Under exigent circumstances, nothing in this policy prohibits an officer from deploying the BolaWrap 100 at a subject without requesting or having the presence of additional officers.

12. Application of the BOLAWRAP® 100 Device

- a) The BolaWrap 100 device may be used in any of the following circumstances, when the totality of circumstances perceived by the officer at the time indicate that such application is reasonably necessary to control a person:
 - (1) The subject is assaultive, actively resisting, or passive non-compliant.
 - (2) The subject has demonstrated, by words or actions, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm officers, him/herself or others.
- b) Mere flight from a pursuing officer, without other known circumstances or factors, is not good cause for the use of the BolaWrap 100 device to apprehend an individual.
- c) Simultaneous applications of the BolaWrap 100 on a single individual by multiple devices are allowed in authorized target areas.

13. Tactical Use

- a) Targeting considerations:
 - (1) Reasonable efforts should be made to target lower extremities or lower arms. The head, neck, chest and groin shall be avoided. If the dynamics of a situation or officer safety do not permit the officer to limit the application of the BolaWrap 100 device to a precise target area, officers should monitor the condition of the subject if it strikes the head, neck, chest or groin until the subject is examined by paramedics or other medical personnel.
- b) Multiple applications of the BolaWrap 100 device:
 - (1) If the first application of the BolaWrap® 100 device appears to be ineffective in gaining control of an individual, the officer should consider certain factors before additional applications of the device, including:

- (a) Whether the Kevlar cord and/or anchor's hooks are making proper contact.
- (b) Whether the individual has the ability and has been given a reasonable opportunity to comply.
- (c) Whether verbal commands, other options or tactics may be more effective.

14. Actions following deployments:

- a) Personnel shall request a supervisor to the scene.
- b) Officers shall comply with Emergency Care for Individuals under Police Care or Control covered under this GO.
- c) Only medical personnel may remove hooks that are embedded in a subject's skin.
- d) If the hooks penetrate only a subject's clothing, then the supervisor or officer may remove the hooks. The supervisor or officer may cut the Kevlar cord with Department issued medical shears.
- e) The Kevlar cord shall be cut prior to any transportation.
- f) The expended cartridge, hooks and Kevlar cord shall be collected and submitted into evidence.

15. Reporting the Use of the BOLAWRAP® 100

- a) The deployment of the BolaWrap® 100 is considered a Control Alternative under Policy & Procedure 5.01: Use of Force.
- b) Officers shall:
 - (1) Complete the applicable report(s) (crime, casualty, UOF report, and/or incident). The report shall include the cartridge serial number, reason for the application of force as well as the description of injuries sustained or claimed.
 - (2) Book an arrested subject and notify the appropriate jail medical staff employee of the sustained injury and the type of force used.
- c) The supervisor shall determine whether further documentation of the incident is necessary, in accordance with Department policy.

D. Chemical Control Device

1. 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. All O.C. must be non-flammable.
2. When an officer is threatened with physical force or dealing with a resistive or combative person and lesser control factors are ineffective, consideration should be given to the use of control devices.
3. All uniformed officers issued O.C. aerosol will be required to carry it while on duty unless replaced by a Conducted Energy Weapon (CEW) 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.
4. O.C. aerosol will be used consistent with the training provided by the Department and/or the Wisconsin Training and Standards Bureau. Trained officers shall complete a refresher course and a written examination every two years concerning the use of this weapon.

E. Conducted Energy Weapon (CEW)

1. Only officers who have satisfactorily completed the Department's approved CEW certification training course shall be authorized to carry/use such weapon.
2. The CEW may be used by trained officers when a subject is threatening to actively resist or is actively resisting an officer and the subject poses an articulable threat of harm to an officer or another person. It may also be used when a subject poses a threat of harm to themselves such as self-inflicted injury or a suicide attempt.
3. The CEW is considered to be in the Control Device section of the Intervention Options on the Disturbance Resolution Model.
4. Any use of the CEW 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 a CEW.
6. An officer shall not brandish, display, or threaten the use of a CEW unless he or she can reasonably conclude its use may become justified and is anticipated.
7. In each instance that a CEW is deployed in an incident, consideration should be made regarding the need for lethal cover.
8. Officers who deploy a CEW against a subject shall ensure the subject is monitored for injury as soon as practical after the subject is under control.

- a) If an adverse reaction to the CEW occurs, or if requested by the person, emergency medical services shall be provided to them.
- b) If the probes are imbedded in sensitive tissue areas, i.e. neck, face, groin, or the breasts of a female, officers shall arrange transport to a medical facility for removal. If the probes are imbedded in other non-sensitive tissue areas, a CEW-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 packaged according to the trained procedure. Photographs of the wound site shall be taken if practical. Probes and wires will be retained as evidence.

9. Restrictions/Limitations on CEW Deployment

- a) The CEW 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 CEW.
 - In situations where the subject is in close proximity to water where, if incapacitated by the CEW, 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.

10. Detention Facility Notification / CEW Use

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

11. Use of the CEW on Animals

- a) CEW 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 CEW has subdued the animal.

12. When a CEW is deployed against a subject, the officer shall notify Police Chief, and shall complete an offense report detailing the circumstances of the incident.

13. Trained officers shall complete a refresher course and a written examination every two years concerning the use of this weapon.

IV. TRAINING

- A. Training whether noted above or not for less lethal weapons shall occur at a minimum biennially for officers authorized to use such weapons or techniques.

V. REPORTING THE USE OF FORCE

- A. Reporting on the Use of Less Lethal Weapons shall be included in the required reporting pursuant to WI State Statute 165.845 also noted in Policy & Procedure 5.01 X.

VI. PUBLIC ACCESS TO POLICY & PROCEDURE

- A. Public access to this Policy & Procedure pursuant to WI State Statute 66.0511(2) shall be the same as required in Policy & Procedure 5.01 XI.

Al Gabe
Chief of Police

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

Initial 09/20/2021