



POLICY & PROCEDURE

RHINELANDER POLICE DEPARTMENT

SUBJECT: **NON-DEADLY FORCE**

SCOPE: All Department Personnel
DISTRIBUTION: Policy & Procedures Manual

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PURPOSE: The purpose of this Policy & Procedure is to establish guidelines for the use of non-deadly force by sworn personnel of the Rhinelanders Police Department to affect a detention, seizure, arrest, and/or other lawful custody of a person (including emergency medical and/or mental health custody); use force in self-defense or defense of another; to prevent or intercede in a person's self-injury; in defense of property; in community caretaker function; and/or to initiate or maintain control, custody, and/or detention of a person. Proper use-of-force decisions, based on the United States' (U.S.) Constitutional force standards and any more restrictive Wisconsin force standards, ensure appropriate due process for persons as well as provide protection for officers and the Department.

This policy is based in part on the Defense and Arrest Tactics (DAAT) program of the State of Wisconsin as developed by the Wisconsin Training and Standards Board (Department of Justice-Bureau of Training and Standards). **This policy adheres to all applicable federal, state, and local laws.**

This Policy & Procedure consists of the following numbered sections:

- I. DEFINITIONS
- II. POLICY
- III. PROCEDURE

I. DEFINITIONS:

- A. As used in this policy, non-deadly force means the use of any weapon or instrument, or any other action taken by an officer, which is not likely to cause death, but which may result in bodily harm or injury to a person.

II. POLICY

- A. It is the policy of the Rhinelander Police Department that, recognizing our legal and moral responsibility to use force wisely and judiciously, non-deadly force will be used only when necessary in the performance of an officer's legal duties. The purpose of the use of force is to establish and maintain control. Officers need not retreat or desist from efforts to make lawful arrests because of the resistance to the arrests. Officers are justified in using force which they reasonably believe is necessary to defend themselves or others from bodily harm while making arrests.

Officers shall use only that amount of force that is reasonably necessary to achieve a lawful objective. The use of non-deadly force is only authorized when an officer reasonably believes it is necessary to control a person under any of the following circumstances:

- 1. Effecting an arrest.
- 2. Protecting oneself or another.
- 3. Overcoming resistance.
- 4. Detaining a person reasonably suspected of unlawful behavior.
- 5. Preventing escape.
- 6. Maintaining order.

At no time is an officer permitted to use excessive force. **Unless deadly force can be justified, officers shall not apply holds or strikes to the neck area to include choke holds, carotid holds, jugular holds, trachea strikes or throat strikes.**

- B. **Verbal Commands.** Control of a person through verbal commands shall always be the primary tactic. The use of physical force and/or non-deadly weaponry is the alternative method to verbal commands.

It is recognized that verbal commands are not always effective or appropriate in gaining compliance and it then becomes necessary to escalate the degree of force. When it is reasonably determined that verbal commands are not or would not be effective nor appropriate, an officer may escalate the degree of force based on the actions of the person they are attempting to control.

- C. The concept of escalating/de-escalating degrees of force is based on an officer's reaction to a specific action of the person s/he is attempting to control. Officers are not required to begin a confrontation with dialogue and escalate step by step until control is gained if it is reasonably believed that the reaction would be ineffective or inappropriate based on the actions of the person they are attempting to control. Once a person is under control, officers are required to revert to the lowest degree of force necessary to maintain that control.

STATE OF WISCONSIN SYSTEM OF INTERVENTION OPTIONS

<u>Mode</u>	<u>Purpose</u>
Presence	To present a visible display of Authority
Dialog	To verbally persuade
Control Alternatives	To overcome passive resistance, active resistance, or their threats
Protective Alternatives	To overcome continued resistance, assaultive behavior, or their threats
Deadly Force	To stop the threat

- D. **Officer/Subject Factors – Level of Force.** Numerous factors may affect the selection of an appropriate level of force. Examples of officer/subject factors include:

1. **Age.** An older officer may have to use more force on a younger person who is more agile and stronger. Where in contrast, the younger officer who is quicker, stronger, and has more stamina would use less force to control an older person.
2. **Relative Strength:** The different make up of males and females may be a factor in handling a member of the opposite sex. It is a known fact that females usually have less upper body strength than their male counterparts. A male officer may use less force arresting/detaining a female, where a female officer may use more force to arrest/detain a male.

3. **Size.** A larger officer may be able to control a smaller person with the least amount of force, where a smaller officer would have to intensify the amount of force to accomplish the same task.
 4. **Skill Level.** A highly trained officer in unarmed tactics may need to only use a proper technique that would use very little force to make an arrest or to detain; where an officer with no current training may need to use more force. The ability of the person being arrested/detained plays a major role here also. A karate expert may not be detained/arrested and controlled easily because of his/her martial arts skills.
 5. **Multiple Subjects.** Even the most skilled officer in unarmed tactics is no match for several subjects with the intent to harm the officer. Higher levels of force may be necessary to survive in these circumstances.
- E. **Acceleration Through the Intervention Options.** Listed below are some of the circumstances which may cause an officer to accelerate very rapidly through the intervention options.
1. **Special Knowledge.** When an officer is confronted by a person who they have been in contact with previously and knows the person is usually armed with a weapon, the officer may approach the situation with the intent to use a high level of force if needed. If an officer knows, from previous cases, that the person to be detained/arrested is a fighter and has assaulted an officer in the past, more force may be expected to be needed to detain/arrest that person.
 2. **Injury or Exhaustion.** Where an officer is injured in a confrontation and is losing, the officer may need to use a weapon or a higher level of force to bring the situation under control. If an officer cannot endure a length confrontation because of exhaustion or physical fatigue, escalation through the intervention options may be necessary.
 3. **Proximity to the Officer's Firearm.** A close proximity to the officer's firearm exposes the officer to the possibility of a lethal force situation. If the person removes the holstered weapon, the likelihood the officer will be shot is imminent.
 4. **Ground Fighting.** Since grappling is a match of strength and skill, some say that if the officer is not handcuffing or in control while on the ground, then the officer is losing. If the officer is on the ground and the aggressor is standing, the officer faces a greater danger.
 5. **Disability.** Officers who have disabilities may find it necessary to escalate on the Force Option Continuum to a higher level of force.

III. PROCEDURES

- A. An officer shall use only the minimum amount of force that is reasonably necessary to perform his/her lawful duties.
- B. Under no circumstances may an officer continue to use force (except mere physical restraint) against an individual who has ceased to resist, escape, or otherwise violate the law.
- C. Once control has been established officers shall be responsible for appropriately (as defined by legal standards) monitoring the person's condition and welfare. Unless circumstances dictate otherwise, all persons arrested will be handcuffed, searched and then transported in a police vehicle.
- D. An officer shall not brandish, display, or threaten the use of a use-of-force tool unless (s)he can reasonably conclude its use may become justified and is anticipated. Use of force tools includes OC, ECD, Impact Weapons, Specialty Impact Munitions, and Firearms.
- E. Officers may include in the decision to use force information known to, or reasonably perceived by, the officer at the time of the incident, including conduct or statements of the person or prior history of resistive or assaultive behavior.
- F. Oleoresin Capsicum Spray:
 - 1. Officers who have been trained and certified in the use of OC shall carry Rhinelander Department issued OC while on duty.
 - a) If the officer has a special duty assignment that does not make carrying OC feasible, the officer may be exempt from carrying OC for the assignment.
 - 2. Trained personnel may use OC when a subject is threatening to actively resist or is actively resisting an officer and the subject poses an articulable threat of harm to an officer or another person. It may also be used when the subject poses a threat of harm to himself or herself such as self-inflicted injury or a suicide attempt.
 - 3. Officers may include in the decision to use the force option information known to the officer at the time of incident, including conduct or statements of the subject or prior history of resistive or assaultive behavior.
 - 4. Generally, OC should not be sprayed at a person from a distance of less than 3 feet.
 - 5. When OC is used against a person or animal, the user shall notify an on-duty supervisor and shall complete an offense report detailing the circumstances of the incident.
 - 6. If practical, department personnel who use OC against a person shall ensure

the person is decontaminated as soon as practical after he or she is under control.

- a) If possible, expose the person to fresh air and flush the exposed area with cold water.
- b) If practical, the subject may be allowed to remove contact lenses.
- c) Continue to monitor the exposed person for any unusual reactions to the exposure. If the exposed person has an unusual reaction or requests medical attention, transportation to a medical facility shall be arranged.

G. Electronic Control Device:

Electronic Control Device (ECD): A battery powered less-lethal device that uses propelled wires and probes or direct contact to conduct sufficient energy to affect the sensory and motor functions of the human and animal nervous system. The intended purpose of the device is to incapacitate and help control actively resistive, potential active resistive, and/or violent persons or animals with reduced potential for great bodily harm or death.

1. Units approved by the Rhinelander Police Department:
 - a) Advanced Taser X-26 ECD, X-26P, or X2
2. An electronic control device 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 the subject poses a threat of harm to himself or herself such as self-inflicted injury or a suicide attempt. Passive resistance without posing an articulable threat of harm to officers or others does not justify the use of an Electronic Control Device.
 - a) Officers may also include in the decision to use this force option information known to the officer at the time of the incident, including conduct or statements of the subject or prior history of resistive or assaultive behavior.
3. Passive resistance without posing an articulable threat of harm to officers or others does not permit the use of an electronic control device.
4. Deployment and use of the electronic control device will be in accordance with department training and procedure. The electronic control device shall be carried on the opposite side of the body from the firearm. An officer shall not brandish, display, or threaten the use of an electronic control device unless he or she can reasonably conclude its use may become justified or is anticipated.
5. In each instance when an electronic control device is deployed at an incident, a determination will be made regarding the need for lethal cover.

- a) Lethal cover shall be required in all cases in which the subject possesses a firearm or other deadly threat.
 - b) The electronic control device is not a substitute for deadly force – in cases where a subject poses an articulable threat of death to an officer or another person, an officer may not arm him or herself with an electronic control device unless another officer is present and capable of immediately delivering deadly force.
6. Elevated ECD deployment risk factors: The following factors, when reasonably perceived by the officer(s) at the time of the incident, require elevated justification(s) for deployment. Under the following conditions the risk of direct or secondary injury to the person is foreseeably elevated, thus the justification for ECD deployment is also elevated. The officer(s) must balance the elevated risk(s) of injury with the need for immediate apprehension or protection.
- a) Presence of flammable materials
 - b) Person in an elevated position
 - c) Person operating a vehicle (capable of moving)
 - d) Person running
 - e) Person obviously or known to be pregnant
 - f) Person in water sufficient to drown
 - g) Person obviously frail or infirm
7. ECD deployment methods: The primary deployment method is to discharge the ECD cartridge propelling the probes and probe wires. The back-up deployment method is to firmly drive the attached fired ECD cartridge into the person's body.
- a) Removing the ECD cartridge to apply a drive stun is not a primary deployment technique. It is discouraged because it provides limited effectiveness and has a higher propensity for causing minor burn marks or friction abrasions to the skin than probe deployment.
8. ECD deployment cycle(s): Officers shall deliver only the number of deployment cycles reasonably necessary to control the person. If practical, cover officer(s) present should move in and control the person during the deployment cycle(s). If multiple cycles have been delivered and the person still can not be controlled, officers should consider escalation of force options or disengage.
9. Taser probes may not be intentionally fired at the face, head, neck, or groin.
10. All probes shall be considered a bio-hazard and removed using personal protective equipment if practical.
11. POST DEPLOYMENT:
- a) Department personnel who use an electronic control device against a person shall ensure the person is monitored for injury as soon as practical

after the person is under control. Officers shall monitor the subject for adverse reactions. Officers shall immediately arrange for transportation of the suspect to the hospital if an adverse reaction to the electronic control device occurs, or if medical treatment is requested by the subject. Whenever there is doubt concerning the need for medical attention, it should be resolved through the examination of the subject by an appropriate medical facility.

- b) If the probes are imbedded in sensitive tissue areas, i.e. neck, face, groin, or the breast of a female, officers shall arrange transportation to a medical facility for removal. If the probes are imbedded in other non-sensitive tissue areas, a trained officer may remove them according to the trained procedures.
- c) Once a subject is secured in custody, an evaluation of the application site should be made to determine the necessity for photographs.
- d) Following deployment of an electronic control device, officers shall make a request for a printout of the dataport download from the specific device used for their reports.
- e) It is the responsibility of the deploying officer to obtain a new cartridge prior to ending his/her shift.

12. REPORTING OF USE OF ELECTRONIC CONTROL DEVICE:

- a) When an electronic control device is used against a person or animal, the user shall notify an on-duty supervisor and shall complete an incident report, documenting circumstances necessitating, and manner of, such use. The officer shall also complete a Use of Force Report and a copy shall be given to the Chief of Police.

H. Impact Weapon: (baton)

- 1. Patrol officers and patrol sergeants shall be required to have an approved impact weapon reasonably available to them while on duty.
- 2. The use of authorized batons is permitted against assaultive behavior or threatened assaultive behavior directed at an officer or another person that would reasonably subject the officer or other person to bodily harm.
- 3. The appropriate target areas for baton strikes are the lower abdominal area (Baton Jab) and the knee and elbow area (Angle Strike and Angle-Cross Strike). The intentional use of a baton to strike the head of a subject carries with it a high propensity for serious injury or death. Therefore, although use of the baton is not classified as deadly force, an intentional strike to the head could be considered excessive force unless special circumstances justified it.

I. Specialty Impact Munitions

1. Specialty Impact Munitions 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 unsafe. This option may be used when a person poses a significant threat of harm to self or others and unarmed tactics have been exhausted or would not be effective or safe given the circumstances. The goal of using Specialty Impact Munitions is to impede a subject, preventing him or her from continuing resistive, assaultive, or otherwise dangerous behavior. Continued resistance means that an individual is maintaining a level of counteractive behavior that is not controlled with the officer's current level of force. Assaultive behavior occurs when an individual's direct actions generate bodily harm to the officer(s) and/or another person(s).
 - a) Officers may include in the decision to use this force option, information known to the officer at the time of the incident, including conduct or statements of the subject or prior history of resistive or assaultive behavior and possession of weapons.
2. An officer shall not brandish, display or threaten the use of a specialty impact munitions unless he or she can reasonably conclude its use may become justified and anticipated.
3. When Specialty Impact Munitions are used against the body of a person, the officer will notify an on-duty supervisor and will complete an offense report detailing the circumstances of the incident. The Chief of Police shall be notified as soon as practical after deploying specialty impact munitions. The officer shall also complete a use of force report and forward it to the Chief of Police.
4. Delivery systems
 - a) 12 gauge Pump Shotgun
 - (1) Only RPD authorized and issued rounds may be used
 - (2) List of RPD authorized specialty impact munition rounds: Defense Technology 12 gauge "tear drop" drag stabilized bean bag round
5. The 12 gauge pump shotguns utilized to deploy Specialty Impact Munitions shall be dedicated to sole use of less-lethal alternatives. When deploying the 12 gauge shotgun as a less-lethal option, the officer shall insure each round in the weapon is RPD authorized Specialty Impact Munitions. The deployment procedure will be taught during training.
 - a) When possible, efforts shall be made to have another officer observe the loading of less-lethal Specialty Impact Munitions into the shotgun.

- b) The weapon will be clearly marked as a less-lethal weapon. This will be done by applying orange tape or paint to the weapon's stock.
6. Specialty Impact Munitions may be delivered to the subject's body in accordance with the following guidelines.
- a) Primary Target Areas: The primary target area shall be designated as "zone 1" consisting of the legs and buttocks. This area consists of large muscle groups. Where the threat level is appropriate and this zone is viable, it should be considered first. Multiple impacts to the primary target areas should be considered before progressing to the secondary target area. The groin area should not be intentionally targeted.
 - b) Secondary Target Area: The secondary target area shall be designated as "zone 2" consisting of the abdominal area. This area consists of medium muscle groups and has a greater potential for causing serious injury when struck.
 - c) Non-target area. A non-target area shall be designated as "Zone 3" consisting of the head, neck, chest (center mass) and spine areas. Intentional impact to these areas will be avoided unless the use of deadly force is justified.
 - d) Effective range. The 12 gauge drag stabilized round has an optimal energy range of 20-50 feet. To minimize risk of serious injury deployments, a distance less than 10 feet should be avoided if possible and practical.
7. In each instance where Specialty Impact Munitions are deployed,, lethal cover shall be provided.
8. Effects
- a) Blunt Trauma -The maximum desired effect of an impact munition is blunt trauma – an impact from an object that leaves the body surface intact, but may cause sufficient (non-life threatening) injury to distract and/or incapacitate the subject. The lowest expected response is pain. For this reason, projectiles impacting a person will always result in an injury. However, the intent of specialty impact munitions is to minimize the amount of injury that is painful. In most situations the injury does not exceed bruising. Specialty impact munitions have been known to cause the following types of injuries: abrasions, contusions, lacerations, and fractures.
 - b) Penetrating trauma – The unintended and most undesirable outcome of an impact munition is penetration. Penetration from a specialty impact munition may result from a combination of the following: excessive kinetic energy as determined by the weight, size, shape, and velocity of the projectile; target distance; subject's physical stature, shot placement, and clothing.

- c) It should be noted that all specialty impact munitions have the potential for causing serious injury and/or death.
- d) All subjects who are struck by a specialty impact munition shall be transported to a medical facility for examination.

J. Use of Restraints:

It is the policy of this Department that *all persons, including juveniles, placed in protective custody or under arrest*, shall be properly handcuffed during transportation, except in the case of cooperative, non-threatening persons, where such decision shall be at the officer's discretion with supervisor or OIC approval.

1. **Handcuff-Style Restraints.** Because it is the policy of this Department to use handcuffs during all transportation, except in the case of cooperative, non-threatening persons, where such decision shall be at the officer's discretion, the following use procedures are provided:
 - a) The officer shall use Departmentally-approved restraints in accordance with department training and procedure.
 - b) Handcuffs shall be applied to the person's wrists behind his/her back unless not physically possible, except when transport belts are employed.
 - c) Handcuffs will be double-locked upon placement on the person in order to negate any attempted tampering by the person and to assure that accidental tightening of the cuffs cannot occur.
 - d) Handcuffs will be closed to a firm contact with offender's skin, but not so tightly as to produce pain, although one may expect comments as to discomfort.
 - e) Handcuffs will not intentionally be closed so tightly as to cause physical injury to the person.

K. Handcuffing Prisoners Being Transported:

1. *Prior* to any transportation of persons in custody, they shall be patted down for weapons.
2. When practical, prisoners shall be so placed in the police cruiser that seat belts may be secured about the prisoner in order to enhance their safety during transportation.

L. Treatment of Injured Prisoners/Medically Significant Behavior:

1. Injured prisoners are to be transported to the nearest medical facility for proper treatment either by ambulance or by officer, depending on the severity of the

injuries.

- a) The prisoner must consent to such medical treatment unless under protective custody.
2. During the time awaiting treatment and during the treatment activities, the officer shall not relax security.

M. Reporting the Use of Force:

1. If an officer uses force listed in the intervention options as “Oleoresin Capsicum Aerosol Spray” or greater, the officer shall contact an on-duty supervisor as soon as practical. The officer shall also complete an incident report, documenting circumstances necessitating, and manner of, such use.

N. Post Use of Force removal from duty

1. An officer(s) whose actions or use of force results in a death or serious physical injury shall be placed on administrative leave or desk duty by the Chief of Police or his/her designee during the investigation of the incident and/or until such time as the incident investigation or administrative review is completed.
 - a) The officer shall be available for Departmental interviews and statements regarding the incident and subject to recall to duty.

O. Post Use of Force Review

1. The Chief or designee shall review the use of force reports to determine any policy issues, training or weapons/equipment deficiencies, or disciplinary matters that require attention or any type of future action.

Lloyd Gauthier
Chief of Police

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

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