

I. PURPOSE

The purpose of this policy is to provide Black Creek Police Officers with the guidelines for the use of non-deadly and deadly force while carrying out the duties of a police officer. Law enforcement officers may use force to achieve the legitimate law enforcement objectives of gaining and maintaining control of resistive subjects and making lawful arrests.

II. POLICY

It is the policy of the Black Creek Police Department that all officers use only the amount of force that is reasonably necessary to effectively bring a person or incident under control, while protecting the lives of the officer or others. Officers may use that amount of force that is reasonable and necessary to affect a lawful purpose. An officer's decision to use force must be objectively reasonable. Each officer must only use that force which a reasonable prudent officer would use under the same or similar circumstances.

The use of deadly force is the absolute last resort to prevent death or serious physical harm to themselves or others while attempting to accomplish lawful objectives. The officer's responsibility for protecting life must include his or her own.

- A. The use of force is a privilege, which may be exercised by law enforcement officers to achieve a legitimate law enforcement objective. The privilege to use force is governed by legal and ethical limits. The purpose of using force is to protect life and property and to bring the accused to trial.
- B. At all times, only minimum force reasonable and necessary to affect a lawful purpose may be used. The safety of innocent bystanders should not be risked unless their safety has already been endangered and using force is the only possible means of protecting them.
- C. The value of human life is immeasurable in our society. Police officers have been delegated the awesome responsibility to protect life and property and apprehend criminal offenders. The apprehension of criminal offenders must at all times be subservient to the protection of life. The officer's responsibility for protecting life must include his or her own.

III. **DEFINITIONS**

A. DEADLY FORCE

The intentional use of a firearm or other instrument that creates a high probability of death or great bodily harm.

B. NON-DEADLY FORCE

Presence, dialogue, empty hand control, impact weapon use, any action of control of another where the intended level of force is less than deadly.

C. ELECTRONIC CONTROL DEVICES (X26 TASER)

A device which emits an electrical charge which is administered to an actively resistant subject to gain control of a subject.

D. CUSTODY

Restricting a subject's freedom for the purpose of custodial arrest, placement in secure detention or commitment to a medical facility.

E. OBJECTIVELY REASONABLE

In determining the necessity for the use of force and the appropriate level of force, officers shall evaluate each situation in light of the known circumstances, including the level of threat or resistance presented by the subject and the immediate danger to others and the community.

IV. **DEFENSE AND ARREST TACTICS**

The Black Creek Police Department adopts the State of Wisconsin, Department of Justice, Training and Standards Bureau, Defensive and Arrest Tactics System. This system includes the disturbance resolution model and the intervention options (see Section XIII of this chapter) . These provide general guidelines that define the degree and type of force to be used in controlling subjects, and the use and application of handcuffs.

V. **INTERVENTION OPTIONS**

An officer shall only use the amount and level of force reasonably necessary to control a subject and perform lawful duties. The various force options are listed below:

A. PRESENCE

A professional presence is providing a visible display of authority. It conveys readiness to act while utilizing a basic tactical stance. An officer should utilize an appropriate stance for the message they wish to convey.

B. DIALOG/TACTICAL COMMUNICATIONS

Verbal communication, which mirrors the appropriate tactical stance, is used to gain compliance. Verbal tactics include:

1. SEARCH TALK

Non-threatening presence and speaking in a normal conversational tone.

2. PERSUASION

Conversational voice to gain compliance while maintaining a non-threatening tone.

3. LIGHT CONTROL TALK

Direct and assertive talk to gain compliance.

4. HEAVY CONTROL TALK

Clear and concise 2-3 word orders issued to a subject to gain compliance. Usually in a tone greater than 65 decibels.

C. ESCORT HOLDS

The purpose of the escort hold is to safely initiate physical contact. For example, if a subject were to not comply with verbal commands an escort hold can be utilized to gain control of the subject, preventing a physical confrontation.

D. COMPLIANCE HOLDS

A compliance hold is utilized to overcome a subject physically resisting efforts to move them. This is also referred to as passive resistance.

E. OLEORESIN CAPSICUM

The purpose of OC Spray is to overcome active resistance or its threat.

1. The aerosol chemical restraint authorized by the Department for individual carry contains the chemical agent "Oleoresin Capsicum" (a.k.a. Pepper Spray). No other aerosol chemical restraint is authorized or allowed.
2. When Oleoresin Capsicum is used against a person or animal, the user will notify the working supervisor and will complete an incident report detailing the circumstances of the incident.
3. Oleoresin Capsicum shall not be utilized by officers if it appears children less than two years of age are in the area that would be contaminated.
4. Officers who use Oleoresin Capsicum against a person shall ensure the person is decontaminated as soon as practical after the person has been subdued. At a minimum, officers shall:
 - a. Expose the person to fresh air and flush exposed areas with large amounts of cold water as soon as practical.
 - b. Allow subject to remove contact lenses and contaminated clothing. Inform the person clothing should be washed thoroughly and soft contact lenses may have to be discarded.
 - c. Do not apply salves, creams or lotions, and inform the subject additional relief may be gained by showering and washing affected areas with soap and water.
 - d. Monitor the subject for one-half hour after application, and if incarcerated, notify jail staff of the use of Oleoresin Capsicum. If an adverse reaction occurs, or if requested by the subject, transport to a medical facility shall be arranged.
 - e. Ventilate any enclosed areas where Oleoresin Capsicum was used for at least 30 minutes.
5. If circumstances permit and it can be done without endangering others, reasonable efforts to decontaminate animals should be made or the information conveyed to the animal's owner.

F. PASSIVE COUNTERMEASURES

Techniques utilized on a subject that will be uncontrollable in the standing position. The subject is decentralized to the ground in a controlled decent in an attempt to avoid injuries.

G. ACTIVE COUNTERMEASURES

Include focused strikes and/or vertical stuns to create a temporary dysfunction of an actively resistive or assaultive subject.

H. INCAPACITATING TECHNIQUES

The purpose of incapacitating techniques is to cause the immediate, temporary cessation of violent behavior. The diffused strike is the only method taught under the Wisconsin DAAT System. However, other techniques that can be utilized under these conditions would be less lethal weapons such as impact munitions, Tasers and other specialty weapons. Prior to any officer utilizing one of these weapons they are to be trained in its use and familiar with the circumstances the weapon is to be utilized in. In the case of the X26 Taser the following guidelines shall be adhered to:

1. The X26 Taser is not a replacement for the firearm and should not be used without firearm back-up in those instances where the threat towards officers could escalate to the use of deadly force.
2. Department personnel shall only carry and use the X26 Taser or any other electrical incapacitation device that has been approved by the Chief of Police.
3. Personnel will be allowed to carry a X26 Taser unit after completion of training in the use of the unit. After the initial training in the unit all officers certified in its use shall re-certify with the unit on an annual basis.
4. Officers who use the X26 Taser against a person shall ensure the wellbeing of a person after the person has been subdued. At a minimum, officers shall provide the following aftercare:
 - a. Normally, the X26 Taser darts may be removed from the subject once he or she has been restrained using the procedure outlined in training. Universal precautions shall be followed to protect the officer from the transfer of body fluids and dart puncture wounds treated with an alcohol swab as needed. The suspect shall be taken to an emergency care facility for the removal of the dart(s) in cases where it has penetrated sensitive tissue areas (such as the groin, eye, female breast, face or neck) or when the deploying officer or supervisor determines that is otherwise necessary.

- b. Photographs of the affected area should be taken after the dart is removed.
 - c. Whenever practical, an EMT or authorized medical personnel should examine the exposed person prior to incarceration.
 - d. When the device has been used, the officers will collect the air cartridge, wire leads, darts and APHIDS as evidence.
- 5. The deploying officer shall notify his/her supervisor as soon as practical after using the device and complete the appropriate Taser use of force document.
- I. BOLA Wrap ® 150: A hand-held remote restraint device that discharges a bolastyle tether designed to control encounters by temporarily entangling and restraining a person from a safe distance with minimal risk of injury.

J. **INTERMEDIATE WEAPON**

The purpose is to impede a subject, preventing them from continuing resistive, assaultive or otherwise dangerous behavior. An officer shall not strike an individual outside the primary target areas unless such an action would be justified under the Use of Deadly Force guidelines. This section is intended to prohibit the intentional striking of an individual outside the primary target areas. It is not intended to apply to an accidental striking perhaps as a result of resistance.

K. **DEADLY FORCE**

The purpose of deadly force is to stop a threat. The use of deadly force is described and defined in the next section.

VI. **USE OF DEADLY FORCE**

- A. Deadly force should be utilized to stop a threat under the following circumstances:
 - 1. When an officer reasonably believes that they or others are imminently threatened by death or great bodily harm; or
 - 2. To make a legal arrest for a felony where the officer reasonably believes there is an imminent threat to the officer, or others, of death or great bodily harm, if the arrest cannot immediately be made, or custody otherwise retained; or

3. Giving consideration to public view and safety, to dispose of a dangerous animal or one so badly injured or diseased that humanity requires its removal from suffering and other disposition is impractical.
- B. When exercising the use of deadly force, the safety of innocent bystanders should not be risked unless their safety has already been endangered and using deadly force is the only possible means of protecting them.
- C. Non-sworn police personnel are not authorized to and shall not fire weapons in the performance of their duties.
- D. The threat of deadly force can only be used when an officer reasonably believes there is a possibility of conditions escalating to where deadly force would be justified. Drawing, displaying and/or pointing a firearm should be interpreted as the threat of deadly force.
- E. Before using deadly force, an officer shall, whenever possible, identify him or herself, order the suspect to desist from the unlawful activity and announce the use of deadly force if the lawful order is not obeyed.
- F. Deadly force shall not be used as a warning, including warning shots.
- G. When firing from a moving vehicle, the officer must first believe that great bodily harm or death threatens themselves or others.
- H. When firing at a moving vehicle, the officer must first believe that great bodily harm or death threatens themselves or others and that this threat is coming from the occupant of this vehicle.
- I. Officers should not fire at a person who is not clearly visible, unless the officers are being fired upon from that particular spot; i.e., buildings, through doors, behind objects or the circumstances dictate the use of deadly force and officers can minimize the danger to others during the use of deadly force.

VII. **FIREARM REGULATIONS**

- A. No officer shall carry or in normal circumstances, use any firearm or ammunition unless it is approved by the department and until the officer has been properly trained in its use and has qualified with that weapon.
- B. Officers, while on duty, will carry their duty firearm with them at all

times, unless specific circumstances prevent it; i.e., court appearances, speaking engagements, while in jail facilities or medical facilities which prohibit firearms.

C. AUTHORIZED ON-DUTY FIREARMS

1. Semi Automatic 9mm, 40cal or 45cal.
2. Department long-barrel weapons that are made available to the officers by the department.
3. The Chief will have the authority to allow for a change in any officer's duty weapon, provided the officer is trained with that weapon.
4. Officers desiring to carry or possess a second handgun while on duty, must receive written permission from the Chief of Police and attend department training and qualify with that weapon.

D. Officers will only carry ammunition approved and provided for by the Black Creek Police Department.

E. OFF-DUTY FIREARMS

1. Officers may possess his or her own firearms subject to Federal, state and local laws.
2. An officer desiring to carry a firearm while off duty for law enforcement purposes (HR 218), or situation related to L.E., must submit an application to do so, in writing, to the Chief of Police. The Chief will then advise the officer if authorization is granted and of any conditions attached. Training and qualifying with authorized off-duty weapon will follow department standards.

F. The department's firearms instructor shall establish safety rules. These rules shall be posted in the range and personally issued to each officer.

G. Qualification with authorized weapons shall be established by the firearm instructor.

H. No officer shall modify or alter an approved firearm or ammunition without approval of the Chief of Police.

1. Weapons in need of repair shall be repaired as soon as practical.

2. Weapons in need of repair shall not be utilized and a replacement weapon shall be issued.

VIII. **TRAINING**

- A. Firearms training will be done on a continuing basis. Actual range training will be done at a minimum of two sessions per year.
- B. The firearms training will be designed and provided by the department's firearm's instructor(s).
- C. When it is determined that an officer is having difficulty in any area of the firearms shooting system, they will be provided remedial training.
- D. All officers issued a weapon will be required to train with those weapons.
- E. Officers not meeting acceptable performance will be provided remedial training.
- F. Officers that still do not meet acceptable performance will be required to attend firearms training. They will then be required to demonstrate acceptable performance at a firearms training facility determined by the Chief of Police.
- G. Officers not able to meet acceptable performance at this point will surrender their weapon(s) to the Police Chief and be subject to administrative sanctions.
- H. Training courses will follow approved Wisconsin Training and Standards guidelines and may include:
 1. Dark, dim light shooting.
 2. Shooting under stress.
 3. Decision making.
 4. Accuracy.
 5. Policy review.
- I. All officers, prior to being issued their authorized on-duty firearm, will be required to successfully complete a department sponsored transition course.

IX. **FIREARM DISCHARGE FOLLOW THROUGH PROCEDURE**

The procedure to be followed when an officer is responsible for accidental or intentional discharge of any firearm (other than on an approved range) or the accidental or intentional use of deadly force by any means is:

- A. If the use of deadly force is used against or intended for another person(s) (regardless of whether actual injury or death results)
 - 1. The officer shall immediately inform the Dispatch Center of the incident as soon as possible.
 - 2. The dispatcher will be advised to immediately notify the Chief of Police.
 - 3. The officer involved shall complete a written report as soon as practicable.
 - 4. If the officer is physically incapacitated or otherwise unable to submit a report, the Chief shall submit as complete a written report as soon as possible.
- B. If deadly force is used against an animal:
 - 1. The officer shall notify the Chief of Police if practical, prior to shooting any animal.
 - 2. It will only be used as a last resort and all practical means have been exhausted.
 - 3. The officer shall complete a written report of the incident before going off duty.
 - 4. If the deadly force requires the shooting of a firearm, the officer shall inform the Dispatch Center of the shooting as soon as possible after such shooting.
 - 5. In written or oral communication, the term "dispatched" shall be used to describe deadly force against an animal.
- C. Accidental use of deadly force. If the deadly force is the accidental

discharge of a firearm and does not result in injury:

1. The officer shall inform the Dispatch Center of the incident as soon as possible.
2. The officer shall advise the dispatcher to notify the Chief of Police of the incident as soon as possible and complete a written report of the incident before going off duty.
3. Copies of the written report shall be forwarded to the Chief of Police as soon as possible.

X. **USE OF HANDCUFFS**

Officers shall place handcuffs on all individuals in custody (safety locked whenever possible). Unless specific circumstances dictate otherwise, individuals should be handcuffed behind the back.

XI. **USE OF FORCE DOCUMENTATION**

Whenever an officer uses physical force in the performance of duty, the officer shall indicate in the report of the incident, the circumstances of, and justification for its use.

XII. **FINAL COMMENT**

The misuse of force, in particular deadly force, may have drastic and far-reaching ethical and personal consequences, including criminal charges or civil suit. In addition, reckless, careless or unjustified use of force causes public indignation and erodes citizen trust and support, thereby making the police task much more difficult.

XIII. **DISTURBANCE RESOLUTION**

A. **APPROACH CONSIDERATIONS**

Decision making	Justification
	Desirability
Tactical deployment	Control of distance
	Positioning
	Team tactics

Tactical evaluation
opportunities

Threat assessment

Officer/subject factors

Special circumstances

Level/stage/degree of
stabilization

B. INTERVENTION OPTIONS

MODE	TACTIC	PURPOSE
Presence	Professional presence	To present a visible display of authority
Dialog	Tactical communication	To verbally persuade
Empty hand control	Escort holds	To safely initiate physical contact
	Compliance holds	To overcome passive resistance
	Oleoresin Capsicum (O.C.) aerosol spray	To overcome active resistance or its threat
	Passive countermeasures	To decentralize
	Active countermeasures	To create dysfunction
K-9 deployment	Incapacitating techniques	To cause the immediate, temporary cessation of violent behavior
Intermediate weapon	Intermediate weapons	To impede a subject

Deadly force Firearm

To stop the threat

C. FOLLOW-THRU CONSIDERATIONS

Stabilize

Application of restraints, if
necessary

Monitor/Debrief

Search

If appropriate

Escort

If necessary

Transport

If necessary

Turn-over/release

Removal of restraints, if
necessary