

What is the State of Wisconsin training our officers in the subject of Use of Force?

The Wisconsin Chiefs of Police, Badger Sheriffs' Association, and the Wisconsin Sheriffs and Deputy Sheriffs Associations wrote the below response, which is a direct quote:

Introductory Key Points

- Use-of-Force tactics have been placed in a spotlight nationwide and often this information is not applicable to the high standards already in place in Wisconsin.
- Law enforcement training in Wisconsin currently includes instruction in cultural competency and de-escalation tactics.
- Regarding use-of-force, Wisconsin law enforcement officers are taught any use-of-force must be objectively reasonable and, moreover, Wisconsin does not teach any type of chokehold as a compliance alternative.
- It is fundamental that Wisconsin law enforcement officers earn the respect of the public that they are sworn to protect and serve.
- When law enforcement officers violate laws or ignore department policy, they must immediately be held accountable. Law enforcement leaders in Wisconsin will tolerate nothing less.
- Law enforcement has worked hard, since the inception of the Community Policing concept, to adhere to these principles and strongly believe in policing **with** our communities.

WISCONSIN LAW REGARDING OFFICERS USE-OF-FORCE

Key Points

- - There have been major improvements in WI over the years specific to the development of law governing officer conduct, the use-of-force, and officer involved deaths in the State.
 - Currently, the State of Wisconsin Statutes already requires 11 mandatory policies that every law enforcement agency including requirements specific to use-of-force and officer involved death investigations.
 - Wisconsin requires all law enforcement agencies to have a use-of-force policy published and available for “public scrutiny.”
 - In 2014, Wisconsin became the first state in the country to enact a law requiring outside investigations when there is an officer-involved death.
 - The overarching goal for every law enforcement agency is to provide an open, honest, ethical department that ensures transparent and impartial investigations.
 - These separate, independent investigations yield the highest standard of transparency for all parties involved and the public.

Additional Background Information

Below are the specific statutes on the use-of-force and officer involved death investigations.

Those two policies are:

- Use-of-Force: **66.0511(2)** "Each person in charge of a law enforcement agency shall prepare in writing and make available for public scrutiny a policy or standard regulating the use-of-force by law enforcement officers in the performance of their duties."
- Officer-Involved Death: **175.47** "Each law enforcement agency shall have a written policy regarding the investigation of officer-involved deaths that involve a law enforcement officer employed by the law enforcement agency." This statute also requires outside investigators to conduct any officer-involved death incidents.

The below are Wisconsin State Laws mandating how officer-involved death investigation shall be conducted:

- **175.47(3)(a)** "Each policy under sub. (2) must require an investigation conducted by at least 2 investigators, one of whom is the lead investigator and neither of whom is employed by a law enforcement agency that employs a law enforcement officer involved in the officer-involved death."
- **175.47(3)(b)** If the officer-involved death being investigated is traffic-related, the policy under sub. (2) must require the investigation to use a crash reconstruction unit from a law enforcement agency that does not employ a law enforcement officer involved in the officer-involved death being investigated, except that a policy for a state law enforcement agency may allow an investigation involving a law enforcement officer employed by that state law enforcement agency to use a crash reconstruction unit from the same state law enforcement agency.
- **175.47(3)(c)** Each policy under sub. (2) may allow an internal investigation into the officer-involved death if the internal investigation does not interfere with the investigation conducted under par. (a).
- **175.47(5)(a)** The investigators conducting the investigation under sub. (3) (a) shall, in an expeditious manner, provide a complete report to the district attorney of the county in which the officer-involved death occurred.
- **175.47(5)(b)** If the district attorney determines there is no basis to prosecute the law enforcement officer involved in the officer-involved death, the investigators conducting the investigation under sub. (3) (a) shall release the report, except that the investigators shall, before releasing the report, delete any information that would not be subject to disclosure pursuant to a request under s. 19.35 (1) (a).

STATE OF WISCONSIN DEPARTMENT OF JUSTICE TRAINING AND STANDARDS BUREAU USE-OF-FORCE TRAINING

Key Points

Current Process and Training

- The State of Wisconsin requires stringent background investigations to be conducted on every law enforcement applicant before being permitted to enter a

basic recruit or employer-based academy. These background investigations are thorough including psychological testing, physical and drug screen testing, criminal history background checks, reference and neighborhood checks, previous employer and school checks, and some agencies have polygraph examinations as permitted by law.

- Law enforcement agencies across Wisconsin look to hire the highest quality individuals who possess the highest level of integrity, honesty, and character before being provided a conditional job offer.
- Upon a successful background investigation, which an applicant meets all of the conditional requirements of employment as a law enforcement officer, an officer must complete or have completed the 720-hour training academy.
- In Wisconsin, the 720-hour academy is conducted at technical colleges throughout the State of Wisconsin and taught by instructors that are both current and former law enforcement officers and other subject matter experts in the numerous disciplines officers will encounter while in the field.
- The State of Wisconsin 720-hour academy has a three-phase system in place regarding the basic training of police officers; Phase #1 deals with Introduction and Non-emergency responses, Phase #2 deals with Emergency Responses, and phase #3 deals with Investigations. After the academy students participate in 12 hours of integration exercises incorporating all three phases of the basic police academy.
- To successfully graduate, students, for the last week of the academy and besides the written examinations, must participate in 40 hours of scenario-based evaluations whereby students are thrust into a differing situation they will encounter with role players. This evaluation helps instructors ensure that these recruits can successfully problem solve and with varying problems, including use-of-force situations, successfully demonstrate the requisite skills to be a police officer.
- As part of a law enforcement officer's 720-hour basic training, an officer is trained in the following areas:
 - Critical Thinking and Decision Making - 8 hours
 - Cultural Competence - 8 hours
 - Ethics/Individual Character, Values and Ethics - 4 hours
 - Ethics II/Moral Reasoning and Professional Conduct - 4 hours
 - Traffic Law Enforcement and Racial Sensitivity Training - Part of 12-hour block
 - Within Traffic Law Block - Definition of Bias Based Policing and Selective Traffic Enforcement - students are required to identify 4 differences between Bias Based Policing and Selective Traffic Enforcement - Part of 12-hour block

Building on the Strong Foundation

- While Wisconsin is a national leader for law enforcement training and standards, there is always room for improvement.
- For the past several legislative sessions, law enforcement organizations have supported and advocated for reforms to update practices of the Law Enforcement

Standards Board (LESB) and streamline hiring practices for law enforcement (2017 AB 506)

- This policy proposal enhances the recruitment process for law enforcement to allow law enforcement hiring agencies to conduct even more thorough background checks on candidates who currently hold, or have held law enforcement, jail, and/or juvenile detention officer positions elsewhere in the state.
- Another element included in this policy proposal, that will further increase transparency is to create an “employment file” (complete with job performance and disciplinary information) for each law enforcement officer and requires that files can be transferred after the interviewing candidate signs a written waiver authorization to disclose the candidate’s employment files.
- This process ensures that information is shared and officers with a problematic history cannot hide behind non-disclosure agreements.
- The Wisconsin law enforcement organizations will continue to advocate for this policy to become law in future legislative sessions.

STATE OF WISCONSIN USE-OF-FORCE TRAINING POLICY WITHIN THE DEFENSE AND ARREST TACTICS (DAAT) MODEL UTILIZED IN WISCONSIN

Key Points

- Wisconsin does NOT teach, as part of Use-of-Force any type of chokehold as a compliance alternative.
- Use-of-Force training is an important tool to keep our officers and citizens safe. Every officer in Wisconsin is trained the same way as required by the State of Wisconsin Law Enforcement Standards Board (LESB).
- Under current law, the Wisconsin LESB sets standards for recruitment, education, and training for law enforcement. LESB also can certify and decertify law enforcement, tribal law enforcement, jail, or juvenile detention officers.
- LESB is an important regulatory body for law enforcement, ensuring minimum standards and developing valuable curriculum.
- Wisconsin has utilized best practices and followed the Defense and Arrest Tactics system training since the late 1980s. As training has evolved so to has the Defense and Arrest Tactics training. Dealing with Medically Significant Behavior would be one example of that.
- An extensive amount of time with recruit officers is spent with Crisis Management (20 hours) and dealing with people with mental health issues as well as people who may suffer from addictions such as alcohol or drugs, and how to recognize and properly respond to those types of behaviors exhibited.
- Officers also undergo numerous specialized trainings after being in the field and participate in specific local training on diversionary services.

Additional Background Information

The Wisconsin Defense and Arrest Tactic (DAAT) System is defined as:

DAAT is a system of verbalization skills couple with physical alternatives.

Officers are taught the appropriate reasons to utilize 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. In defense of self or others
5. To prevent escapes

Limitations on the Use-of-Force is dictated by:

1. The United States Constitution
2. Wisconsin State Statutes
3. The agencies policies regarding the use-of-force
4. The training the officer has received

If verbalization is effective in gaining control, it is always preferable to physical force.

The purpose of the use-of-force is to gain control in pursuit of a legitimate law enforcement objective. There is NO other legitimate purpose for the use-of-force.

The case law basis permitting Use-of-Force by officers in our Nation (Graham v. Connor):

In 1989, the United States Supreme Court ruled in Graham v. Connor that law enforcement officers' use-of-force against subjects was a type of seizure, subject to 4th Amendment analysis.

Force must be "objectively reasonable" under the 4th Amendment's prohibition against unreasonable seizures. The Court then laid out the issues to consider when deciding if a particular use-of-force is reasonable.

Graham v. Connor sets the standard for every law enforcement use-of-force.

Note that the court said that each use-of-force must be judged based on the facts known to the officer at the time. Graham v. Connor does not provide any "bright line" rule. Each situation is unique and must be evaluated on its merit.

When Does a Law Enforcement Officer's Use-of-Force Action Become a Crime?

Wis. Stat. § 939.45 gives officers the "privilege" to use force. "Privilege" is a defense to what would otherwise be a criminal act. In other words, the actor (officer) is performing an action that would be criminal, except that the officer is performing the act under one of these statutory exceptions –the "privilege" to perform the act.

If an officer uses force outside of the specified privileged exceptions, the officer is committing a crime.

If an officer acts in bad faith, or the officer's conduct is not reasonable, the officer's actions are not privileged under this statute.

Defense and Arrest Tactics Use-of-Force Intervention Techniques Options

The previously mentioned tenets are the basis of force utilization in Wisconsin trained to law enforcement officers. We achieve this through the Intervention Options model whereby the officer responds to the behavior being exhibited by a person. In other words, officers are taught to treat a problem - regardless of the person's ethnicity, lifestyle, gender, or any other factor. Officers deal with the behavior and circumstances that are presented to them - period.

Citizens at times become confused when they encounter an officer during a situation and are told to do something by an officer. At times citizens will argue with the officer. The misunderstanding during some of these encounters is that it is a give and take situation. It is not.

An officer who uses dialogue and control talk by giving a lawful order is trying to accomplish the legitimate police objective of maintaining control of persons or a situation. Officers are taught to be very understanding and empathetically listen and comprehend what people are saying - but based upon the type of incident occurring, and the safety of everybody involved, officer's orders are to be obeyed.

Officers have a trained and disciplined response to various situations they are observing. They have been taught many things regarding situational awareness, officer-subject factors (size, physical attributes, demeanor) as well as multiple subjects that an officer may be dealing with.

The following table is a snapshot of the Intervention Options and excerpts from the Basic Recruit Training Manual that officers in Wisconsin employ while dealing with citizens:

MODE	PURPOSE
A. Presence	To present a visible display of authority (uniformed police officer)
B. Dialog	To verbally persuade (this is the PREFERRED method of gaining control - much time is spent on Professional Communication Skills) - to voluntarily obtain compliance from a person
C. Control Alternatives	To overcome passive resistance, active resistance or their threats
D. Protective Alternatives	To overcome continued resistance, assaultive behavior, or their threats
E. Deadly Force	To Stop the Threat