
Use of Force

300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial and reasonable manner. NPD Officers' use of force decisions and options shall be based on the procedures and tactics from both the Wisconsin Department of Justice Bureau of Training Standards Defense and Arrest Tactics (DAAT) program and other advanced standing techniques from the Krav Maga Worldwide Force Training Division System.

300.1.1 DEFINITIONS

Definitions related to this policy include:

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

Force - The application of physical techniques or tactics, chemical agents or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed or restrained.

Serious Physical Injury - Bodily injury that causes a laceration that requires stitches, staples, or a tissue adhesive (in lieu of stitches); any fracture of a bone; a broken nose; a burn; a petechia; a temporary loss of consciousness, sight or hearing; a concussion; or a loss or fracture of a tooth.

Line Duty Assignment - A duty assignment that places the officer into contact with the general public in a manner which would likely, through the course of that assignment, likely result in law enforcement action, e.g. Patrol and Active Investigative assignments.

300.2 POLICY

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

Officers must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties.

The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests.

300.2.1 DUTY TO INTERCEDE

Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force. An officer who observes another employee use force

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that exceeds the degree of force permitted by law should promptly report these observations to a supervisor.

300.3 USE OF FORCE

Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by the Department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

300.3.1 USE OF FORCE TO EFFECT AN ARREST

A law enforcement officer may use reasonable force to arrest a person or execute a warrant. Additionally, a law enforcement officer making a lawful arrest may command the aid of any person, and such person shall have the same power as that of the law enforcement officer (Wis. Stat. § 968.07; Wis. Stat. 968.14).

300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include, but are not limited to:

- (a) Immediacy and severity of the threat to officers or others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- (c) Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).

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- (d) The effects of drugs or alcohol.
- (e) Subject's mental state or capacity.
- (f) Proximity of weapons or dangerous improvised devices.
- (g) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (h) The availability of other options and their possible effectiveness.
- (i) Seriousness of the suspected offense or reason for contact with the individual.
- (j) Training and experience of the officer.
- (k) Potential for injury to officers, suspects and others.
- (l) Whether the person appears to be resisting, attempting to evade arrest by flight or is attacking the officer.
- (m) The risk and reasonably foreseeable consequences of escape.
- (n) The apparent need for immediate control of the subject or a prompt resolution of the situation.
- (o) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (p) Prior contacts with the subject or awareness of any propensity for violence.
- (q) Any other exigent circumstances.

300.3.3 CONTROL ALTERNATIVES & PROTECTIVE ALTERNATIVES

Control Alternatives: Control alternatives can be used to overcome passive resistance, active resistance, or their threats. These include:

- Escort Holds
- Compliance Holds
- Control Devices
- Passive Countermeasures

Protective Alternatives : Protective alternatives can be used to overcome continued resistance, assaultive behavior, or their threats. These include:

- Active Countermeasures
- Incapacitating Techniques
- Intermediate Weapons

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300.4 DEADLY FORCE APPLICATIONS

Deadly Force Justification: Behavior which has caused or imminently threatens to cause death or great bodily harm to you or another person or persons.

Use of deadly force is justified in the following circumstances:

- (a) An officer may use deadly force to protect him/herself or others from what he/she reasonably believes would be an imminent threat of death or serious bodily injury.
- (b) An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the person has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to any other person if the subject is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

Imminent Threat Criteria: Weapon, Intent, & Delivery System.

Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if an officer reasonably believes any of the following:

1. The person is capable of causing death or serious bodily injury (DELIVERY SYSTEM).
2. It is reasonable to believe the person intends to use it against the officer or another (INTENT).
3. The person has a weapon, or is attempting to access one (WEAPON).

Choke Holds

A choke hold is not a technique that is trained by the Neenah Police Department. The intentional continued use of choke holds, strangleholds and neck restraints is prohibited unless deadly force is justified.

A person is capable of causing serious bodily injury or death without a weapon and if it is reasonable to believe the person intends to do so, deadly force would be justified as well.

300.4.1 SHOOTING AT OR FROM MOVING VEHICLES

Shots fired at or from a moving vehicle are rarely effective. Officers should move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others.

Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle, except under extreme circumstances where stopping the vehicle is necessary to protect life.

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300.4.2 TARGET SPECIFIC DIRECTED FIRE

Target Specific Directed Fire is an application of deadly force that is authorized in certain limited situations. It is purposeful, controlled, sustained fire directed at a perpetrator who has caused or imminently threatens to cause death or great bodily harm to officers or others, but whom the officer may not be able to clearly observe. The purpose of target-specific directed fire is to stop the threat when no other reasonable course of action would allow officers to perform a rescue, escape from danger, or otherwise prevent death or great bodily harm.

300.5 REPORTING THE USE OF FORCE

Any use of force by a member of this department, equal to or greater than Compliance Holds as listed in Wisconsin's LESB standard Intervention Options, shall be documented promptly, completely and accurately in an IAPro Use of Force report. The officer should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances. To collect data for purposes of training, resource allocation, analysis and related purposes, the Department may require the completion of additional report forms, as specified in department policy, procedure or law.

300.5.1 NOTIFICATION TO SUPERVISORS

Supervisory notification shall be made as soon as practicable following any application of force.

300.6 MEDICAL CONSIDERATIONS

Prior to booking or release, medical assistance shall be obtained for any person who exhibits signs of physical distress, who has sustained visible injury, expresses a complaint of injury or continuing pain, or who was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed.

Based upon the officer's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff or medical staff at the jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

The on-scene supervisor or, if the on-scene supervisor is not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called "excited delirium"), or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving

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these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away if appropriate.

300.7 SUPERVISOR RESPONSIBILITY

When a supervisor is able to respond to an incident in which there has been a reported application of force, the supervisor is expected to:

- (a) Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- (b) Ensure that any injured parties are examined and treated.
- (c) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.
- (d) Identify any witnesses not already included in related reports.
- (e) Review and approve all related reports.
- (f) Determine if there is any indication that the subject may pursue civil litigation and advise a command staff member as appropriate.
- (g) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance or if for any reason further investigation may be appropriate.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

300.7.1 SHIFT COMMANDER RESPONSIBILITY

The shift lieutenant shall review each use of force by any personnel within his/her command to ensure compliance with this policy and to address any training issues. Use of Force Reports should be forwarded to the Professional Standards Lieutenant for administrative review.

300.7.2 POST USE-OF-FORCE REMOVAL FROM DUTY

1. An officer, who's actions or use of force result in serious physical injury, should be reassigned from his/her line duty assignment pending administrative review of the incident.

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- (a) For any critical incident resulting in death or great bodily harm to another, refer to the Officer-Involved Shootings and Deaths policy.
2. Department members assigned to administrative duty shall be assigned to office duties. The member(s) shall be prohibited from public contact in an official capacity that places the member(s) in a position that would likely result in law enforcement action.
3. Any department member placed on administrative duty or reassigned under this section shall adhere to the Code of Conduct and standard operating procedures.

A post use-of-force removal from duty is not disciplinary in nature and does not infer any impropriety of conduct by the involved officer.

300.8 REVIEW

This policy shall be made available to the public at no charge upon request (Wis. Stat. § 66.0511(2)).

300.9 TRAINING

All sworn personnel will receive a copy and demonstrate their understanding of the Use of Force Policy before being authorized to carry any firearm. Officers will receive periodic training on this policy and demonstrate their knowledge and understanding.

300.10 ANNUAL USE-OF-FORCE ANALYSIS

NPD Administration will conduct a documented annual analysis of use-of-force incidents to identify trends that could reveal the need for training, equipment, or policy modifications.