



GENERAL ORDER

WINNEBAGO COUNTY SHERIFF'S OFFICE

SUBJECT: **DEADLY FORCE**
SCOPE: All Agency Members
DISTRIBUTION: General Orders Manual

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REFERENCES:

RESCINDS: N/A
AMENDS: N/A
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STATUTES AND OTHER REFERENCES: 66.0511(2), 175.47, 939.22, 939.45

INDEX AS: Deadly Force
 Use of Force

PURPOSE: The purpose of this General Order is to provide direction when deputies are authorized to use deadly force.

This General Order consists of the following numbered sections:

- I. POLICY
- II. DEFINITIONS
- III. AUTHORIZATION
- IV. LEGAL STANDARDS
- V. SPECIAL CONSIDERATIONS
- VI. DEADLY FORCE TACTICS
- VII. DEADLY FORCE REPORTS

I. POLICY

- A. The Winnebago County Sheriff's Office recognizes and respects the value and special integrity of each human life. In vesting deputies with the lawful authority to use force, a careful balancing of all human interests is required. Therefore, it is the policy of this Agency that deputies shall use only that force that is reasonably necessary to effectively bring an incident under control, or protect the lives of the deputy or another. The use of physical force should be discontinued when resistance ceases or when the incident is under control. Deadly force will only be used when every other reasonable means of apprehension or defense has been exhausted, would have been ineffective, or there is no other viable alternative.
- B. Deputies shall not mistreat persons who are in their custody. Deputies shall handle such persons in accordance with the law and Agency procedures to ensure their safety and security. Deputies shall use de-escalation techniques whenever possible and appropriate before resorting to force and to reduce the need for force. Whenever possible, Deputies should allow individuals time and opportunity to submit to verbal commands before force is used. The use of excessive and unwarranted force or brutality will not be tolerated under any circumstances and may subject the officer to disciplinary action.
- C. Prior to being authorized to carry a firearm, all deputies shall receive a copy of this General Order and demonstrate their understanding and proficiency.

II. DEFINITIONS

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

DEADLY FORCE JUSTIFICATION: Subject's behavior which has caused or imminently threatens to cause death or great bodily harm to a deputy or another person; and other tactics have been exhausted or would have been ineffective.

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, as defined in Wisconsin State Statute 939.22(14).

IMMINENT THREAT CRITERIA: In order to meet the imminent threat criteria, the subject must meet the requirements of weapon, intent, and delivery system.

PRECLUSION: The elimination of all other viable alternatives.

DE-ESCALATION: Taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary. De-escalation may include the use of such techniques as command presence, advisements, warnings, verbal persuasion, and tactical repositioning.

CHOKER HOLD: A physical maneuver that restricts an individual's ability to breathe for the purposes of incapacitation.

III. AUTHORIZATION

A. Deadly force may be used as a last resort when a subject's behavior has caused or imminently threatens to cause death or great bodily harm to a deputy or another person; and other tactics have been exhausted or would have been ineffective.

1. In order to be considered an imminent threat, the subject must meet the requirements of all three:

- a) Weapon
- b) Intent
- c) Delivery System

2. Additionally, before using a firearm, three target requirements must be met:

- a) Target acquisition
- b) Target identification
- c) Target isolation

1. The greater danger exception allows deputies to shoot without target isolation under certain circumstances.

IV. LEGAL STANDARDS

A. As recognized in *Graham vs. Connor*, the use of force by law enforcement officers will be judged against the standard of being objectively reasonable, which encompasses three concepts:

1. The severity of the alleged crime at issue
 2. Whether the suspect poses an imminent threat to the safety of officers and/or others
 3. Whether the suspect is actively resisting or attempting to evade arrest by flight
- B. In *Tennessee v. Garner*, it was determined that using deadly force against an unarmed fleeing felon is unacceptable unless there is probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others.

Deadly force may be used, after all other reasonable means of capture are exhausted, to effect the arrest or prevent the escape of a suspect whom the officer has reasonable cause to believe has committed, or has attempted to commit, a felony involving the use or threatened use of deadly force and the officer reasonably believes the suspect cannot be apprehended later without the use of deadly force.

This includes the concept of preclusion, which is that the elimination of all other viable alternatives.

V. SPECIAL CONSIDERATIONS

- A. If feasible, deputies should identify themselves as a law enforcement officer, and should attempt to give a verbal warning before using deadly force.
- B. Deadly force should not be used against a person whose actions are a threat only to themselves or property.
- C. Choke holds are not a trained technique and are prohibited unless deadly force is authorized.
- D. The use of warning shots is prohibited.
- E. The use of a firearm to protect any person from the imminent threat of death or great bodily harm caused by an animal constitutes a use of force, but does not constitute deadly force.
- F. The use of a firearm to euthanize any animal does not constitute a use of force or deadly force. Deputies shall obtain supervisor approval prior to euthanizing any domesticated animal.

VI. DEADLY FORCE TACTICS

- A. While the intentional use of a firearm constitutes deadly force, deputies must be cognizant that other law enforcement tactics constitute deadly force.
- B. The following tactics constitute deadly force, and shall only be used in circumstances where deadly force is justified:
 1. Pursuit driving force to stop techniques (see **General Order 6.03 Emergency Vehicle Operations**)

- a. Closed Roadblock (no escape route) - constructed by placing obstacles (including, but not limited to police vehicles) of such density and mass upon a roadway that any vehicle colliding with them would be so severely decelerated that its occupants would likely suffer death or serious injury.
- b. Ramming of a suspect vehicle by use of a police vehicle
- c. Forcing a suspect off of the roadway or highway and/or into another object by use of a police vehicle.
- d. The use of tire deflation devices against any two-wheeled vehicle.

2. Intentionally targeting the area above a subject's shoulders when using a less lethal intermediate weapon.

C. Firearms shall not be discharged at a moving vehicle:

1. Unless the person in the vehicle is threatening a deputy or another person with deadly force by means other than the vehicle; or,
2. If the vehicle is intentionally being used as a deadly weapon attempting to strike a deputy or another person, and moving out of the path of the vehicle cannot occur.

D. Firearms shall not be discharged from a moving vehicle except for exigent circumstances in which a deputy faces an action that creates an immediate threat of death or great bodily harm to the deputy or another person.

VII. DEADLY FORCE REPORTS

- A. Where deadly force had been used, the Sheriff or his designee shall be notified as soon as practical.
- B. The Agency recognizes that **General Order 5.15 Use of Force/Reporting and Review** requires that deputies document any use of force in a long form incident report, and complete a Use of Force Report Form. Because deadly force investigations are complex matters with many unique considerations, **General Order 6.15 Officer Involved Death or Critical Incident** will be the presiding standard if a deputy's use of force results in death or great bodily harm.

This General Order cancels and supersedes any and all previous written directives relative to the subject matter contained herein.

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