



POLICY & PROCEDURE

STOUGHTON POLICE DEPARTMENT

SUBJECT: USE OF LESS LETHAL WEAPONS

SCOPE: All Sworn Personnel

DISTRIBUTION: Policy & Procedures Manual

REFERENCE: WI State Statutes: 939.45, 939.48, and Chapter 941; DAAT Incident Response and Disturbance Resolution Model

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RESCINDS

AMENDS

WILEAG 5TH EDITION

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PURPOSE: The purpose of this Policy & Procedure is to establish policies and procedures regarding the use of less lethal weapons and to identify the responsibilities of officers of the Stoughton Police Department when using them or after they have been used.

This Policy & Procedure consists of the following numbered sections:

- I. DEFINITIONS
- II. POLICY
- III. PROCEDURE
- IV. USE OF LESS LETHAL WEAPONS REPORTING / REVIEW

I. DEFINITIONS

NON-DEADLY FORCE: That amount of force which does not meet the definition of deadly force, but which is an amount of force which, in normal circumstances, can cause bodily harm.

DEADLY FORCE: The intentional use of a firearm or other instrument, the use of which would result in a high probability of death.

REASONABLE FORCE: That force which an ordinary, prudent, and intelligent person with the same knowledge of the particular situation as the officer would deem necessary.

CONDUCTED ENERGY WEAPONS (CEW): A non-lethal force weapon that causes electro-muscular disruption to a combative, violent, or potentially combative, violent subject. The use of this device is intended to incapacitate the subject with a minimal potential for causing death or great bodily harm.

DEFENSIVE AND ARREST TACTICS (DAAT): A system of verbalization skills coupled with physical alternatives.

II. POLICY

A. The Stoughton Police Department recognizes and respects the value and special integrity of each human life. In vesting police officers with the lawful authority to use force to protect the public welfare, a careful balancing of all human interests is required. Therefore, it is the policy of this Department that police officers shall use only force that is reasonably necessary to effectively bring an incident under control, while protecting the lives of the officer or another. Deadly force shall never be resorted to until every other reasonable means of apprehension or defense has been exhausted.

III. PROCEDURE

A. Intermediate Impact Weapon- Batons.

1. An impact weapon may be used only when an officer reasonably believes a lesser level of force would be insufficient to control the situation. The use of a Department-authorized baton is permitted against an actively aggressive person when the officer reasonably believes that the subject poses an articulate threat of bodily harm to the officer or another person. Officer may include in their decision to use this force option information known to the

officer at the time of the incident, including conduct of or statements by the subject or prior history of resistive or assaultive behavior.

2. An officer should not brandish, display or threaten the use of an impact weapon as a threat unless he/she can reasonably conclude that its use may become justified and is anticipated.
3. An officer should not strike a person above the shoulders with an impact weapon:
 - a) Generally, a strike to the head with an impact weapon is considered deadly force and should not be used, unless such an action is justified under the use of deadly force.
 - b) This Section is not intended to apply to an accidental strike to the head as a result of resistance.
4. Officers should only use Department-approved baton techniques.
5. Department-approved batons are the only authorized impact weapons. Other devices, flashlights, radios, firearms, etc., are not recommended to be used as impact weapons; however, the Department recognizes that emergency self-defense situations involving other objects and instruments may occur. Expandable or wooden batons are authorized providing the baton of choice is readily available for on-duty, uniformed officers.
6. When a baton is used against the body of a person other than handcuffing or control holds administered with the baton, the officer should notify the Chief of Police or a supervisor and complete an Incident Report.

B. Intermediate Impact Weapon- Kinetic Energy Impact Projectiles (Beanbags).

1. Kinetic energy impact projectiles, commonly referred to as “beanbag rounds”, 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 usage.

The option to use kinetic energy impact projectiles may be used when a person poses a significant threat of harm to self or others and unarmed tactics have either been exhausted or would not be effective or safe given the circumstances. Officers may include in the decision to use this force option information known to the officer at the time of the incident, including conduct of or statements by the subject or prior history of resistive or assaultive behavior.

2. When utilized, the Department places the use of kinetic energy impact projectiles and other Less Than Lethal Munitions at the Intermediate Weapon Mode. Less lethal is defined as the “intentional use of an instrument to impede a subject, the use of which would not cause death.”

3. An officer should not brandish, display or threaten the use of kinetic energy impact weapon unless he/she can reasonably conclude it use may become justified and is anticipated.
4. When kinetic energy impact projectiles (beanbag rounds) are used against the body of a person, the officer should notify the Chief of Police or a supervisor and will complete an Incident Report detailing the circumstances of the incident.
5. Only Department-authorized and issued kinetic energy impact projectiles may be used, delivered wither by a specialized launcher (37mm Less Lethal Launcher) or a 12 gauge shotgun.
6. When deploying a 12-gauge shotgun as a less-lethal option, the officer transitions the weapon from lethal ammunition to kinetic energy impact projectiles. Such transition procedure is be taught during training:
 - a) When possible, efforts should be made to have another officer observe the unloading of lethal ammunition from the shotgun and the loading a less-lethal kinetic energy impact projectiles into the shotgun.
 - b) Once the shotgun has been transitioned from lethal ammunition to less-lethal ammunition, the weapon should be clearly marked as less-lethal weapon. This will be done by applying a piece of orange tape to the front portion of the weapon's barrel.
7. Kinetic energy impact projectiles may be delivered to the subject's body in accordance with the following guidelines:
 - a) Primary Target Areas (legs and Buttocks): In addition to legs and buttocks, arms may also be considered a primary target under some circumstances. The officer must consider the proximity of the targeted portion of the arm to vital areas of the body. Primary target areas are considered when incapacitation is necessary but the threat is not imminent. Multiple impacts to the primary target areas should be considered before progressing to the secondary target area.
 - b) Secondary Target Area (Lower Abdomen): The secondary target area is considered when incapacitation is critical due to the imminent threat posed by the subject, but deadly force has not yet become necessary.
 - c) Head/Neck/Chest Area: Intentional impact to these areas is avoided unless the use of deadly force is justified.
8. In each instance where kinetic impact projectiles are deployed at an incident, a determination should be made regarding the need for lethal cover. Lethal cover is required in all cases in which the subject possesses a firearm.

9. Subjects who are struck by a kinetic energy impact projectile should be transported to a medical facility.

C. Chemical Control Device

1. The aerosol chemical control device authorized by the Stoughton Police Department contains oleoresin capsicum (O.C.). No other aerosol chemical restraint is authorized or allowed without prior approval from the Chief of Police or the Chief's designee. All O.C. must be non-flammable.
2. When an officer is threatened with physical force or dealing with a resistive or combative person and lesser control factors are ineffective, consideration should be given to the use of control devices.
3. All uniformed officers issued O.C. aerosol will be required to carry it while on duty unless replaced by an Electronic Control Device in which case it must be in the squad. This rule shall not apply to administrative personnel and other officers assigned to plain clothes duties within the police department.
 - a) O.C. aerosol will be used consistent with the training provided by the Stoughton Police Department and/or the Wisconsin Training and Standards Bureau.

D. Conducted Energy Weapons (CEW)

1. Authorized CEW Users

- a) Only officers who have satisfactorily completed the Department's approved CEW certification-training course shall be authorized to carry/use such weapon.
- b) With the exception of the patrol captain, all patrol bureau officers shall receive CEW certification training and maintain such certification through recognized re-certification applications.

2. CEW Assignment and Control

- a) A lock box will be the repository for CEWs when not in use.
 - (1) Officers assigned patrol duties will check out a CEW at the beginning of their duty shift.
 - (2) CEWs will be returned to the lock box at the conclusion of the officer's duty day.
- b) To properly track the CEW's, officers are to record the CEW's battery level and the CEW number on their daily Vehicle Inspection Form (e.g. CEW bat. level 90%). This recording should be marked below the vehicle number on the upper right portion of the form.

d) CEW spare cartridges will be kept in the lock box while replacement CEW batteries will be kept in the patrol lieutenant's office.

d) Officers shall report any missing or lost CEWs to their immediate supervisor as soon as possible.

3. CEW Care and Handling

a) Officers will use only authorized CEW equipment issued by the Stoughton Police Department.

b) Officers will inspect their assigned CEW for damage and cleanliness at the beginning of each shift. The battery display will be checked on the CID and readings of 20% or less will require a battery pack change.

c) The CEW will be carried in a department issued holster on the support side (opposite the duty firearm) of the body.

d) The CEW will be carried fully armed with the safety on.

e) Officers are not authorized to draw or display the CEW, except for training and inspection, unless circumstances lead an officer to reasonably believe it may be necessary and appropriate to use it.

4. Authorized Use of CEWs

a) The CEW may be used by trained personnel when a subject is threatening to actively resist or is actively resisting an officer or poses an articulable threat of harm to another person. It may also be used when the subject poses a threat of harm to him or herself such as self-inflicted injury or a suicide attempt.

b) CEWs have been categorized by the Wisconsin Training and Standards Board as a control alternative method of intervention option.

5. CEW Applications

a) The following are three types of acceptable applications for the use of CEWs.

(1) Spark Display - A non-contact demonstration of the CEW's ability to discharge electricity. This is conducted when the CEW's cartridge has been removed. The purpose of this display is to convince a subject to comply with a lawful order to avoid the CEW being deployed in the Drive Stun or Probe mode. The Spark Display is generally not recommended due to delayed weapon readiness caused by removal of the cartridge.

- (2) Drive Stun - Contact is made by pressing the front of the CEW (cartridge removed) into the body of a subject resisting lawful orders.

While the Drive Stun causes significant localized pain in the area touched, it does not have a major effect on the central nervous system and generally does not incapacitate. The effect of a Drive Stun may assist in taking a subject into custody and it has an effect similar to firing probes at a distance of less than 3 feet.

- (3) Probe- This is the most effective use of the CEW. In the Probe mode, the cartridge is discharged and the probes make direct contact with the subject. Proper application will result in temporary immobilization which allows a “window of opportunity” to safely take the subject into custody.

6. Restrictions / Limitations on CEW Deployment

- a) The CEW will not be used in the following circumstances unless exigent circumstances are present, and those circumstances are clearly articulated:
 - (1) When the officer knows the subject has come in contact with flammable liquids, or is in a flammable atmosphere.
 - (2) When the subject is in a position where a fall may cause substantial injury or death.
 - (3) Punitively, for purposes of coercion, or in an unjustified manner.
 - (4) When a subject is handcuffed and offering no active resistance, or is offering resistance which may be overcome using lesser force.
 - (5) When the subject is visibly pregnant.
 - (6) When it is reasonable to believe that incapacitation of the subject may result in serious injury or death.
 - (7) In situations where the subject is in an elevated position where there is a high possibility that the subject may fall if incapacitated by the CEW.
 - (8) As a general rule, on fleeing subjects.
 - (a) If a subject actively resists and subsequently breaks away from an officer, the officer may deploy a CEW in the early stages of a foot pursuit to bring the subject under control.
 - (9) As a general rule, for performing drive stuns.
 - (a) Officers will be required to articulate a higher level of justification for performing a drive stun than will be required for deploying probes.

- (10) In situations where the subject is in close proximity to water where, if incapacitated by the CEW, there is a high probability that the subject could drown.
- b) The CEW should not be used in the following circumstances unless there are compelling reasons to do so and those reasons are clearly articulated:
 - (1) When the subject is operating a motor vehicle.
 - (2) When the subject is holding a firearm.
 - (3) When the subject is at the extremes of age (young or old) or physically disabled.
 - (4) In a situation where deadly force is clearly justifiable unless another officer is present and capable of providing deadly force to protect the officer and/or others as necessary.
 - (5) People with apparent debilitating illness.

7. CEW Deployment – Probe

- a) Whenever practical or possible, officers discharging the CEW should attempt to give a warning to the subject and other officers.
 - (1) The primary target area for Taser deployment is Major Muscle Groups, i.e.: abdomen, legs, arms, back, with an emphasis on trying to get both probes between two muscle groups. i.e. one probe in the abdomen and one in the leg.
 - (2) When encountering subjects wearing heavy or loose clothing on the upper body, the legs should be considered a target.
 - (3) Officers should attempt to avoid hitting the subject in sensitive areas such as the head, face, neck, groin, or female breast area.
- b) After discharging the CEW, a supervisor shall be notified of the application as soon as possible.

8. CEW Deployment – Drive Stun

- a) Use of the “Drive Stun” is discouraged except in situations where the “Probe” deployment is not possible and immediate application of the “Drive Stun” will bring a subject safely under control.
- b) Multiple “Drive Stuns” are discouraged and must be justified. If initial application is ineffective, officers will reassess the situation and consider other available options.

9. Aftercare of CEW Use

- a) Upon use of the CEW, the deploying officer or another trained CEW officer shall insure the subject is monitored for injury, to include secondary injuries, as soon as practical after the person is under control.
- b) The following persons should be transported by ambulance to a medical facility for treatment after exposure to a CEW:
 - (1) Subjects who are hit in a sensitive region of the body (head, face, neck, groin, or female breast area).
 - (2) Subjects from whom officers have difficulty removing the probes (i.e. probe/barb separation).
 - (3) Subjects who do not appear to be fully recovered within ten (10) minutes after being hit.
 - (4) Subjects who are in a potential susceptible population category, such as those noted in Section VI., B., 3.
 - (5) Any subject who requests medical attention.

10. Removal of CEW Probes

- a) After securing the subject in handcuffs and/or other appropriate restraints, the CEW deployment officer or his or her CEW trained designee will remove the probes according to the trained procedures.
- b) If the probes are in areas such as head, face, neck, groin, or female breast area, the subject shall be treated at a medical facility and the probes removed only by medical personnel.

11. Evidence Procedure for CEW Applications Resulting in Persons Being Treated at a Medical Facility

- a) Officers will take photographs of the probe penetration sites and any secondary injuries caused by falling to the ground when a subject is treated at a medical facility as a result of exposure to a CEW.
 - (1) During incidents in which the groin or female breast area are the penetration sites, an officer of the same gender as the subject will take the photographs with a medical staff member being present to witness.
 - (2) Photographs will be submitted as evidence according to department guidelines.
- b) The air cartridge, probes, and affidavits shall be retained and submitted as evidence in any case where the person(s) affected by the CEW require

transportation to a medical facility as outlined in section A, above. The items retained should be handled as a potential biohazard.

- c) Cartridges from CEW applications which do not meet the criteria as outlined in 11.1, above, will be disposed of according to department procedures for biohazard disposal.

12. Detention Facility Notification / CEW Use

- a) Upon use of a CEW on a subject who is subsequently placed in a detention facility, officers will notify detention personnel of such ECD use and any other details that may be appropriate (such as injury complaint).

13. Documenting CEW Use

- a) Officers deploying a CEW will articulate the facts involved in the use of the CEW on the police incident report. Officers will clearly state the justification for use, whether multiple deployments were necessary, probe impact area, signs or complaints of injury and aftercare.
- b) Following deployment of the CEW, data will be downloaded from the device, printed and submitted into records according to Department procedure. Once the data has been successfully downloaded, the CEW may be placed back in service.
- c) Patrol supervisors will be responsible for providing a copy of the police report involving the use of the CEW to the department's CEW instructor(s).
- d) If a CEW is used on an animal, the patrol supervisor will be notified and that supervisor will decide on the proper paperwork and documentation of the incident to include the firing record of the CEW.

14. Use of the CEW on Animals

- a) The use of the CEW on an animal should be based on the intent to provide a safer, more humane and less traumatic conclusion to the incident.
- b) CEW may be used on animals when:
 - (1) A vicious animal is threatening or attacking a person or other animal and the use of other force is not reasonable, or may not be desired given the situation.
 - (2) An animal needs to be controlled for reason of public peace or safety, preservation of property, or other legitimate purpose; and the animal poses an active threat to officers in their efforts to perform their duties.
- c) Officers should be prepared to use other justified force if necessary.

- d) Officers should be prepared to apply conventional controls once the CEW has subdued the animal.
- e) If a CEW is used on an animal, the patrol supervisor will be notified and that supervisor will decide on the proper paperwork and documentation of the incident to include the firing record of the CEW.

15. CEW Instructors

- a) The Department's CEW instructors will:
 - (1) Receive, inspect and insure the maintenance and replacement of the CEW devices assigned to the Department.
 - (2) Establish and maintain a CEW and air cartridge inventory system.
 - (3) Maintain an adequate supply of batteries and air cartridges for replacement.
 - (4) Obtain service and or replacement for defective or damaged CEW components from the supplier.
 - (5) Provide retraining to certified users.
 - (6) Coordinate training for certification as requested by need of field services or other units within the Department.

IV. USE OF LESS LETHAL WEAPONS REPORTING / REVIEW

- A. See Policy 5.05 Use of Force Reporting / Review

Gregory W. Leck
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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