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Contents

PURPOSE..... 2

POLICY 2

DEFINITIONS..... 2

NON-DEADLY FORCE 3

DE-ESCALATION..... 4

 Duty to Intercede..... 5

 State of Wisconsin Disturbance Resolution Model: 5

DEADLY FORCE 6

LESS-LETHAL WEAPONS 7

 Police Baton 7

 Conducted Electrical Weapon..... 8

 Oleoresin Capsicum (OC Spray) 9

 Handcuffing 10

 First Aid and Medical Assistance 10

FIREARMS AND AMMUNITION 10

 Off Duty Carry of a Firearm 11

 Firearms Proficiency 11

 Firearms Discharge 11

ADMINISTRATIVE LEAVE OF DUTY 11

USE OF FORCE REPORTING AND ADMINISTRATIVE REVIEW 12

 Annual Use of Force Review 13

 Copies and Instructions to All Personnel..... 13

APPENDIX A – DISTURBANCE RESOLUTION..... 14

APPENDIX B – INTERVENTION OPTIONS..... 15

PURPOSE

The purpose of this policy is to establish guidelines for the use of force by sworn personnel to effect the detention, seizure, or arrest of a person; in self-defense or defense of another; to prevent or intercede in an attempt at self-injury; in defense of property; and in fulfilling the community caretaker function. Proper use of force decisions, based on state law, current professional standards and reasonableness, ensure due process for citizens and provide protection for officers and the Department.

POLICY

The Waunakee Police Department recognizes and respects the value and sanctity of each human life. In serving the community, law enforcement officers shall make every effort to preserve and protect human life and the safety of all persons. Law enforcement officers shall also respect and uphold the dignity of all persons at all times in a nondiscriminatory manner. Therefore, it is the policy of this department that police officers shall use only that force that is reasonably necessary to effectively stop a threat or bring an incident under control while protecting the lives of the officer or another. Deadly force is a measure of last resort, only to be employed when an officer reasonably believes all other options have been exhausted or would be ineffective.

All Waunakee Police Department Officers are trained in the Defense and Arrest Tactics (DAAT) system mandated by the State of Wisconsin Training and Standards Bureau.

DEFINITIONS

Active Resistance – Behavior which physically counteracts an officers control effort, and which creates a risk of bodily harm to the officer, subject, and/or other persons.

Assaultive Behavior – Direct actions or conduct that generates bodily harm to the officer(s) and/or another person(s).

Bodily Harm - Wisconsin Statutes (939.22(4)) defines Bodily Harm as physical pain or injury, illness, or any impairment of physical condition.

Conducted Electrical Weapon (CEW) – A CEW is a conducted energy weapon that utilizes compressed nitrogen to deploy two small probes. These probes are connected to the weapon by high-voltage insulated wire. When the probes make contact with the target, it transmits powerful electrical pulses along the wires and into the body of the target. This produces involuntary contraction of skeletal muscle tissue, overriding the motor nervous system, blocking command & control of the human body, directly stimulating motor nerve and muscle tissue, causing incapacitation.

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

De-escalation - A concept that involves an officer's use of time, distance, and relative positioning in combination with professional communication skills to attempt to stabilize a situation and reduce the immediacy of threat posed by an individual.

Defensive and Arrest Tactics (DAAT) – A system of verbalization skills coupled with physical alternatives.

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 any other serious bodily injury.

Non-Deadly Force – An amount of force that, under normal circumstances, would not be expected to result in great bodily harm or death.

Oleoresin Capsicum (OC Spray) - Oleoresin Capsicum (OC) is a powerful inflammatory agent that occurs naturally in cayenne peppers. OC has a low likelihood of causing injury, but a high potential for control. OC is biodegradable and all symptoms should disappear within 15 to 45 minutes with no after effects.

Objective Reasonableness Standard - The standard established by the U.S. Supreme Court in *Graham v. Connor* that reasonableness should be judged under the totality of the circumstances from the perspective of a reasonable officer at the scene with similar training and experience. The three elements of the standard are:

1. The severity of the alleged crime at issue.
2. Whether the person poses an imminent threat to the safety of officers and/or others.
3. Whether the person is actively resisting seizure or attempting to evade seizure by flight.

Passive Resistance – Non-compliant and non-threatening resistance to lawful orders.

Reasonable Belief - A conclusion reached by an ordinary, prudent, and reasonably intelligent police officer that a certain fact situation exists under the totality of circumstances perceived by that officer at the time that officer acted.

NON-DEADLY FORCE

As used in this policy, non-deadly force refers to the use of any weapon or instrument, or any other physical action taken by an officer, which is not likely to cause death or great bodily harm. The use of non-deadly force is only authorized when an officer reasonably believes it is necessary to control a person under any of the following circumstances:

1. Detaining a person reasonably suspected of criminal involvement.
2. Effecting an arrest.
3. Overcoming resistance.

4. Preventing escape.
5. Protecting oneself or another.
6. Maintaining order.
7. Taking into protective custody a subject who poses either a threat to themselves or others.

Force shall **never** be used when a person has ceased to resist or ceases to attempt escape.

When officers do use a certain level of force, officers shall utilize tactics received in training which comply with the Wisconsin Department of Justice Standard on defense and arrest tactics (D.A.A.T.). Officers shall only use the degree of force they reasonably believe is necessary to control the situation. In determining the degree of force that is reasonably necessary, an officer shall consider the following factors:

1. The existence of alternate methods of control.
2. Physical size, strength and weaponry of the person as compared to the officers.
3. The nature of the encounter.
4. Whether the suspect poses an imminent threat to the safety of the officer or officers.
5. Exigent conditions (i.e. availability of back-up, number of persons involved, etc.)

Verbal commands to control a person will always be the alternative to use of physical force and/or non-deadly weaponry. Since this method is not always effective or appropriate in gaining compliance, officers may escalate the degree of force, if necessary. When verbal commands are neither effective nor appropriate, an officer may escalate the degree of force based on the actions of the person the officer is attempting to control.

(NOTE: Officers are not required to begin a confrontation at the verbal command level and escalate step-by-step until control is gained if the officer reasonably believes his/her reaction would be ineffective/inappropriate based on the actions of the person the officer is attempting to control.) Once a person is under control, officers must revert to the lowest degree of force necessary to maintain control. Officers involved in any use of force situation must complete a written report detailing their actions.

The intentional continued restriction of the carotid neck arteries is not a trained Waunakee Police Department technique and is therefore prohibited, unless deadly force is justified. Escalating/de-escalating degrees of force results from an officer's reaction to a specific action of the person he/she is attempting to control.

DE-ESCALATION

When safe and feasible under the totality of the circumstances, officers should attempt to slow down or stabilize the situation so that more time, options, and resources are available for incident resolution. Officers should utilize appropriate tactical and officer safety principles to avoid unreasonably placing themselves at risk.

Examples of De-escalation could include, but are not limited to:

1. Placing barriers between an uncooperative subject and an officer.
2. Moving from a position that exposes officers to potential threats to a safer position.
3. Decreasing the exposure to potential threats by using:
 - a. Back-up
 - b. Distance/Time
 - c. Cover/Concealment
4. Communication from a safe position intended to gain the subject's compliance, using dialogue.
5. Any other tactics and approaches that attempt to achieve law enforcement objectives.

An officer's awareness of these possibilities, when time and circumstances reasonably permit, should then be balanced against the facts of the incident facing the officer when deciding which tactical options are the most appropriate to bring the situation to a safe resolution.

Mitigating the immediacy of the threat gives officers time to utilize extra resources and increases time available to call for back-up.

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 safely do so, intervene to prevent the use of such excessive force. Officers are required to promptly report these observations to their direct supervisor and the Internal Affairs Lieutenant as soon as they are able to do so. Once the reporting officer has contacted their direct supervisor and the Internal Affairs Lieutenant, a written report shall be completed and submitted to the Internal Affairs Lieutenant.

No law enforcement officer will be discharged, disciplined, demoted, or denied promotion or otherwise discriminated against in regards to employment, or threatened with any such treatment, because the law enforcement officer reported, or is believed to have reported, any noncompliant use of force.

State of Wisconsin Disturbance Resolution Model:

Intervention Options

Mode	Tactic	Purpose
A. Presence	Professional Presence	To present a visible display of authority
B. Dialog	Tactical Communication	To verbally persuade
C. Control Alternatives:	Escort Holds	To overcome passive resistance
	Compliance Holds	To overcome passive resistance

	Oleoresin Capsicum (O.C.) Aerosol Spray	To overcome active resistance or its threat
	Conducted Electrical Weapon	To overcome active resistance or its threat
D. Protective Alternatives	Focused Strike	To overcome continued resistance or assaultive behavior or the threat of
	Diffused Strike	To cause immediate, temporary cessation of violent behavior.
	Baton Strike	To impede a subject.
E. Deadly Force	Firearm	To Stop the threat

***** CEW use is only permitted as outlined in this policy**

The Intervention Options matrix is not simply a Continuum of Force; rather, each Mode, Tactic and Subcategory reflects an option that an officer may choose in order to deal with a particular situation. If the level of force used is not effective to gain control, the officer may choose to disengage or escalate to a higher level of force. Note that each Mode contains a series of sub-steps, reflecting increasingly more intrusive force options. Several different Modes may be used to establish control in any given situation, and force options within different Modes may be appropriate in any given situation. Presence and Dialog will commonly occur throughout the duration of any police contact.

DEADLY FORCE

Deadly force refers to the intentional use of a firearm or other instrument that creates a high probability of death or great bodily harm. The use of deadly force is only authorized when an officer reasonably believes a lesser degree of force would be insufficient under any of the following circumstances:

1. In defense of oneself or another person who the officer has reason to believe is in imminent danger of death or great bodily harm; To protect oneself or another from an animal which an officer reasonably believes may cause serious physical injury if not immediately controlled or after giving consideration to public safety and all other reasonable means of disposition to end the suffering of an animal gravely injured or diseased.
2. After exhausting or ruling out all other reasonable means to effect the arrest or capture, or prevent the escape, of a person whom the officer knows or has reasonable grounds to believe has committed or attempted to commit a felony involving the use or threatened use of deadly force and the officer reasonably believes that the person will cause death or great bodily harm if the person's apprehension is delayed. (Tennessee v. Garner)

3. Officers are authorized to use deadly force against a “Feeling Felon” only when the officer reasonably believes that the action is within the circumstances state above. (A “Fleeing Felon” should not be presumed to pose an immediate threat to life in the absence of actions which would lead one to believe otherwise, such as a previously demonstrated threat to or wanton disregard for human life.)
4. Officers may not discharge warning shots in the use of force.
5. Officers shall be issued copies, instructed and tested in the policies described in 1, 2, and 3 before being authorized to carry a firearm.
6. Officers are prohibited from shooting at a moving vehicle unless deadly force is justified, such as a vehicle driving into a crowd of people or towards a person, and only after exhausting all other alternatives to resolving the situation.
7. The State of Wisconsin has developed a Defense and Arrest Tactics curriculum which is part of our Use of Force policy. If possible, officers should exhaust all other options before using deadly force.

Deadly force shall never be used (1) from a moving vehicle unless paragraph 1 or 2 above applies, nor at a moving vehicle, unless paragraph 1 above applies. Before using deadly force, officers shall, if possible, identify themselves, order the suspect to stop unlawful activity, and threaten to use deadly force if the lawful order is not obeyed. Police work is dynamic and there will be situations where identifying oneself before using deadly force is not possible or practical.

LESS-LETHAL WEAPONS

Officers are authorized to carry and use the following less-lethal weapons:

Police Baton

According to the force continuum, a baton is an intermediate weapon. Its purpose is to impede by decentralizing. Use of a baton is one step below deadly force.

1. The department issues expandable batons.
2. A police baton may be used only when an officers reasonably believes a lesser degree of force would be insufficient to control the situation.
3. An officer shall never strike a person’s head with a baton unless such action is justified under the use of deadly force. This section is not intended to apply to an accidental strike to the head as a result of resistance.
4. Officers shall only use approved baton techniques established by this policy and the Wisconsin Department of Justice Standards on Defense and Arrest Tactics (D.A.A.T.).
5. Department issued batons are the only authorized impact weapons. The use of other devices such as flashlights, radios, etc. are not recommended as impact weapons; however, the Department recognizes that emergency self-defense situations involving other objects and instruments may occur.

Conducted Electrical Weapon

Conducted Electrical Weapons (CEWs) provide officers with an additional use of force intervention option. Conducted Electrical Weapons are a less lethal force weapon utilized by trained personnel that cause Neuromuscular Incapacitation (NMI) to a combative or potentially combative subject. The use of this weapon is intended to incapacitate the subject with a minimal potential for causing death or great bodily harm. The use of Conducted Electrical Weapons shall be in accordance with this policy and the Waunakee Police Department's overall policy regarding the use of force.

1. An approved Conducted Electrical Weapon may only be utilized by officers that have successfully completed training in its use. Deployment and use of conducted electrical weapons will be in accordance with departmental training and procedure.
2. The CEW is not a substitute for deadly force in cases where a subject is believed to be armed with a firearm. Officers may not arm him or herself with a CEW against a person with a firearm unless another officer at the scene has the immediate ability to deliver deadly force. Officers armed with a CEW should continuously monitor and evaluate the ability of other officers present to deliver deadly force.

In situations where the subject is not believed to be armed with a firearm, it is not required that another officer at the scene have the immediate ability to deliver deadly force. An officer may arm him or herself with a CEW in these situations; however, they should continuously monitor and evaluate the situation to determine if the CEW use is appropriate.

3. An officer may only display, present, or threaten to use a CEW if the officer reasonably believes that the potential for its authorized use exists.
4. Deployment of a CEW will be evaluated using the criteria in this policy and within the framework of the Use of Force Intervention Options matrix. A CEW may only be used under the following circumstances:
 - a. To overcome active resistance or its threat; if the officer reasonably believes that the subject poses an articulable threat of harm to an officer or another person.
 - b. To control persons to prevent them from harming themselves or others.
5. Use of a CEW under the following circumstances should not be utilized, unless exigent circumstances are presented which an officer can clearly articulate:
 - a. Against handcuffed subjects.
 - b. Against subjects fleeing on foot.
 - c. Against subjects operating a motor vehicle.
 - d. From a moving vehicle.
 - e. Against known pregnant women, infirm, elderly, small children.
6. The CEW will not be used under the following circumstances:
 - a. For coercion or intimidation.
 - b. To escort or prod subjects.

- c. To awaken unconscious or intoxicated subjects.
 - d. Against subjects who are offering only passive resistance, unless posing a threat of harm to officers or other persons.
7. CEW probes may not be intentionally fired at the face, head, neck, or groin, unless the use of deadly force would be justified.
 8. Officers shall evaluate all subjects against whom a CEW has been deployed and EMS **SHALL** respond.
 9. If the CEW probes have penetrated the skin in a sensitive area (head, neck, groin or breast of a female) the subject will be conveyed to an emergency room for removal. If the probes are embedded in non-sensitive areas, a trained officer may remove them.
 10. Removing the air cartridge to deploy a CEW in the drive-stun mode should not be used as a primary CEW deployment technique.
 11. Within 10 days of an incident, the Taser Sergeant will review the CEW use and provide a written review for the Lieutenants and Chief.

Oleoresin Capsicum (OC Spray)

According to the DAAT Use of Force Continuum, OC can be used during active resistance or the threat of active resistance.

1. Officers may only carry and use department issued OC aerosol dispensers.
2. Officers may use OC only when it is reasonably apparent that a lesser degree of force would be insufficient to control the situation.
3. When an officer is at a point where an OC aerosol dispenser needs to be employed, the officer should attempt to provide a verbal warning to the person who is about to be sprayed. The officer shall use the product in accordance with techniques in the Wisconsin Department of Justice Standard on Defense and Arrest Tactics (D.A.A.T.).
4. An individual sprayed with an OC product shall be provided with an opportunity to eliminate the effects of the inflammatory by washing and flushing the affected areas with cold water or by allowing air to relieve the discomfort. This will only be done after the person has been controlled and compliance gained.
5. Officers may request an emergency medical service (ambulance) to respond and ensure that the subject sprayed with the OC product has the opportunity to be checked by an emergency medical technician. This is to insure that the effects are reduced immediately and the subject is not experiencing an unexpected side effect.
6. Whenever an officer employs OC, the officer shall prepare a report. The report shall be filed the same day as the incident unless approved by a supervisor.
7. All use of OC will be reviewed by a Lieutenant. The Lieutenant will provide a written review within 15 days and forward to the Chief.

Handcuffing

The standard use of handcuffs as a restraining device shall be included in all reports. In incidents where handcuffs were used, but there is not a typed report (i.e. warrant arrest) at a minimum it shall be documented on a Call Sheet. The documentation shall include double locking and checking for proper fit. Any time an officer is requested by an arrested person to adjust the handcuffs this will be documented.

Officers can only use department issued less lethal weapons when on-duty.

First Aid and Medical Assistance

Officers who use force against a person shall ensure the subject is monitored for injury as soon as the scene is secured. If an injury is observed or reported by the person, officers shall provide first aid and/or request medical assistance as needed. In addition to visible injuries and those reported by the subject, officers should be observant for indicators that the subject is experiencing excited delirium syndrome. If excited delirium syndrome is suspected, officers shall request an emergency response from EMS. Officers shall ensure the subject is continuously monitored until the subject is evaluated by EMS. Officers should try to photograph, if possible, and injuries sustained due to any use of force.

FIREARMS AND AMMUNITION

The department requires only firearms and ammunition specified in this policy be carried.

1. **Handgun** – The officers has the option of providing his/her own gun or the department will provide one. If the department provides the firearm, the department will retain ownership of said gun upon discontinuation of employment. The officer must qualify under the provision in section 1.6 with this handgun. The Chief must authorize the handgun. The primary handgun must be 9 millimeter or 40 caliber semi-automatic. If an officer carries a back-up firearm on duty, the officer must qualify with that weapon prior to carrying. Carrying/possessing a firearm on duty that an officer has not qualified with is strictly prohibited.
2. **Tactical Rifle** – The department provides M-4 tactical rifles chambered in .223 caliber. Rifles have 16” barrels equipped with EoTech holographic sights. Ammunition will be .223 caliber, 55 or 62 grain, full metal jacket or soft point, issued by a firearms instructor.
3. **Ammunition** – Each officer must carry commercially manufactured ammunition provided by the department, consistent with type and grain of the ammunition with which they qualified. The department carries jacketed hollow point bullets.
4. **Inspection** – A firearms instructor or supervisor may inspect an officer’s ammunition at any time.

Off Duty Carry of a Firearm

Full-time Officers are authorized to carry a firearm concealed while off-duty pursuant to these requirements:

1. Consumption of alcoholic beverages is strictly prohibited.
2. Officers shall carry their badges and identification cards.
3. Officers may not carry any off-duty weapon while on duty that the officer has not previously qualified with. If used while on-duty, the officer is liable for any resultant consequences, and will face disciplinary action.
4. If an officer possesses a valid concealed carry permit, the officer is entitled to carry concealed any legal firearm, whether they have qualified with said weapon or not.
5. Officers can openly carry while off duty pursuant to state law and without badge and identification just as any other citizen.

Firearms Proficiency

Officers are required to demonstrate a minimum proficiency in the use of all authorized firearms before the firearm may be used or carried. For handguns and rifles, each officer must demonstrate a minimum proficiency in accordance with the course training criteria. Annually, Officers will be required to complete and pass the state proficiency course of fire. Officers unable to pass the course may be decertified by the state.

In addition to achieving minimum scores on a firearms course, officers will be tested on knowledge of laws concerning the use of firearms and safety procedures.

Firearms Discharge

Officers who accidentally or intentionally discharge a firearm while on duty must submit a written report to the Chief. The report shall be filed as soon as possible and provide the circumstances of the incident. If the officer discharged the firearm because of negligence, the officer shall be required to undergo firearms and qualification training and may be subject to discipline.

ADMINISTRATIVE LEAVE OF DUTY

Whenever an officer is directly involved in a critical incident resulting in death or serious bodily harm, or the discharge of a firearm toward another person, the officer shall be placed on administrative leave of duty. Officer(s) will remain on administrative leave until the completion of any required investigations and the fulfillment of the requirements of this policy. Their return must be cleared by the Chief of Police. Prior to the termination of administrative leave, the involved officer(s) will be consulted to determine the best plan for a return to duty.

The purpose of this standard is twofold: (1) to protect the community's interest when officers may have exceeded the scope of their authority in a critical incident and (2) to shield officers who have not exceeded the scope of their authority from possible confrontations with the

community. This leave is not a suspension and is in no way meant to be seen as a disciplinary action or any indication of wrongdoing on the part of the officer(s).

As soon as practical after a critical incident, the Chief or his/her designee will work with the involved officer(s) to define his/her responsibilities and expectations during administrative leave. This discussion shall include, but is not limited to, whether the officer can: return to work in an administrative capacity, carry a weapon on or off duty, wear a uniform, or drive police vehicles.

USE OF FORCE REPORTING AND ADMINISTRATIVE REVIEW

For any use of force that goes above compliant subject handcuffing, to include pointing a firearm or CEW at someone, a detailed report must be completed by each officer involved. For each use of force incident a Use of Force form must be completed by one of the officers involved. The report will be used to evaluate the incident, policy, training and equipment.

1. **Non-Deadly Force:** Whenever an incident occurs where force is exercised the incident shall be reviewed by a Lieutenant within 30 days. The Lieutenant will review any and all reports, video and witnesses statements associated with the incident. The documented review shall address the manner and necessity of such force, and conformation of department policy.
2. **Deadly Force:** Whenever an incident occurs where deadly force is exercised, whether accidental or intentional, the officer shall notify the Chief and Lieutenants. The supervisor or senior officer working at the time of the incident shall:
 - a. Assume responsibility for security of the scene. Notify the Chief and Lieutenants immediately.
 - b. Remove the involved officer from the scene. The officer shall not be left alone.
 - c. Request the District Attorney's Office and Wisconsin Department of Justice respond.
 - d. Make personal contact with the officer's family.
 - e. Request/Suggest the officer attend a post incident de-briefing with a trained professional.
3. **Crisis Intervention:** When a use of force incident results in serious injury or death of an individual that relates to an officer's action, the officer will be offered confidential post incident debriefing with a trained professional.
4. Chief of Police shall, in all deadly force cases, receive a complete and accurate report of all facts. Within 20 days of the incident, the Chief shall meet with the Police Commission and provide a report.
5. Once the criminal investigation of an officer involved death is completed, the internal investigation regarding the use of force shall be conducted by the Internal Affairs Lieutenant.

6. The Chief of Police shall immediately place any officer involved in use of force that results in death or serious injury on administrative leave, pending review.

Annual Use of Force Review

Annually, the Internal Affairs Lieutenant will complete documented use of force review to identify trends that could reveal the need for training, equipment, or policy changes.

Copies and Instructions to All Personnel

All sworn personnel will be issued copies of and demonstrate their understanding of this policy before being authorized to carry any firearm. The Waunakee Police Department will also provide annual training on this policy, de-escalation techniques, and relevant legal updates.

APPENDIX A – DISTURBANCE RESOLUTION

APPROACH CONSIDERATIONS

Decision-Making

- Justification
- Desirability

Tactical Deployment

- Control of Distance
- Relative Positioning
- Relative Positioning with Multiple Subjects
- Team Tactics

Tactical Evaluation

- Threat Assessment Opportunities
- Officer/Subject Factors
- Special Circumstances
- Level/Stage/Degree of Stabilization

INTERVENTION OPTIONS

MODE

A. Presence

PURPOSE

To present a visible display of authority

B. Dialog

To verbally persuade

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

FOLLOW-THROUGH CONSIDERATIONS

A. Stabilize

Application of restraints, if necessary

B. Monitor/Debrief

C. Search

If appropriate

D. Escort

If necessary

E. Transport

If necessary

F. Turn-Over/Release

Removal of restraints, if necessary

APPENDIX B – INTERVENTION OPTIONS

Mode	Tactic(s)	Purpose
Presence	Professional Presence Open Stance Ready Stance Defensive Stance	To present a visible display of authority
Dialogue	Tactical Communication Search Talk Persuasion Light Control Talk Heavy Control Talk	To verbally persuade
Control Alternatives	Escort Holds Blanket the Arm Escort Position	To safely initiate physical contact
	Compliance Holds Come-along Pressure Points Mandibular Angle Hypoglossal	To overcome passive resistance
Protective Alternatives	Control Devices O.C. Electronic Control Device	To overcome active resistance or its threat
	Passive Countermeasures Decentralizations Secure-the-Head Hug-Yourself Lower-Your-Center Pull-In/Push-Down	To direct the subject to the ground when you reasonably believe that you will be unable to achieve control with the subject standing
Deadly Force	Active Countermeasures Vertical Stuns Focused Strikes Incapacitating Techniques Diffused Strike Intermediate Weapons Baton Less Lethal Shotgun	To overcome continued resistance, assaultive behavior, or their threats
Deadly Force	Firearm	To stop the threat