POLICY & PROCEDURE

STURGEON BAY POLICE DEPARTMENT

SUBJECT: **USE OF LESS LETHAL WEAPONS**

NUMBER: 5.03

SCOPE: All Department Personnel

ISSUED: 11/17/2021

EFFECTIVE: 11/17/2021

DISTRIBUTION: Policy & Procedure Manual

☐ RESCINDS

☐ AMENDS

REFERENCE: WI State Statutes: 939.22(14), 939.45, 939.48, 941, and 175.44; DAAT Incident Response and Disturbance Resolution Model

WILEAG 6TH EDITION STANDARDS: 5.1.1, 5.1.2, 5.1.3, 5.1.4, 5.2.1, 5.3.1, 5.3.2, 12.1.1.1, 12.1.1.3, 12.1.3.1, 12.1.3.5

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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 Sturgeon Bay Police Department when using them or after they have been used.

This Policy & Procedure consists of the following numbered sections:

I. POLICY

II. DEFINITIONS

III. PROCEDURES

IV. TRAINING

V. REPORTING THE USE OF FORCE

VI. PUBLIC ACCESS TO POLICY & PROCEDURE

I. POLICY

A. It is the policy of the Sturgeon Bay Police Department that when serving the community, officers make every effort to preserve and protect human life and the safety of all persons. Officers shall also respect and uphold the dignity of all persons at all times in a nondiscriminatory manner. When using force, officers are required to act in good faith to achieve a legitimate law enforcement objective. Officers are authorized to use force that is objectively reasonable based on the totality of the circumstances, including; the severity of the alleged crime at issue, whether the suspect poses an imminent threat to the safety of law enforcement officers or others, and/or whether the suspect is actively resisting or attempting to evade arrest by flight. Officers may include in their decision to use this force option, information known to the officer(s) at the time of the incident or conduct or statements by the subject or a prior history of resistive or assaultive behavior.

   A law enforcement officer may use deadly force only as a last resort when the law enforcement officer reasonably believes that all other options have been exhausted or would be ineffective. A law enforcement officer may use deadly force only to stop behavior that has caused or imminently threatens to cause death or great bodily harm to the law enforcement officer or another person. If both practicable and feasible, a law enforcement officer shall give a verbal warning before using deadly force.

II. DEFINITIONS

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

B. DE-ESCALATION: 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.

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

D. CONDUCTED ENERGY WEAPON (CEW): A non-lethal force device 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.

E. 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.” WI State Statute 939.22(14)

F. NECK RESTRAINT: An action taken by the use of any force or device to the neck area to restrain a person, including but not limited to:

1. Choke Hold means the intentional and prolonged application of force to the throat, windpipe, or carotid arteries that prevents or hinders breathing or blood flow, reduces the intake of air, or reduces blood flow to the head.

G. 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.

H. 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.

III. PROCEDURES

A. BATONS

1. The baton may be used by an officer only when it is reasonably apparent that a lesser degree of force would be inadequate to control the situation.

   The baton may be used by an officer to subdue a violently resisting subject, in self-defense, or in defense of a third person if lesser methods have failed, or if circumstances warrant the immediate use of a baton.

   a) Only those officers qualified in the Defensive and Arrest Tactics System shall be allowed to carry or use a baton.

   b) The acceptable primary target areas for the baton are the elbow, knee, and abdomen.

c) The intentional striking of an individual above the shoulders is prohibited. Generally, a strike to the head with an impact weapon is considered deadly force, and should not be used; unless such action is justified under the use of deadly force.

However, it is recognized that because of a person's own resistance, the accidental, unintentional striking of a person above the shoulders may occur. If that happens, the officer must articulate this in detail in the report of the incident, and will seek immediate medical attention for the subject if treatment is necessary.

d) Department-approved batons are the only authorized batons. 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.

e) When a baton is used against the body of a person, the officer should notify a supervisor, and completed an Incident Report.

2. The use of neck restraints with a baton or other device by personnel of the Sturgeon Bay Police Department is prohibited unless the situation requires the use of deadly force that would be justified.

B. 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 unsuitable.

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 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 weapons unless he/she can reasonably conclude its 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, whether delivered 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 form lethal ammunition to kinetic energy impact projectiles. Such transition procedure is to 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 loading a less-lethal kinetic energy impact projectile(s) 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 as 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 Department contains oleoresin capsicum (O.C.). No other aerosol chemical restraint is authorized or allowed without prior approval from the Chief of Police or 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 where 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 a Conducted Energy Weapon (CEW), 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 Department.

4. O.C. aerosol will be used consistent with the training provided by the Department and/or Wisconsin Training and Standards Bureau. Trained officers shall complete a refresher course, and written examination every two years concerning the used of this weapon.

D. CONDUCTED ENERGY WEAPON (CEW)

1. Only officers who have satisfactorily completed the Department's approved CEW certification training course shall be authorized to carry/use such weapon.

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

3. The CEW is considered to be in the Control Device section of the Intervention Options on the Disturbance Resolution Model.

4. Any use of the CEW shall be consistent with the manufacturer's recommendation and precautions.

5. Passive resistance, without posing an articulable threat of harm to officer or others DOES NOT permit the use of a CEW.

6. An officer shall not brandish, display, or threaten the use of a CEW unless he/she can reasonably conclude its use may become justified, and is anticipated.

7. In each instance that a CEW is deployed in an incident, consideration should be made regarding the need for lethal cover.

8. Officers who deploy a CEW against a subject shall ensure the subject is monitored for injury as soon as practical after the subject is under control.

    a) If an adverse reaction to the CEW occurs, or if requested by the person, emergency medical services shall be provided to them.

    b) If the probes are imbedded in sensitive tissue areas, i.e. neck, face, groin, or the breasts of a female, officers shall arrange transport to a medical facility for removal. If the probes are imbedded in other non-sensitive tissue areas, a CEW-trained officer may remove them according to the trained procedures.

    c) After the probes have been removed, they shall be handled as a biohazard, and packaged according to the trained procedure. Photographs of the wound site shall be taken if practical. Probes and wires will be retained as evidence if the subject is injured by the CEW deployment.

9. Restrictions/ Limitations on CEW Deployment

    a) The CEW should not be used in the following circumstances unless exigent circumstances are present, and those circumstances are clearly articulated:

        - When the officer knows the subject has come in contact with flammable liquids, or is in a flammable atmosphere.

        - When the subject is in a position where a fall may cause substantial injury or death.

        - Punitively, for purposes of coercion, or in an unjustified manner.

        - When a subject is handcuffed an offering no active resistance, or is offering resistance which may be overcome using lesser force.

        - When the subject is visibly pregnant.

        - When it is reasonable to believe that incapacitation of the subject may result in serious injury or death.
        - 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.

        - 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.

        - When the subject is at the extremes of age (young or old) or physically disabled.

        - When a person has an apparent debilitating illness.

10. 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

CEW use, and any other details that may be appropriate (such as injury complaint).

11. Use of CEW on Animals

a) CEW may be used on animals when:

(1) A vicious animal is threatening or attacking a person or other animal, and the used 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.

b) Officers should be prepared to used other justified force if necessary.

c) Officers should be prepared to apply conventional controls once the CEW has subdued the animal.

12. When a CEW is deployed against a subject, the officer shall notify a supervisor, and shall completed an Incident Report detaining the circumstances of the incident.

IV. TRAINING

A. Training whether noted above or not for less lethal weapons shall occur at a minimum biennially for officers authorized to use such weapons or techniques.

V. REPORTING THE USE OF FORCE

A. Reporting on the Use of Less Lethal Weapons shall be included in the required reporting pursuant to WI State Statute 165.845 also noted in Policy & Procedure 5.01X.

VI. PUBLIC ACCESS TO POLICY & PROCEDURE

A. Public access to this Policy & Procedure pursuant to WI State Statute 66.0511(2) shall be the same as required in Policy & Procedure 5.01 XI.

Clinton Henry
Chief of Police

This Policy & Procedure cancels and supersedes any and all written directives relative to the subject matter contained herein.

Initial 01/14/2021