

	<b>Marquette University Police Department</b>	
	<b>Policy and Procedure Manual</b> Use of Force	
<b>Policy: 4.3</b>	<b>Issued: May 1, 2015</b>	<b>Date Revised: N/A</b>
<b>WILEAG Standards: 5.1.1, 5.1.2, 5.1.3, 5.2.1, 5.3.1, 5.3.2, 5.3.3</b>		<b>IACLEA Standards: 7.1.1, 7.1.2, 7.1.3, 7.1.4, 7.1.5, 7.1.6, 7.1.7, 7.1.8, 7.1.9</b>

**4.3.00**      **Purpose**

The purpose of this Policy is to provide instructions for the proper use of force by Marquette University Police Department (MUPD) members, provide a fair and impartial review of use of force incidents, determine whether the actions of police members were justified, and to maintain community confidence in the Marquette University Police Department.

**4.3.10**      **Policy**

It is the policy of the Marquette University Police Department that officers shall use only that amount of force that is reasonably necessary to achieve a lawful objective. The force used by an officer should only be that reasonably required to overcome the resistance being offered by an offender or the person the officer is required to control. MUPD Officers cannot use force except to protect themselves or another, and then only to the level necessary to obtain that result. Under the direction of a police officer, public safety officers are authorized to assist the police officer in the use of legal force. Any other use of force is strictly prohibited.

**4.3.15**      **Scope**

This policy applies to all armed agency employees.

**4.3.20**      **Definitions**

A. OBJECTIVELY REASONABLE

The use of force by a police member must be objectively reasonable. Department members shall use only the force necessary to effectively maintain control of a situation and protect the safety of Department

members and the public. Objective reasonableness is judged from the perspective of a reasonable police officer facing similar circumstances and is based on the totality of the facts known to the Department member at the time the force was applied, along with the member's prior training and experience, without regard to the underlying intent or motivation of the police member.

**B. DEADLY FORCE**

Is force used with the purpose of causing, or which should reasonably be known to create a substantial risk of causing death or great bodily harm. An example would be the intentional use of a firearm or other instrument, the use of which would result in a high probability of death.

**C. NON-DEADLY FORCE**

Any use of force other than that which is considered deadly force. This includes any physical effort used to control, restrain, or overcome the resistance of another.

**4.3.25 Disturbance Resolution Model**

It is the policy of the Marquette University Police Department that all uses of force will comply with the State of Wisconsin Defense and Arrest Tactics (DAAT) Disturbance Resolution Model, Intervention Options, as outlined below:

**A. Approach Considerations**

Decision Making	Justification
	Desirability
Tactical Deployment	Control of Distance
	Positioning
	Team Tactics
Tactical Evaluation	Threat Assessment Opportunities
	Officer/Subject Factors
	Special Circumstances
	Level/Stage/Degree of Stabilization

**B. Intervention Options**

<b>Mode</b>	<b>Purpose</b>
Presence	To present a visible display of authority
Dialogue	To verbally persuade

Control Alternatives	To overcome passive resistance, active resistance, or their threat
Protective Alternatives	To overcome continued resistance, assaultive behavior, or their threats
Deadly Force	To stop the threat

C. Follow Through Considerations

Stabilize	Application of restraints, if necessary
Monitor/Debrief	Maintain alertness (subject's condition, etc.) / Communication (normalize scene)
Search	If appropriate
Escort	If necessary
Transport	If necessary
Turnover/Release	Removal of restraints, if necessary

**4.3.30 Use of Deadly Force**

A. The use of deadly force is permissible under the following circumstances:

1. As a last resort in the defense of one's self, when there is reasonable cause to believe that one is in imminent danger of death or great bodily harm.
2. As a last resort in the defense of another person whom the officer has reasonable cause to believe is in imminent danger of death or great bodily harm.
3. To apprehend or exert control over a person when an officer has probable cause to believe that non-apprehension creates an unreasonable risk or significant threat of death or great bodily harm to the officer, another person, or the community at large.

B. Before using deadly force, the officer shall, if possible, identify himself/herself, order the suspect to desist from the unlawful activity and threaten to use deadly force if the lawful order is not obeyed.

C. Generally, deadly force shall not be used under the following circumstances:

1. As a warning (**warning shots are prohibited**).

2. Officers will not discharge a firearm at the occupants of a vehicle (moving or stationary) or from a moving vehicle, including attempts to disable a vehicle, unless the officer is being fired upon and has exhausted all other means of defense and the option to disengage is not viable.
  3. When the officer is in doubt as to whether or not s/he has the legal justification to use deadly force.
  4. When the use of non-deadly force is sufficient.
  5. Officers may not use deadly force as a humanitarian measure when an animal is seriously injured.
- D. An officer shall avoid the use of deadly force when its use risks the lives of innocent bystanders if possible.
- E. Officers are authorized to carry the Glock, Model 22, .40 caliber, semi-automatic handgun.

#### **4.3.35**

#### **Use of Non-Deadly Force**

- A. The use of non-deadly force is only authorized when an officer reasonably believes it is necessary to control a person to prevent possible injury to the officer and under one or more of the following circumstances:
1. Detaining a person reasonably suspected of criminal involvement.
  2. Effecting an arrest/apprehension.
- B. Force that is unnecessary to control a person shall never be used when a person has ceased to resist or is under custody in restraints.
- C. 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 alternative methods of control.
  2. Physical size, strength and weaponry of the person as compared to the officer.

3. The nature of the encounter.
4. Actions of the person.
5. Exigent conditions (i.e., the availability of back-up, numbers of persons involved, etc.).
6. Known and documented history of the resister.

D. Control of a person through verbal commands shall always be the alternative to the use of physical force and/or on-deadly weaponry. It is recognized that this method is not always effective or appropriate in gaining compliance and it then becomes necessary to escalate the degree of force. When it is determined that verbal commands are neither effective nor appropriate, an officer may escalate the degree of force based on the actions of the person they are attempting to control.

E. Officers are authorized to carry:

1. The ASP, 26 inch, chrome collapsible baton.
2. Oleoresin Capsicum, O.C. Spray.

#### **4.3.40**

#### **Medical Aid**

Whenever force of any type is directed against a person, that person will be monitored for injury as soon as practical after they are under control. If there is any evidence of injury, or injury is suspected, or the individual who had any type of force directed towards them requests medical attention, police officers shall summon first responder medical personnel to the scene. The officer(s) shall render appropriate first aid procedures to the individual if they determine that person is no longer a threat, until the arrival of medical personnel. If the individual refuses medical treatment, this shall be noted in the appropriate police reports. Emergency medical personnel shall make the decision whether or not the individual should be transported to the hospital.

#### **4.3.45**

#### **Duty to Intervene**

Any officer who personally observes another officer using force, which the observing officer believes to be beyond that which is objectively reasonable under the circumstances, shall reasonably attempt to intervene to prevent the use of such excessive force, if the observing officer is in a position to do so, and if any such intervention does not jeopardize safety. Any such intervening officer shall promptly report their

observations, along with his/her own intervening actions to a supervisor. A failure to intervene in any unreasonable use of force, when there is an opportunity to do so is a violation of the Department policy.

#### **4.3.50**

#### **Use of Force Reporting**

- A. Members using force as described above shall, as soon as possible, notify their immediate supervisor.
- B. Department members having knowledge of uses of force as described above shall as soon as possible also notify their immediate supervisor.
- C. A supervisor shall respond to the scene of all use of force incidents by Department members to conduct an investigation and file a Use of Force Report.
- D. The Use of Force Report is designed to document those incidents involving the use of force by department members as described herein. The report shall be completed by a supervisory officer of a higher rank than the member that used force.
- E. The Use of Force Report shall be completed by a supervisory officer when a department member:
  - 1. Discharges his/her firearm.
  - 2. Uses a baton to strike a person.
  - 3. Discharges his/her O.C.
  - 4. Uses bodily force that involves focused strikes, diffused strikes, or decentralizations to the ground.
  - 5. Uses any type of force in which a person is injured or claims injury, whether or not the injury is immediately visible.
- F. When in doubt as to whether a use of force incident should be documented on a Use of Force Report, notify your shift commander or immediate supervisor for guidance and direction.
- G. In any situation which triggers the filing of a Use of Force Report photographs must be taken of the subject against whom force was used, to illustrate any injury or lack thereof.

- H. The Use of Force Report is to be completed and tracked to the Chief of Police by the end of the shift.

#### **4.3.55**

#### **Use of Force Review**

- A. The member's shift commander shall review the Use of Force Report and determine if the force used was reasonable. If the commanding officer determines the use of force is in compliance, these reports shall be forwarded to the training coordinator for review and tracking. The Offices of General Counsel and of Risk Management will be provided copies of the reports as well.
- B. If the review finds the member's use of force was not in compliance, training is needed, or if there are serious injuries requiring admission to a hospital or if death occurs, the shift commander shall immediately contact the Chief of Police for further consultation.
- C. The training staff shall review all Use of Force Reports on a quarterly basis, or as otherwise directed by the Chief of Police. These reviews shall focus on, but not be limited to, the following:
  - 1. Appropriateness of force used by department members.
  - 2. Proper field supervision and supervisory review of use of force incidents.
  - 3. Application and effectiveness of department policies and procedures concerning the use of force.
  - 4. Proper use and effectiveness of equipment.
  - 5. Effectiveness of use of force training.
  - 6. Identification of training needs and opportunities for department members.

#### **4.3.60**

#### **Training**

- A. All armed Department members, on an annual basis, will receive in-service training and be required to demonstrate proficiency on:
  - a. The department's use-of-force policies.
  - b. The State of Wisconsin's DAAT system principles and techniques.

- c. All approved lethal and less-than-lethal weapons.
  - d. Training designed to simulate actual shoot/don't shoot situations and conditions, and as otherwise necessary, to enhance officers' discretion and judgment in using deadly and non-deadly force in accordance with this policy.
- B. All training shall be monitored by a Wisconsin Department of Justice, Training and Standards Bureau certified instructor and shall be properly documented.
- C. Police officers unable to demonstrate proficiency during annual weapons in-service training shall be required to successfully complete a remedial training session structured and documented by a certified instructor prior to resuming official duties.
- D. Department members authorized to carry lethal and less-than-lethal weapons must be issued copies of, and be instructed in, the policies described above before being authorized to carry a weapon. The issuance and training shall be documented.