



# VILLAGE OF EAGLE POLICE DEPARTMENT

## STANDARD OPERATING PROCEDURE 004 – USE OF FORCE

**GENERAL ORDER:** 2019-xx  
**ISSUED:** date

**EFFECTIVE:** DATE

**REVIEWED/APPROVED ON:** February 11, 2019  
**BY:** Assistant Chief Steven Lesniewski

**ACTION:** Supersedes all previous Procedures

**WILEAG STANDARD(S):** 5.1.1, 5.1.2, 5.1.3, 5.1.4, 5.2.1, 5.3.1, 5.3.2, 5.3.3

### 004.01 PURPOSE

The purpose of this procedure is to provide police members with guidelines for the legitimate use of deadly and non-deadly force to:

- A. Achieve and maintain control of resistive subjects.
- B. Detain persons reasonably suspected of criminal behavior.
- C. Make lawful arrests.
- D. To defend self or others (Legal reference: Wisconsin statutes 939.48).
- E. Prevent escape.

### 004.02 POLICY

It is the policy of the Village of Eagle Police Department that department members shall use only that amount of force that is reasonably necessary to effectively bring an incident under control, while protecting the lives of the officer and others. This policy is based upon the State of Wisconsin Defense and Arrest Tactics Disturbance Resolution Model, Intervention Options.

### 004.03 DEFINITIONS

- A. Deadly force is the intentional use of a firearm or other instrument, the use of which would result in a high probability of death or great bodily harm.
- B. Non-deadly force is any use of force other than that which is considered deadly force. This includes any physical effort used to control or restrain another or to overcome the resistance of another.
- C. Objectively reasonable is a term that means, in determining the appropriate level of force, officers shall evaluate each situation in light of the known circumstances, including, but not limited to, the seriousness or the severity of the alleged crime, the level or threat of resistance presented by the subject and the danger to the community. (Legal reference: *Graham v. Connor*, 490 U.S. 386, 1989)

## 004.04 DISTURBANCE RESOLUTION MODEL

Wisconsin's system of Defense and Arrest Tactics (DAAT) is defined as a system of verbalization coupled with physical alternatives. This definition reflects the goal of gaining voluntary compliance. This disturbance resolution model reflects the model contains three phases which serves as a specific model of how to respond to any sort of disturbance or potential disturbance, this model is the basis for explaining and justifying an officer's decision to respond, take action and attain control. It is the policy of the Village of Eagle 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 on the following pages:

### A. APPROACH CONSIDERATIONS

Decision Making	Justification
	Desirability
Tactical Deployment	Control of distance
	Positioning (relative positioning / relative positioning with multiple subjects)
	Team Tactics
Tactical Evaluation	Threat Assessment Opportunities <ul style="list-style-type: none"> <li>• Level of resistive tension</li> <li>• Early warning signs               <ul style="list-style-type: none"> <li>○ Conspicuously ignores officer</li> <li>○ Directs excessive emotional attention towards officer</li> <li>○ Moves in exaggerated manner</li> <li>○ Ceases all movement</li> <li>○ Has a known violent history</li> </ul> </li> <li>• Pre-attack postures               <ul style="list-style-type: none"> <li>○ Boxer stance</li> <li>○ Hand set / clenched fists</li> <li>○ Shoulder shift / rolling shoulders forward as if preparing to attack</li> <li>○ Target glance – looking at a potential target</li> <li>○ “Thousand yard stare” direct, continuing, but unfocused stare</li> </ul> </li> </ul>
	Officer/subject factors <ul style="list-style-type: none"> <li>• Age</li> <li>• Size</li> <li>• Strength</li> <li>• Skill level</li> </ul>
	Special circumstances <ul style="list-style-type: none"> <li>• Reasonable perception of threat</li> <li>• Special knowledge of subject</li> <li>• Sudden assaults</li> <li>• Subject's ability to escalate force rapidly</li> <li>• Officer's physical positioning</li> <li>• Injury or exhaustion</li> <li>• Equipment or training</li> <li>• Availability of backup</li> <li>• Other Special Circumstances</li> </ul>
	Level/stage/degree of stabilization <ul style="list-style-type: none"> <li>• The subject's ability to use force</li> </ul>

B. INTERVENTION OPTIONS

MODE	PURPOSE
Presence	To present a visible display of authority <ul style="list-style-type: none"> <li>• Tactical Stance                             <ul style="list-style-type: none"> <li>○ Open Stance</li> <li>○ Ready Stance</li> <li>○ Defensive Stance</li> </ul> </li> </ul>
Dialogue	To verbally persuade <ul style="list-style-type: none"> <li>• Search Talk</li> <li>• Persuasion</li> <li>• Light control Talk</li> <li>• Heavy control Talk</li> </ul>
Control Alternatives	To overcome passive resistance, active resistance, or their threat <ul style="list-style-type: none"> <li>• Escort Holds</li> <li>• Compliance Holds                             <ul style="list-style-type: none"> <li>○ Come-Along</li> <li>○ Pressure Points                                     <ul style="list-style-type: none"> <li>▪ Mandibular Angle (under the ear)</li> <li>▪ Hypoglossal (jaw)</li> </ul> </li> </ul> </li> <li>• Control Devices                             <ul style="list-style-type: none"> <li>○ OC Spray (Oleoresin Capsicum or pepper spray)</li> <li>○ Conducted Electrical Weapon C.E.W. (Taser)</li> </ul> </li> <li>• Passive Countermeasures                             <ul style="list-style-type: none"> <li>○ Secure-The-Head</li> <li>○ Hug-Yourself</li> <li>○ Lower-Your-Center</li> <li>○ Pull-In / Push-Down</li> </ul> </li> </ul>
Protective Alternatives	To overcome continued resistance, assaultive behavior, or their threats <ul style="list-style-type: none"> <li>• Active Countermeasures                             <ul style="list-style-type: none"> <li>○ Vertical Stuns</li> <li>○ Focused Strikes                                     <ul style="list-style-type: none"> <li>▪ Reaction Hand Strike</li> <li>▪ Reaction Forearm Strike</li> <li>▪ Strong Hand Strike</li> <li>▪ Strong Forearm Strike</li> <li>▪ Reaction Front Kick</li> <li>▪ Reaction Knee Strike</li> <li>▪ Strong Angle Knee Strike</li> <li>▪ Strong Angle Kick</li> </ul> </li> </ul> </li> <li>• Incapacitating Techniques                             <ul style="list-style-type: none"> <li>○ Diffused Strike                                     <ul style="list-style-type: none"> <li>▪ Front</li> <li>▪ Rear</li> </ul> </li> </ul> </li> <li>• Intermediate Weapon (Baton)                             <ul style="list-style-type: none"> <li>○ Baton Jab</li> <li>○ Baton Jab-Multiple Strikes</li> <li>○ Angle Strike</li> <li>○ Angle Cross Strike</li> <li>○ Multiple Overload Strikes</li> </ul> </li> </ul>
Deadly Force	To stop the threat <ul style="list-style-type: none"> <li>• Firearm</li> </ul>

1. Department authorized and/or issued less lethal weapons include an approved wooden baton, approved expandable baton, Taser X26, and MK-3 (small canister) and MK-4 (large canister) Oleoresin Capsicum.

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
Turn-over/Release	Removal of restraints, if necessary

***Note: Police members shall be trained and qualified in the safe and proficient use of department authorized and issued firearms. Police members shall be required to qualify with a state certified department firearms instructor prior to being authorized to carry such firearms and shall be required to maintain their qualification in order to ensure continual safe and proficient firearm use. All sworn members shall receive a copy and demonstrate their understanding of this directive before being authorized to carry any firearm.***

**004.05 OBJECTIVE REASONABLENESS**

The use of force by a police member must be objectively reasonable. Police members shall use only the force necessary to effectively maintain control of a situation and protect the safety of police members and the public. Objective reasonableness is judged from the perspective of a reasonable police member facing similar circumstances and is based on the totality of the facts known to the police 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.

Before a police member applies force, the member should attempt to determine, to the extent practicable, whether the potential subject of the use of force is suffering from a cognitive disability or other limitations, which may affect his or her ability to comply with commands. The police member shall consider the totality of circumstances and should attempt to de-escalate the situation before engaging in a use of force.

- A. Force that is intended or likely to cause great bodily harm or death, may only be used if reasonable under all the circumstances then existing:
  1. To prevent great bodily harm or death to the officer or a third party;
  2. When necessary to prevent a suspect's escape and the officer has probable cause to believe that the suspect presently poses a significant threat of great bodily harm or death to the officer or others;
  3. To kill an animal if the officer or another person is threatened with serious bodily harm by the animal or otherwise to provide for the safety of the general public; or
  4. To kill an animal that has been so badly injured that its destruction would prevent further suffering.

- B. Police members may draw or display their firearms in circumstances where they reasonably believe it may be necessary to use their firearm in the performance of their duty in accordance with the standards set forth in Sub-section A of this policy.
- C. The firing of warning shots is prohibited. When feasible, a verbal warning should be given prior to the use of force likely to cause great bodily harm or death.

#### **004.06 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, demonstrates a lack of courage, and a violation of the Standards of Conduct.

#### **004.07 DISCHARGE OF FIREARM INCIDENTS**

- A. Whenever a police member discharges a firearm (either intentionally or unintentionally), the police member shall make notification to a supervisor as soon as practical. The notified supervisor will notify the Chief of Police within a reasonable time following their learning of the incident and/or response to the incident.
- B. If any person is wounded / killed as a result of the discharge, the supervisor will immediately notify the Chief of Police, who will contact the Wisconsin Department of Criminal Investigations (DCI) to conduct the criminal investigation.
- C. If no injury occurred, the Chief of Police will make the determination, based on the circumstances, as to who will conduct the investigation; a Village of Eagle Police Department supervisor of a higher rank than the member (e.g. discharge within the squad or in an unpopulated area such as a field), or an outside agency (e.g. rounds struck an occupied dwelling, etc.).
- D. Whenever a police member discharges a firearm (either intentionally or unintentionally), the Chief of Police shall cause a Village of Eagle Police Department supervisor of a higher rank than the member, to conduct an internal investigation, pursuant to SOP 003, to determine whether the department member acted within the scope of Department Policy. The investigation will commence once the criminal investigation (if applicable) is complete.
- E. Whenever the Chief of Police is the member involved in any incident as described in Subsections A, C or D of this section, the chief shall notify the Village President or if unavailable, and the Chairperson of the Police and Licensing Committee and recommend a Waukesha County Sheriff's Department supervisor conduct an internal investigation, pursuant to SOP 003, to determine whether the chief acted within the scope of Department Policy. The investigation will commence once the criminal investigation (if applicable) is complete.
- F. Whenever the Chief of Police is the member involved in any incident as described in Subsection B, of this section, the chief shall make the required notifications and a recommendation for an internal investigation, in accordance with Subsection E of this section and additionally, recommend the Wisconsin Department of Criminal Investigations (DCI) conduct a criminal investigation.

***Exception: In most cases where a police member discharges a firearm to euthanize an animal so gravely injured that dispatching it is the single humane option, per SOP 001.03(K); the Chief of Police may opt to bypass an internal investigation, if it is immediately clear and evident that the member acted within the scope of Department Policy.***

#### **004.08 USE OF FORCE REPORTING**

- A. Whenever a police member applies a use of force that results in injury or death to the suspect or a bystander, whether actual or implied:
1. The police member shall make notification to a supervisor as soon as practical.
  2. The notified supervisor will notify the Chief of Police within a reasonable time following their learning of the incident and/or response to the incident.
  3. In the event of death or life threatening injuries, the Chief of Police will contact the Wisconsin Department of Criminal Investigations (DCI) to conduct a criminal investigation.
  4. The Chief of Police shall cause a Village of Eagle Police Department supervisor of a higher rank than the member, to conduct an internal investigation, pursuant to SOP 003, to determine whether the department member acted within the scope of Department Policy. The investigation will commence once the criminal investigation (if applicable) is complete.
  5. Whenever the Chief of Police is the member involved in any incident as described in Subsection A of this section, the chief shall notify the Village President ~~or if unavailable,~~ and the Chairperson of the Police and Licensing Committee and recommend a Waukesha County Sheriff's Department supervisor conduct an internal investigation, pursuant to SOP 003, to determine whether the chief acted within the scope of Department Policy. The investigation will commence once the criminal investigation (if applicable) is complete.
  6. Whenever the Chief of Police is the member involved in any incident as described in Subsection A(3), of this section, the chief shall make the required notifications and a recommendation for an internal investigation, in accordance with Subsection A(5) of this section and additionally, recommend the Wisconsin Department of Criminal Investigations (DCI) conduct a criminal investigation.
- B. Whenever a department member deploys or utilizes a defensive chemical agent, a baton, a conducted electrical weapon, or employs control alternatives, as described in section 004.04(B):
1. The involved member shall notify a supervisor as soon as practical.
  2. The notified supervisor will notify the Chief of Police, or if unavailable, the Assistant Chief of Police, within a reasonable time following their learning of the incident and/or response to the incident.
  3. The Assistant Chief or Chief of Police shall review the use of force incident, to include all related reports and supporting materials, to verify that the involved officer acted within the scope of this policy.

4. Whenever the reviewing chief suspects that the involved member did not comply with any section of this policy, the Chief of Police shall cause a Village of Eagle Police Department supervisor of a higher rank than the member, to conduct an internal investigation, pursuant to SOP 003, to determine whether the department member acted within the scope of Department Policy. The investigation will commence once the criminal investigation (if applicable) is complete.
5. Whenever the Chief of Police is the member involved in any incident as described in Subsection B of this section, the chief shall notify the Village President ~~or if unavailable,~~ and the Chairperson of the Police and Licensing Committee and recommend a Waukesha County Sheriff's Department supervisor conduct an internal investigation, pursuant to SOP 003, to determine whether the chief acted within the scope of Department Policy.

***Note: Notifications MUST be made by a form of contact such as in person or direct telephone contact. Notifications via text, voicemail, or email shall be a last resort, when all other attempts have been exhausted.***

- C. Unless the Chief of Police or Assistant Chief of Police authorizes to the contrary, department members, operating within the Village of Eagle OR on-duty and in another jurisdiction under Mutual Aid or other authorized activity within Waukesha County, who employ any use of force as described in section 004.08(B); shall refer the suspect or suspects for criminal charges through the Waukesha County District Attorney's Office.
  1. Officers shall document the use of force in an incident report narrative, either within an existing report for the initial incident, or by generating a new report such as for resisting/obstructing.
  2. Any additional Village of Eagle Police Department officers, who either used force or witnessed the use of force, shall document the use of force in a supplement to the incident.
  3. A Village of Eagle Police member shall request that officers of other jurisdictions, who either witnessed or assisted in the use of force, document the incident and forward the documentation to the Village of Eagle Police Department. In some cases, a Village of Eagle Police Supervisor may be required to interview officers of other jurisdictions and document the interview in a supplement of the incident report, to ensure this is accomplished.
  4. The Village of Eagle Police member or members involved in the use of force shall, if possible, identify citizen witnesses to the use of force and request the witness(s), document the incident on a Statement Form. If the witness is unwilling, the department member should attempt to ascertain all pertinent information from the witness(s) and forward the information to a department supervisor, who will interview the witness(s) and document the interview(s) in a supplement of the incident report. The department member shall notify a department supervisor and document same in the incident report, in cases where there were citizen witnesses who were not identified.
  5. In any case, where an incident report is not generated, documentation of the use of force shall be made on a Department Memorandum Form.

D. Whenever department members, operating on-duty and in another jurisdiction under Mutual Aid or other authorized activity outside of Waukesha County, who employ use of force as described in section 004.08(B), the Chief of Police or Assistant Chief of Police shall make contact with that jurisdiction's supervision to determine that agency's intentions related to criminal charges for the suspect.

1. Officers shall document the use of force in an incident report narrative, either within an existing report for the initial incident, or by generating a report such as for resisting/obstructing.
2. Any additional Village of Eagle Police Department officers, who either used force or witnessed the use of force, shall document the use of force in a supplement to the incident.
3. A Village of Eagle Police member shall request that officers of other jurisdictions, who either witnessed or assisted in the use of force, document the incident and forward the documentation to the Village of Eagle Police Department. In some cases, a Village of Eagle Police Supervisor may be required to interview officers of other jurisdictions and document the interview in a supplement of the incident report, to ensure this is accomplished.
4. The Village of Eagle Police member or members involved in the use of force shall, if possible, identify citizen witnesses to the use of force and request the witness(s), document the incident on a Statement Form. If the witness is unwilling, the department member should attempt to ascertain all pertinent information from the witness(s) and forward the information to a department supervisor, who will interview the witness(s) and document the interview(s) in a supplement of the incident report. The department member shall notify a department supervisor and document same in the incident report, in cases where there were citizen witnesses who were not identified.
5. In any case where an incident report is not generated, documentation of the use of force shall be made on a Department Memorandum Form.

E. In addition to responsibilities directed elsewhere in this SOP, department supervisors, upon responding to or being notified of a use of force incident shall:

1. Take or ensure that photographs are taken of:
  - a. The scene.
  - b. The suspect or suspects involved, to include full body photos and close-up photos of any/all injuries.
  - c. The officer or officers involved, to include full body photos, close-up photos of any/all injuries, and damage to uniforms, equipment, or personal items (watch, cell phone, etc.).
2. Canvass or ensure that a canvass is made of the scene for surveillance cameras and if located:
  - a. Obtain a copy of the video and place it on inventory.
  - b. Review the video and determine if any portion of the use of force was recorded.
  - c. Document the observations, including if there was a lack of capture of the incident.
3. Attempt to obtain and document a statement from the suspect or suspects.



4. Document all investigative activities related to the use of force incident in a supplement of the incident report, or in any case where an incident report is not generated, documentation shall be made on a Department Memorandum Form.
5. Review all reports prepared by officers to ensure proper documentation of the use of force.
6. To ensure RMS search ability, insert the words, "USE OF FORCE" in the *User Field1 box located in the M.O. tab of the FORS Incident Reporting System*.
7. Prepare and submit all documentation to the Assistant Chief or Chief of Police for review.
  - a. The reviewing chief shall document their findings on a department memorandum form and place a copy in the involved member(s) personnel file.
  - b. In the event that the reviewing chief suspects that any of the involved members were not in compliance with this policy, the Chief of Police may cause the member to receive counseling, retraining, or the initiation an internal investigation; based upon the degree of non-compliance.
8. Whenever the Chief of Police is the member involved in any use of force incident as described in this SOP, the chief shall request a Waukesha County Sheriff's Department supervisor review all related documentation.
  - a. The Chief of Police shall request that the reviewing WSD supervisor forward their findings to the Village President, the chairperson of the Police and licensing committee, as well as place documentation of the findings in his or her personnel file.
  - b. The Chief of Police shall request, that in the event that the reviewing WSD supervisor suspects that the chief did not comply with this policy, the reviewing WSD supervisor notify the Village President and the chairperson of the Police and licensing committee.



GREGG DURAN  
CHIEF OF POLICE