

## GLENDALE POLICE DEPARTMENT

**POLICY: 316**

**DATE: January 4, 2021**

**SUBJECT: Use of Force**

### **I. Purpose**

To establish guidelines for the appropriate use of force that adhere to applicable federal, state, and local laws regarding the use of force.

### **II. Policy**

It is the policy of the Glendale Police Department that officers are to use only that force which is both reasonable and necessary to effectively bring an incident under control, while protecting the lives and safety of officers and others.

The U.S. Supreme Court, in Graham v. Connor, said that use of force must be "objectively reasonable" in the given situation. The factors which, in general, enter into a determination as to whether force used was "objectively reasonable" include:

- The severity of the alleged crime at issue;
- Whether the suspect poses an imminent threat to the safety of officers and/or others; and
- Whether the suspect is actively resisting or attempting to evade arrest by flight.

In making a determination as to the reasonableness of force, courts recognize that law enforcement officers have to make split-second decisions and reactions. The reasonableness of the force used must be judged in the light of the circumstances as they appeared to the officer at the time, and which an ordinarily prudent and intelligent officer, in the same situation, would have deemed reasonable under the circumstances.

In addition to this policy officers are also governed by WI. Stat. 939.48; Self-defense and defense of others.

### III. Definitions

**Active Resistance:** Behavior which physically counteracts an officer's control efforts, 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.

**Choke Hold:** A physical maneuver that restricts an individual's ability to breathe for the purposes of incapacitation. The use of a choke hold is prohibited, except in those situations where the use of deadly force is allowed by law.

**Continued Resistance:** Maintaining a level of counteractive behavior that is not controlled by an officer's current efforts.

**Control:** Established when a subject is voluntarily complying with the legal directions of an officer or restrained so that they are forced to comply with the officer's legal direction.

**DAAT:** Wisconsin Defensive and Arrest Tactics which is a system of verbalization skills coupled with physical alternatives.

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

**De-escalation:** 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.

De-escalation is incorporated throughout the Disturbance Resolution options and the term de-escalate is also used to describe the reduction of an application of force.

De-escalation may not be a viable option in every situation as there are many factors that influence its applicability. An officer must have the position of advantage to apply the concept of de-escalation. Although the law enforcement profession has a great deal of inherent risks, officers are not required to take unnecessary risks in order to apply this concept as their risks need to be strategic, deliberate, and consistent with other DAAT principles.

**Less Lethal Force Philosophy:** The concept of planning and force application with less potential for causing death or serious injury than other police tactics.

**Electronic Control Device:** (ECD) – Are instruments in which a safe amount of electricity is used to affect the sensory and/or motor nervous system of the body. The Department's authorized ECD is the TASER.

**Great Bodily Harm:** As defined in S. 939.22 (14): 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.

**Greater Danger Theory:** The only reason for shooting if the target has not been "isolated" is if a failure to shoot would place those innocent persons and/or yourself and other officers in greater danger of death or great bodily harm.

**Hobble Restraint:** Belt-type restraint used to secure a subject's legs and ankles in order to restrict the subject's ability to kick or run.

**Imminent Threat:** An impending likelihood; in this context "Imminent Threat" of death or great bodily harm to you or another is a justification for the use of deadly force.

**Intervention Options:** Included within DAAT, a range of force options / responses available to an officer, each mode reflecting the need for an increasing level of control.

**Last Resort:** Those situations where certain immediate and drastic measures must be undertaken by an officer in order to protect human life. Force used in these situations may involve the use of techniques or weapons not covered or authorized by policy, however, must still comply with the reasonable and necessary standard set forth in Graham v. Conner.

**Lateral Vascular Neck Restraint:** A trained technique used to incapacitate an individual by restricting the flow of blood to their brain. Unlike a choke hold, the LVNR does not restrict an individual's ability to breathe.

The LVNR was a previously authorized and trained technique. The Glendale Police Department has restricted the use of the LVNR to only those situations where the use of deadly force is allowed by law.

**Passive Resistance:** Non-threatening, Non-Compliant behavior.

**Reasonable Belief:** Belief formed when facts or circumstances the officer knows, or should know, are such as to cause any ordinary, prudent and reasonable intelligent officer to act or think in a similar way under similar

circumstances, even though such belief may later be determined to be erroneous.

#### **IV. Disturbance Resolution**

- A. DAAT provides the basis for proper use of force by Wisconsin law enforcement officers. Force levels are identified under Intervention Options as part of Disturbance Resolution.

Refer to attachment: **Disturbance Resolution**

- B. Officers are expected to attempt to establish and maintain control through the use of presence and dialogue. However, an officer may escalate to control, through the use of any or all force options, as deemed necessary and reasonable. Intervention Options should not be looked at as a continuum, rather as a toolbox in which an officer's options are based on their Threat Assessments Opportunities.

Once control of a subject or subjects has been established an officer should de-escalate to a force level sufficient to maintain control.

- C. During the initial approach or contact, the officer(s) must attempt to determine the extent or degree to which the subject(s) present a threat to you and others. Officers should use this threat assessment to help identify safety concerns and potential responses.

#### **V. Medically Significant Behavior**

Medically Significant Behavior is a variety of behaviors that indicate a serious and potentially life-threatening medical condition is present. Persons exhibiting Mentally Significant Behavior can pose a threat to themselves, officers, and others. Officers may be required to use force to control the person so that they can receive immediate medical attention.

Officers should assess the situation to determine whether a person's actions or behavior are a result of criminal intent or a medical crisis.

- A. Considerations for dealing with Medically Significant Behavior:
- Request medical assistance as early as possible.
  - Avoid increasing the subject's agitation or excitement.
  - Minimize physical struggles with subject.
  - Minimize use of restraints.
  - Weigh the need for immediate control against risk to the subject.
  - Maximize officer numbers to minimize the initial levels of force.

- Taser distance deployment has a greater chance of success than other intervention options due to the subject's high pain threshold.
  - Stabilize and handcuff.
  - Advise medical personnel of observations and behavior and suggest a chemical restraint.
  - Position subject to facilitate deep breathing, if possible.
  - Quickly transport subject to the hospital.
- B. The Non-Criminal Medical Situation Test should guide an officer's use of force decision.
1. Was the person experiencing a medical emergency that rendered him or her incapable of making a rational decision under circumstances that posed an immediate threat of serious harm to themselves or others?
  2. Was some degree of force reasonably necessary to ameliorate the immediate threat?
  3. Was the force reasonably necessary under the circumstances?

## **VI. Procedures**

- A. Officers should attempt to de-escalate the incident using presence and dialogue when feasible and appropriate.
- B. Officers should evaluate the incident to determine the level of force necessary to achieve and maintain control. The level of force must be necessary and reasonable.
- C. Once control is achieved, officers must adjust their use of force to that level which is reasonable in order to maintain control.
- D. Once a subject has been handcuffed and are under control, they should be moved to a position that will avoid positional asphyxia or other medical dangers.
- E. Officers shall use equipment and control techniques that are authorized by the department and consistent with their current training.
- F. Handcuffing and searching will be accomplished through the application of current training techniques as taught through the DAAT System.

- G. Handcuffs may be used in a non-arrest situation provided that the use of handcuffs is reasonable and necessary.
- H. The trained target areas for the baton are the knee area, elbow area and lower abdominal area.
- I. A hobble restraint may be used to further stabilize a subject who is resisting or is a threat to escape. Officers shall not “hog tie” or place a subject in a position that hinders breathing for extended periods in an attempt to lessen the likelihood of respiratory related issues.
- J. The Taser is a conducted energy weapon that affects the sensory and motor functions of the central nervous system. The purpose of the Taser is to overcome active resistance or the threat of active resistance. The Taser falls within the Control Alternatives of the Intervention Options.
- K. Officers have a responsibility to intervene when they observe an officer using excessive force or have inadvertently placed a subject in a position of danger. Intervention should be done in a manner that protects the safety of everyone involved.
- L. The use of choke holds and the LVNR is prohibited, except in situations where the use of deadly force is allowed by law.
- M. Kinetic Energy Impact Projectiles
  - 1. The purpose of the Kinetic Impact Projectiles is to impede a subject, preventing him or her from continuing resistive, assaultive or otherwise dangerous behavior. The Kinetic Energy Impact Munition is a Less Lethal option.
  - 2. The CTS 4559 Foam Baton is the authorized Kinetic Energy Impact Projectile and is placed at the level of Protective Alternatives.
  - 3. Officers authorized to use the Penn Arms GI-1 40mm launcher and CTS 4559 Foam Baton will successfully complete an initial certification and receive annual recertification training.

4. Circumstances appropriate for the deployment include, but are not limited to, situations in which:
  - a) The suspect is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions.
  - b) The suspect has made credible threats to harm him/herself and others.
  - c) The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at people and/or officers.
  - d) There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.
5. Kinetic Energy Impact Projectiles may be delivered to the subject's body in accordance with the following guidelines:
  - a) Primary target area are 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. The Primary 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 is the 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 / Kidney area (back): Intentional impact to these areas should be avoided unless the use of deadly force is justified.
6. In each instance where Kinetic Energy Impact Projectiles are utilized a determination should be made regarding the need for lethal cover. Lethal cover is required in all cases where the subject has a firearm.

7. Subjects who are struck by a Kinetic Energy Impact Projectile will be transported to a medical facility for evaluation.
8. Injuries will be photographed.
9. Discharged munitions should be recovered and inventoried.

N. PepperBall

1. The PepperBall VKS System and PAVA powder projectile will primarily be utilized but not limited to crowd control purposes (riotous behavior) and barricaded subjects.
2. The purpose of PepperBall is to provide area denial or area saturation, using PepperBall PAVA powder projectiles to deny access to an area or gain compliance of movement from an area. It also can be utilized for direct impact, targeting an individual using PepperBall PAVA powder projectiles. PepperBall is a Less Lethal option.
3. The PAVA powder projectile is the authorized round and is placed in control alternative when used as an area denial or saturation option. When used in a manner intended to impact a subject it is placed in protective alternatives.
4. Officers authorized to use the PepperBall VKS System and PAVA powder projectile will successfully complete an initial certification and receive annual recertification training.
5. Circumstances appropriate for the deployment include, but are not limited to, situations in which:
  - a. The saturation technique may be utilized to deliver PAVA powder to an area when the use of OC is justified, but it is unsafe for an officer to approach a subject within an effective range of liquid OC. The use of PAVA powder projectiles will be launched to impact surrounding objects like walls, ground, automobile, and trees and must not be launched directly at a subject. This technique would fall under control alternatives.
  - b. The direct impact technique may be utilized by firing PAVA powder projectiles directly at the subject causing an OC effect as well as a low-level kinetic energy impact effect. This technique would fall under protective alternatives.

- c. The suspect is engaged in riotous behavior or is throwing rocks, bottles, or other dangerous projectiles at people and/or officers.
  - d. There is probable cause to believe the suspect has already committed a crime of violence and is refusing to comply with lawful orders.
- 6. PepperBall PAVA powder projectiles may be delivered to the subject's body in accordance with the following guidelines:
  - a. Officers should target the upper abdomen area for the primary impact area with PAVA powder projectiles.
  - b. Officers will not target the head, neck, or spine. Intentional targeting of these areas should be avoided unless deadly force is justified.
- 7. Consider area saturation first by impacting surrounding objects like walls, ground, automobile, trees before directly impacting a subject.
- 8. In each instance where PepperBall projectiles are utilized a determination should be made regarding the need for lethal cover. Lethal cover is required in all cases where the subject has a firearm.
- 9. Subjects who are struck by or exposed to PepperBall projectiles will be transported to a medical facility for evaluation.
- 10. Injuries will be photographed.

## **VII. Deadly Force**

**Justification for an Officers' use of deadly force is that behavior which has caused, or imminently threatens to cause, death or great bodily harm to you or another person.**

- A. Officers are authorized to use deadly force to:
  - 1. Protect the officer or others from an imminent threat of death or great bodily harm; and/or

2. To prevent the escape of a person whom the officer has probable cause to believe has committed a serious, violent crime and creates an unreasonable risk or significant threat of death or serious physical injury to the officer, another person, or the community at large if not apprehended. A verbal warning should be given, unless it is not feasible to do so in the particular circumstances, before deadly force is used to prevent escape.
- B. To meet the criterion of "imminent threat," the person to whom the officer is intending deadly force must have all of the following:
1. The displayed or indicated intent to cause great bodily harm or death to you or another person(s).
  2. A weapon capable of inflicting great bodily harm or death (conventional or unconventional weapon).
  3. The delivery system for utilization of that weapon, ie, the capacity for utilization of the weapon.
- C. After an officer has determined that deadly force is necessary to stop a person and all other reasonable alternatives having been precluded, the officer must fulfill certain "target requirements." These include the following:
1. Target Acquisition: Does the officer have a target?
  2. Target Identification: Does the target which has been "acquired" place the officer(s) and or others in "imminent danger" of death or great bodily harm. Does the acquired target have a weapon, intent, and delivery system.
  3. Target Isolation: The officer must make every effort to isolate the target from other innocent persons, unless the Greater Danger Theory is applicable.
- D. An officer shall not threaten the use of deadly force unless he would be justified under this policy to use such force. Before using deadly force, the officer should, if possible:
1. Attempt to identify him/herself
  2. Order the suspect to desist from the imminently threatening activity, and;

3. Threaten to use deadly force if the officer's lawful order is not obeyed.
- E. No distinction shall be made relative to the age, sex, or race of the intended target of deadly force.
  - F. Deadly force against an animal is justified under the following circumstances:
    1. For self-defense
    2. To prevent substantial harm to the officer or another, or
    3. When the animal is so badly injured that humanity requires its relief from further suffering, with approval from the shift commander.
  - G. Officers are not authorized to shoot at or from a moving vehicle unless as a "Last Resort" or when the Greater Danger theory applies.
  - H. Warning shots are not authorized unless deadly force is justified and as a "Last Resort."

#### **VIII. Use of Force Incidents**

- A. Officers shall closely monitor all subjects who were physically subjected to the use of force. Appropriate medical attention shall be provided for subjects who were injured or complain of injuries resulting from the use of force.
  1. Medical attention will be summoned for those people who cannot recover from the effects of OC spray within 45 minutes of exposure, have an adverse reaction from the effects of a Taser or OC deployment, or who request medical attention.
  2. If the TASER probes are imbedded in sensitive tissue areas (such as the neck, face, groin or the breast area of a female) the officer shall arrange transport to a medical facility for removal. If the probes are imbedded in non-sensitive tissue areas, officers may remove them according to trained procedures. Removed probes shall be handled as a biohazard, packaged accordingly, and destroyed.
  3. People struck by a Kinetic Energy Impact Projectile or PepperBall projectile will be transported to a medical facility for evaluation.

- B. Officers shall notify the shift supervisor as soon as practical whenever force is used.
- C. All use of force incidents above compliance holds shall be documented on a GLPD Subject Control Summary report. The officer shall document the circumstances requiring the use of force and the intervention options used. The report shall be reviewed by the shift supervisor for reasonableness and policy compliance. All Subject Control Summary reports shall be forwarded to the Captain for review.
- D. In cases where deadly force was used against a person, whether or not any injury occurred, or where the subject received significant injuries from the use of non-deadly force, a supervisory investigation shall be conducted.
- E. Applicable use of force data will be submitted to the WI DOJ Use of Force and Arrest-Related Data Collection (UFAD) through TraCs. An analysis of use of force incidents will be conducted annually to identify trends that could reveal the need for training, equipment, or policy modifications.

By Order of:

Mark Ferguson - Chief of Police

Replaces: Policy 316 dated June 12, 2020

Review Date: June 30, 2023

Distribution: All policy and reference manuals

Attachment: Disturbance Resolution

