
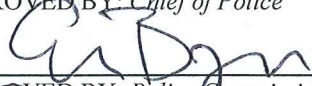
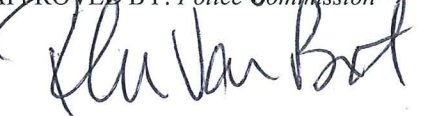


<p align="center"><b>ONEIDA POLICE DEPARTMENT STANDARD OPERATING PROCEDURE</b></p> 	<p><b>TITLE:</b></p> <p align="center"><b>USE OF FORCE</b></p> <p align="center"><b>OPDSOP 5.1.1</b></p>	<p><b>ORIGINATION DATE:</b> February 28, 1996</p> <p><b>REVISION DATE:</b> July 1, 2004 January 7, 2013 May 8, 2014 January 12, 2016 June 10, 2020 June 24, 2021</p> <p><b>EFFECTIVE DATE:</b> Upon Last Signature</p>
<p><b>DIVISION:</b> Non-Divisional</p>		
<p><b>DEPARTMENT:</b> Oneida Police Department</p>	<p><b>APPROVED BY:</b> <i>Chief of Police</i></p> 	<p><b>DATE:</b> 6/29/21</p>
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<p><b>PAGES:</b> 11</p> <p><b>EEO Number:</b> 1254</p>	<p><b>WILEAG Standards:</b> 5.1.1, 5.1.2.1, 5.1.2.2, 5.1.3, 5.1.4, 5.2.1, 5.3.2</p>	

## 1 PURPOSE:

Provide guidelines for the Use of Deadly and Non-Deadly Force by Sworn Officers in accordance with Wisconsin State Statute 66.0511(2) to affect the arrest or control of a person, or to dispatch a seriously injured animal. Proper Use of Force decisions are based on reasonableness, and will ensure due process for citizens as well as provide protection for officers and the Oneida Police Department. The primary duty of Officers is to preserve the life of all individuals; deadly force is to be used as the last resort.

## 2 POLICY

It is the policy of the Oneida Police Department that Officers shall use only the 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 trying to control.

## 3 DEFINITIONS:

3.1 **DAAT:** Defense and Arrest Tactics: Is a system of verbalization skills coupled with physical alternatives. The DAAT system is backed by two concepts; Incident Response and Disturbance Resolution. DAAT is governed by the State of Wisconsin Training and Standards Board.

3.2 **Deadly Force:** The intentional use of a firearm or other instrument that creates a high

probability of death or great bodily harm.

- 3.3 **Non-Deadly Force:** Any Use of Force other than that which is considered deadly force.
- 3.4 **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, organ or other serious bodily injury.
- 3.5 **Lawful Force:** A physical act by a police officer in the performance of duty when it is used to accomplish a legitimate law enforcement goal and the level of force used is reasonable considering all the facts and circumstances of the incident.
- 3.6 **Necessary Force:** That amount of force applied by an officer in the performance of duty against a person by any means, reasonably necessary to control a person, situation, or to achieve a legitimate law enforcement goal.
- 3.6 **Incident Response:** a model of systematic approach for proper police action (RESPOND), which is a basic “roadmap” to handling many types of incidents.
- 3.7 **Disturbance Resolution:** a more specific model of how to proceed when responding to any sort of disturbance or potential disturbance.
- 3.8 **Intervention Options:** Elements within the Disturbance Resolution model which an officer may use to intervene with a subject. These are trained techniques recognized in the DAAT system.
- 3.9 **Use of Force Review Team:** A group of individuals consisting of the Assistant Chief of Police, one Sergeant selected by the Chief of Police, and one Officer of any rank selected by the involved officer.
- 3.10 **OC:** Oleoresin Capsicum. Also called “pepper spray.”
- 3.11 **Electronic Control Device/Taser:** ECD or Taser are instruments in which a safe amount of electricity is used to affect the sensory and/or motor nervous system of a person or animal causing Neuro-Muscular Incapacitation (NMI). The use of this device is intended to incapacitate the subject with the minimal potential for causing injury, great bodily harm, or death.
- 3.12 **Lethal Cover:** Officer providing cover with a firearm while other officers gain control of the subject.
- 3.13 **Objectively Reasonable Standard:** A standard established by the U.S. Supreme Court in *Graham v. Connor*. Reasonableness should be judged under the totality of the circumstances. Three elements of the standard are:

- 3.13.1 The severity of the alleged crime at issue.
- 3.13.2 Whether the suspect poses an imminent threat to the safety of officers and/or others.
- 3.13.3 Suspect is actively resisting or attempting to evade arrest by flight.
- 3.14 **Reasonably Believes:** Means that an ordinary, prudent and reasonably intelligent police officer believes that a certain fact situation exists and such belief is reasonable under the circumstances known to the officer at the time the officer acted.
- 3.15 **Officer-Involved Death:** means death of an individual that results directly from an action or an omission of a law enforcement officer while that law enforcement officer is on duty or while off duty but performing activities that are within the scope of his or her law enforcement duties.
- 3.16 **UFAD:** The Use of Force and Arrest related Death form in TraCs
- 3.17 **TraCs:** Traffic and Criminal Software automated reporting system for law enforcement

#### 4 **PROCEDURES:**

##### 4.1 **Authorized Use of Deadly Force:**

- 4.1.1 Officers are authorized to use deadly force to protect themselves, officers and/or others from behavior which has caused or imminently threatens to cause death or great bodily to themselves or others.
- 4.1.2 To prevent the escape of a fleeing violent felon who the officer has probable cause to believe will pose a significant threat of death or great bodily harm to the officer or others if not immediately apprehended.
- 4.1.3 When feasible, officers will identify themselves as law enforcement officers, demand the subject(s) stop, and the officers' intent to shoot.
- 4.1.4 Officers may use deadly force to destroy an animal that represents a threat to public safety or as a humanitarian measure where the animal is seriously injured, and the officer reasonably believes that deadly force can be used without harm to the officer or others. This Use of Force does not require a review. *See also*, Oneida Nation's Domestic Animals law.

##### 4.2 **Deadly Force Restrictions:**



- 4.2.1 Warning shots are prohibited.
- 4.2.2 Discharging a firearm at a moving vehicle is prohibited if there is an unreasonable risk to the officer or others and should only be considered in light of section 4.1.1 and 4.1.2 above.
- 4.2.3 An officer shall not brandish, display or threaten the use of a firearm unless he or she can reasonably conclude its use may become justified and anticipated.
- 4.2.4 Before using a firearm and when feasible, police officers shall identify themselves and issue a verbal challenge.
- 4.2.5 From a moving vehicle unless 4.1.1 or 4.1.2 apply.
- 4.2.6 Without target acquisition, identification and isolation. For example, firing into a building or through a door is not permitted unless officers are being fired upon from within and no alternative means of cover is available.
- 4.2.7 When the officer is in doubt as to whether or not he or she has the legal justification to use deadly force.
- 4.2.8 The Oneida Police Department does not authorize the use of “choke holds” by law enforcement officers in a policy or standard except when justified in life-threatening situations or self-defense.

#### **4.3 Pointing a Firearm at a suspect**

- 4.3.1 If an officer points a firearm at a person in the course of duty and does not discharge the firearm, the officer shall complete an offense report detailing the circumstances of the incident.
- 4.3.2 A UFAD form shall be submitted to the state via TraCs if:
  - 4.3.2.1 An Officer discharges his/her firearm in the direction of a person
  - 4.3.2.2 A person experiences serious bodily injury as a result of an Officer's actions
  - 4.3.2.3 A person dies as a result of Use of Force
  - 4.3.2.4 A person dies while detained, arrested, or in the course of being arrested

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

- 4.4.1 Officers may use only the level of force which is objectively reasonable to bring an incident or individual under control.
- 4.4.2 Officers are authorized to use the Intervention Options as well as

department approved training, and issued equipment to:

4.4.2.1 Protect officers and others from physical harm.

4.4.2.2 Restrain or subdue a resistant individual.

4.4.2.3 Bring an unlawful or unsafe situation safely and effectively under control.

4.4.3 Officers shall use only that amount of force that is objectively reasonable to control a situation, effect an arrest, or to control a person. The Officer's decisions shall be based on the Intervention Options.

4.4.4 Officers shall not continue to use force more than is reasonably necessary to maintain control once the subject has stopped resisting and control of the subject has been established.

4.4.5 Officers must take reasonable action to stop or prevent any unreasonable use of force by their colleagues.

4.4.6 No law enforcement officer may be discharged, disciplined, demoted, or denied promotion, transfer, or reassignment, or otherwise discriminated against in regard to employment, or threatened with any such treatment, because the law enforcement officer reported, or is believed to have reported, any violation of a policy or standard under 4.4.5; initiated, participated in, or testified in, any action or proceeding regarding a violation of a policy or standard under 4.4.5; or provided any information, or is believed to have provided any information, about a violation of a policy or standard in sub. 4.4.5.

4.4.7 An officer shall not brandish, display or threaten the Use of Force of non-lethal weapons unless he or she can reasonably conclude its use may become justified and anticipated.

#### **4.5 Electronic Control Device (Taser)**

4.5.1 An Electronic Control Device (Taser) may be used by trained personnel when a subject is threatening to actively resist or is actively resisting an officer and the subject poses a threat of harm to an officer or another person. An ECD may also be used when the subject poses a threat of harm to himself or herself such as self-inflicted injury or a suicide attempt. Other instances which an ECD may be used include but are not limited to the following:

4.5.1.1 Officers knowledge of the subject, including conduct or statements by the subject and/or prior history of resistive or assaultive

behavior.

4.5.1.2 Dealing with a mentally ill subject who is perceived to be violent.

4.5.1.3 Armed subjects

4.5.1.4 Warrant service where the subject is perceived violent.

4.5.1.5 Violent persons under the influence of drugs and/or alcohol.

4.5.1.6 Persons expressing the intent and having the means to commit suicide.

4.5.1.7 When deemed a reasonable alternative to lesser force options that will likely be ineffective or greater force options that may be inappropriate given objective circumstances.

4.5.1.8 The suspect is actively punching or kicking or is threatening to punch or kick.

4.5.1.9 Lesser force options are ineffective or likely to be ineffective.

4.5.1.10 The suspect is a threat from a distance and the officer is at risk of injury if he/she attempts to close the gap.

4.5.2 Passive resistance without posing an articulate threat of harm to officers or others Does Not permit the use of an electronic control device.

4.5.3 An officer shall not brandish, display or threaten the use of a conducted energy weapon unless he or she can reasonably conclude its use may become justified and is anticipated.

4.5.4 In each instance when an ECD is deployed, a determination will be made regarding the need for lethal cover.

4.5.4.1 Lethal cover shall be required in all cases in which the subject possesses a firearm.

#### 4.6 **Officer Responsibilities**

4.6.1 Department personnel who use an ECD against a person shall ensure the person is monitored for injury as soon as practical after the person is under control.

4.6.1.1 If an adverse reaction to the conducted energy weapon occurs, or



if requested by the subject, transport to a medical facility shall be arranged.

4.6.1.2 If the probes are imbedded in sensitive tissue areas, i.e. neck, face, groin, or the breast of a female, officers shall arrange transport to a medical facility for removal. If the probes are imbedded in other none sensitive tissue areas, a trained officer may remove them according to the trained procedures.

4.6.1.3 After the probes have been removed they shall be handled as a Bio-hazard and packaged according to the trained procedure. The package shall be put in a hazardous materials bag and placed in an Evidence Locker with instructions to be destroyed.

4.6.2 When an ECD is used against a person or animal, the user shall notify an on-duty supervisor and shall complete an offense report detailing the circumstances of the incident. The user shall also complete a Use of Force Information Sheet. The officer completing the Use of Force Information Sheet shall list the serial number of the deployed Weapon so the deployment information may be downloaded as necessary.

4.6.3 ECD certified officers shall complete a re-certification course and a written examination every two years concerning the use of this weapon.

#### **4.7 First Aid and Medical Assistance:**

4.7.1 Whenever a person is injured as a result of applied Use of Force by an officer, officers on the scene will provide first aid and request appropriate medical assistance as soon as the scene is safe and secure.

4.7.2 Officers will use appropriate OC (Oleoresin Capsicum) decontamination practice when OC is used in an applied Use of Force, which at a minimum shall be:

4.7.2.1 Expose the subject to fresh air and flush exposed areas with large amounts of cold water as soon as practical.

4.7.2.2 Inform subject not to apply salves, creams, or lotions.

4.7.2.3 Ventilate any enclosed areas where OC was used for at least 30 minutes

4.7.2.4 Inform jail personnel that individual has been contaminated.

4.7.2.5 If an adverse reaction occurs or if requested by the subject

transport to a medical facility shall be arranged.

4.7.3 Officers will provide the appropriate Conducted Energy Weapon removal practice and seek appropriate medical attention as needed when the Conducted Energy Weapon is used.

4.7.3.1 Conducted Energy Weapon prongs that have struck the face, groin, or female breasts shall only be removed by rescue or medical personnel.

4.7.3.2 Conducted Energy Weapon prongs that have struck a person's body shall be considered a biological hazard.

4.8 On or Off Duty Use of Force incidents will immediately be reported to a Supervisor and documented by the officer involved in the narrative of an Incident Report as well as a Use of Force Report including but not limited to the use of:

4.8.1 Firearm, including accidental discharge, or even if the firearm was only pointed at an individual and therefore the presentation of deadly force had occurred.

4.8.2 Intermediate Weapon including the application of a baton, but not to include the mere display of a baton.

4.8.3 Oleoresin Capsicum (OC) spray, commonly called "pepper spray."

4.8.4 When an officer applies a Use of Force to compel another into compliance or control, including DAAT techniques, or upon the direction of a Supervisor.

4.8.5 When there is property damage or injury to the officer or others after an applied Use of Force.

4.8.6 When a Supervisor is not working the officer will notify the Shift Supervisor for any Use of Force incidents that result in reportable property damage, injury, great bodily harm or death. The officer will brief the immediate Supervisor on the incident.

4.8.7 If an Officer observes a reportable use of force by another officer that is not immediately reported, they shall report the observation to their immediate supervisor or the Shift Supervisor.

**4.9 Supervisors Responsibilities:**

4.9.1 The Supervisor will respond to any incident of Use of Force on a priority



basis.

4.9.1.1 If a supervisor is not on shift, the Communications Center will call for a Supervisor to come in for duty.

4.9.2 If the Supervisor has to be called, once the Supervisor is notified, the Supervisor will make contact with the officer involved or other officers on the scene. The Supervisor will obtain a briefing on the incident, and respond to the scene if necessary or provide instruction to the officer(s) involved. The Supervisor will respond to any incident involving great bodily harm, or death.

4.9.3 The Supervisor will document the officer's statements of actions taken, injuries sustained and medical treatment needed or desired.

4.9.4 The Supervisor will identify and interview witnesses as appropriate.

4.9.5 The Supervisor will document the scene of the incident, or if necessary activate the C.I.T. and follow thru with the Officer Involved Critical Incident procedures.

4.9.6 The Supervisor will make a recommendation of **No further Action** or **Formal Review** to the Assistant Chief of Police.

4.9.7 If a Sergeant is involved in the Use of Force, the Sergeant will contact the Lieutenant and either complete the Use of Force information sheet for review. The Lieutenant will complete the Supervisory Review section of the Use of Force Report. The Lieutenant will make a recommendation of **No Further Action**, or **Formal Review** to the Assistant Chief of Police.

#### 4.10 Internal Review:

4.10.1 The Assistant Chief of Police will review the Use of Force Information sheet and recommendations of the Supervisor.

4.10.2 The Assistant Chief will make an Administrative Finding of **No Further Action** or activate the **Use of Force Review Team** for Administrative Review as soon as possible.

4.10.3 The Use of Force Review Teams access to the scene of the critical incident will be limited until such time as the scene has been processed by the Critical Incident Investigative Team, and the Lead Investigator authorizes access.

4.10.4 The Use of Force Review Team will review all documents, statements

and Information relevant to the incident, or received by the Critical Incident Investigative Team.

- 4.10.5 The Use of Force Review Team will be responsible for the task of evaluating the involved officers actions in accordance with Standard Operating Procedures and training.
- 4.10.6 The Use of Force Review Team will not be conducting any criminal investigation related to the Use of Force incident.
- 4.10.7 The Use of Force Review Team will conduct an investigation of the incident and submit a written report of their findings and conclusions to the Chief of Police. The report shall include:

- 4.10.7.1 A description of how the investigation was conducted.
- 4.10.7.2 A listing of all the facts established by the investigation.
- 4.10.7.3 Any points of disagreement between members.
- 4.10.7.4 Any recommendations of Commendation or Discipline.

- 4.10.8 The Use of Force Review Team will make a finding of:

- 4.10.8.1 Justified and Consistent with Department Standard Operating Procedures.
- 4.10.8.2 Justified, but contrary to Department Standard Operating Procedures with extenuating circumstances present.
- 4.10.8.3 Not Justified, Contrary to Department Standard Operating Procedures.

- 4.10.9 The Assistant Chief of Police will take whatever action deemed appropriate. The Assistant Chief of Police will forward a copy of the report, its findings and any actions to the Police Commission, Chief of Police, the Supervisor, and the involved Officer(s). The Chief of Police at any time may activate the Use of Force Review Team and initiate a Formal Review.

- 4.10.10 If the Chief of Police is actively involved in the Use of Force, an outside agency or an Oneida Police Commissioner may be requested to review the incident.

- 4.11 Wisconsin State Statute 175.47 requires law enforcement agencies to have a written policy regarding investigating Officer Involved Deaths.

- 4.11.1 An investigation into the circumstances of any officer-involved death will be conducted as soon as practical after an incident.
  - 4.11.1.1 A minimum of two investigators will be used to investigate the incident.
  - 4.11.1.2 The investigators must be from an outside agency.
  - 4.11.1.3 One of the outside agency investigators will be designated as the Lead Investigator.
  - 4.11.1.4 Investigators from Oneida Police Department may be assigned to assist in the investigation, but cannot be the lead investigator.
  - 4.11.1.5 If the officer-involved death is traffic related, the use of a traffic accident reconstruction team from an outside agency is required.
- 4.12 A simultaneous internal investigation may be conducted, but may not interfere with the external investigation.
- 4.13 The investigators shall, in an expeditious manner, provide a complete report to the District Attorney of the county in which the officer-involved death occurred.
- 4.14 If the District Attorney determines there is no basis to prosecute the officer(s) involved in the death, the investigators conducting the investigation shall release the report.
- 4.15 **Training:**
  - 4.15.1 A copy of this policy, including all future amendments or revisions shall be distributed individually to all employees.
  - 4.15.2 Sworn personnel shall receive annual training on the appropriate use of deadly and non-deadly force by members pursuant to the terms of this policy, as part of any use of force training and qualification program by certified Use of Force Instructors before being authorized to carry any firearm.

## 5 REFERENCES:

- 5.1 IACP National Law Enforcement Policy Center, Use of Force Concepts and



Issues Paper

- 5.2 Wisconsin Department of Justice, Law Enforcement Standards Board, Defensive and Arrest Tactics, A Training Guide for Law Enforcement Officers
- 5.3 De Pere Police Department, Use of Force Procedure
- 5.4 Wisconsin Law Enforcement Accreditation Group Accreditation Standards, 4<sup>th</sup> Edition, 2013

**6 RECORDS:**

- 6.1 Use of Force Report