



# MILWAUKEE POLICE DEPARTMENT

## STANDARD OPERATING PROCEDURE

### 460 – USE OF FORCE

**GENERAL ORDER:** 2015-17  
**ISSUED:** May 5, 2015

**EFFECTIVE:** May 5, 2015

**REVIEWED/APPROVED BY:**

Captain Regina Howard

**DATE:** April 23, 2015

**ACTION:** Amends General Order 2015-12 (March 27, 2015)

**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

#### 460.00 PURPOSE

The purpose of this procedure is to provide instructions for the proper use of force by police members, provide a fair and impartial review of use of force incidents, determine whether the actions of police members were justified, and to maintain public confidence in the Milwaukee Police Department.

#### 460.05 DISTURBANCE RESOLUTION MODEL (WILEAG 5.1.2, 5.1.4)

It is the policy of the Milwaukee 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:

##### 1. 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
	Officer/subject factors
	Special circumstances
	Level/stage/degree of stabilization:

##### 2. INTERVENTION OPTIONS

MODE	PURPOSE
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

- a. Department authorized and issued less lethal weapons include an approved wooden baton, approved expandable baton, Taser X26 and Taser X-2, and MK-3 (small canister) and MK-4 (large canister) Oleoresin Capsicum.

- 1. Members shall refer to SOP 465 Hand Held Chemical Agent and SOP 467 Electronic Control Device regarding the use of Oleoresin Capsicum and

electronic control devices, which are control alternatives.

2. The approved wooden baton and approved expandable baton are intermediate weapons under protective alternatives. The goal of using a baton is to impede a subject, preventing him or her from continuing resistive, assaultive, or otherwise dangerous behavior.
- b. Department authorized and issued less lethal weapons issued to the Tactical Enforcement Unit include:

REDACTED

REDACTED

3. Members shall refer to the Tactical Enforcement Unit SOI regarding the use of less lethal weapons issued to the Tactical Enforcement Unit.

### 3. 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.**

(WILEAG 5.1.2.2)

#### **460.10 OBJECTIVE REASONABLENESS (WILEAG 5.1.1)**

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.

**460.15 AMOUNT OF FORCE (WILEAG 5.1.2, 5.1.3)**

- A. Force that is intended or likely to cause great bodily harm or death, may only be used:
1. If reasonable under all the circumstances then existing 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;  
(WILEAG 5.1.2.1)
  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 duties.
- 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.

**460.20 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 Code of Conduct.

**460.25 DISCHARGE OF FIREARM INCIDENTS (WILEAG 5.3.3)****A. SHOOTING OF ANIMALS**

Whenever a police member shoots an animal and there is no personal injury or property damage, and all rounds are accounted for, the member's field supervisor shall conduct the use of force investigation and file the *Use of Force Report* in the AIM system, unless directed otherwise by higher authority. The supervisor shall indicate in the subject tab, the type of animal (e.g., dog, deer) and fill out the applicable subject details (e.g., injuries, photos, animal breed).

**B. ACCIDENTAL / UNINTENTIONAL DISCHARGE**

Whenever a police member accidentally or unintentionally discharges a firearm

regardless of personal injury or property damage, the respective Geographic Investigations Division shift commander shall be notified and make the determination who shall be assigned to conduct the use of force investigation and file the *Use of Force Report*.

#### C. INTENTIONAL DISCHARGE

Whenever a police member intentionally discharges a firearm at a person (regardless of whether personal injury or property damage occurs), the member shall promptly notify his/her shift commander of such fact. The shift commander shall promptly notify the respective Geographic Investigations Division shift commander, who shall assign a police lieutenant to conduct the use of force investigation and file the *Use of Force Report*.

#### D. ASSIGNMENT TO ADMINISTRATIVE DUTY

Whenever a police member's actions or use of force results in death or great bodily harm to another, the member shall be placed on administrative duty pending an administrative review.

### **460.30 RESTRICTIONS ON DISCHARGING FIREARMS**

- A. Discharging a firearm at or from a moving vehicle shall only be done in the following circumstances and only when all other reasonable alternatives have been exhausted or deemed unacceptable.
1. A police member shall not discharge a firearm at the driver or occupant(s) of a moving vehicle, or the vehicle itself, unless deadly physical force is being used against the police member or another person by means other than a moving vehicle, or, the moving vehicle poses an imminent and ongoing threat of substantial physical harm to the police member or another person from which there is no reasonable means to escape, and the risks are outweighed by the need to use deadly physical force. Once the threat of the moving vehicle ceases, a police member shall not discharge his or her firearm at the vehicle.
  2. Police members shall not intentionally place themselves to either the front or the rear of a moving vehicle's path. If they find themselves in danger from a moving vehicle, they shall attempt to move out of the way, if possible, rather than discharge their firearm. Firing at a moving vehicle will not, in most circumstances, stop the vehicle. Further, should the driver be wounded or killed, the vehicle may still continue in motion.
  3. A police member shall not discharge a firearm from a moving vehicle unless deadly physical force is being used against the police member or another person by means other than a moving vehicle (e.g., fired upon), and the risks are outweighed by the need to use deadly force.
  4. Police members shall not reach into or place any part of their bodies inside a driver occupied vehicle during a traffic stop or field interview.

**460.35 USE OF FORCE REPORT (PF) (WILEAG 5.2.1, 5.3.1, 5.3.2)**

## A. PURPOSE

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, except for supervisors assigned to the Internal Affairs Division (IAD) who can investigate and complete a *Use of Force Report* for any department member.

## B. WHEN TO FILE REPORT

1. The *Use of Force Report* shall be completed by a supervisory officer when a department member:

- Discharges a firearm except in a training situation or for lawful recreational purposes.
- Uses a baton in the line of duty.
- Discharges an irritant, chemical, or inflammatory agent.
- Deploys an electronic control device, to include non-contact spark display, contact stun and probe deployment. However, non-contact spark display used as a test of functionality does not require the filing of a report.
- Department canine bites a person.
- Forcible blood draws requiring use of force to obtain a sample where a subject claims injury or is injured as a result of police action.
- Uses bodily force that involves focused strikes, diffused strikes, or decentralizations to the ground.
- Uses any type of force in which a person is injured or claims injury, whether or not the injury is immediately visible.  
(WILEAG 5.3.1.1, 5.3.1.2, 5.3.1.3, 5.3.1.4)

**Note:** 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.

**Following the use of lethal or less lethal weapons, or other applications of force by police members, timely medical aid shall be provided. This may include detecting obvious change in condition or behavior, clearing chemical agents from the eyes, providing first aid, evaluation by paramedics or immediate aid by medical professionals.**

2. The supervisor responsible for filing a *Use of Force Report* shall obtain a number in

- the AIM system prior to securing from duty on the date in which the incident occurred. The member(s) and subject(s) names, date, time and location of the incident shall also be entered on the same date the number was generated.
3. 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.
  4. The *Use of Force Report* is to be completed and tracked to the appropriate supervisor/shift commander within 3 days of the incident. A critical incident *Use of Force Report* shall be filed in accordance with section 460.35.
  5. Each subsequent review by the shift commander/commanding officer shall be completed and tracked in an expeditious manner.
  6. Reports shall be thoroughly completed and reviewed within seventeen (17) days following the date on which the incident occurred and then tracked to the Internal Affairs Division.
  7. The Internal Affairs Division shall review reports within fourteen (14) days following receipt from the commanding officer of that work location.

#### C. NOTIFICATION

1. Members using force as described in 460.35(B) shall, as soon as possible, notify their immediate supervisor. The supervisor shall determine if the use of force resulted in injury, great bodily harm, or death to a person.
2. Department members having knowledge of uses of force as described in 460.35(B) shall as soon as possible also notify their immediate supervisor.
3. If the use of force resulted in great bodily harm or death to a person, or if injury was sustained as a result of the member's use of a firearm, the supervisor shall notify his/her shift commander. The shift commander shall then notify the respective Geographic Investigations Division shift commander.
4. Whenever a police member intentionally discharges a firearm at a person (regardless of whether personal injury or property damage occurs), the member shall promptly notify his/her shift commander of such fact. That shift commander shall promptly notify the respective Geographic Investigations Division shift commander.
5. All Other Types of Force

If the use of force did not involve great bodily harm or death to a person, but involved a use of force as otherwise listed above, the responding supervisor shall notify his/her shift commander. The shift commander may consult with the respective Geographic Investigations Division shift commander to determine if the field supervisor or a police lieutenant shall conduct the use of force investigation and

complete the *Use of Force Report*. The respective Geographic Investigations Division shift commander shall assign a police lieutenant to investigate the more serious or complex use of force incidents.

#### D. SPECIFIC DIRECTIONS

Following are specific directions for completing the *Use of Force Report*:

##### 1. General Information

- a. Complete all fields (e.g., incident type, dates, times, address, and status).
- b. The address, the location of the subject at the time the use of force was initiated, must be verified.
- c. Details: Indicate the location and lighting of the use of force. Indicate if video or audio was available and the name of the supervisor who reviewed the video. An electronic (CD/DVD) copy of the video should be forwarded to IAD. Identify all citizen witnesses and include their name, sex, race, birth date, address, and phone number. For department members who are witnesses, complete only the name field using rank and name. For more than three witnesses, include all others in the notes/narrative section.

2. Subject – Identify the person who was the object of the use of force. If several people were the objects of the force in a single incident, enter all subjects under the subject tab and complete all subject details.

3. Employees – Identify all members who used force in the incident by entering them under the employee tab and linking them to the subject(s). Complete all employee details, including use of force details. Members who were present, but did not use force, are to be included in the details-witness fields.

- a. Duty status: All members taking action in their official capacity are on duty. For the purpose of this report, indicate “Off Duty” if the member was off duty immediately prior to the incident.
- b. Number of officer(s): Indicate whether the member was assigned to a one-officer or two-officer unit at the time of the incident.
- c. Type of force used: Indicate the type(s) of force used (e.g., ECD, bodily force, firearm).
- d. Bodily force: Indicate yes or no. Identify through use of DAAT terminology the specific type of force employed, followed by a bodily force description. For example: compliance hold (pressure points, come-along); decentralization; focused strike (hand, forearm, kick); or diffused strike, etc.
- e. Baton: Indicate yes or no, the type, and the number of strikes.

- f. [REDACTED]
- g. [REDACTED]
- h. [REDACTED]
- i. [REDACTED]
- j. [REDACTED]
- k. [REDACTED]

4. Notes: Describe in a detailed narrative the incident and events leading to the use of force. Statements shall be separately obtained and documented from the person the force was used against, from the officer(s) using force, and from all citizen and officer witnesses. An explanation of why there was no statement obtained from any of the aforementioned shall also be included.

#### E. ADDITIONAL REPORTS AND INVESTIGATION

1. A written report from the member who uses force as defined in this order is not required if such member has given a detailed statement to the respective Geographic Investigations Division lieutenant or the field supervisor. However, this does not preclude further statements, or written reports by the member using force when so directed by the Chief of Police.
2. Whenever the use of force by a member is investigated as a personnel investigation, a claim, a notice of injury, or a summons and complaint is filed with the city of Milwaukee naming a member of the department, the member in question shall submit additional reports or provide statements when so directed by a supervisor.

#### F. INTERNAL AFFAIRS DIVISION RESPONSIBILITIES

1. IAD shall be responsible for the retention of all *Use of Force Reports* via the AIM system.
2. The commanding officer of IAD shall provide the *Use of Force Report* to the Police Academy for training purposes.
3. Use of force data will be analyzed / audited on a regular basis by the Internal Affairs Division.

#### G. COMMANDING OFFICER'S REVIEW AND RECOMMENDATION

1. The member's commanding officer shall review the AIM system *Use of Force Report*

and enter a recommendation under "Incident Tracking". When the commanding officer determines the use of force is in compliance, these reports shall be forwarded through "Incident Tracking" and general information "Status" directly to the appropriate supervisor of the Internal Affairs Division.

2. 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 commanding officer shall enter a recommendation under "Incident Tracking". These reports shall be forwarded through "Incident Tracking" and general information "Status" directly to their respective bureau commander. Commanding officers may, at any other time they believe notification to their bureau commander is warranted, forward the *Use of Force Report* to their bureau commander.

#### **460.40 USE OF FORCE COMMITTEE**

- A. A Use of Force Committee shall conduct periodic comprehensive reviews of all use of force issues affecting the department.
- B. The Chief of Police shall appoint police members to the Use of Force Committee, who shall serve a one-year term, subject to extension at the discretion of the Chief of Police.
- C. The department's range master and a supervisor from Office of Management Analysis and Planning shall be standing members of the Use of Force Committee and shall not be subject to the aforementioned term limit.
- D. The Use of Force Committee shall meet quarterly, or as otherwise directed by the Chief of Police, and shall focus on, but not be limited to, the following:
  - Appropriateness of use of force by department members.
  - Proper field supervision and supervisory review of use of force incidents.
  - Application and effectiveness of department policies and procedures concerning the use of force.
  - Proper use and effectiveness of equipment.
  - Effectiveness of use of force training.
  - Identification of training needs and opportunities for department members.
- E. The Use of Force Committee shall prepare a written report of the committee's finding and/or recommendations, and submit such report to the Chief of Police within ten (10) days of the completed quarterly or directed review.

- F. Any recommendations or other matters for consideration by the Use of Force Committee shall be forwarded through the chain of command to the Office of the Chief.



EDWARD A. FLYNN  
CHIEF OF POLICE

EAF:mfk