



# CITY OF MADISON POLICE DEPARTMENT STANDARD OPERATING PROCEDURE



## Use of Force

Eff. Date 01/31/2023

### Purpose

Consistent with our Mission and Core Values, the Madison Police Department (MPD) is committed to protecting and preserving human life. The protection and preservation of all human life – including the lives of individuals being taken into custody – is the MPD’s fundamental objective and the primary duty of all MPD employees. The application of deadly force is a measure of last resort, only to be employed when an officer reasonably believes all other options have been exhausted or would be ineffective.

The MPD is committed to resolving conflicts through the use of communication skills, crisis intervention, and de-escalation tactics, when feasible. Officers may only use that force which is objectively reasonable, and only in furtherance of a legitimate, lawful objective. “Objective reasonableness” is a test based on the totality of the circumstances. *Graham v. Connor*, 490 U.S. 386 (1989). Officers will only apply force in a manner consistent with MPD’s Code of Conduct, SOP, and training.

As used in this standard operating procedure (SOP), deadly force refers to the intentional use of a firearm or other instrument that creates a high probability of death or great bodily harm.

### DE-ESCALATION

Whenever safe and feasible, officers will attempt to utilize de-escalation tactics and techniques in a manner consistent with the De-Escalation SOP.

### DUTY TO INTERVENE

Any officer present and observing another officer using excessive force, engaged in unlawful conduct, or in violation of the Madison Police Department’s Code of Conduct has an affirmative obligation to intervene and to report without regard for chain of command or experience of the personnel involved. An officer shall intervene, only if circumstances are such to safely do so and if the force in question is clearly beyond what is objectively reasonable under the circumstances. Any officer observing the use of excessive force shall notify an uninvolved supervisor as soon as practicable. No officer may be discharged, disciplined, demoted, or otherwise discriminated against because the officer intervened to prevent what they believed was excessive force or reported or is thought to have reported what they believed to be excessive force.

### NON-DEADLY FORCE

#### THE USE OF OLEORESIN CAPSICUM SPRAY (OC SPRAY)

1. Officers may use OC spray when they reasonably believe they are facing active resistance, or its threat, from the subject. OC spray is not to be used against subjects who are offering only passive resistance.
2. Officers shall only direct OC spray in a manner as prescribed by the Chief of Police through MPD training.
3. OC spray shall not be used once an individual is subdued and under control.
4. High-volume OC delivery systems (larger than MK-9) will only be used as outlined below.
5. If practical, the individual on whom OC spray was used should be provided with an opportunity to eliminate the effects of the irritant by washing and flushing the affected areas with water.

#### USE OF SPECIALIZED CHEMICAL IRRITANT DELIVERY SYSTEMS

Specialized chemical irritant delivery systems include the following:

1. High-volume OC delivery systems (larger than MK-9)
2. Projectile-delivered chemical irritants (OC or CS)
3. Hand-thrown chemical irritant canisters (OC or CS)

Specialized chemical irritant delivery systems will only be deployed by officers who have been trained in their use and use will be consistent with departmental training. Only delivery systems and munitions approved by the Chief of Police or designee are authorized for use.

**Unlawful Assembly/Crowd Control** – Specialized chemical irritant delivery systems will only be used in a crowd control context under the following circumstances:

1. Dispersal of unlawful assembly
  - a. The incident commander has declared an unlawful assembly and made the decision to disperse a crowd as outlined in the MPD Demonstrations and Assemblies SOP.
  - b. Appropriate warnings have been provided as outlined in the MPD Demonstrations and Assemblies SOP.
  - c. The crowd has been provided reasonable time to disperse but has not dispersed voluntarily.
  - d. Unlawful behavior resulting in the unlawful assembly declaration is continuing.
  - e. The incident commander determines that the use of specialized chemical irritant delivery systems is reasonably necessary to do one or more of the following:
    - i. Protect officers or others from imminent physical harm;
    - ii. Respond to specific acts of violence or property damage;
    - iii. Disperse the crowd without utilizing more intrusive levels of force.
  - f. Avenues of egress for the crowd exist.
  - g. Officers involved are appropriately equipped and notified that use of specialized chemical irritant delivery systems is imminent.
  - h. The incident commander should also balance the immediate need for the use of specialized chemical irritant delivery systems (the severity and volume of unlawful activity) with the potential for adverse impact of said use (effect on uninvolved persons; visibility/traffic concerns; etc.).
  - i. The incident commander has approved use.
2. Exigent circumstances

In all but the most extreme circumstances, specialized chemical irritant delivery systems should only be deployed to disperse an unlawful assembly with incident commander approval as outlined above. Emergency deployment without incident commander approval is only permitted under the following circumstances:

  - a. Criteria for an unlawful assembly exists.
  - b. An urgent and immediate threat of physical harm to officers or others exists.
  - c. The risk of immediate physical harm is such that approval from the incident commander for deployment cannot be sought without unreasonably risking the safety of officers or others.
  - d. Addressing the immediate threat by use of other force options is not practical or would be ineffective.
  - e. Avenues of egress for the crowd exist.
  - f. Deploying officers will notify the incident commander of the use of specialized chemical irritant delivery systems as soon as practical.

**Tactical operations/barricaded subjects** – When seeking resolution of a barricaded suspect/subject incident, specialized chemical irritant delivery systems may be utilized as follows:

1. The decision has been made that intervention/resolution is required, consistent with the Barricaded Persons Incidents SOP.
2. Attempts to resolve the incident without tactical intervention have failed.
3. Legal authority to enter the area occupied by the suspect/subject exists.

4. The subject/suspect is armed or reasonably believed to be armed, or other circumstances suggest that tactical entry creates a significant risk to officers or others.
5. The incident commander determines that the use of specialized chemical irritant delivery systems is reasonably necessary to attempt to get the suspect/subject to exit (when avenues of egress/exit are available) or to facilitate safer employment of other tactical interventions.
6. Officers involved are appropriately equipped and notified that use of specialized chemical irritant delivery systems is imminent.
7. The incident commander should balance the need for the use of specialized chemical irritant delivery systems with the potential for adverse impact of said use (effect on uninvolved persons; visibility/traffic concerns; etc.).
8. Specialized chemical irritant delivery systems deployed to the interior of a dwelling must be non-pyrotechnic, unless deadly force is justified. This excludes pyrotechnic chemical munitions designed for interior use or delivered in an approved "burn box" or other similar device.
9. Specialized chemical irritant delivery systems should only be deployed by projectile if it is unsafe or impractical to deploy manually. Projectiles should be deployed in a manner to reduce the risk of striking a person.
10. The incident commander has approved use.
11. Specialized chemical irritant delivery systems may be deployed in tactical operation/barricaded subject incident without prior command approval under the following circumstances:
  - a. All of the criteria described above for command approved deployment are present;
  - b. An urgent and immediate threat of physical harm to officers or others exists;
  - c. The risk of immediate physical harm is such that approval from the incident commander for deployment cannot be sought without unreasonably risking the safety of officers or others.

#### **ELECTRONIC CONTROL DEVICE USE**

1. An approved electronic control device (ECD) may only be utilized by officers who have successfully completed training in its use. Deployment and use of the electronic control devices will be in accordance with MPD training and procedure.
2. In cases where a subject is believed to be armed with a dangerous weapon, an ECD is not a substitute for deadly force. In such situations, an officer should not be armed with an ECD without another officer at the scene having the immediate ability to deliver deadly force, unless unique circumstances indicate otherwise. Officers armed with an ECD should continuously monitor and evaluate the ability of other officers present to deliver deadly force.
3. An officer may only display, present, or threaten to use an ECD if the officer reasonably believes that the potential for its authorized use exists. Furthermore, an officer may only display, present, or threaten to use an ECD absent deadly force coverage if they reasonably believe the involved person is not armed with a dangerous weapon.
4. An ECD may only be used under the following circumstances:
  - a. To overcome violent or assaultive behavior or its threat when the officer reasonably believes that the subject poses an articulable threat of harm to an officer or to another person.
  - b. To control persons in order to prevent them from harming themselves or others.
5. Use of an ECD under the following circumstances is prohibited, unless exigent circumstances are present:
  - a. Against handcuffed subjects.
  - b. Against subjects fleeing on foot.
  - c. Against subjects in an elevated position where a fall is likely to result in significant injury.
  - d. Against subjects operating a motor vehicle.
  - e. Against small children.
  - f. Against a subject who is visibly pregnant or known to be pregnant.
  - g. Against elderly subjects.
  - h. From a moving vehicle.
6. The ECD will not be used under the following circumstances:
  - a. For coercion or intimidation.

- b. To escort or prod subjects.
  - c. To awaken unconscious or intoxicated subjects.
  - d. Against subjects who are offering only passive resistance.
7. ECD probes may not be intentionally fired at the face, head, neck, or groin, unless the use of deadly force would be justified.
8. Multiple, extended, or simultaneous ECD applications against a single individual are generally not recommended and should be avoided unless the officer reasonably believes that the need to control the subject or unavailability of alternative force options outweighs the potential risk posed by multiple, extended, or simultaneous applications.
9. Officers shall assess all subjects against whom an ECD has been deployed. The subject shall be evaluated by medical personnel if:
  - a. The subject requests medical treatment.
  - b. The subject displays an adverse reaction to the ECD deployment.
  - c. The subject has been exposed to more than one ECD simultaneously.
  - d. The subject has been exposed to three (3) or more ECD firing cycles, or one continuous firing cycle of 15 seconds or more.
10. If the ECD probes have penetrated the skin in a sensitive area (head, neck, groin, or breast), the subject will be conveyed to an emergency room for probe removal. If the probes are embedded in non-sensitive areas, a trained officer may remove them.
11. Removing the air cartridge to deploy an ECD in the drive-stun mode is not authorized as a primary ECD deployment technique.

#### **REMOTE RESTRAINT DEVICE**

1. Only department-approved remote restraint devices may be used and only by officers that who successfully completed training in their use. Deployment of remote restraint devices will be in accordance with MPD training.
2. Remote restraint devices may be used only under the following circumstances:
  - a. To overcome violent or assaultive behavior or its threat when the officer reasonably believes that the subject poses an articulable threat of harm to an officer or to another person.
  - b. To control a subject in order to prevent them from harming themselves or others.
3. Use of remote restraint devices is prohibited under the following circumstances, unless exigent circumstances are present:
  - a. Against handcuffed subjects.
  - b. Against subjects fleeing on foot.
  - c. Against subjects in an elevated position where a fall is likely to result in significant injury.
  - d. Against subjects operating a motor vehicle.
  - e. Against small children.
  - f. Against a subject who is visibly pregnant or known to be pregnant.
  - g. Against elderly subjects.
  - h. From a moving vehicle.
4. The remote restraint devices may not be intentionally fired at the face, head, neck, or groin unless deadly force is authorized.
5. If the remote restraint devices probes have penetrated the skin in a sensitive area (head, neck, groin, or breast), the subject will be conveyed to an emergency room for probe removal. If the probes are embedded in non-sensitive areas, a trained officer may remove them in accordance with training.
6. When deployed operationally, all cartridge components will be collected and property tagged.

#### **BATON USE**

1. A baton may be used to overcome continued resistance or assaultive/dangerous behavior when an officer reasonably believes a lesser degree of force would be insufficient to control the situation.

2. An officer shall never intentionally strike a person's head with a baton unless such an action is justified under the use of deadly force.
3. Officers shall only use MPD-approved batons and techniques.
4. MPD-approved batons are the only authorized impact weapons. Flashlights, radios, firearms, etc., are not recommended as impact weapons; however, the MPD recognizes that emergency self-defense situations involving other objects and instruments may occur.

## **IMPACT PROJECTILES**

1. Impact projectile weapons may only be utilized by officers who have successfully completed training in their use. Deployment of impact projectiles will be in accordance with MPD training. Only munitions approved by the Chief of Police or designee are authorized for use.
2. In cases where a subject is believed to be armed with a dangerous weapon, an impact projectile weapon is not a substitute for deadly force. Unless circumstances indicate otherwise, an officer should not go armed with an impact projectile weapon unless another officer at the scene has the immediate ability to deliver deadly force. Officers armed with impact projectile weapons should continuously monitor and evaluate the ability of other officers present to deliver deadly force.
3. It is the responsibility of the officer going armed with an impact projectile weapon to ensure that the weapon is loaded with impact projectiles each time the weapon is deployed.
4. Deployment of impact projectiles at non-vital areas of a subject's body is considered non-deadly force. Impact projectiles may only be used under the following circumstances:
  - a. To overcome violent or assaultive behavior or its threat when the officer reasonably believes that the subject poses an articulable threat of harm to an officer or to another person.
  - b. To control persons in order to prevent them from harming themselves or others.Additionally, an officer must reasonably believe that a lesser degree of force would be insufficient to control the situation, or that it is necessary to deliver force at a safe distance from the subject.
5. The intentional deployment of impact projectiles at the face, head, neck, or groin is considered deadly force.
6. All persons taken into custody who have been struck with an impact projectile will be conveyed to an emergency room for medical clearance.
7. A deadly force investigation will commence only if deployment of an impact projectile results in death or great bodily harm.
8. Absent an imminent risk of harm to officers or community members, impact projectiles will not be used in crowd control situations. Before deploying an impact projectile in a crowd environment, the officers shall consider the density of the crowd and the potential for striking a bystander. Impact projectiles will not be used to move or disperse crowds.
9. Impact projectiles may be deployed in other jurisdictions pursuant to a mutual aid request. In the event that an individual struck with an impact projectile is taken into custody by another agency, officers from that agency shall be notified of the need for medical treatment.

## **CANINE USE**

See MPD SOP on Canine Use.

## **USE OF RESTRAINING DEVICES**

1. Officers shall place handcuffs on any individual in custody when the officer reasonably believes the individual may become violent, attempt to escape, or pose a danger to self or others. It is mandatory that all persons who have aggressively resisted or attacked another person be placed in handcuffs.
2. Officers shall apply handcuffs in a manner prescribed by the Chief of Police through MPD training.
3. When handcuffs prove to be insufficient in restraining an individual (e.g., kicking, attempting to flee, etc.), officers may employ the use of additional MPD-approved restraining devices.

4. In an emergency situation when an MPD-approved restraining device is not available, the MPD recognizes that alternative devices may have to be employed. In such situations, approved devices should be substituted as soon as reasonably practicable.
5. Individuals who are placed in a maximum restraint position should be continuously monitored for breathing and circulation.

### **USE OF SPIT HOODS**

1. A spit hood is a temporary protective device, which may be used on persons who display behavior or threatening behavior that pose a hazard of exposure to bodily fluids transmitted by spitting, wiping blood from their face/head, or wiping/blowing nasal discharges at or onto officers.
2. Officers should use only MPD-approved spit hoods. In an emergency situation if a department approved spit hood is not readily available, officers may utilize other breathable items, such as surgical masks, etc.
3. Subjects must be stabilized and restrained (handcuffed) before applying the hood. The subject should be advised, when practical, that a hood is being applied.
4. Officers shall apply the spit hood in accordance with MPD training.
5. Persons wearing the spit hood must be closely monitored and shall not be left unattended.
6. Officers shall document the use of the spit hood including the circumstances requiring its use in their report of the incident. A copy of the report shall be routed to the MPD Use of Force Coordinator.

### **USE OF FORCE REPORTING REQUIRED**

Any officer who uses physical force, or any of the following enumerated weapons, devices, or tactics against another person, shall complete an original or supplementary report on the incident during which the force was used:

1. Firearms (including pointing a firearm at an individual)
2. Baton or Less Lethal Impact Munitions
3. Chemical Agents, OC spray, or Electronic Control Devices
4. Handcuffs or other Restraining Devices, including hobble restraints, spit hoods, remote restraint devices, etc.
5. Physical force, including focused and diffused strikes, pressure points, escort holds, decentralization techniques, holding or grabbing of subjects, etc.

The report shall specifically note the totality of the circumstances necessitating force and the manner of force employed. A copy of the report should be routed to the MPD Use of Force Coordinator.

### **AFTERCARE**

Once the scene is safe and as soon as practical, an officer shall provide appropriate medical care consistent with their training to any individual who has visible injuries, who complains of being injured, or who requests medical attention. Individuals taken into custody should be positioned in a way so that their breathing is not obstructed.

Any time recordable force (takedowns, active countermeasures, OC spray, impact weapons, hobble restraints, less lethal projectiles, ECD deployments, K9 apprehensions) is used, officers will affirmatively ask the subject against whom the force has been used if the subject wants medical treatment.

### **USE OF FORCE REVIEW AND INVESTIGATIONS**

All instances of the use of non-deadly force shall be reviewed for compliance with MPD procedure by an appropriate supervisor. Any time a commissioned employee uses recordable force during an incident, the force must be documented in the MPD use of force database.

In cases where a complaint is filed pertaining to an officer's use of non-deadly force, the Professional Standards and Internal Affairs Unit (PSIA) has the primary responsibility for coordinating the internal investigation to ensure compliance with the MPD Use of Force SOP.

If necessary, as part of the District's or PSIA's internal investigation, members from the Training Team who are certified WI Defensive and Arrest Tactics (DAAT) instructors can be consulted to determine findings and forward their conclusions to the appropriate source requesting assistance.

## **DEADLY FORCE**

The use of deadly force is only authorized when, under any of the following circumstances, an officer reasonably believes a lesser degree of force would be insufficient:

1. To protect another person or persons from what is reasonably believed to be an imminent threat of death or great bodily harm.
2. To protect the officer from what is reasonably believed to be an imminent threat of death or great bodily harm.
3. To prevent the escape of a fleeing subject when all of the following are present:
  - a. The officer has probable cause to believe that the person has committed or has attempted to commit a felony involving the use or threatened use of deadly force.
  - b. The officer reasonably believes the subject presents a continuing imminent risk of great bodily harm or death to the officer or another subject if not immediately apprehended.
4. To protect the officer or another from an animal which an officer reasonably believes may cause great bodily harm if not immediately controlled, or to end the suffering of an animal gravely injured or diseased after considering public view, safety, and other reasonable dispositions.

As used in this SOP, the word "imminent" means "about to happen." An imminent threat is an immediate threat.

## **VERBAL WARNING**

Before using deadly force, officers shall, if practicable and feasible, identify themselves and order the subject to desist from unlawful activity.

## **DEADLY FORCE IS NEVER AUTHORIZED**

Deadly force is never authorized:

1. As a warning shot.
2. From a moving vehicle, unless deadly force is justified and the consequences of not acting to stop the threat outweigh the risk created by the use of deadly force.
3. At a moving vehicle unless:
  - a. A person in the vehicle is threatening the officer or another person with deadly force by means other than the vehicle; or
  - b. the vehicle is operated in a manner that reasonably appears deliberately intended to strike an officer or another person and all other reasonable means of defense have been exhausted (or are not present or practical), which includes moving out of the path of the vehicle. To prevent the threat of being struck by a vehicle, officers should avoid intentionally putting themselves in the path of any moving vehicle, and when such positioning is unavoidable, move out of the vehicle's path as soon as practical.
4. When its use unreasonably risks the lives of innocent bystanders.

## PROHIBITED TECHNIQUES

The following techniques create a substantial likelihood of death or great bodily harm and are prohibited (except if deadly force is authorized and all other reasonable means of defense have been exhausted or are not present or practical):

1. Intentional punching or striking of the throat/trachea.
2. Intentional continued restriction of the carotid neck arteries.
3. Intentional application of pressure to the windpipe or throat with an arm or other object.

## AFTERCARE

Once the scene is safe and as soon as practical, an officer shall provide appropriate medical care consistent with the officer's training to any individual who has visible injuries, complains of being injured, or requests medical attention.

## INVESTIGATION OF THE USE OF DEADLY FORCE

See the Madison Police Department "Officer Involved Critical Incidents" Standard Operating Procedure.

Original SOP: 03/23/2015

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(Reviewed Only: 12/22/2016)

(Deadly Force, Use of and Non-Deadly Force Use of SOPs combined into Use of Force SOP: 06/21/2022)