



MILWAUKEE POLICE DEPARTMENT

STANDARD OPERATING PROCEDURE

460 – USE OF FORCE

GENERAL ORDER: 2021-XX
ISSUED: August 4, 2021

EFFECTIVE: August 4, 2021

REVIEWED/APPROVED BY:
Inspector Nicole Waldner
DATE: May 26, 2021

ACTION: Amends General Order 2020-23 (December 11, 2020)

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 POLICY

It is the policy of the Milwaukee Police Department that members hold the highest regard for the sanctity of human life, dignity, and liberty of all persons. It is the policy of the department to accomplish the department's mission with the cooperation of the public and with minimal reliance upon the use of physical force **consistent with the MPD's purpose of serving and protecting all people, including those suspected of crimes.** The Milwaukee Police Department is committed to resolving conflict through the use of professional communication skills, crisis intervention, and de-escalation tactics, when feasible. Members shall only use the force necessary to perform their duties and in accordance with department policy. **Unlawful or excessive force is expressly prohibited.**

460.10 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:

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

B. 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

1. Department authorized and issued less lethal weapons include an approved wooden baton, approved expandable baton, TASER™ X2 ECD, and MK-3 (small canister) and MK-4 (large canister) Oleoresin Capsicum.
 - a. 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.
 - b. 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.
2. Department authorized and issued less lethal weapons issued to the Tactical Enforcement Unit include:

REDACTED

REDACTED

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

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.

(WILEAG 5.1.2.2)

460.15 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.

460.20 DE-ESCALATION

- A. De-escalation tactics and techniques are actions used by members, when safe and without compromising law enforcement priorities, that seek to minimize the likelihood of the need to use force during an incident and increase the likelihood of voluntary compliance.
- B. Whenever reasonable according to department policies and training, members shall use de-escalation tactics to gain voluntary compliance and seek to avoid or minimize use of physical force.
- C. When safe and feasible under the totality of circumstances members shall:
 - 1. Attempt to slow down or stabilize the situation so that more time, options, and resources are available for incident resolution. Mitigate the immediacy of threat to give more time to call additional officers or specialty units and to use other resources.
 - 2. Consider whether a subject's lack of compliance is a deliberate attempt to resist or an inability to comply based on factors including, but not limited to:
 - a. Medical conditions;
 - b. Mental impairment;
 - c. Developmental disability;
 - d. Physical limitation;
 - e. Language barrier;
 - f. Drug interaction;
 - g. Behavioral crisis.

Note: A member's awareness of these possibilities, when time and circumstances reasonably permit, shall then be balanced against the facts of the incident facing the member when deciding which tactical options are the most appropriate to bring the situation to a safe resolution.

D. De-escalation tactics include, but are not limited to:

1. Placing barriers between an uncooperative subject and a member.
2. Attempting to isolate and contain the subject.
3. Moving from a position that exposes members to potential threats to a safer position.
4. Reducing exposure to a potential threat using distance, cover or concealment.
5. Communication from a safe position intended to gain the subject's compliance, using verbal persuasion, advisements or warnings.
6. Avoidance of physical confrontation, unless immediately necessary (e.g., to protect someone or stop dangerous behavior).
7. Using verbal techniques to calm an agitated subject and promote rational decision making.
8. Calling additional resources to assist including additional officers or the Crisis Assessment Response Team (CART).
9. Other non-physical tactics that attempt to achieve police objectives by gaining compliance by non-physical means.

460.25 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 as a last resort:
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 for the safety of others or for his or her own personal safety. Members shall not point a firearm at or in the direction of a person unless there is a reasonable perception of a substantial risk that the situation may escalate to justify deadly force.
- C. The firing of warning shots is prohibited. When feasible, **members should identify themselves as an MPD officer and give** a verbal warning prior to the use of force likely to cause great bodily harm or death.
- D. Police members shall not discharge their firearm at a person who presents a danger only to him or herself (e.g., attempted suicide).
- E. Without exception, police members shall not engage in chokeholds, strangleholds, lateral vascular neck restraints, carotid restraints, or any other tactic that restricts oxygen or blood flow to the head or neck.
- F. Members shall not utilize Oleoresin Capsicum (OC) on peaceful demonstrations. A peaceful demonstration is defined as a gathering of people expressing a position in a cooperative manner without violation of the law.

460.30 DUTY TO INTERVENE

Any officer who personally observes another officer using force, which the observing officer, **based on their training, believes or knows** 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 **and of this SOP. Any supervisor to whom such intervention or failure to intervene is reported must comply with the reporting and investigation requirements of SOP 450.15.**

460.35 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 (ON-DUTY)

Whenever a police member accidentally or unintentionally discharges a firearm regardless of personal injury or property damage, the Criminal Investigation Bureau 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 Criminal Investigation Bureau 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.

E. ACCIDENTAL / UNINTENTIONAL DISCHARGE (OFF-DUTY)

1. Whenever a police member accidentally or unintentionally discharges a department issued or personal firearm regardless of personal injury or property damage while off-duty, he/she shall notify their work location's on-duty shift commander who shall send a supervisor to conduct the use of force investigation and file the *Use of Force Report*.
 - a. If the member is assigned to a work location where there is not an on-duty shift commander (e.g., Training Division, Court Administration Division) he/she shall contact the on-duty shift commander of the district where the discharge occurred or the on-duty shift commander of the nearest district if the discharge occurred outside of the City of Milwaukee.
 - b. If the discharge occurred outside of the City of Milwaukee, the on-duty shift commander shall contact the commanding officer of the member who discharged their firearm to determine if a supervisor will be sent to investigate the discharge. If the member's commanding officer is unavailable (e.g., nights, weekends, city holidays), the on-duty shift commander shall contact the night watch commander.
2. If the on-duty shift commander is advised not to send a supervisor to investigate the discharge, he/she shall file a *Department Memorandum* documenting the incident as relayed by the off-duty member making the notification. The report shall be forwarded through the chain of command to the Internal Affairs Division.

460.40 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. This is not intended to restrict an officer's right to discharge their firearm at the operator of a vehicle when it is reasonably perceived that the vehicle is being used as a weapon against the officer or others, and 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.
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.
 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.

460.45 RENDERING FIRST AID FOLLOWING USE OF FORCE

- A. If a subject states he or she cannot breathe, states he or she is having chest pains, requests medical attention or if the officer observes the subject in medical distress when utilizing force, the officer shall immediately evaluate the situation and determine if an alternative restraint or technique can be safely and effectively utilized that will allow the person to breathe properly without compromising officer safety. The member shall then request medical aid as soon as reasonably possible.
- B. Once the person has been controlled and placed in restraints on the ground, the police member shall roll the person onto their side or into a sitting position as soon as possible. This procedure is performed to prevent injury to the person and to facilitate the member's monitoring of the person's physical condition.
- C. Following the use of lethal or less lethal weapons, or other applications of force, members shall render or request medical aid, if needed or if requested by anyone, as soon as reasonably possible. This may include detecting obvious change in condition or behavior, clearing chemical agents from the eyes, providing first aid, evaluation by emergency medical services or immediate aid by medical professionals. Members shall request medical aid if a person is exposed to Orthochlorobenzalmalononitrile (CS) or Oleoresin Capsicum (OC) as soon as reasonably possible.

460.50 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 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:
 - a. Discharges a firearm except in a training situation or for lawful recreational purposes.
 - b. Points a firearm at a person.
 - c. Uses a baton to strike a subject or animal in the line of duty.
 - d. Discharges an irritant, chemical, or inflammatory agent.
 - e. Deploys an electronic control device to include contact stun and probe deployment.
 - f. Department canine bites a person.

Note: This section does not apply when a department canine bites a person during a training session. If the department canine bites a person during a training session, the bite shall be documented on a *Department Memorandum* (form PM-9E) and forwarded through the chain of command to the commanding officer of the Specialized Patrol Division.

- g. 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.
- h. Uses bodily force that involves focused strikes, diffused strikes, or decentralizations to the ground.
- i. 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)
- j. **Draws or displays a firearm (including a shotgun or rifle) to effect an arrest or seizure of a person.**

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.

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 460.50.
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 thirty (30) 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 460.50(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 460.50(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 Criminal Investigation Bureau 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 Criminal Investigation Bureau 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 Criminal Investigation Bureau 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 Criminal Investigation Bureau 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
 1. Indicate the location and lighting of the use of force.
 2. Indicate if video or audio was available and the name of the supervisor who reviewed the video. Supervisors shall attempt to obtain and review all video and/or audio recordings that may have captured the incident including video/audio from body worn cameras, mobile digital video / audio recording equipment, surveillance cameras, pole cameras, video obtained from citizens, etc. An electronic (CD/DVD) copy of any recovered video shall be forwarded to the Internal Affairs Division.
 3. 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. Irritant/chemical/inflammatory: Indicate yes or no, the type of substance used: CS gas, or OC, including the amount discharged and the distance discharged.
- g. Firearm: Indicate yes or no, the specific type of firearm used to include the make, model and serial number. Include the number of shots fired.
- h. Less lethal type: REDACTED
- i. ECD: Indicate yes or no, number of cycles, and the serial number.
- j. TEU related: Indicate yes or no.
- k. Forced blood draw: Indicate yes or no. Include the description of the force used. See SOP 120.55.

4. Notes

- a. Describe in a detailed narrative the incident and events leading to the use of force.
- b. 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.
- c. If the use of force resulted from a field interview, traffic stop, or other proactive activity, describe in detail the reasonable suspicion for the initial stop, pat-down, and/or search.
- d. Describe in detail any events captured by video and audio recordings (e.g., body worn cameras, mobile digital video / audio recording equipment, pole cameras, private surveillance cameras, video obtained from citizens). Supervisors shall include a time stamp(s) in their report indicating the specific times of significant events captured by video.

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 Criminal Investigation Bureau 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. The Internal Affairs Division shall be responsible for the retention of all *Use of Force Reports* via the AIM system.
2. The commanding officer of Internal Affairs Division 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.

460.55 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 **at least** quarterly, or as otherwise directed by the Chief of Police, and shall focus on, but not be limited to, the following:

1. Appropriateness of use of force by department members.
 2. Proper field supervision and supervisory review of use of force incidents.
 3. Application and effectiveness of department policies and procedures concerning the use of force, **including whether there has been a violation of SOP 001.05.**
 4. Proper use and effectiveness of equipment.
 5. Effectiveness of use of force training.
 6. 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. The Chief of Police, or designee, shall submit a copy of this report to the Fire and Police Commission executive director within twenty (20) days of the completed quarterly or directed review. **This report may be obtained through procedures established under Wisconsin Statutes related to public records.**
- F. The Chief of Police, or designee, shall send correspondence to the Fire and Police Commission executive director if the Use of Force Committee quarterly meeting was not held.
- G. 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.

460.60 FBI NATIONAL USE OF FORCE DATA COLLECTION

- A. The Federal Bureau of Investigation (FBI) collects national data for any incident where force is used by an officer that results in:
- The death of a person;
 - The serious bodily injury of a person; or
 - An officer discharges their firearm at or in the direction of a person.
- B. The commanding officer of the Internal Affairs Division shall ensure that any use of force that meets the criteria in subsection A is reported on a monthly basis via the *UFAD Form* in TraCS.



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