

VILLAGE OF WILD ROSE POLICE DEPARTMENT USE OF DEADLY FORCE POLICY

PURPOSE: The purpose of this Policy & Procedure is to provide guidelines for the use of deadly force when officers of the Wild Rose Police Department are involved in incidents where death or great bodily harm has resulted from an officer's actions.

This Policy & Procedure consists of the following numbered sections:

I. INTRODUCTION

II. DEFINITIONS

III. POLICY

IV. PROCEDURES

I. INTRODUCTION

Circumstances exist within the normal duty functions of police officers which call for the use of force.

Difficulties have arisen, however, because no easily understandable policy and procedure as to the use of force or the threat of force by Department members is available.

The use of deadly force particularly deserves a serious consideration, and calls for the development of practical guidelines for the officer on the street. In no way is this policy intended to limit the officer's ability to use deadly force when and if the proper circumstances exist. The officer is expected to retain the right to defend himself/herself or others with as much force as is necessary to affect such defense.

This Policy & Procedure is intended to protect the officer from possible criminal or civil charges stemming from misinterpretation of the law covering the use of deadly force.

While no general policy or procedure can hope to cover each and every specific situation the officer may be required to participate in, this policy will cover the legal points inherent in every situation to the extent that the officer can make valid and immediate decisions on the street.

II. DEFINITIONS

A. **DEADLY FORCE:** Deadly force is the intentional use of a firearm or other instrument that creates a high probability of death or great bodily harm.

1. The firing of a firearm in the direction of the person to be arrested, even though no intent exists to kill.

2. The firing of a firearm at a vehicle in which the person to be arrested is riding.
 3. Any force applied in any manner by any means, by any member of the Department that could reasonably be expected to cause death.
 4. Besides firearms, many items such as flashlights, batons (stick or collapsible) and other instruments are considered lethal weapons when they are used in a lethal manner. For example, the use of a nightstick to subdue a subject by striking him/her on the arm is a nonlethal use of that instrument. However, striking on the head or repeated blows to the internal organs could be construed as deadly force.
- B. DEADLY FORCE JUSTIFICATION. Any behavior which has caused or imminently threatens to cause death or great bodily harm to you or another person or persons.
- C. IMMINENT THREAT: An impending likelihood of trouble; in this context, "Imminent Threat" of death or great bodily harm to you or another is a justification for the use of deadly force.

III. POLICY

- A. It is the policy of the Wild Rose Police Department that deadly force should be used when a subject has caused or imminently threatens to cause great bodily harm to the officer, another person, or society at large.

For example, an officer need not hesitate to employ deadly force against an individual who is shooting at them. The officer should, of course, use his/her weapon in such a manner as not to needlessly endanger the lives of innocent bystanders or fellow officers, but he/she is not required to seek alternatives to deadly force if he/she is under an imminent attack on his/her life or they are defending the lives of others.

IV. PROCEDURE

- A. Use of Deadly Force – Generally:
1. Recognizing the legal and moral obligation to use force judiciously and wisely; it is the policy of this Department that deadly force should never be resorted to until every other reasonable means of apprehension or defense have been exhausted (greater danger theory is always applicable).
 2. Only the minimum amount of force reasonably necessary to affect an arrest or control a person should be used by members of the Department. The force used by an officer should only be that which is required to establish control of an offender.

3. This directive is consistent both with Wisconsin law and U.S. Supreme Court decision on police use of deadly force.

B. Deadly force may be used under the following circumstances:

1. In the defense of oneself when there is reasonable cause to believe that one is in imminent danger of death or great bodily harm.
2. In the defense of another person or persons whom the officer reasonably believes is being unlawfully attacked and is in imminent danger of death or great bodily harm.
3. Deadly force may be used, after all other reasonable means of capture are precluded, to effect the arrest or prevent the escape of a suspect whom the officer reasonably believes has committed or attempted to commit a felony *involving the use or threatened use of deadly force*, and the officer reasonably believes the suspect cannot be apprehended later without the use of deadly force; and provided further, that the lives of innocent persons may be endangered if the officer does not use deadly force.

This Section allows the officer to use deadly force when the suspect is engaged in such felonies involving violence (armed robbery, murder, etc.). Non-violent felonies such as embezzlement or burglary do not in themselves justify the use of deadly force.

4. Deadly force should never be used in any misdemeanor case, unless the criteria in Subsections (a) or (b) above is present, or when the officer is in doubt as to whether or not deadly force is justified, or when its use would unreasonably endanger innocent bystanders.
5. When a misdemeanant intentionally flees arrest or escapes from custody, pursuant to a legal arrest for a misdemeanor, or after having been lawfully charged with or convicted of a misdemeanor, such act of fleeing does not constitute a felony permitting the officer to resort to the use of deadly force if other reasonable means have failed to prevent the escape.

The value of human life is considered to supersede the importance of immediate apprehension.

6. Except when exigent circumstances exist where an arrest may be facilitated, an officer should not threaten to use deadly force unless he/she reasonably believes that he/she would be justified under this policy to, in fact, use such force.
7. Weapons should not be discharged from a moving vehicle unless absolutely necessary to protect the life of the officer or a third person and when the use of deadly force

would not unreasonably endanger the lives of others.

8. An officer may draw his/her sidearm when he/she has reasonable grounds to suspect that the use of deadly force may be necessary. The officer need not be under attack, but only reasonably believe that the situation may lead to circumstances outlined above.
9. This section is intended to allow the officer to have his/her weapon ready in such circumstances as answering a silent alarm, conducting a building search, or confronting a suspect whom there is reasonable grounds to believe may be armed, or when the officer reasonably believes circumstances indicate a substantial risk of death or great bodily harm to his/her person or another.
10. There is no legal distinction in the use of deadly force against juveniles as compared to adults.
11. Deadly force may be used to protect oneself or another from a dangerous animal which the officer reasonably believes may cause great bodily harm if not immediately controlled.
12. Deadly force may be used to euthanize a dangerous or seriously diseased animal, or one that is so seriously injured that humanity dictates its removal from suffering, but only after consideration is given to the public's safety and whether other dispositions may be feasible.
13. Deadly force may be used when department-mandated firearms practice and qualification on an approved range is mandatory.
14. Officers should not fire into buildings or through doors, windows, or other forms of concealment or cover unless the officer is certain of the suspect's presence that is to be lawfully fired upon.
15. Officers should not discharge a firearm from, or at a moving vehicle unless the officer reasonably believes that the occupant(s) of the vehicle have caused or imminently threaten to cause death or great bodily harm to the officer or others.
16. Officers shall not fire warning shots under any circumstances.
17. Before using deadly force, officers should, if reasonably possible, identify themselves, order the suspect to desist from the unlawful activity, and threaten to use deadly force if the lawful order is not obeyed.

18. Officers should not use deadly force when its use unreasonably risks the lives of innocent bystanders unless the consequence of not stopping the threat would be worse than the possibility of hitting an innocent person. This is referred to as the Greater Danger Exception.
19. The intentional punching, striking, or grabbing the throat (trachea) or blocking, or restricting the carotid neck arteries creates a substantial likelihood of death or great bodily harm and, therefore, should be used only if/when deadly force is justified.
20. Officers are trained in the proper use of firearms and are required to maintain State regulated standards of shooting proficiency and accuracy.

C. Reports on Use of Deadly Force.

1. In all circumstances, when a firearm is discharged by an officer while on duty, the officer in question shall report such facts promptly to the Chief of Police, and/or his/her designee, plus document on a Use of Force Report. However, officers need only to complete a log and make a notation in the incident log when deadly force is used to dispatch an animal.
2. Officers involved in the use of deadly force shall not discuss the matter with anyone, including other officers. The officers will be debriefed by the Chief of Police and/or his/her designee.

D. Self-Defense.

1. Before deadly force is authorized in self-defense, several qualifications should be observed:
 - a) Retaliation or revenge is not an excuse for killing in self-defense.
 - b) The danger or harm is a present one.
 - c) There is no justification to use deadly force after the danger has passed.
 - d) The force threatened is unlawful.
 - e) The officer believes that the use of deadly force was the only means available to avert death or great bodily harm.
 - f) The degree of force used by the officer was believed to be necessary under the circumstances.

- g) The officer's belief in each of the foregoing aspects was reasonable even if mistaken.
2. If oleoresin capsicum (OC) is used (or threatened) against an officer, an officer's response to being threatened or sprayed with OC may include deadly force because the officer will likely be completely vulnerable if successfully attacked.
- a) In deciding whether an officer is threatened with OC, an officer should consider the following factors:
 - (1) Distance – Is the officer close enough to be sufficiently exposed to the OC to incapacitate him/her?
 - (2) Special Circumstances at the scene-including, but not limited to:
 - (a) The number of suspects present.
 - (b) The number of officers present.
 - (c) Location of the incident: Known high crime and/or violent area.
 - (d) Time of day/lighting conditions: Can the officer clearly see the offender and his/her movements?
 - (e) Type of crowd-hostile? Pro-police?
 - (f) Weather conditions.
 - (3) Officer/Subject Factors – The subject's history, if known: Prone to violence? (known gang member, etc.). Size, age, strength and skill level of all participants involved.
 - (4) Nature of initial contact-was the original offense serious?
 - (5) Special knowledge or special circumstances-injury or exhaustion, proximity of subject to officer's firearm, ground fighting, disability, etc.
3. If a Conducted Electrical Weapon (CEW) is deployed (or threatened) against an officer, an officer's response to being threatened with a CEW deployment may include deadly force because the officer will likely be completely vulnerable if successfully attacked.

- a) In deciding whether an officer is threatened with a C.E.W., an officer should consider the following factors:
 - (1) Distance – Is the officer close enough to be sufficiently exposed to the C. E.W. to incapacitate him/her?
 - (2) Special Circumstances at the Scene-including, but not limited to:
 - (a) The number of suspects present.
 - (b) The number of officers present.
 - (c) Location of the incident: Known high crime and/or violent area.
 - (d) Time of day/lighting conditions: Can the officer clearly see the offender and his/her movements?
 - (e) Type of crowd-hostile? Pro-police?
 - (f) Officer physical position to suspect (disadvantaged?)
 - (3) Officer/Subject Factors – The subject's history, if known: Prone to violence? (known gang member, etc.). Size, age, gender and skill level of all participants involved.
 - (4) Nature of initial contact-was the original offense serious?
 - (5) Special knowledge or special circumstances-injury or exhaustion, proximity of subject to officer's firearm, ground fighting, disability, etc.

E. Personnel mandated to receive and understand this Policy & Procedure.

- 1. Prior to being authorized to carry a firearm, all officers will receive a copy of this Policy & Procedure and demonstrate their understanding of the procedures within the Policy & Procedure.

Approved:

Date:



Nathan Klapoetke, Chief of Police

07-03-2021

This Policy & Procedure cancels and supersedes any and all previous written directives relative to the subject matter contained therein.