

GENERAL ORDER

JANESVILLE POLICE DEPARTMENT

SUBJECT: **USE OF DEADLY FORCE**

SCOPE: All Sworn Personnel

DISTRIBUTION: General Orders Manual, and
All Sworn Personnel

REFERENCE: WI State Statutes 66.0511(2), 939.45,
939.48
DAAT Disturbance Resolution Model

NUMBER: 2.4

ISSUED: 3/12/04

EFFECTIVE: 3/16/00

RESCINDS

AMENDS 2.4, 9/5/03

WILEAG STANDARDS: 1.2.2, 1.3.1,
1.3.2, 1.3.3, 1.3.5, 1.3.6, 1.3.7,
1.3.8, 1.3.11, 22.2.1, 22.3.1, 41.2.2

INDEX AS: Deadly Force
Deadly Force Incident Procedures
Firearms
Officer Involved Shooting Incident
Post Traumatic Stress Disorder
Ramming with Police Vehicles
Weapons Pre-Authorization

PURPOSE: The purpose of this Order is to establish policies and procedures regarding the use of deadly force and to identify the responsibilities of officers when using deadly force. This Order will also establish guidelines for post deadly force incident procedures that result in death or serious bodily injury in order to minimize the chances that involved personnel will develop or suffer from post traumatic stress disorder.

This Order consists of the following numbered sections:

- I. POLICY
- II. DEFINITIONS
- III. USE OF DEADLY FORCE
- IV. USE OF FIREARMS
- V. USE OF VEHICLES – BLOCKADES, BARRIERS, AND RAMMING
- VI. DEADLY FORCE INCIDENT PROCEDURES
- VII. REPORTING THE USE OF DEADLY FORCE
- VIII. POST TRAUMATIC STRESS DISORDER
- IX. LEGAL SERVICES

I. POLICY

- A. Recognizing the legal and moral obligation to use force wisely and judiciously, it is the policy of the Janesville Police Department that deadly force shall never be resorted to until every other reasonable means of apprehension or defense has been exhausted.

II. DEFINITIONS

- A. **DEADLY FORCE:** The intentional use of a firearm or other instrument, the use of which would result in a high probability of death.
- B. **GREATER DANGER EXCEPTION:** An officer may shoot without target isolation if the consequence of not stopping the threat would be worse than the possibility of hitting an innocent person.
- C. **POST TRAUMATIC STRESS DISORDER:** An anxiety disorder that can result from exposure to short-term severe stress, or the long-term buildup of repetitive and prolonged milder stress.
- D. **TARGET ISOLATION:** The process in which the officer can shoot at the threat without danger of harming innocent people.
- E. **WEAPONS:** Department issued or approved weapons, including firearms, flashlights, police batons, vehicles, or any other instrument which could be considered lethal when used in a lethal manner.

III. USE OF DEADLY FORCE

- A. Parameters for use of deadly force:
 - 1. Deadly force may be used as a last resort in the defense of oneself, when there is reasonable cause to believe that the officer is in imminent danger of death or serious bodily harm.
 - 2. Deadly force may be used as a last resort in the defense of another person or persons whom the officer has reasonable cause to believe is being unlawfully attacked and in imminent danger of death or great bodily harm.
 - 3. Deadly force may be used, after all other reasonable means of capture are exhausted, to affect the arrest or prevent the escape of a suspect whom the officer has reasonable cause to believe has committed, or has 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. This paragraph allows the officer to use deadly force when the suspect is engaged in such felonies involving violence. Non-violent felonies such as embezzlement or burglary do not in themselves justify the use of deadly force.

- B. Unless justified in other sections of this Order, deadly force shall not be used in a misdemeanor case.
- C. An officer shall never threaten to use deadly force unless the use of such force would be justified under this Order.
- D. Before using deadly force, the officer shall, if possible, identify himself/herself as a police officer, order the suspect to desist from the unlawful activity and threaten to use deadly force if the order is not obeyed.
- E. The reasonableness of the force used in any incident will be judged in the knowledge of the circumstances as they were known or appeared to the officer at the time he/she acted, and not as they appear from a subsequent, more thorough knowledge of the circumstances.

IV. USE OF FIREARMS

- A. Sworn personnel may carry their approved firearm within the provisions of State law. Officers must also follow the requirements set forth in General Order 2.5, Firearms and Ammunition.
- B. Officers may display department authorized firearms when they have reasonable grounds to suspect that the use of deadly force may be necessary. Officers need not be under attack, but only be reasonably apprehensive that the situation may lead to circumstances outlined in the Use of Deadly Force section of this Order. Department authorized firearms should not be displayed under any other circumstances.
 - 1. Whenever the officer uses the issued firearm to protect himself/herself or another, and if the weapon has a safety mechanism, the "safety" shall be kept in the "safe" position until such time as the officer is entitled to discharge the firearm.
 - 2. This section is intended to allow the officer to have the firearm ready in circumstances such as answering a silent alarm or confronting a suspect whom there is reasonable grounds to believe may be armed, or any other situation which may cause the officer to have reasonable fear for his/her life.
- C. Whenever safety permits, officers shall identify themselves and state their intent to shoot prior to using a firearm. Officers may fire their weapons to stop an assailant from completing a potentially deadly act. Officers shall shoot in such a manner to stop the threat and to minimize danger to innocent bystanders.
- D. Firearms shall not be discharged when it appears likely that an innocent person may be injured.
 - 1. In a dire circumstance, the greater danger exception may be considered when determining target isolation.
- E. A warning shot shall not be fired under any circumstances.

- F. Firearms shall not be fired from a moving vehicle.
- G. An officer may also discharge a firearm under the following circumstances:
 - 1. During range practice or competitive sporting events.
 - 2. To destroy an animal that represents a threat to public safety, or as a humanitarian measure where the animal is seriously injured as outlined in the Animal Procedures General Order.
- H. Officers shall receive annual training on the department General Orders pertaining to use of force.

V. USE OF VEHICLES - BLOCKADES, BARRIERS AND RAMMING

- A. The following may only be employed by a police officer if, and only if, the use of deadly force would be authorized:
 - 1. The use of blockades or roadblocks constructed by placing obstacles (including but not limited to police vehicles) of such density and mass upon a roadway that any vehicle colliding with them would be so severely decelerated that its occupants would likely suffer death or serious injury.
 - 2. Ramming of a suspect/evader vehicle by a police vehicle.
 - 3. Forcing a suspect/evader off the roadway or highway and/or into another object by the use of a police vehicle.

VI. DEADLY FORCE INCIDENT PROCEDURES

- A. The following procedures shall be followed when an officer is involved in an incident where deadly force causes death or serious bodily injury either to the officer or another person. The procedures shall also be followed when an officer is responsible for the discharge of any firearm (other than on an approved firearms range or for legal hunting purposes), or the use of deadly force by any means.
 - 1. The officer shall:
 - a) Check the subject for injuries and administer first aid if required.
 - b) Summon appropriate medical aid if necessary.
 - c) Maintain close personal observation and physical contact with the subject while continuing to provide first aid until relieved by appropriate medical personnel.
 - 2. A supervisor shall be dispatched to the scene of the incident, and shall assume primary responsibility in caring for involved personnel.

3. During any period where the involved officer is required to remain on the scene, but has no immediate duties to fulfill, the officer should be taken to a quiet area away from the scene of the incident. A peer counselor or other supportive friend or officer should remain with the officer, but should be advised not to discuss details of the incident.
4. The supervisor should arrange for the officer directly involved in the incident to leave the scene as soon as possible, and be taken to a quiet, secure setting.
5. Where possible, the supervisor shall briefly meet with the involved officer.
 - a) No caffeine or other stimulants or depressants should be given to the officer unless administered by medical personnel.
 - b) Only minimal, preliminary questions should be asked about the incident. The officer should be advised that a more detailed debriefing will be conducted at a later time.
 - c) Any standard investigations that will occur concerning the incident should be discussed with the officer.
 - d) When applicable, the officer shall be advised of his/her legal and departmental rights regarding statements. The officer should be advised that they may seek legal counsel.
 - e) The officer should be advised not to discuss the incident with anyone except a personal or department attorney, union representative, or departmental investigator, until the conclusion of the preliminary investigation. This does not prohibit the officer from discussing the incident with their spouse.
6. The supervisor shall determine whether the circumstances of the incident require that the officer's duty weapon be taken for laboratory analysis. Where the duty weapon is taken, the supervisor shall:
 - a) Take custody of the officer's weapon in a discrete manner; and
 - b) Replace it with another weapon, or advise the officer that it will be returned or replaced at a later time, as appropriate.
7. The involved officer should notify their family about the incident as soon as possible. Where an officer is unable to do so and is injured or hospitalized, a department supervisor shall personally notify the officer's family, and arrange for their transportation.
8. At all times, when at the scene of the incident, the supervisor should handle the officer and all involved personnel in a manner that acknowledges the stress caused by the incident.

9. Involved personnel shall be removed from line duties pending evaluation but shall remain available for any necessary administrative investigations.
 10. Any department investigation of the incident shall be conducted as soon and as quickly as practical.
 11. The officer involved may be placed on administrative leave by the Chief of Police or the Chief's designee during the investigation of the incident and/or until such time as the incident is resolved.
 - a) The officer shall be available for official interviews and statements regarding the incident and subject to recall to duty.
 12. The department should brief other department members concerning the incident so that rumors are kept to a minimum. Department members are encouraged to show the involved officers their concern.
 13. All personnel involved in the deadly force incident should be advised that they are not permitted to speak with the media about the incident.
 14. In order to protect against crank or abusive calls, the officer should be advised to have phone calls answered by another person for several days if their name is released to the public.
 15. An officer who discharges their firearm during a deadly force incident shall be required to re-qualify as soon as practical.
- B. Any officer directly involved in the deadly force incident shall be required to contact a department designated specialist for counseling and evaluation as soon as practical after the incident. Involved support personnel should also be encouraged to contact such specialists after a deadly force incident. After the counseling sessions, the specialist shall discuss with the Chief of Police:
1. Whether it would be in the officer's best interest to be placed on administrative leave or light duty, and for how long;
 2. If the officer was relieved of their duty weapon after an incident, at what point it should be returned;
 3. What will be the best continued course of counseling.
- C. The department strongly encourages the family of the involved officer to take advantage of available counseling services.
- D. When an officer, while working Extra-Duty Employment as defined by General Order 8.2; Off-Duty Employment, uses deadly force to make an arrest, or otherwise discharges a firearm, under the identity of a Janesville police officer, he/she shall request an on-duty supervisor to be sent to the scene. The officer shall be required to follow all the procedures set forth in this General Order as though he/she were on duty.

VII. REPORTING THE USE OF DEADLY FORCE

- A. The officer conducting the investigation shall submit all written reports to his/her supervisor as soon as possible.
- B. The officer involved shall make a written report/statement as to the underlying facts and the reasonableness, as perceived by the officer, justifying his/her use of deadly force.
- C. If the discharge of the weapon or use of force causes injury or death, the supervisor shall notify the Chief of Police or the Chief's designee as soon as possible.
- D. The supervisor, as soon as possible during the investigation, shall forward all reports of the investigation to the Chief of Police.
- E. The supervisor shall forward a written report, with recommendations, if any, to the Chief of Police at the conclusion of the investigation.
- F. A departmental Discharge of Firearms Report shall be completed regarding any incident involving the discharge of a firearm, except on an approved firearms range for the purpose of firearms practice, training or qualification.

VIII. POST TRAUMATIC STRESS DISORDER

- A. As post-traumatic stress disorders may not arise immediately, or the officer may attempt to hide the problem, each supervisor is responsible for monitoring the behavior of department or shift members for symptoms of the disorder.
- B. The Chief of Police or the Chief's designee may order an officer to seek assistance or counseling from a mental health specialist upon a reasonable belief that stress may be disrupting the officer's job performance.
- C. The department shall provide employees with training pertaining to post-traumatic stress disorders and the uniform procedures contained in this Order.
- D. Supervisors are responsible for making available to department members information about mental health services.
- E. The department will make every effort to provide or make available psychological services for the officer, and/or the officer's family, when an officer is involved in a deadly force incident involving injury or death.
 - 1. The purpose of this service will be to allow the officer to express their feelings and to deal with the moral/ethical and/or psychological aftereffects of the incident.

2. The purpose of attempting to provide or make available this service to the family of the officer is to provide the officer and family with a source of professional consultation to aid them in dealing with the potential moral, ethical, and/or psychological aftereffects of the incident.
3. Psychological service shall not be related to any department investigation of the incident. The counseling sessions will remain protected by the privileged physician-patient relationship and no reports of the sessions or information discussed will be filed with the department.

IX. LEGAL SERVICES

- A. The department will make every effort to provide an attorney-at-law for any officer involved in a deadly force incident involving injury or death.
- B. The attorney, if provided, shall establish a lawyer-client relationship with the officer involved and interview the officer.
- C. The attorney may assist the officer in drafting the officer's personal statement or report as to the underlying facts and the reasonableness, as perceived by the officer, justifying the use of deadly force.
- D. Should the initial lawyer-client interview indicate that the officer has not acted lawfully, in good faith, or within the scope of his/her duties, the officer will be responsible from that point on for any attorney fees charged.

This directive is for departmental use only and does not apply in any criminal or civil proceeding. The department policy should not be construed as a creation of higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this directive will only form the basis for departmental administrative sanctions

Neil Mahan
Chief of Police

This Order cancels and supersedes any and all previous Orders and directives relative to the subject matter contained herein.

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| Amended | 3/12/04 |
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