

Brandon-Fairwater Police Department

General Order Law Enforcement Use Of Force (Mandatory Policy)

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PURPOSE

The purpose of this policy is to provide law enforcement officers of this department with guidelines for the use of deadly and non-deadly force. Officers of this department are expected to use reasonable application of these guidelines in any application of use of force as to remain impartial and professional with their interaction with members of this community.

POLICY

It is the policy of this department that officers use only the force that reasonably appears necessary to effectively bring an incident under control, while protecting the lives of the officer and others. Law enforcement officers shall respect the sanctity of life while serving the community. Law enforcement officers shall make every effort to preserve and protect human life and the safety of all persons. Law enforcement officers shall also always respect and uphold the dignity of all persons in a nondiscriminatory manner.

I. DEFINITIONS

Deadly Force: The intentional use of a firearm or other instrument that creates the high probability of death or great bodily harm.

Great Bodily Harm: Means bodily injury which creates a substantial risk of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any body member or organ or other serious bodily injury.

Non-Deadly Force: Any use of force other than that which is considered deadly force. This includes any physical effort used to control or restrain another, or to overcome the resistance of another.

Objectively Reasonable: This term means that, in determining the necessity for force and the appropriate level of force, officers shall evaluate each situation in light of the known circumstances, including, but not limited to, the seriousness of the crime, the level of threat or resistance presented by the subject and the danger to the community.

Law Enforcement Officer: Means any person employed by the state or any political subdivision of the state, for the purpose of detecting and preventing crime and enforcing laws or ordinances and who is authorized to make arrests for violations of the laws or ordinances that the person is employed to enforce. "Law enforcement officer" includes a university police officer, as defined in s.175.42 (1) (b).

Choke Hold: a tight grip around a person's neck, used to restrain them by restricting their breathing.

Imminent: about to happen, ready, does not mean immediate.

II. PROCEDURES

A. Use of Force

1. When using force, a law enforcement officer is required to act in good faith to achieve a legitimate law enforcement objective. A law enforcement officer is authorized to use force that is objectively reasonable based on the totality of the circumstances, including but not limited to:
 - a. The severity of the alleged crime at issue.
 - b. Whether the suspect poses an imminent threat to the safety of law enforcement officers or others.
 - c. Whether the suspect is actively resisting or attempting to evade arrest by flight.
 - d. The reasonable amount of force is based on the law enforcement officers perspective who was on the scene at the time of the incident. This includes information, actions gathered (totality of circumstances) by the officer in regards to subject (s) prior to use of force.

B. Use of Deadly Force

1. A law enforcement officer may use deadly force only as a last resort when the officer believes that all other options have been exhausted or would be ineffective. A law enforcement officer may use deadly force only to stop behavior that has caused or imminently threatens to cause death or great bodily harm to the law enforcement officer or another person. If both practical and feasible a law enforcement officer shall give a verbal warning before using deadly force.

2. A law enforcement officer may use deadly force to stop a fleeing subject when the law enforcement officer has probable cause to believe that the subject has committed or intends to commit a felony which poses a significant threat of death or great bodily harm to the officer or others and the officer reasonably believes that the imminent risk of death or great bodily harm exists if not immediately apprehended. If both practical and feasible a verbal warning should be given before the use of deadly force.
3. Choke Holds shall not be used unless in circumstances where deadly force is authorized.

C. Deadly Force of Animals

Officers may use deadly force to destroy an animal that represents a threat to public safety or as a humanitarian measure where the animal is seriously injured when the officer reasonably believes that deadly force can be used without harm to the officer or others.

D. Deadly Force is not authorized:

1. As a warning. Warning shots will not be fired.
2. From a moving vehicle, unless an officer has reasonable cause to believe that the officer or another is in imminent danger of death or great bodily harm.
3. At a moving vehicle unless an officer has reasonable cause to believe that the officer or another is in imminent danger of death or great bodily harm or to prevent the escape of a fleeing violent felon whom the officer has probable cause to believe will pose a significant threat of death or serious physical injury to the officer or others. Officers shall not shoot at any part of a vehicle in an attempt to disable it. Where practicable prior to the discharge of the firearm, officers shall identify themselves as law enforcement officers and state their intent to shoot.

E. Authorization For Use of Force

Brandon-Fairwater officers may only use that level of force that is objectively reasonable to bring an incident under control.

F. Duty to Intervene

1. Any Brandon-Fairwater officer that witnesses and without regard for chain of command, shall intervene to prevent or stop another law enforcement officer from using force that is beyond that which is objectively reasonable. This applies under the following:

- a. The law enforcement officer observes the use of force that is possibly beyond that of objectively reasonable under the totality of the circumstances.
- b. The circumstances are such that it is safe for the law enforcement officer to intervene.
- c. Safety considerations to consider if duty to intervene and officer is off duty may include but not limited to the following:
 - Is the off duty officer known to the duty officer or officers?
 - Does the off duty officer have any of their protective equipment such as ballistic vest, ECW, OC, Handcuffs etc.?
 - Is the off duty officer in uniform or have anything that makes them easily recognizable as a law enforcement officer.?

G. Duty to Report

Any Brandon-Fairwater law enforcement officer that observes use of force that may be beyond that which is objectively reasonable under the totality of the circumstances shall report their observations to a supervisor. This shall be done as soon as possible within 24 hours of the incident. Brandon-Fairwater officers shall report it to the Chief of Police and if the Chief of Police is involved, it shall be reported to the Village board president and the Sheriff of Fond du Lac County. A written report separate of the incident will be required from the reporting officer.

H. Notification of Use of Force

1. The Chief of Police shall be notified following the application of force in any of the following circumstances:
 - a. Any visible injury
 - b. Subject complains of injury or pain
 - c. Use of taser or OC spray
 - d. Subject was kicked or struck
 - e. An ambulance was summoned
 - f. Any injury to an officer or citizen
 - g. Any use of a weapon

I. Use of Handcuffs

1. It shall be the policy of this Department to handcuff all persons arrested and/or transported after an arrest. This will best ensure the safety of the officer, the arrested person, and any third parties. Based on their assessment of the situation and at their discretion, officers may decide not to handcuff an arrested subject. Actions contrary to the stated policy will be evaluated based on the officer's rationale for noncompliance. Handcuffing of a subject is mandatory in any situation in which:
 - a. The subject attacks an officer;
 - b. The subject resists arrest; or,
 - c. The subject in any way poses a threat to the officer or other.

2. Whenever possible handcuffs should be applied with the subject's hands behind his back and the handcuff safety locked. This will prevent injury and reduce the likelihood of removal by the subject.

J. Whistleblower Protections

Act 75 creates WI Stat 175.44 (4) which reads: WHISTLEBLOWER PROTECTIONS. No law enforcement officer may be discharged, disciplined, demoted, or denied promotion, transfer, or reassignment, or otherwise discriminated against in regard to employment, or threatened with any such treatment, because the law enforcement officer reported, or is believed to have reported, any noncompliant use of force as required under sub. (F) or (G); intervened to prevent or stop a noncompliant use of force as required under sub. (G); initiated, participated in, or testified in, or is believed to have initiated, participated in, or testified in, any action or proceeding regarding a noncompliant use of force; or provided any information , or is believed to have provided any information, about noncompliant use of force as required under sub (F) (G).

Chief Gary Durkee
Brandon-Fairwater Police Department