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# UW-Madison Police Department

## Policy: 1.3

**SUBJECT: RESPONSE TO RESISTANCE**

**EFFECTIVE DATE: 06/01/10**

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### **PURPOSE:**

The UW-Madison Police Department recognizes and respects the value and sanctity of each human life. The primary duty of members of the department is to preserve the life of all individuals, including the lives of individuals who are in the custody of law enforcement. When vesting police officers and security officers with the lawful authority to use force to protect the public, a careful balancing of all human interests is required. Therefore, it is the policy of this Department that police officers and security officers shall use the least amount of force they believe reasonable and necessary to effectively stop a threat or bring an incident under control. 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.

### **DEFINITIONS:**

“Administrative Review” is a time-sensitive assignment given to a Command Staff member to gather the facts of an incident. It may include but is not limited to reviewing initial written reports and video. The purpose of an administrative review is to determine if there are policy or safety issues that require a more thorough internal investigation, or any violation of law. If an internal investigation is not required, training and procedural recommendations may be made.

“Analysis” is a review of a critical work product as prescribed by various policies. The purpose of an analysis is to determine trends, identify training needs and summarize a group of events.

“Conducted electrical weapon probes” are projectiles launched from an conducted electrical weapon (CEW) that uses an electric shock to incapacitate a suspect and are not likely or intended to cause serious injury or death.

“Deadly force” is the intentional use of a firearm or other instrument, that when used would result in a high probability of death.

“Great bodily harm” means bodily injury that creates a substantial risk of death or causes serious permanent disfigurement or causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious physical injury.

“Law Enforcement Safety Act Identification Card” refers to the identification card required for law enforcement officers and described in the U.S.C. Title 18, Chapter 44, Section 926C(1) (d).

“Less lethal projectiles” are projectiles designed to incapacitate a suspect through the use of kinetic energy and are not likely or intended to cause death or great bodily harm.

“Non-deadly force” refers to any use of force other than that which is considered deadly force.

“Nonlethal” projectiles are projectiles that are launched from launchers and are designed to incapacitate a suspect through the use oleoresin capsicum (OC) powder and are not likely or intended to cause serious injury or death.

“Qualified law enforcement officer” means an employee of a governmental agency who

1. is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers of arrest;
2. is authorized by the agency to carry a firearm;
3. is not the subject of any disciplinary action by the agency which could result in suspension or loss of police powers;
4. meets standards established by the agency which require the employee to regularly qualify in the use of a firearm;
5. is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and
6. is not prohibited by Federal law from receiving a firearm.

“Reasonably believes” means that the actor believes that a certain fact situation exists and such belief under the circumstances is reasonable.

“Restraints” refer to devices such as handcuffs, leg irons, chemical restraints, and other restraints used to stabilize.

“Serious physical injury” refers to physical injury which creates a substantial risk of death, or which causes death or serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.

## **PROCEDURE:**

### **1.3.1 FORCE TO ACHIEVE LAWFUL OBJECTIVES**

Department personnel shall use the least amount of force they reasonably believe will accomplish their lawful objectives. Whenever possible, officers should use trained de-escalation skills during a conflict so as to use the lowest amount of force reasonably possible to resolve the situation. The following procedures shall generally govern the use of force by sworn Department officers:

- A. The response to resistance by police employees may be necessary in order to enforce the law or in order to protect themselves or others. Police officers’ authority to use any force, as well as the degree of force they may employ, is governed by the United States Constitution, Wisconsin statutes, case law, and Department policy. Police officers shall assess each incident in order to determine which technique or weapon shall bring the incident under control. The Department hereby adopts as policy the Intervention Options for police officers as specified by the State of Wisconsin (see Appendix A), except in the more stringent placement of the conducted electrical weapon as an impact weapon.
- B. Police are authorized to use Department-approved force techniques and Department-issued or authorized equipment for resolution of incidents in the following situations:
  1. To protect themselves or another from physical harm; or
  2. To restrain or subdue a resisting person; or
  3. To bring a situation safely and effectively under control; or
  4. To affect a lawful arrest.
- C. The United States Supreme Court in *Graham v. Connor* ruled that the use of force by police officers must be “objectively reasonable” and that officers should consider the following factors when considering what level of force, if any, to use:
  1. The severity of the alleged crime at issue;

2. Whether the suspect poses an imminent threat to the safety of officers and/or others; and
  3. Whether the suspect is actively resisting or attempting to evade arrest by flight.
- D. Varying degrees of force may be justified depending on the dynamics of a situation. Police officers must keep this in mind and are permitted to use only the force necessary to accomplish lawful objectives. In every instance where force is to be used, the police employee contemplating the response to resistance must have
1. A belief that the response to resistance in that situation is required AND a belief that the amount of force contemplated is required; AND
  2. Both of these beliefs must be reasonable.

### **1.3.1.2 DE-ESCALATION**

- A. Officers shall use de-escalation techniques to prevent or reduce the need for force when the officer reasonably believes it is safe and feasible to do so based on the totality of the circumstances. This includes continually assessing the situation and modifying the use of force as circumstances change and in ways that are consistent with officer safety, including stopping the use of force when it is no longer necessary.
- B. Examples of de-escalation techniques include but are not limited to:
1. Providing a warning and exercising persuasion and advice prior to the use of force.
  2. Determining whether the member may be able to stabilize the situation through the use of time, distance, or positioning to isolate and contain a subject.
  3. Requesting additional personnel to respond or make use of specialized units or equipment including crisis-intervention-team trained officers, as necessary and appropriate.

### **1.3.2.1 USE OF DEADLY FORCE**

- A. Police officers may use deadly force only in the following circumstances:
4. To protect the police officer or others from what is reasonably believed to be an imminent threat of death or great bodily harm.
  5. To prevent the escape of a fleeing felon whom the officer has probable cause to believe shall pose an imminent threat to human life should escape occur.
  6. When "Greater Danger" theory applies, firearms shall not be discharged, nor other deadly force used, when it appears likely that an innocent person might be injured, unless the probability exists that a greater danger is posed by the suspect's continued actions toward the officer or other persons.
- B. Where deadly force is justified, an officer may, under exigent circumstances, use available weapons or methods. This should not be construed to permit carrying unauthorized equipment
- C. In the event an officer uses deadly force, Department Directive 1.5, Officer Involved Death and Other Officer Involved Critical Incident, shall be followed.

### **1.3.3 FIREARMS USE**

- A. Police officers are authorized to display and use firearms in the following circumstances:
1. When deadly force is authorized;
  2. When officers reasonably believe they might encounter a deadly force situation;
  3. During range practice or competitive shooting;
  4. To destroy an animal that represents a threat to the public safety or as a humanitarian measure when the animal appears to be seriously injured.
- B. Before using deadly force, officers shall, if reasonably possible, identify themselves and order the subject to desist from unlawful activity. This requirement shall be reinforced in officer training.

- C. Officers should fire their firearms at another person only as a last resort to stop a subject engaged in conduct that has caused or imminently threatens to cause death or great bodily harm to the officer or another person and no other alternative would be reasonably likely to stop the threat in time.
- D. Police officers shall adhere to the following restrictions:
  1. Except for maintenance or during training, police officers shall not draw or exhibit their firearm unless circumstances create a reasonable belief that it might be necessary to use the firearm in conformance with this policy.
  2. Warning shots are prohibited.
  3. Police officers shall not discharge a firearm from or at a moving vehicle unless no other reasonable option exists and a greater imminent danger to an innocent person(s) is posed by the officer not discharging a firearm.
- E. The following requirements shall be met for the authorized on-duty carry of firearms into the Dane County Courthouse:
  1. Officers must be on duty and performing official duties;
  2. Officers shall wear a visible badge;
  3. Officers shall be required to state the nature of their official business;
  4. Officers in plain clothes should not expose the firearm to plain view; and
  5. Officers shall possess a Department photo ID.
- F. Carrying of firearms into the Dane County Courthouse while off duty is prohibited.
- G. Police officers may, at their option, carry a handgun while off duty. While off duty, police officers shall carry only handguns that are on the Department approved list.
- H. Officers should use extreme caution when taking prescription medication while armed.
- I. Carrying or using a firearm while under the influence of alcohol is prohibited.

#### **1.3.4.1 USE OF NONLETHAL WEAPONS, LESS LETHAL WEAPONS, AND TECHNIQUES**

- A. A police officer shall only use non-lethal weapons or less lethal weapons authorized by the department and only use such weapons or techniques as trained. Officers must be certified in such techniques or weapons if required.
- B. The following are Department issued or authorized equipment or techniques:
  1. OC spray;
  2. Holds and throws;
  3. Hand/arm/elbow and foot/leg/knee strikes;
  4. Conducted electrical weapons;
  5. Incapacitating techniques;
  6. Baton;
  7. Less lethal and nonlethal projectiles.
- C. Where non-lethal or less-lethal force is appropriate, an officer may, under exigent circumstances, use available weapons or methods. This should not be construed to permit the carrying of equipment not authorized by the Department.
- D. The use of techniques which have a high likelihood of death, such as choke holds or neck restraints, are not allowed unless the officer is justified in using deadly force and no other alternative is available, likely to be effective, or tactically optimal.

#### **1.3.4.2 USE OF OLEORESIN CAPSICUM (OC)**

The following procedures shall govern the use of Oleoresin Capsicum (OC) by sworn officers:

- A. Oleoresin capsicum (OC) is an effective restraint that, when used in a manner that is consistent with training, might have the effect of reducing injuries. Oleoresin capsicum is authorized for use by members of this Department. Other chemical agents may be carried or used only at the direction of command staff.

- B. Officers must be trained in the use of OC by an oleoresin capsicum aerosol training instructor.
- C. Officers trained in OC use are authorized to use OC to effect an arrest or control a situation. Oleoresin capsicum shall be used in accordance with Department training and the Intervention Options.
- D. Officers shall take into consideration the location of others before using OC. An officer shall not use OC on a person who is already under physical control.
- E. Oleoresin capsicum is an irritant to many animals. Care must be exercised when police mounted or canine units are present.

#### **1.3.4.3 USE OF LESS LETHAL PROJECTILES FOR CROWD CONTROL**

- A. Less lethal launch systems and projectiles should only be deployed in crowd control operations after receiving command staff authorization.
- B. If deployment is authorized, the following conditions apply.
  - 1. Only officers trained in the proper use of less lethal projectiles should launch them.
  - 2. The Department places the use of a less lethal projectile in the "Protective Alternatives" mode on the State of Wisconsin Intervention Options.
  - 3. The officer launching the less lethal projectile should, if possible, notify other officers in the area prior to launch and without notifying the suspect. This notification is an attempt to avoid the sympathetic use of deadly force options.
  - 4. The officer employing the less lethal projectile should refrain from using the head, neck, groin and chest areas as a target area for the projectile unless the circumstances dictate it. Appropriate target areas are the lower arms, thighs, buttocks, legs, and abdomen.
  - 5. A deadly force option should always be available.

#### **1.3.4.4 USE OF LESS LETHAL PROJECTILES FOR PATROL**

- A. Dedicated less lethal launch systems and projectiles are to be deployed for use by sworn personnel subject to the following conditions:
  - 1. The launch systems and projectiles shall be secured and unloaded inside equipped patrol vehicles. Personnel using the patrol vehicle are responsible for the status of the system.
  - 2. Officers shall remove all weapons from the vehicle should the vehicle need service.
  - 3. Only officers trained in the proper use of less lethal impact projectiles should launch them, and their use should be consistent with Department training.
  - 4. Officers shall verify each round as being a less lethal round as it is being loaded into the weapon.
  - 5. Less lethal impact projectiles are not a substitute for deadly force. In a deadly force situation, officers may not arm themselves with a less lethal weapon unless another officer at the scene has the immediate ability to deliver deadly force. Officers armed with less lethal weapons should continuously monitor and evaluate the ability of other officers present to deliver deadly force.
  - 6. The officer launching less lethal impact projectiles should, if possible, notify other officers in the area prior to launch and without notifying the suspect. This notification is an attempt to avoid the sympathetic use of deadly force options. The officer preparing the less lethal system for use shall verify that each round is a less lethal impact projectile.
  - 7. The officer employing the less lethal projectile should refrain from using the head, neck, groin and chest areas as a target area for the projectile unless the circumstances dictate it. Appropriate target areas are the lower arms, thighs, buttocks, legs, and abdomen.
- B. The firing of less lethal impact projectiles must be evaluated using the criteria of this policy and the State of Wisconsin Intervention Options. Firing of less lethal impact projectiles at non-vital areas is considered non-deadly force and is considered to fall just above baton strikes (at the upper range of the "impact weapon" category) in the Protective Alternatives. The intentional deployment of less lethal impact projectiles at the face, head or neck is considered deadly force.

#### **1.3.4.5 USE OF CONDUCTED ELECTRICAL WEAPONS (CEW)**

- A. Only officers trained in the proper use of CEWs are permitted to carry them. Trained personnel may deploy a CEW in a manner consistent with their training and for specific tactical situations without supervisory approval.
- B. Authorized officers may carry a CEW on their duty belt. The CEW shall be placed on the belt on the opposite side of the officer's handgun or attached to the reaction side of their external vest carrier. The CEW does not replace the baton for crowd control assignments.
- C. CEWs are not a substitute for deadly force -- an officer should not deploy a conducted electrical weapon in a deadly force situation unless another officer at the scene has the immediate ability to deliver deadly force. Officers armed with CEWs should continuously monitor and evaluate the ability of other officers present to deliver deadly force.
- D. The officer firing a CEW should, if possible, notify other officers in the area prior to launch and without notifying the suspect. This notification is an attempt to avoid the sympathetic use of deadly force options.
- E. CEW deployment must be evaluated using the criteria of this policy and the State of Wisconsin Intervention Options. Firing of CEW probes is considered non-deadly force, and the CEW is considered an impact weapon, which falls under the "Protective Alternatives". There should be no intentional deployment of CEW probes at the face, head, neck, chest, or groin. Deployment of multiple CEWs upon the same subject at the same time should be avoided whenever possible. While multiple activations of a CEW may be necessary to subdue an actively resisting subject, multiple activations with continuous cycling should be avoided whenever possible.
- F. Drive stuns should only be administered in a manner consistent with training.
- G. CEWs may be deployed on fleeing subjects if the immediate circumstances would justify the use of an impact weapon, including directly after a subject has caused injury to someone or actively resisted an officer.
- H. CEWs should not be deployed on a subject who is fleeing for reasons unknown to the officer. Other CEW deployments to be avoided unless exigent circumstances are present:
  - 1. On a handcuffed subject;
  - 2. On a person operating a motor vehicle;
  - 3. When features of the location (on stairs or in traffic) increase the risk of serious injury from falling;
  - 4. If the subject is likely to become submerged in water;
  - 5. On preteen children; and
  - 6. On persons who appear elderly, significantly ill, or disabled.
- I. The CEW is prohibited in the following circumstances:
  - 1. On persons whose skin/clothes appear contaminated with combustible substances.
  - 2. For coercion or intimidation.
  - 3. To escort or prod subjects.
  - 4. To awaken unconscious or intoxicated subjects.
  - 5. Against a subject offering passive resistance.
- J. After each field use, data from the CEW shall be downloaded and saved as part of the case file to document the number of activations.
- K. CEWs can be effective against aggressive animals. Use against animals is permitted. The use of a CEW on an animal should be documented in an incident report.

#### **1.3.4.6 USE OF NONLETHAL PROJECTILES**

- A. Nonlethal launch systems and projectiles should only be deployed in special circumstances such as crowd control operations after receiving command staff authorization.

- B. The Department places the use of a nonlethal projectile in the “Protective Alternatives” mode on the State of Wisconsin Intervention Options.
- C. Only command staff may order the use of nonlethal projectiles.
- D. If deployment is authorized, the following applies:
  - 1. Only officers trained in the proper use of nonlethal projectiles should launch them.
  - 2. The officer launching the nonlethal projectile should, if possible, notify other officers in the area prior to launch and without notifying the suspect. This notification is an attempt to avoid the sympathetic use of deadly force options.
  - 3. The officer launching the nonlethal projectile should, if possible, refrain from targeting the head, neck, and groin area of a suspect unless the circumstances dictate it.
  - 4. A deadly force option should always be available.

#### **1.3.4.7 USE OF HANDCUFFS**

- A. Handcuffs shall be used in a manner specified in Department training. Handcuffs shall be issued or individually authorized by the Department. Types that are authorized are the following:
  - 1. Metal hinged or linked police handcuffs;
  - 2. Plastic disposable handcuffs/flex cuffs;
  - 3. Restraints used at direction of medical personnel.
- B. An officer taking another person into custody has the duty and the responsibility to restrain the detained person in a safe manner and to take proper measures to prevent an escape.
- C. An officer has the authority to handcuff persons in custody for the safety of the officer, other citizens, and the person taken into custody.
- D. If an officer has reasonable grounds to believe that the use of handcuffs is undesirable, the use of handcuffs in instances of physical arrest is not mandatory.
- E. The following are prohibited techniques:
  - 1. “Hogtying,” i.e., restraining a person by handcuffing and tying hands to feet close together behind the back;
  - 2. Forcing a restrained person to remain handcuffed and lying face down for extended periods of time.
- F. The department shall maintain a stock of spit hoods to be issued to patrol officers to protect themselves from significant exposures from subjects in the course of their duties.
  - 1. Spit hoods shall not be applied until the subject is first restrained by securing their hands in handcuffs, flexcuffs, or medical restraints.
  - 2. Officers shall verbalize to the subject their intent to place a spit hood and reassure the subject they will be able to breathe.

#### **1.3.5 MEDICAL AID AFTER USE OF WEAPONS/ FORCE**

- A. Whenever a person is injured as a result of force applied by an officer, or during the course of apprehension, officers on the scene shall provide first aid and request medical assistance, if necessary, for the injured person as soon as circumstances allow for aid.
- B. After OC has been used on a suspect and the suspect is under control, the officer shall assess the welfare of the person. If symptoms from the application of OC persist beyond forty-five minutes, the person should be evaluated by medical personnel. Initial treatment for a person affected by aerosol chemical restraints shall include the following:
  - 1. Verbally reassure the person;
  - 2. Advise the person to remain calm and to try to breathe normally;
  - 3. Do not make the person lie face down for extended periods of time;
  - 4. Watch the person closely until the effects have worn off.

5. If circumstances permit and the following can be safely achieved, the officer shall:
  - a. Remove the person to an area of fresh air and, if possible, face them into the wind;
  - b. Allow the person to flush the affected area with cool water or soap and water;
  - c. Allow a person wearing contact lenses to remove them;
  - d. Advise the person to not rub the affected area.
  
- C. All persons taken into custody who have been struck with a less lethal impact projectile shall be conveyed to a medical facility for a medical clearance.
  
- D. Officers shall evaluate all persons on whom a CEW has been deployed and provide emergency medical attention if needed or requested. If CEW probes have penetrated the face, head, neck, groin, or a female's breast, the subject shall be conveyed to a medical facility for probe removal and medical clearance. If the probes are imbedded in other non-sensitive tissue areas, a trained officer may remove them according to the trained procedures.

### **1.3.6 RESPONSE TO RESISTANCE REPORTS**

- A. When any of the following occurs, information concerning the response to resistance must be verbally reported to the shift OIC during the shift and included in the incident report:
  1. A firearm is discharged for other than training or recreational purposes;
  2. An action is taken that results in, or is alleged to have resulted in, injury or death;
  3. A nonlethal weapon, less lethal, or lethal weapon is used on a person;
  4. Restraint beyond compliant handcuffing is used on a person.
  
- B. Incident reports of any use of force greater than compliant handcuffing shall include the following: date, time and location of the incident; arrestee, witness and suspect information; actual resistance encountered; force used by the officer to overcome the resistance; weapons used; actual or alleged injuries to either the officer or the suspect; and pictures or other documentary evidence of any injuries received.

### **1.3.7 RESPONSE TO RESISTANCE REVIEWS**

- A. A Department police supervisor and/or manager shall conduct a first level use of force review of all reports involving the response to resistance greater than compliant handcuffing. The review should determine if there are any policy, training, weapon/equipment and/or discipline issues which should be addressed. Any such issues should be immediately forwarded to the Captain of Field Services and the Professional Standards Lieutenant for further review.
  
- B. A department subject matter expert in officer response to resistance shall then conduct a second level use of force review of all cases involving force greater than compliant handcuffing. This second level review shall assess the response to resistance in light of department policy and training and determine if any corrections should be made to policy or training. The experts conducting the second level reviews shall notify the Professional Standards Lieutenant immediately if they detect any violations of law or policy during their reviews.
  
- C. For incidents where a firearm is discharged for other than training or recreational purposes or where the response to resistance results in serious injury or death, an immediate administrative review shall be initiated.
  
- D. Any allegation of inappropriate response to resistance shall be investigated.
  
- E. All press releases involving incidents in which an employee uses force involving a firearm, or uses force that results in death or great bodily harm of another person, must be approved by the Chief of Police or designee.
  
- F. The most senior response to resistance expert or designee shall conduct an annual analysis on response to resistance activities, policies and practices. The annual analysis shall include the following;
  1. Date and time of incidents;
  2. Types of encounters resulting in use of force;
  3. Trends and patterns related to race, age and gender of subjects involved;
  4. Trends or patterns resulting in injury to any person including employees;
  5. Impact of findings on policies, practices, equipment and training.

- G. The most senior response to resistance expert or designee shall conduct an annual review of all assaults on law enforcement officers. This review shall help management determine trends or patterns and make recommendations to enhance officer safety by revising policies or addressing training issues.

### **1.3.8 DEPARTMENT-AUTHORIZED WEAPONS/ AMMUNITION**

- A. The Department establishes strict control over all firearms, weapons, and ammunition it allows members to carry and use in the performance of their official duties, both on and/or off duty. Clear guidelines are established for the exact types and specifications of each category of weapon, including specialized weapons used by members of the Department.
- B. The Department has established an approval process for all weapons. Each weapon should be identified, meet the established criteria, and be safe and in good working order. The user should demonstrate their proficiency in using the weapon on a Department approved qualifying course before being permitted to carry and use the weapon. A certified instructor or armorer should inspect and approve the weapon and oversee the proficiency testing. The Training Unit shall verify usage of authorized weapons at each in-service and shall maintain a record of training with each weapon. The Training Unit shall also maintain a complete record of all approved weapons.
- C. Department approved firearms, less lethal weaponry, and ammunition are listed in Appendices B and K.
- D. Firearms, whether owned by an officer or the Department, shall be in the control of an officer or properly secured. If an unsecured firearm is discovered by a police officer, they shall secure it; if it is discovered by non-sworn personnel, the staff member shall contact a police officer.

### **1.3.9 WEAPONS QUALIFICATIONS/ PROFICIENCY**

- A. Carry of Department approved weapons is authorized when a sworn employee meets the following conditions:
  - 1. Has demonstrated proficiency;
  - 2. Is currently qualified;
  - 3. Has received Department training on proper safe usage; AND
  - 4. Authorization and qualification are on file with the Department.
- B. Police officers shall carry only firearms, less lethal weaponry, and ammunition authorized by the Department for duty use and are prohibited from carrying more than one handgun at a time.
- C. Wisconsin Statute [165.85\(4\)7c](#) requires that sworn personnel shall qualify annually with a handgun on a course specified by Training & Standards.
- D. The Training Unit is responsible for maintaining and forwarding qualification records to Training & Standards.

### **1.3.10 PROFICIENCY TRAINING**

- A. The Department shall schedule regular training and qualification sessions for duty, off-duty, and specialized weapons. All sworn personnel authorized to carry weapons are required to receive in-service training, at minimum annually, on response to resistance policies and to demonstrate proficiency with all approved lethal weapons and electronic controlled weapons. Proficiency shall be monitored by a certified weapons or tactics instructor.
- B. Annual qualification for firearms, including duty and non-duty handguns and patrol rifles, is mandatory for sworn personnel. Sworn personnel may have no more than two department issued handguns registered for duty/off duty use with the department at any one time.
- C. A police officer is not permitted to carry or use on duty under law enforcement authority any firearm with which the officer has not qualified during his or her most recent qualification period. Personally owned, Department approved firearms carried off duty shall be qualified with on a department approved qualification course at least annually.

- D. A police officer who has taken a leave of six months or more or suffered an illness or injury that could affect proficiency in the use of firearms shall be required to qualify before returning to law enforcement duties.
- E. Sworn personnel who fail to qualify with an authorized weapon shall receive remedial training. If officers fail to qualify with their handguns in the timeframe required by the State of Wisconsin Training and Standards, they shall be placed on alternative duty until they are able to successfully complete their qualification and regain their certification. Within seven days officers being designated in need of remedial training, the officer(s) shall coordinate their remedial training program with the Training Unit. If officers fail to qualify on their handgun after receiving up to 20 hours of remedial firearms training, the Chief of Police shall be notified through the chain of command. Officers may be subject to disciplinary action that could include termination for inability to maintain vital job performance standards. Police officers who fail to qualify with their duty firearm in accordance with Department procedures shall be relieved of their police authority. If officers fail to qualify with a weapon other than a handgun, the weapon shall be removed from the officers until the officers receive up to 20 hours of remedial training and demonstrates proficiency with that weapon. If officers fail to qualify on the weapon after receiving remedial training, the Chief of Police shall be notified through the chain of command. Officers may be subject to disciplinary action that could include termination for inability to maintain vital job performance standards.
- F. All personnel who carry and use any authorized less lethal weapons are required to demonstrate proficiency through attendance at in-service refresher training at least annually. All officers who carry and use a CEW are required to demonstrate proficiency through attendance at in-service refresher training at least annually. In-service training, under this section, shall include response to resistance policy. Proficiency training must be monitored by a certified weapons instructor.
- G. Personnel who do not maintain proficiency with an authorized less lethal weapon shall be provided remedial training. Following remedial training, personnel who still cannot maintain proficiency with an authorized less lethal weapon shall no longer be allowed to carry such weapon and may be subject to disciplinary action that could include termination for inability to maintain vital job performance standards.
- H. In-service training for weaponless control techniques shall occur annually. Proficiency training must be monitored by a certified defensive tactics instructor.
- I. The results of all training and qualifications shall be documented by the Training Sergeant.

### **1.3.11 POLICY INSTRUCTIONS**

The following procedure shall govern policy instruction requirements associated with the carry of lethal, less lethal, and nonlethal weapons:

- A. All personnel authorized to carry lethal, less lethal, or nonlethal weapons shall receive related instruction regarding the use-of-force policy before being authorized to carry any weapon. Policy receipt and curriculum delivery must be documented.

### **1.3.12 RESPONSE TO RESISTANCE BY SECURITY OFFICERS**

- A. Under most circumstances a security officer does not have the authority to use force in the performance of duties. When possible, assistance should be summoned before an attempt is made to control a subject. Exceptions include the following:
  1. Security officers assigned to UW Health Science Complex are authorized to use physical techniques in which they are trained to defend themselves or another person or to control a patient, an action generally taken under the direction of medical staff or a police officer;
  2. When exposed to attack or exposed to the threat of great bodily harm;
  3. When protecting themselves or others against immediate threat of bodily harm; or
  4. When responding to the lawful order of a police officer.
- B. Security officers trained in the use of OC are authorized to carry issued OC on their person. The use of issued OC by security officers is limited to preventing injury to self and others in situations when other means of avoiding physical confrontation have been exhausted or are deemed to be ineffective.

### **1.3.13 LAW ENFORCEMENT OFFICERS SAFETY ACT (HR 218) – OFF DUTY PERSONNEL**

- A. Police officer status is conferred by each state. The way in which states recognize out-of-state police officers vary. In many states, with the exception of carrying a concealed firearm under HR 218, an out-of-state police officer is treated as a civilian.
- B. Personnel involved in an incident where a firearm was displayed or discharged while off duty under the Law Enforcement Officers Safety Act shall notify their supervisor and prepare a report concerning the incident. The incident shall be investigated accordingly.
- C. Off duty personnel carrying concealed under this directive must carry the law enforcement photographic identification issued by the Department.
- D. Notwithstanding any other provision of the law of any state or any political subdivision thereof, an individual who is a qualified law enforcement officer and who is carrying the required identification may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (B).
- E. This section shall not be construed to supersede or limit the laws of any state that
  - 1. Permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or
  - 2. Prohibit or restrict the possession of firearms on any state or local government property, installation, building, base, or park.

### **1.3.14 LAW ENFORCEMENT IDENTIFICATION – RETIRED AND FORMER PERSONNEL**

- A. The Department shall not require former law enforcement officers to relinquish their card when the officer separates from service unless one of the following applies:
  - 1. The officer may not lawfully possess a firearm under federal law.
  - 2. The officer did not separate from service in good standing as a law enforcement officer with the agency.
  - 3. The officer served as a law enforcement officer for an aggregate of less than 10 years. This does not apply if the officer, after completing any applicable probationary period of service with the agency, separated from service with the agency due to a service-connected disability.
  - 4. Employees separated for mental health reasons shall not be issued or must relinquish their cards if the following applies:
    - a. A qualified medical professional employed by the Department has found the officer to be unqualified to be a law enforcement officer for reasons related to the officer's mental health.
    - b. The officer has entered into an agreement with the Department in which the officer acknowledges that he or she is not qualified to be a law enforcement officer for reasons related to the officer's mental health and in which the officer declines the photographic identification for that reason.
- B. If a law enforcement identification is not relinquished upon separation, the card shall be stamped as former or retired law enforcement.
- C. The Department shall issue an identification card to a law enforcement officer who is eligible and has separated from service upon the former officer's request and at their expense.

### **1.3.15 LAW ENFORCEMENT CONCEALED CARRY – RETIRED AND FORMER PERSONNEL**

- A. The UW-Madison Police Department shall assist its former officers, who meet the requirements of state and federal law and are separated from service in good standing, in exercising the concealed firearm carry authority.
- B. Qualified law enforcement officers who have separated from service must meet the following criteria:
  - 1. Has separated from service in good standing with the UW-Madison Police Department as a law enforcement officer;

2. Before such separation, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for , and violation of law, and had statutory powers of arrest;
  3. Before such separation, served as a law enforcement officer for an aggregate of ten (10) years or more; or separated from service after completing any applicable probationary period of such service; due to a service-connected disability, as determined under section 40.65, Wis. Stats.;
  4. During the most recent twelve (12) month period, met at the expense of the individual, UW–Madison Police Department’s testing standards for active law enforcement officers;
  5. Have not been found by a medical professional hired by the Department to be unqualified for reasons relating to mental health;
  6. Is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance while carrying a concealed weapon; and
  7. Is not prohibited by Federal law from possessing a firearm.
  8. All officers separated from service must successfully complete a background check to establish the legal ability to possess a firearm and to determine the applicant’s eligibility to participate in firearms qualification. Grounds for failure of the background check include: any condition, circumstance, conviction or event which would make it unlawful for the applicant to possess a firearm; and /or any conduct engaged in or offense committed by the applicant which would be considered grounds for refusal to hire if engaged in or committed by the applicant for employment.
  9. If a certification card is requested, the separated party must attend and successfully complete the UW–Madison Police Department’s firearms qualification course. The Training Unit shall confirm the officer’s eligibility and approve photographic card issuance. The ability to carry concealed is only valid within the calendar year from qualification. The separated party must meet standards equivalent to the active duty standards for qualification in firearms proficiency training to carry a firearm of the same type as the concealed firearm.
  10. The Chief of Police or designee shall exercise the right to question, approve or deny any request for an identification card described in this directive.
- C. The Department shall issue an identification/certification card to those qualified former law enforcement personnel. The certification card shall contain:
1. Qualification date of the last successfully completed qualification course.
  2. Expiration date – all cards shall expire twelve (12) months from the date of issuance.
  3. Rank at which the applicant last held in the agency.
  4. Signature of the Chief of Police.
  5. A statement that the card does not confer any law enforcement authority on the holder and does not make the card holder an employee or agent of the Department.
  6. The certification card shall contain on one side all of the following:
    - a. The full name, date of birth, and residence address of the person who holds the certification card.
    - b. A photograph of the certification card holder and a physical description that includes sex, height, and eye color.
    - c. The name of this state.
- D. The Training Sergeant shall maintain a database of retired officers. This database shall indicate whether the retired officer is eligible to request a certification card.
- E. All certification cardholders must maintain a current address and telephone number with the UW–Madison Police Department and report any changes within 10 days after the change.
- F. The Department shall host a firearm qualification session annually where officers separated from service may attend. Officers attending shall be made aware of the elements of the qualification course. Qualified officers separated from service must complete the following:
1. Read and sign a release, waiver of liability, and assumption of risk agreement that contains at a minimum the following:
    - a. A waiver of liability and assumption of risk related to the use of any facility used during the firearms qualification session.
    - b. Acknowledgement that the certification card does not confer any law enforcement authority and is limited to the provisions of the Law Enforcement Safety Act and of state law.
    - c. Certification that the officer has read and is familiar with federal and state law, and that he or she is a qualified law enforcement officer separated from service.
    - d. Certification that they are not prohibited from purchasing or possessing a firearm by either federal or state law.
  2. Pay a non-refundable annual fee which covers range rental, ammunition costs and instructor time.

3. Successfully complete and pass the firearms proficiency qualification course to the same standards as currently required by active officers. Failure to pass the qualification shall result in a card not being issued.
4. Qualify with a firearm approved by the UW–Madison Police Department.
5. Card renewals, reapplication after application denial, reapplication after failure to successfully complete the firearms qualification course, and /or request to be qualified on another approved firearm shall follow the same procedure as for initial application.

### **1.3.16 LAW ENFORCEMENT OFFICERS FLYING WITH A FIREARM**

- A. Firearms and ammunition are accepted as checked baggage. Firearms shall only be accepted if unloaded and in a locked, hard-sided container. Ammunition must be packed in its original packaging. Loose ammunition shall not be accepted. Firearms may not be checked curbside.
- B. For a law enforcement officer to fly armed, the officer must be full-time, have a Department approved need to access the weapon during the flight, and be trained in flying while armed protocols. The Department shall only approve requests to fly armed if dignitary protection or prisoner transport is required. The officer flying armed is required to check-in with the airport agent and to submit a National Law Enforcement Telecommunications System (NLETS) message during the check-in process. The message must be sent to the appropriate airlines agent by the Department Communications Center. The message replaces an original letter of authority, signed by the chief or agency head, required under 49 CFR 1544.219. Once the NLETS message is received, a return NLETS message shall be sent to the Department with an eight-character unique alphanumeric Identifier for verification at the airport on the day of travel.