



MILWAUKEE POLICE DEPARTMENT

STANDARD OPERATING PROCEDURE

460 – USE OF FORCE

GENERAL ORDER: 2013-01

ISSUED: January 1, 2013

EFFECTIVE: January 1, 2013

ACTION: Amends General Order 2009-51 (December 18, 2009)

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 DISTURBANCE RESOLUTION MODEL

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:

1. 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:

2. 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

3. 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

460.10 OBJECTIVE REASONABLENESS

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.

460.15 AMOUNT OF FORCE

- A. Force that is intended or likely to cause great bodily harm or death, may only be used:
 - 1. if reasonable under all the circumstances then existing to prevent great bodily harm or death to the officer or a third party; or
 - 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; or
 - 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 to use their firearm in the performance of their duties.
- C. The firing of warning shots is prohibited. When feasible, a verbal warning should be given prior to the use of force likely to cause great bodily harm or death.

460.20 DUTY TO INTERVENE

Any officer who personally observes another officer using force, which the observing officer believes 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.

460.25 DISCHARGE OF FIREARM INCIDENTS**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 (i.e., dog, deer, etc.) and fill out the applicable subject details (i.e. injuries, photos, animal breed).

B. ACCIDENTAL/UNINTENTIONAL DISCHARGE**1. PERSONAL INJURY/PROPERTY DAMAGE**

Whenever a police member accidentally or unintentionally discharges a firearm and it causes personal injury or property damage, the CIB 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*.

2. NO INJURY/DAMAGE

Whenever a police member accidentally or unintentionally discharges a firearm and no personal injury or property damage results, the CIB shift commander shall be notified and will decide if a police lieutenant or the field supervisor will 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 CIB shift commander, who shall assign a police lieutenant to conduct the use of force investigation and file the *Use of Force Report*.

460.30 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, or, 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, and the risks are outweighed by the need to use deadly physical force. Once the threat of the moving vehicle ceases, a police member shall not discharge his or her firearm at the vehicle.
 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, if possible, rather than discharge their firearm. Firing at a moving vehicle will not, in most circumstances, stop the vehicle. Further, should the driver be wounded or killed, the vehicle may still continue in motion.
 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.

460.35 USE OF FORCE REPORT (PF)

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 (IAD) 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:
 - Discharges a firearm
 - Uses a baton in the line of duty
 - Discharges an irritant, chemical, or inflammatory agent
 - Deploys an Electronic Control Device, to include non-contact spark display, contact stun and probe deployment. However, non-contact spark display used as a test of functionality does not require the filing of a report.
 - Department canine bites a person.
 - 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.
 - Uses bodily force that involves focused strikes, diffused strikes, or decentralizations to the ground.
 - Uses any type of force in which a person is injured or claims injury, whether or not the injury is immediately visible.

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. 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.
3. 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 460.35.
4. Each subsequent review by the shift commander/commanding officer shall be completed and tracked in an expeditious manner.

C. NOTIFICATION

1. Members using force as described in 460.35(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 460.35(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 CIB 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. The shift commander shall promptly notify the CIB 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 CIB 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 CIB 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 (i.e. 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: Indicate the location and lighting of the use of force. Indicate if video or audio was available and the name of the supervisor who reviewed the video. An electronic (CD/DVD) copy of the video should be forwarded to IAD. 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. One/Two 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 (i.e. ECD, Bodily Force, Firearm, etc.).
 - 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; stunning technique; focused strike (punches, kicks); 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, OC or Pepper Ball, 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: 12 Gauge Bean Bag, Sage SL6 37MM.
 - 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: Describe in a detailed narrative the incident and events leading to the use of force. 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.

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 CIB investigators

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. IAD shall be responsible for the retention of all *Use of Force Reports* via the AIM System.
2. The commanding officer of IAD shall provide the *Use of Force Report* to the Training Division for training purposes and the tabulation of use of force statistics.
3. Use of Force data will be analyzed / audited on a regular basis by the Internal Affairs Division.

G. COMMANDING OFFICER'S REVIEW & 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.

460.40 CRITICAL USE OF FORCE INCIDENTS

At the direction of the Chief of Police or designee, all incidents involving Department members that result in great bodily harm or death, or injury caused by a police member's use of a firearm, shall cause an internal investigation to be conducted

pursuant to SOP 450-Personnel Investigations immediately following the **conclusion** of the criminal investigation of the incident conducted by CIB, or as otherwise may be directed by the Chief of Police or designee.

A. MEMBER RESPONSIBILITIES

Police members involved in a critical incident that results in great bodily harm or death to a person(s) shall immediately:

1. Secure the area
2. Advise their dispatcher
3. Call for/render medical assistance as needed
4. Call for a patrol supervisor

B. PATROL SUPERVISOR'S RESPONSIBILITIES

1. Patrol supervisors at the scene of a critical incident shall attempt to stabilize the situation as quickly as possible, notify their shift commander, protect the scene and separate and secure witnesses until CIB and/or IAD personnel arrive.
2. Patrol supervisors shall, as soon as practicable, relieve the member(s) directly involved in a critical incident of any further responsibilities at the scene. The supervisor shall ensure that the involved member(s) is accompanied by and remains with a non-involved member (preferably a supervisory member, if available) until such time that CIB personnel are able to assume responsibility for the involved member(s).
3. Patrol supervisors shall maintain their incident commander status and responsibilities unless otherwise relieved by proper authority. The presence of CIB and/or IAD personnel alone does not relieve a patrol supervisor of their incident commander responsibilities unless such personnel from CIB or IAD formally declare incident command.
4. If the patrol supervisor arrives after the incident and receives information pertinent to the incident, the supervisor will be asked to file a report or provide a statement to CIB investigators.

C. CIB RESPONSIBILITIES

1. CIB personnel shall investigate whenever police actions result in great bodily harm or death to a person, all incidents in which an injury is caused by a police member's use of a firearm, and **all** instances when a "critical incident" review has been initiated by the Chief of Police or designee. Such

investigations shall be in conformity with established Standard Operating Instructions relating to the investigation of critical incidents by CIB personnel.

2. A police lieutenant shall assume complete charge of the criminal investigation. An exception is when an officer of higher rank from the CIB assumes responsibility for the investigation or as otherwise determined by the Chief of Police.
3. The police lieutenant in charge of the criminal investigation is responsible for the dispositions of those members directly involved as principals or witnesses and evidence relating to the criminal investigation. A Neighborhood Policing Bureau supervisor shall be responsible for managing patrol resources committed to the investigation.
4. Members who are not directly involved in the criminal investigation, dispatched to the scene, or directed to perform some function related to the criminal investigation, shall promptly return to their normal duties as directed by the patrol supervisor managing the incident.
5. Members directly involved in the use of force shall not be required to file any written reports for the criminal investigation. They shall be interviewed by CIB personnel. In the event a member refuses to be interviewed by CIB personnel, the CIB shift commander shall be notified, who shall in turn notify IAD. If members are not in custody, Miranda warnings are not required.
6. The only criminal incident report filed regarding member statements shall be the written report filed by CIB investigators concerning their interviews with the members involved in the incident.
7. CIB personnel shall examine firearms, ammunition, or weapons used in the incident. Weapons having evidentiary value shall be recovered from members and inventoried (see SOP 560 Property). If the firearm is the member's service weapon, the member shall be given a substitute weapon. The substitute weapon shall be issued by the commanding officer of the First District or his/her designee. As soon as practicable, the member shall appear at the Police Academy – Firearms- Range Office for re-issuance of a replacement weapon.
8. Other members' weapons and equipment shall be examined, but not necessarily taken and inventoried (see SOP 560 Property).
9. The CIB supervisor in charge of the criminal investigation shall, as soon as practicable, facilitate a "walk-through" of the secured and intact scene for responding IAD personnel.

10. The Chief of Police or designee may direct that IAD personnel question members directly involved in the critical incident. In such an event, a supervisor from CIB shall personally escort the members directly involved to meet with IAD personnel at a predetermined location.
11. The CIB supervisor in charge of the criminal investigation shall ensure that the principle member(s) is served with a PD-39 (Drug Test Order form), and arrangements made to transport the member(s) to the appropriate facility for testing.
12. Investigative Summary - The CIB supervisor in charge of the criminal investigation shall file a separate summary of the incident, and route it through the proper channels. Such supervisor shall also provide a complete copy of all investigative reports to IAD as soon as practicable.

D. TECHNICAL COMMUNICATIONS DIVISION RESPONSIBILITY

A Technical Communications Division supervisor shall be responsible for promptly contacting the appropriate Department and governmental officials in accordance with the Communications Division notification matrix.

E. *USE OF FORCE REPORT*

1. The lieutenant supervising the investigation shall be responsible for generating a *Use of Force Report* in the AIM System and under "Type of Call" shall indicate "Critical Incident".
2. DA Review - The notes/narrative of the *Use of Force Report* will normally not be completed until after a criminal investigation is completed and the matter has been reviewed by the DA's Office.

F. REASSIGNMENT OF INVOLVED MEMBERS

1. A commanding officer (e.g., watch commander, a commanding officer from CIB, etc) shall promptly notify the Chief of Police when a Department member is directly involved in any incident resulting in the death or great bodily harm of another.
2. Upon consultation with the Chief of Police or designee, the respective commanding officer referenced above shall then either relieve from all police duty the member(s) involved in the incident, or assign him/her to administrative duty and immediately submit a written report relating to such action to the Chief of Police.

3. Department members assigned to administrative duty, pursuant to the above, shall be strictly assigned to routine office duties, and they shall be prohibited from coming in contact with prisoners.
4. In the event an unusual number of members are involved in an incident from a single Bureau/District and are relieved from all police duty or assigned to administrative duty, the commanding officer of the Administration Bureau, after consultation with the Chief of Police or designee, shall cause such number of personnel to be transferred to and/or from said Bureau/District to ensure proper police coverage.
5. A member directly involved in any incident resulting in the death or great bodily harm to another, for the good of the service and the welfare of the member, shall either be relieved from all police duty by the Chief of Police, no later than at the start of the next regularly scheduled duty day, or be temporarily assigned to administrative duty with all pay and benefits continuing.
6. The Chief of Police shall, as soon as practicable, notify the Executive Director of the Fire and Police Commission in writing of the reassignment or relief from duty. This report shall detail the identity of the member(s) so relieved or reassigned, and identify the incident causing such relief from duty or reassignment.
7. Any Department member relieved or reassigned under this section remains subject to the Code of Conduct and all Rules and Standard Operating Procedures.
8. After consultation with the commanding officer of the Criminal Investigation Bureau and the Internal Affairs Division, and having determined that there has been no violation of state law, the Chief of Police may determine that assignment to administrative duty is no longer required. In such instance, the Chief of Police shall prepare a written report to the Executive Director of the Fire and Police Commission with notice that the Chief intends to reinstate any member relieved or reassigned to their full police duties.

Note: Being relieved from duty under this procedure is not disciplinary in nature and does not intimate any impropriety of conduct by such member.

G. DISTRICT ATTORNEY'S REVIEW

1. The Milwaukee County District Attorney's Office will review all police shootings where injury/death occurs and all incidents that result in great bodily harm or death to a person.
2. The Chief of Police or designee shall notify the DA's office and the executive director of the Fire and Police Commission in the event of the death of an individual while in contact with the police or while the individual is in police custody. Such notifications shall be made as soon as practicable.
3. The supervising lieutenant shall present the facts of the case to the reviewing deputy/assistant DA. Depending on circumstances, this usually occurs on the next business day following the incident.
4. Members involved may be required to appear at the DA's office for this review. This includes members who are temporarily relieved from regular duties they shall keep their commanding officer informed of their whereabouts and availability.
5. After the reviewing assistant DA makes a ruling, the letter containing his/her findings will be sent to the Chief of Police.

460.45 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 & 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 quarterly, or as otherwise directed by the Chief of Police, and shall focus on, but not be limited to, the following:
 - Appropriateness of use of force by Department members
 - Proper field supervision and supervisory review of use of force incidents
 - Application and effectiveness of Department rules and procedures concerning the use of force
 - Proper use and effectiveness of equipment

- Effectiveness of use of force training
 - 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.
- F. 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.



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CHIEF OF POLICE

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