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POLICY

It is the policy of the Oneida County Sheriff’s Office that at all times, only the minimum force reasonable and necessary to effect a lawful purpose may be used. The use of force is the last resort to accomplish lawful objectives.

PURPOSE

The purpose of this General Order is to establish Oneida County Sheriff’s Office guidelines concerning the *use of force* by employees of the Sheriff’s Office. Proper *use of force* decisions, based upon reasonableness, ensure due process for citizens as well as provide protection for the officer and Sheriff’s Office.

This policy is based upon the constructs found in *DEFENSIVE AND ARREST TACTICS PROGRAM (DAAT)* and *PRINCIPLES OF SUBJECT CONTROL (POSC)* of the State of Wisconsin as promulgated by the Law Enforcement Training and Standards Board. (Sheriff’s Office of Justice – Training and Standards Bureau).


OBJECTIVE

Officers will encounter a full range of behavior in the performance of their duty. *Use of force* is one tool and a privilege of law granted to the officer to professionally perform his or her duty. Officers may use force legitimately *when it is needed to achieve control* in five specific situations:

- To achieve and maintain control of resistive subjects
- To detain persons reasonably suspected of criminal behavior
- To make lawful arrests
- To defend themselves or others
- To prevent escape
- To change location of inmate

An officer’s decision to use force, and which particular intervention option may be appropriate, is based upon the totality of the circumstances in an incident. The officer is to use that level of force, which is reasonable to effect control. Another objective of the policy, therefore, is to define the concept of what is “reasonable”. Use of force for Corporal Punishment of an inmate is forbidden.

I. OVERVIEW

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A. There are five “modes” or “levels of force” that an officer uses in the performance of duty. These levels are:


1. Presence: The officer initially uses force upon making contact with a subject by appropriate use of presence.
2. Dialog: The officer then verbalizes and communicates and continues to do so for the duration of the contact or confrontation. If presence and verbalization do not create a situation of control, the officer may choose to “escalate” to the next “mode” or “level of force.”
3. Control Alternatives: The empty hand control mode begins with a “blanket” (Passive restraint). This initial intervention option may be followed and/or replaced by other intervention options within this mode, which include “escort,” “compliance,” “control devices” such as Oleoresin capsicum (O.C.), and Electronic Control Devices (E.C.D.), “passive counter-measures.”

The particular intervention option used by an officer is based upon reasonableness and the totality of the circumstances. The inability of an officer to control a subject at these lower level intervention options, (presence, dialog, and empty hand control) may cause the officer to escalate to the next level of force.

4. Protective Alternatives: This mode includes active counter measures, incapacitating techniques, and intermediate weapons (impact weapons (baton) and/or less lethal devices). The inability of an officer to control a subject with the intervention options within this mode may cause the officer to escalate to the final mode. The use of less lethal devices may only be considered by personnel who are properly trained and authorized to discharge these devices.
5. Deadly force: This mode includes the intentional use of a firearm or other instrument, the use of which would result in a high probability of death.

B. Acceleration Through the Intervention Options. Listed below are some of the circumstances that may cause an officer to accelerate very rapidly through the intervention options.

1. *Special Knowledge*. When an officer is confronted by a person who they have been in contact with previously and knows the person is usually armed with a weapon; the officer may approach the situation with the intent to use a high level of force if needed. If an officer knows, from previous cases,

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that the person to be detained/arrested is a fighter and has assaulted an officer in the past, more force may be expected to be needed to detain/arrest that person.

2. *Injury or Exhaustion.* Where an officer is injured in a confrontation and is losing, the officer may need to use a weapon or a higher level of force to bring the situation under control. If an officer cannot endure a lengthy confrontation because of exhaustion or physical fatigue, escalation through the intervention options may be necessary.
3. *Proximity to the Officer's Firearm.* A close proximity to the officer's firearm exposes the officer to the possibility of a lethal force situation. If the person removes the holstered weapon, the likelihood the officer will be shot is imminent.
4. *Ground Fighting.* Since grappling is a match of strength and skill, some say that if the officer is not handcuffing or in control while on the ground, then the officer is losing. If the officer is on the ground and the aggressor is standing, the officer faces a greater danger.
5. *Disability.* Officers who have disabilities may find it necessary to escalate on the Force Option Continuum to a higher level of force.


II. POLICY

These five modes of force and circumstances, which may cause an officer to accelerate through the intervention options, can be further segmented into more precise “steps of escalation” which then further define the Use of Force Policy.


The following steps of escalation are discussed within the context of increasing levels of force. It is entirely possible, if not likely, that officers will be required to “skip” steps in actual situations based upon threat level, urgency, officer/subject factors, officer injury or exhaustion, sudden assaults, and other factors.

The ten “*steps of escalation*” in the INTERVENTION OPTIONS are as follows:

- A. Step #1: In any *use of force* decision, the officer must be certain that he or she has the right to make contact. The intervention must have legal beginning based upon articulable facts or circumstances. Officer PRESENCE can be based upon invitation, reasonable suspicion, community caretaker function, probable cause, exigent circumstances, or other “legal beginnings.”

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- B. Step #2: an officer's PRESENCE is an "*intervention option*," and should be used to control. An excessive or negative presence must be avoided or, if used, must be justified.
- C. Step #3: Officers must attempt to use DIALOG to persuade when possible. The task of an officer is to communicate with the subject when attempting to control. The intent of the officer should be to attempt to control the subject with verbal skills, even though this is not always possible. Verbal control can result from conversation, from orders, or from commands with sanctions. An officer's verbal tone and control tactics must be appropriate to the circumstances and not be the cause of escalating resistance.
- D. Step #4: When presence and verbal persuasion do not affect control, verbal tactics are complimented by physical alternatives. The "*passive restraint*," or BLANKET, is the lowest level of physical restraint alternatives.
- E. Step #5: A subject who continues to resist control and who does not respond appropriately to passive control and restraint methods should be actively restrained. An ESCORT POSITION is a Defensive and Arrest Tactics/Principle of Subject Control active restraint technique and should be utilized. Other justifiable active restraint methods that are reasonable and possible in a situation are permitted as long as the techniques pose no greater risk of harm to the subject than the appropriate Defensive and Arrest Tactics/Principle of Subject Control technique. Verbal direction must accompany the restraint.
- F. Step #6: If resistance continues, the active restraint will become ineffective due to the physical demands placed upon the officer, and due to the escalating danger that places the officer and subject in a position of imminent foreseeable harm, techniques which cause discomfort or transitory pain should be used to gain control. These COMPLIANCE techniques include, the Defensive and Arrest Tactics/Principle of Subject Control wrist compression hold and use of pressure point control tactics. Once compliance is obtained, these techniques should be lessened in degree, but not in substance. Handcuffing should be used to maintain control. The subject's resistance is the determining factor in the application of pain inducing techniques.
- G. Step #7: If active resistance continues or the subject continues a threat of active resistance, or the above intervention options would be considered useless due to threat assessment opportunities, officer subject factors, and any special circumstances, the use of Oleoresin capsicum (O.C.) or Electronic Control

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Device (ECD) should be used to obtain control of a subject. Handcuffing should be used to maintain control, and follow-thru procedures should be initiated

(1). Procedures for Oleoresin Capsicum (OC) Spray

(a) Officers who have been trained and certified in the use of OC shall carry Sheriff's Office issued OC while on duty.

(1) If the officer has a special duty assignment that does not make carrying OC feasible, the Division commander may exempt the officer from carrying OC for the assignment.

(b) Trained personnel may use OC when a subject is threatening to actively resist or is actively resisting an officer and the subject poses an articulable threat of harm to an officer or another person. It may also be used when the subject poses a threat of harm to himself or herself such as self-inflicted injury or a suicide attempt.

(c) Officers may include in the decision to use the force option information known to the officer at the time of incident, including conduct or statements of the subject or prior history of resistive or assaultive behavior.

(d) Generally, OC should not be sprayed at a person from a distance of less than 3 feet.


(e) When OC is used against a person or animal, the user shall notify an on-duty supervisor and shall complete an offense report detailing the circumstances of the incident.

(f) If practical, Sheriff's Office personnel who use OC against a person shall ensure the person is decontaminated as soon as practical after he or she is under control.

(1) If possible, expose the person to fresh air and flush the exposed area with cold water.

(2) If practical, the subject may be allowed to remove contact lenses.

(3) Continue to monitor the exposed person for any unusual reactions to the exposure. If the exposed person has an unusual

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reaction or requests medical attention, transportation to a medical facility shall be arranged.

(2) Procedures for Electronic Control Device (ECD)

Electronic Control Device (ECD): A battery powered less-lethal device that uses propelled wires and probes or direct contact to conduct sufficient energy to affect the sensory and motor functions of the human and animal nervous system. The intended purpose of the device is to incapacitate and help control actively resistive, potential active resistive, and/or violent persons or animals with reduced potential for great bodily harm or death.

(a) Units approved by the Sheriff's Office and storage of units:

(1) Advanced Taser X-26 ECD is the only unit authorized for use by Sheriff's Office personnel.


(2) ECD units not being carried by officers shall not be stored in Sheriff's Office vehicles. ECD units may only be stored in a secure locked area approved by the Division Administrator or the designated storage area in the Sheriff's Office armory.

(a) ECD units that have been secured by a supervisor after a discharge may be temporarily secured by the supervisor for transmittal to the Division commander.

(b) An electronic control device may be used by trained officers when a subject is threatening to actively resist or is actively resisting an officer and the subject poses an articulable threat of harm to an officer or another person. It may also be used when the subject poses a threat of harm to himself or herself such as self-inflicted injury or a suicide attempt. Passive resistance without posing an articulable threat of harm to officers or others does not justify the use of an ECD.

(1) Officers may also include in the decision to use this force option information known to the officer at the time of the incident, including conduct or statements of the subject or prior history of resistive or assaultive behavior.

(c) Passive resistance without posing an articulable threat of harm to officers or others does not permit the use of an electronic control device.

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(d) Deployment and use of the electronic control device shall be in strict accordance with Sheriff's Office training and procedures. The electronic control device shall be carried on the opposite side of the body from the firearm in the Sheriff's Office authorized holster. No officer shall brandish, display, or threaten the use of an electronic control device unless he or she can reasonably conclude its use may become justified or is anticipated.

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(1) The Jail Administrator/Assistant Jail Administrator may authorize the Corrections Sergeant and Corrections officers to carry a Sheriff's Office issued ECD while on duty in the jail.

(2) Patrol, Investigation, and Support Service commanders may authorize their assigned law enforcement personnel to carry a Sheriff's Office issued ECD.


(e) In each instance when an electronic control device is deployed at an incident, a determination will be made regarding the need for lethal cover.

(1) Lethal cover shall be required in all cases in which the subject possesses a firearm or other deadly threat.

(2) The electronic control device is not a substitute for deadly force – in cases where a subject poses an articulable threat of harm or death to an officer or another person, an officer may not arm him or herself with an electronic control device unless another officer is present and capable of immediately delivering deadly force.

(f) Elevated ECD deployment risk factors: The following factors, when reasonably perceived by the officer(s) at the time of the incident, require elevated justification(s) for deployment. Under the following conditions the risk of direct or secondary injury to the person is foreseeably elevated, thus the justification for ECD deployment is also elevated. The officer(s) must balance the elevated risk(s) of injury with the need for immediate apprehension or protection.

- (1) Presence of flammable materials
- (2) Person in an elevated position
- (3) Person operating a vehicle (capable of moving)
- (4) Person running
- (5) Person obviously or known to be pregnant

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- (6) Person in water sufficient to drown
- (7) Person obviously frail or infirm

(g) ECD deployment methods: The primary deployment method is to discharge the ECD cartridge propelling the probes and probe wires. The back-up deployment method is to firmly drive the attached fired ECD cartridge into the person's body.

- (1) Removing the ECD cartridge to apply a drive stun is not a primary deployment technique. It is discouraged because it provides limited effectiveness and has a higher propensity for causing minor burn marks or friction abrasions to the skin than probe deployment.


(h) ECD deployment cycle(s): Officers shall deliver only the number of deployment cycles reasonably necessary to control the person. If practical, cover officer(s) are present they should move in and control the person during the deployment cycle(s). If multiple cycles have been delivered and the person still cannot be controlled, officers should consider escalation of force options or disengage.

(i) ECD probes may not be intentionally fired at the face, head, neck, or groin.

(j) All probes shall be considered a biohazard and removed using personal protective equipment if practical. After the probes have been removed, the probes, wires, and cartridge(s) shall be collected and entered into evidence. They shall be retained in evidence for a period of not less than 30 days. After the 30-day period they may be destroyed.

- (1) Collect probes, wires, and the cartridge as a unit if possible. (do not break the wires from the probes or cartridge)
- (2) Gently press the probes into the wire channels that house the wires on the front of the cartridge.
- (3) Do not wrap or attempt to untangle the wires.
- (4) Place the whole cartridge unit into a paper bag. Place the unit into a paper bag, with a bio-hazard and sharps labeling and enter the item into evidence under established procedures.

(k) Post deployment of ECD:

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(1) Sheriff's Office personnel who use an ECD against a person shall ensure the person is monitored for injury as soon as practical after the person is under control. Officers shall monitor the subject for adverse reactions. Officers shall immediately arrange for transportation of the suspect to the hospital if an adverse reaction to the ECD occurs, or if the subject requests medical treatment. Whenever there is doubt concerning the need for medical attention, it should be resolved through the examination of the subject by an appropriate medical facility.

(2) If the probes are imbedded in sensitive tissue areas, i.e. neck, face, groin, or the breast of a female, officers shall arrange transportation to a medical facility for removal. If the probes are imbedded in other non-sensitive tissue areas, a trained officer may remove them according to the trained procedures.

(3) Once a subject is secured in custody, an evaluation of the application site should be made to determine the necessity for photographs.


(4) Following deployment of an ECD, the on-duty supervisor shall secure the ECD and place the ECD in a sealed bag and secure the ECD for transmittal to the commander.

(5) In the event that a spare ECD is available, the on-duty supervisor is then responsible for re-issuing a spare ECD to the deploying officer under the established procedure.

(6) The on duty supervisor is then responsible for requesting the Division commander to obtain a printout of the data port download from the specific device used .The commander responsible for obtaining a printout shall place a copy in the case file for the incident and staple a copy to the "Addendum B – Use of Force Report".


(1) Reporting the use of a ECD:

(1) When an ECD is used, including in the definition of use is the removing from the holster and activating the ECD and painting or targeting of a person or animal, the user shall immediately thereafter notify an on-duty supervisor. The deploying officer shall promptly complete an incident report, documenting circumstances

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necessitating, and manner of, such use. Each involved officer shall also complete the “Addendum B” - “Use of Force Report” after a use of force incident. The completed one page report shall be provided to the appropriate Division commander. The responsible Division commander is responsible for review of all incidents involving the use of an ECD of their assigned personnel. The commander shall place this information in the “Sheriff’s Office Use of Force” summary file.

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- H. Step #8: A subject whose resistance is so severe, or who has become an assailant, must have his or her behavior quickly countered. Use of force, which is insufficient to control the subject, may create a situation in which the officer is placed in a position of losing control options and being forced to over-react. An officer who is unable to control a subject by the prior means mentioned in this General Order is justified to attempt counter-measures. DECENTRALIZATIONS are PASSIVE COUNTER-MEASURES, and are designed to direct the subject to the ground for stabilization and handcuffing. The ground is a stabilizing factor that causes a lessening of the subject’s options for resisting. Decentralization techniques should be those taught in the Defensive and Arrest Tactics management system/Principle of Subject Control, or one that poses no more risk of harm to the subject than the Defense and Arrest Tactics/Principle of Subject Control standard. Due to the dynamic nature of potential levels of resistance, techniques should be reasonable and possible to the situation.
 - I. Step #9: When an attempt to decentralize fails, or the threat level of the subject escalates, unarmed striking techniques, termed ACTIVE COUNTER-MEASURES, should be utilized to create a lessening of resistance to the point where decentralization and stabilization/control are practical. These unarmed tactics should be those taught by the Defensive and Arrest Tactics management system/Principle of Subject Control, or those justified as reasonable and possible given the totality of the circumstances.
 - J. Step #10: IMPACT WEAPON, BATON STRIKES, LESS LETHAL DEVICES are authorized to be used:
 - (1) By an officer to defend himself or others from an attempted or actual battery, or when the officer reasonably believes such a battery is imminent.
 - (2) By an officer in an arrest effort when lesser means are not practical.

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(3) By an officer to disarm assailants, under certain circumstances without resorting to deadly force.

- K. Step #11: FIREARMS, RESPIRATORY RESTRAINTS, OR OTHER DEADLY-FORCE OPTIONS are to be used to stop the threat or perceived threat to *the officers or others* of DEATH or GREAT BODILY HARM. The use of a respiratory restraint, also known as a chokehold, is limited to circumstances where deadly force is authorized. A fleeing felon does not necessarily constitute such a threat to others or the community at large and other means of apprehension should be attempted. DEADLY FORCE should be used only when the use of all other means is precluded and when the threat is imminent.


The intended result of the use of DEADLY FORCE is the immediate cessation of subject behavior, which, if not stopped, would lead to death or great bodily harm to the officers or others. The threat must be imminent, and the subject must have the means and ability to actualize the threat. Reasonable grounds must exist that justify the use of deadly force in an arrest situation. *These grounds must lead to the conclusion that an imminent threat of death or great bodily harm exists and that death or great bodily harm will result if the use of force is delayed.*

III. RESPONSIBILITY OF AN OFFICER AFTER THE USE OF FORCE

After an officer elects to use force and after a situation is stabilized, the subject is handcuffed, and the scene is safe for the officer, the officer must:

- A. Render First-Aid/CPR to the level of his/her training.
- B. Call an ambulance/paramedics or whatever advanced medical assistance is available, if necessary.
- C. Continue to monitor and provide custodial care remaining with the subject until released to someone of equal or greater responsibility.
- D. Prepare the Oneida County Sheriff's Office "*Officer's Supplemental Report*" report detailing the incident and the circumstances surrounding the use of force.

Due to officer/subject factors and special circumstances that can exist as well as the dynamics of officer/subject confrontations, it is necessary for the officer to detail the totality of an event to show the reasonableness of force that was used. This would include the legal and required nature of the officer's actions

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and the immediacy of the situation. The seriousness of the event and the amount of danger to all involved must be included.

It is understood that confrontations do not always or even frequently go “by-the-numbers,” but a sincere effort at articulating the totality of circumstances should be attempted in such report. The Defensive and Arrest Tactics/Principle of Subject Control INTERVENTION OPTIONS should be used as a guideline and structure for the report to document the officer’s and the subject’s actions. If steps of the intervention options were not possible or attempted, that information should be included in the report, as well as the justification for rapid escalation or skipping steps of the Intervention Options.

(1) The “*Use of Force Checklist*” in “*Addendum A*” of this General Order is provided for the purpose of report preparation and to outline the information necessary for the report.


(2) The “*Use of Force Report*” in “*Addendum B*” is a one page summary report that shall be completed by each involved officer, immediately after a use of force incident. The completed one page report shall be provided to the appropriate Division Commander. The responsible Division Commander is responsible for review of all incidents involving the use of force of their assigned personnel and placing this information in the “Sheriff’s Office Use of Force” summary file.

A complete copy of the Officer’s Supplemental Report will be forwarded through the established chain of command as soon as practical following a used of force incident.

POLICY AND PROCEDURE ADOPTED ON: _____

Grady M. Hartman, Sheriff

Daniel L. Hess, Chief Deputy

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USE OF FORCE POLICY ADDENDUM – A

USE OF FORCE DOCUMENTATION CHECKLIST

The purpose of this Use of Force Checklist is to assist officers in the documentation of their actions and the actions of subjects in use of force incidents. This list will also be used to evaluate training and to isolate future training needs.


I. **BACKGROUND INFORMATION**

- A. Day/Date/Time
- B. Location/Address
- C. Officer(s) involved
- D. Witness(s)
- E. Sheriff Case Number

II. **APPROACH CONSIDERATIONS**

- A. Decision making – (Why was contact made?)
 1. Dispatched/Duty assignment
 2. Reasonable suspicion
 3. Probable cause
 4. Other reasons (state reason/describe)
- B. Tactical approach – (How was the approach made?)
- C. Threat assessment
 1. What were the respective abilities for delivering force?

a. Number of participants	Subject factors:
b. Officer factors:	Age
Age	Size
Size	Strength
Strength	Skill level
Skill Level	
 2. Assessment opportunities
 - a. Level of resistive tension
 - b. Early warning signs
 - (1) Conspicuously ignoring
 - (2) Excessive emotional attention
 - (3) Exaggerated movement
 - (4) Ceasing all movement
 - (5) Known violent behavior
 - (6) Other (state reason/describe)
 - c. Pre-attack posture (List observations)

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3. Special circumstances
 - a. Sudden assault (Describe)
 - b. Officer's physical positioning
 - c. Officer's reasonable perception of threat
 - d. The subject(s) ability to escalate force rapidly
 - e. Special knowledge about the subject(s) past/present
 - f. Officer injury or exhaustion
 - g. Other special circumstances
 - h. Availability of backup
 - i. Equipment or training
4. Additional comments

III. USE OF FORCE..... SUBJECT BEHAVIOR: OFFICER BEHAVIOR:


- A. Presence
- B. Verbalization
- C. Empty hand control
 1. Escort hold
 2. Compliance hold
 3. Passive countermeasures
 4. Active countermeasures
 5. Other unarmed tactics
 6. Electronic Control Devices
- D. Impact weapon/Less lethal devices
- E. Firearm
- F. Summary of what took place

IV. FOLLOW THROUGH

- A. Stabilization -----> Handcuffing procedure
- B. Monitoring/Debriefing procedures (Medical assessment)
- C. Searching procedures
- D. Escort procedures
- E. Transportation procedures
- F. Turn-over -----> Unhand cuffing procedures -----> Release
- G. Additional comments

V. INVESTIGATIVE FINDINGS

- A. Background information
- B. Medical/Psychological history
- C. Booking information/Criminal history
- D. Other information

 Office of the Sheriff	<u>POLICY AND PROCEDURE</u>		
	<u>SUBJECT</u> Use of Force		<u>POLICY NUMBER</u> OFF-97-1
	<u>ORIGINAL ISSUE DATE</u> 04/04/97	<u>EFFECTIVE DATE</u> 04/04/97	<u>REVISION DATE</u> 01/22/21
			<u>DIVISION</u> Sheriff's Office <u>PAGE</u> 15 of 15

ADDENDUM B – USE OF REPORT

PERSON

(circle)

DOMESTIC ANIMAL

Incident # _____ Date _____ Time _____

Officer _____ Call # _____

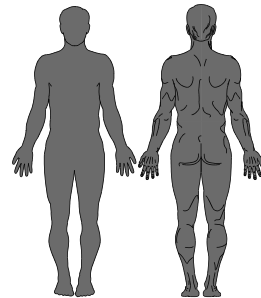
Location _____ Charges _____

Suspect: **M** **F** Suspect Age _____

Special Suspect Factors (Weight, Height, Martial Arts, etc.) _____

CONTROL/PROTECTIVE ALTERNATIVES

1. Passive Countermeasures
 - Decentralization Techniques (physically force to the ground)
2. Active Countermeasures
 - Vertical Stuns
 - Focused Strikes
 - Hand Strikes Elbow/Forearm Strikes
 - Kicks Knee Strikes
3. OC (used by)
 - Officer _____
4. Electronic Control Device X26 S/N _____
 - Drive Stun Mode Cartridge Discharge Mode
 - Paint Target S/N _____
5. Intermediate Weapon
 - Baton Other _____



6. Other Technique (document in narrative report justification given circumstances)
Describe _____

DEADLY FORCE

- Firearm used
Make _____ Model _____ Serial No. _____
- Other Deadly Force (describe) _____
- ACTIVE POINTING OF FIREARM** (to gain compliance)
Did subject comply with your commands without further incident? Yes No

INJURY REQUIRING MEDICAL ATTENTION (excluding OC decontamination)

1. Officer(s) No Yes Explain _____
2. Subject(s) No Yes Explain _____
3. Other(s) No Yes Explain _____

NARRATIVE REPORT ATTACHED

Shift Supervisor Review _____ Date/Time: _____

Division Commander Review _____ Date/Time: _____