

**VILLAGE OF PEWAUKEE
POLICE DEPARTMENT**



POLICY MANUAL

Chapter 5	REVIEWED DATE 23 APR 26	ORIGINAL POLICY NUMBER 2.60, 2.61
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MANAGEMENT OF RESISTANCE / AGGRESSION

Section 1

Use of Force

It is the policy of the Village of Pewaukee Police Department to require all sworn officers to follow the State of Wisconsin's Law Enforcement Training and Standard's system of Defensive and Arrest Tactics when making all use of force decisions. Officers of the Village of Pewaukee Police Department shall only use approved firearms (used with approved ammunition) that are mechanically sound and properly maintained. Only firearms with which an officer demonstrates proficiency may be used, on or off duty, pursuant to his/her authority as a police officer. All personnel shall follow the protocols set forth in the Procedures (5.1.1, 5.1.2, 5.1.3, 5.1.4, 5.1.5, 5.1.6, 5.1.7, 5.1.8, 5.1.9, 5.1.10, 5.1.11, and 5.1.12).

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Section 2

Rendering Aid

It is the policy of the Village of Pewaukee Police Department to require all sworn officers to follow the State of Wisconsin's Law Enforcement Training and Standard's system of Defensive and Arrest Tactics when making all use of force decisions. Within this system there is the component "Preserve" which addresses the rendering of aid. All personnel shall follow the protocols set forth in the Procedures (5.2.1).

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Section 3

Reporting and Review

It is the policy of the Village of Pewaukee Police Department to require all sworn officers to follow the State of Wisconsin's Law Enforcement Training and Standard's system of Defensive and Arrest Tactics when making all use of force decisions. The Use of Force is looked upon as an extremely critical issue and shall only be used when reasonably necessary to gain control of a situation. Use of force incidents shall be tracked and reviewed by Department supervision. In addition to examining Use-of-Force reports as they are submitted, an annual analysis will be conducted in order to effectively ascertain trends over a significant period of time. Incidents involving deadly force will be thoroughly investigated to ensure that the actions taken by any officer were lawful and within the confines of the DAAT System and Wisconsin State Statutes. All personnel shall follow the protocols set forth in the Procedures (5.3.1, 5.3.2, 5.3.3, and 5.3.4).

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MANAGEMENT of RESISTANCE / AGGRESSION

Section 1 Use of Force

Purpose: The purpose of this procedure is to provide officers clear direction in the use of force situations. Officers have the privilege to use force when it becomes necessary in the performance of their official duties. They shall only use the amount of force that is reasonably necessary to accomplish their objectives.

Definitions:

- A. Excessive Force - More force than is reasonable will not affect the validity of the arrest; it may expose the officer to civil suit, discipline or both, and in aggravated circumstances possible criminal liability also.
- B. Deadly Force – The intentional use of a firearm or other instrument that creates a high probability of death or great bodily harm.
- C. Deadly Force Requirement - With the subject causing imminent danger of great bodily harm or death to yourself or others, and other tactics have been exhausted or would be ineffective, department policy directs you to stop the subject's actions with the use of deadly force.
- D. De-Escalation- An Officer's use of time, distance and relative positioning in combination with professional communication skills to attempt to stabilize and reduce the immediacy of threat posed by and individual.
- E. Great Bodily Harm - (WI State Statute 939.22) Bodily injury which creates a substantial risk of death or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily injury.
- F. Imminent - Likely to occur at any moment; impending.
- G. Lawful Force - Physical act by an officer in the performance of duty when it is used to accomplish a legitimate police goal and the level of force used is

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reasonable considering known facts and circumstances at the time of the incident.

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- H. Necessary Force - Amount of force, applied against a person by any means, reasonably necessary to control a person, a situation or to achieve a legitimate law enforcement goal.
- I. Non-Deadly Force - The use of a weapon, instrument, hold or other action which is not deadly force but which may result in injury or which creates some degree of risk that a reasonable, prudent person would consider likely to cause injury.
- J. Objectively reasonable - Level/amount of force an officer uses must be reasonably necessary to accomplish the law enforcement objective (US Supreme Ct. Graham v. Connor); to determine whether force is objectively reasonable consider: severity of crime, whether suspect poses imminent threat to officer or others, and whether the suspect is actively resisting or attempting to evade arrest by flight.
- K. Physical Restraint - Holding, restraining, or other physical manipulation without the use of a weapon by one or more officers acting alone or in concert to control a person or to effect an arrest.
- L. "Hog-Tying" - The act of connecting ankle shackles to the hand cuffs of an apprehended individual, behind their back, via a strap/chain/rope short enough so as the person cannot straighten their legs and are forced to lie on their side or stomach
- M. Reasonably Believes - An ordinary, prudent and reasonably intelligent police officer believes that a certain fact or situation exists and such belief is reasonable under the circumstances known to the officer at the time the officer acted.
- N. Disturbance Resolution - A guideline set forth by Training and Standards that involves verbal and physical options to obtain law enforcement objectives.
 - 1. Disturbance Resolution Qualifiers:
 - a. Use of trained techniques are preferred; however, techniques not trained may be used as long as they fit the situation and the above guidelines. Techniques may be dynamically altered on the street.

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- O. Graham V. Connor - The United States Supreme Court Case that ruled that force is only to be applied by law enforcement officers when such use is “objectively reasonable” in a given situation, as determined by a “reasonable officer” at the scene. The factors which, in general, determine whether force is “objectively reasonable” include:
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;
 3. Whether the suspect is actively resisting or attempting to evade arrest by flight.
- P. Tennessee V. Garner - The United States Supreme Court Case which strikes down fleeing felon rules and states a law enforcement officer would **not** be justified in shooting to stop someone from fleeing whom is known to have committed only a property crime or who has apparently committed a felony or misdemeanor that does not endanger life or threaten serious bodily harm.
- Q. Imminent Threat Criteria - Weapon, Intent and Delivery System. To be justified in using deadly force the subject’s threat must have all three criteria.
- R. Target Requirements - Target Acquisition, Target Identification, and Target Isolation.
- S. Electronic Control Device (ECD) - A legitimate law enforcement tool with the purpose to overcome active resistance or its threat. Currently the chosen ECD tool at the Village of Pewaukee Police Department is the Taser.
- T. Target-Specific Directed Fire – A purposeful, controlled, sustained fire directed at a perpetrator, or their last known location, who has caused or imminently threatens to cause death or great bodily harm to you or others, but whom you may not be able to clearly observe.
- U. Neck Restraint (Choke Hold) – Any technique involving the use of an arm or other firm object to attempt to control or disable a subject by applying pressure against the windpipe, or the frontal area of the neck with purpose or intent or effect of controlling a subject’s movement or rendering a subject unconscious by blocking the passage of air through the windpipe. “Choke

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Holds” are **prohibited** except in those circumstances when the use of deadly force is allowed by law.

- V. Deadly Force Incident - Any incident in which an officer used a firearm or other instrument that did or could *have* resulted in a high probability of death.
- W. Investigating Officer - A Supervisor or Officer assigned to investigate a use of force incident.
- X. Involved Officer - Officer(s) who utilized deadly force on/at a suspect and is the focus of the investigation.
- Y. Support Officer - Officer assigned to the Involved Officer utilized to assist Involved Officer during the stressful aftermath of a use of force incident.
- Z. Use of Force Review Board - Internal panel charged, by the Chief, to review an incident and report their findings in a recommendation of action directed to the Chief.
- AA. Victim Officer - Officer who had deadly force used against them.
- BB. Witness Officer - Officer(s) also present at the incident, but not directly involved in the use of force.
- CC. PEPPERBALL: PepperBall is a non-lethal system that uses High-Pressure Air (HPA) to deliver Pelargonic Acid Vanillylamide (PAVA) powder projectiles from a safe distance. PAVA is a non-flammable, synthetic capsaicinoid that is derived from pepper plants. The effects of PAVA are similar to that of Oleoresin Capsicum (OC). Because PAVA is manufactured synthetically, it is considered a chemical agent.
- DD. PEPPERBALL LAUNCHER: A non-lethal chemical agent delivery system that uses compressed air to deliver powder projectiles at a safe distance. The delivery system is capable of combining chemical agent exposure with a kinetic impact.
- EE. LIVE-X Projectiles: Live X is the primary projectile used in practical applications including area saturation, direct impact, and crowd control. Live X is a plastic .68x 72 caliber sphere that is half red/half black. Live X contains 5% PAVA. When used as Direct Impact, Projectiles have a Kinetic Impact of 10-12 ft./lbs. (14-16 Joules).
- FF. INERT Projectiles– Inert projectiles contain harmless, scented powder. Inert rounds are best suited for training, qualifications, and direct impact when

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PAVA exposure is not desired. Inert projectiles is a plastic .68x72 caliber sphere that is half white/half purple. When used as Direct Impact, Projectiles have a Kinetic Impact of 10-12 ft./lbs. (14-16 Joules).

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5.1.1 Use of Force

1. The agency has a written directive governing the use of force, as required by §66.0511(2), Wis. Stats., that adheres to all applicable Federal, State, and local laws. The written directive shall include a requirement that when using force, an officer is required to act in good faith to achieve a legitimate law enforcement objective. Furthermore, the written directive must establish that an officer is only authorized to use force that is objectively reasonable based on the totality of circumstances, as outlined in §175.44(2), Wis. Stats., including:
 1. The severity of the alleged crime at issue.
 2. Whether the suspect poses an imminent threat to the safety of law enforcement officers or others.
 3. Whether the suspect is actively resisting or attempting to evade arrest by flight. The written directive must be publicly available on the agency's website.
 - a. An officer may use force:
 1. To achieve and maintain control of resistive subjects.
 2. To detain persons reasonably suspected of criminal behavior.
 3. To make lawful arrests.
 4. To defend themselves or others.
 5. To prevent escape.
 6. To bring an unlawful situation safely under control.

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- b. Intervention Options
- In determining the amount of force to be used, officers may use one level of force higher than that

being used or threatened against them. The amount of force an officer may use should be based on the following *Intervention Options*:

1. PRESENCE - The first mode. Presence, reflects the fact that sometimes all that is needed to control a situation is the presence of an officer. The purpose of this mode is *to present a visible display of authority*.
2. DIALOGUE - The second mode. Dialogue covers the range of tactical communication from very low-level questioning to very directive commands. The purpose of dialogue is to *verbally persuade* subjects to comply with an officer's lawful directives.
3. CONTROL ALTERNATIVES - The third mode. It contains a wide range of tactics and tools for controlling subjects. The purpose of Control Alternatives are *to overcome passive resistance, active resistance, or its threat*. The tactics within Control Alternatives are:

<i>Tactic / Tool</i>	<i>Goal</i>
Escort Holds	To safely initiate physical contact
Compliance Hold	To overcome passive resistance
OC / ECD / PepperBall	To overcome active resistance or its threat
Passive Countermeasures	To decentralize

4. PROTECTIVE ALTERNATIVES - The fourth mode. It contains a wide range of tactics and tools for protecting officers managing resistive/assaultive subjects. The purpose of a Protective Alternative is *to overcome continued resistance,*

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assaultive behavior, or its threat. The tactics within the Protective Alternatives are:

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<i>Tactic / Tool</i>	<i>Goal</i>
Active Countermeasures	To create dysfunction
Incapacitating Techniques	To cause the immediate, temporary cessation of violent behavior
Intermediate Weapons (Less Lethal Weapons)	To impede

5. DEADLY FORCE - The fifth mode. Deadly Force represents the highest level of force available to law enforcement officers with the purpose to *stop the threat*. Deadly Force is the *intentional use of a firearm or other instrument that creates a high probability of death or great bodily harm*. The definition of subject behavior that justifies an officer's use of deadly force is any behavior, *which has caused or imminently threatens to cause death or great bodily harm to you or another person or persons*.
 - a. A total roadblock is the complete obstruction of the roadway that does not allow the pursued vehicle an escape route. Total roadblocks should only be employed when deadly force is justified.
 - b. The intentional ramming of a fleeing vehicle and the Pursuit Immobilization Technique (PIT) are not trained but are justified in a deadly force situation.
 - c. "Warning shots" are prohibited.
 - d. Officers may fire at an unarmed fleeing felon subject only if there is "probable

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cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others." This assessment is based on the totality of the circumstances.

5.1.2 Use of Force Requirements

1. Prohibiting the use of choke holds except in life-threatening situations or in self-defense.
2. That once an officer has gained control of a subject then the officer must reduce the level of force to that needed to maintain control.
3. Officers shall use de-escalation techniques whenever possible and appropriate before resorting to force and to reduce the need for force. Whenever possible, Officers should allow individuals time and opportunity to submit to verbal commands before force is used.

5.1.3 Duty to Report Noncompliance

1. An officer, who in the course of his or her duties, witnesses another officer use of force that does not comply with the standards outlined in § 175.44(2)(b) or (c), Wis. Stats. In the course that officer's official duties, shall report the noncompliant use of force to a supervisor as soon as it is practicable after the occurrence of the use of force.

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5.1.4 Duty to Intervene

1. An officer shall, without regard for chain of command, intervene to

prevent or stop another officer from using force that does not comply with the standards outlined in §175.44(2)(b) or (c), Wis. Stats. in the course of that officer's official duties if all of the following apply:

- a. The officer observes the use of force that does not comply with §175.44(2)(b) or (c), Wis. Stats.
- b. The circumstances are such that it is safe for the officer to intervene.

5.1.5 Whistleblower Protection

1. No law enforcement officer may be discharged, disciplined, demoted, or denied promotion, transfer, or reassignment, or otherwise discriminated against in regard to employment, or threatened with any such treatment, because the law enforcement officer reported, or is believed to have reported, any noncompliant use of force as required under §175.44 sub. (3) or (4); intervened to prevent or stop a noncompliant use of force as required under §175.44 sub. (4); initiated, participated in, or testified in, or is believed to have initiated, participated in, or testified in, any action or proceeding regarding a noncompliant use of force; or provided any information, or is believed to have provided any information, about noncompliant use of force as required under §175.44 sub. (3) or (4).

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5.1.6 Deadly Force

1. Deadly Force in Defense of Human Life

- a. Refer to Procedure 5.1.1.1.b.5
- b. An officer may use deadly force only as a last resort when the officer reasonably believes that all other options have been exhausted or would be ineffective, and only to stop behavior that has caused or imminently threatens to cause death or great bodily harm to the officer or another person.

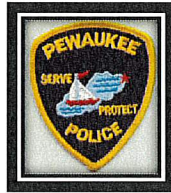
2. Deadly Force Training Documentation

- a. All sworn personnel shall receive training and demonstrate their understanding of the application of deadly force before being authorized to carry any firearm.
- b. All sworn personnel are provided the definition of Deadly Force, as well as the justification to use Deadly Force upon initial hire and subsequently on a continual basis.
- c. The written documentation is provided at all the prescribed Department firearms training dates throughout the year.
- D All personnel are required to read and sign the documentation acknowledging their understanding of this Procedure.

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5.1.7 Warning of Use of Deadly Force

1. If both practicable and feasible, officers shall identify themselves and issue a verbal warning before deadly force.

5.1.8 Shooting at or from a Moving Vehicle

1. Firearms shall not be discharged at a moving vehicle unless:
 - a. A person in the vehicle is threatening the officer or another person with deadly force by means other than the vehicle; or
 - b. The vehicle is operated in a manner deliberately intended to strike an officer or another person, and all other reasonable means of defense have been exhausted or are not present or practical, which includes moving out of the path of the vehicle.

5.1.9 Warning Shots

1. Warning shots are strictly prohibited.

5.1.10 Use of Less Lethal Weapons

1. The Department utilizes Less Lethal Munitions and places it within the Protective Alternative mode (Procedure 5.1.1.1.b.4).
 - a. Currently only SCIT members utilize these devices under the guidance and direction of the SCIT Policies and Procedures.
2. Use of the Electronic Control Devices (ECD)
 - a. The Department uses Taser as its chosen ECD tool within the Control Alternatives mode.

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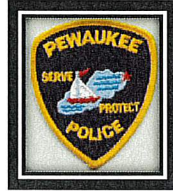
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- b. Only trained officers may carry and deploy a Taser.
 3. After a Taser application the following actions will be taken:
 - a. If a person has an adverse reaction to a Taser application, or if requested by the subject, transport to a medical facility shall be arranged.
 - b. If the probes are embedded in sensitive tissue areas (i.e. face, neck, groin, or breast of a female), the officer shall arrange transport to a medical facility for removal.
 - c. If the probes are embedded in non-sensitive areas, a trained officer may remove them according to trained procedures.
 - d. After probes have been removed, they shall be handled as a biohazard and packaged accordingly for safe disposal.
 4. Chemical Control Device
 - a. The aerosol chemical control device authorized by the Department contains oleoresin capsicum (O.C.). No other aerosol chemical restraint is authorized or allowed without prior approval from the Chief of Police or Chief designee. All O.C. shall be non-flammable.
 - b. When an Officer is threatened with physical force or dealing with a resistive or combative person and lesser control factors are ineffective, a consideration should be given to the use of control devices.

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- c. All Officers issued O.C. aerosol will be required to carry it while on duty unless replaced by an

Electronic Control Device (ECD) in which case it must be in the squad. This rule shall not apply to administrative personnel and other Officers assigned to plain clothes duties within the Department.

5. Intermediate Impact Weapon- Batons
- a. An impact weapon shall be used only when an Officer reasonably believes a lesser level of force would be insufficient to control the situation. The use of a department-authorized baton is permitted against an actively aggressive person when an Officer reasonably believes the subject poses an articulate threat of bodily harm to a Deputy or another person. Officer shall include in their decision to use this force option information known to an Officer at the time of the incident, including conduct of or statements by the subject or prior history of resistive or assaultive behavior.
- b. An Officer shall not brandish, display or threaten the use of an impact weapon as a threat unless he/she can reasonably conclude its use may become justified and is anticipated.
- c. An Officer shall not strike a person above the shoulders with an impact weapon unless such action is justified under the use of deadly force:
1. This directive does not apply to an accidental strike to the head as a result of resistance.
- d. Officer shall only use Department-approved baton techniques.

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- e. Department-approved batons are the only authorized impact weapons. Other devices, flashlights, radios, firearms, etc., are not recommended to be used as impact weapons; however, the Department recognizes that emergency self-defense situations involving other objects and instruments may occur.
 - f. When a baton is used against the body of a person other than for handcuffing or control holds administered with the baton, an Officer shall notify a Supervisor and complete an Incident Report.
- 5.1.11 Deadly Force Training Documentation
- 1. All personnel shall receive, be trained in, and demonstrate their understanding of this policy before being authorized to carry any weapon in the course of their official duties.
 - 2. On an annual basis, a certified instructor shall complete training on the Use of Force policy and any related legal updates for all sworn personnel as part of the firearms training and qualification program. Additional training may occur as dictated by changes to the policy and/or law regarding use of force.
 - 3. Training of force techniques not covered in the Defensive and Arrest Tactics (DAAT) program established by the Wisconsin Department of Justice – Law Enforcement Standards Board (LESB) is permitted if the following conditions are met:
 - a. The technique is trained by an instructor who has received credible training in the performance and

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maintained certifications in the training, where applicable.

- b. The technique is evaluated for inclusion in the Intervention Options. This evaluation will consider the purpose and goal of the technique and the propensity for injury. When possible, the technique will be compared to LESB approved techniques to guide the decision, ultimately to be made by the Chief of Police or designee and a certified DAAT instructor.

5.1.12 Use of PepperBall

A. PepperBall Launcher

1. The PepperBall Launchers may only be deployed by Officers that have been trained to use PepperBall by a PepperBall Instructor.
2. Training will consist of classroom lecture and practical exercises. Training will occur annually. Village of Pewaukee Police instructors will have attended the PepperBall instructor course.
3. Trained department personnel may use the PepperBall delivery system when a subject poses an imminent threat to another person or a threat of great bodily harm to him or herself.
4. PepperBall should not be used in a situation where the subject poses an imminent threat of great bodily harm or death to an officer or another person (including the subject) unless another officer is present and capable of immediately delivery deadly force.

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5. The PepperBall system has two ammunition types; Live PAVA rounds and Glass Breaker Rounds.

6. The PepperBall system provides multiple uses dependent on the technique that is utilized. The techniques are as follows:

a. The Saturation technique may be utilized to deliver Pava to an area when the use of OC is justified. This technique would fall under the control devices.

- Projectiles can be fired near the subject, creating a cloud of synthetic capsaicin, creating an OC exposure effect.
- The saturation technique can be effective at distances up to 150ft.
- Officers shall utilize the same decontamination procedure as OC exposure to the subject.

B. PepperBall Deployment

1. Area Saturation (Control Alternative) – When used in the Area Saturation method, PepperBall projectiles are fired in the immediate vicinity of a suspect(s), but not directly at their body. Common deployment areas are the ground near a suspect's feet, a wall near a suspect, or the interior of a vehicle away from occupants. The purpose of Area Saturation is to deliver PAVA without striking a suspect with a projectile. When used in this manner, the PepperBall launcher is

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considered a control device similar to OC spray. Officers can also use the Area Saturation

method for Area Denial and Crowd Control situations. Area Saturation is considered a Control Alternative and can be used to overcome active resistance or its threat. The minimum range is zero (0) feet. The maximum effective range is one hundred and fifty (150) feet.

2. Direct Impact (Control Alternative) – When used in the Direct Impact method, PepperBall projectiles are intentionally fired directly at a suspect’s body. The primary target area is below the sternum. Officers should avoid sensitive areas (groin, breast, pelvic areas), and they should not intentionally target the head, neck or spine unless deadly force is justified. When used in this manner, the PepperBall launcher combines the PAVA exposure with kinetic impact. The department recognizes that officers may not intentionally target a specific area that is struck; however, due to the dynamics of a situation, the rounds may impact areas not identified as primary target areas. Direct Impact is considered a Control Alternative and can be used to overcome active resistance or its threat. When possible, Officer’s should use Area Saturation prior to Direct Impact. The minimum range is zero (0) feet. The maximum effective range is sixty (60) feet.
3. A cover officer, armed with a long gun or handgun, will serve as a “lethal cover” for the PepperBall Officer. Just before delivering PepperBall projectiles, the operator should yell, “Pepper!” to alert other officers that PepperBall is being deployed. Officers should not immediately approach a subject after PepperBall projectiles have been launched. Officers should assess a subjects compliance level, and they should have a plan in place prior to movement. Officers are

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encouraged, but not required, to wear a gas mask when deploying PepperBall. Officers should be aware of potential exposure to PAVA when in the vicinity of PepperBall deployment or when handling a subject who has been exposed to PAVA.

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C. PepperBall Exposure

1. All subjects who are exposed to or struck with PepperBall projectiles will be given medical treatment. Officers shall take photographs of bodily areas struck by PepperBall projectiles when possible. Any use of PepperBall should be documented in an incident report and will be reviewed by the shift supervisor.
2. Following the use of PepperBall in any structure (building, dwelling, or vehicle), officers will post the Pewaukee Police Department Chemical Munitions Notification form on all affected entryways to the structure.