

Use of Force

300.1 PURPOSE AND SCOPE

Best Practice **MODIFIED**

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this office is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner (Minn. Stat. § 626.8452).

In addition to those methods, techniques, and tools set forth below, the guidelines for the reasonable application of force contained in this policy shall apply to all policies addressing the potential use of force, including but not limited to the Control Devices and Conducted Energy Device policies.

300.1.1 DEFINITIONS

Federal **MODIFIED**

Definitions related to this policy include:

Bodily Harm: Physical pain or injury

Great Bodily Harm: Bodily injury which creates a high probability of death, or 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 harm.

Deadly Force: Force used by a deputy that the deputy knows, or reasonably should know, creates a substantial risk of causing death or great bodily harm. The intentional discharge of a firearm in the direction of another person, or at a vehicle in which another person is believed to be, constitutes deadly force.

De-Escalation: Taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary. De-escalation may include the use of such techniques as command presence, advisements, warnings, verbal persuasion, and tactical repositioning.

Feasible: Reasonably capable of being done or carried out under circumstances to successfully achieve the arrest or lawful objective without increasing risk to the deputy or another person.

Force: The application of physical techniques or tactics, control devices, chemical agents, or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed, or restrained.

Imminent: Ready to take place: impending. Note that imminent does not mean immediate or instantaneous.

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Totality of the Circumstances: All facts and circumstances known to the deputy at the time, taken as a whole, including the conduct of the deputy and the subject leading up to the use of force.

300.2 POLICY

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It is the policy of this Office to ensure deputies respect the sanctity of human life when making decisions regarding use of force. Sworn law enforcement officers have been granted the extraordinary authority to use force when necessary to accomplish lawful ends. **Deputies shall treat everyone with dignity and without prejudice and use only the force that is objectively reasonable to effectively bring an incident under control, while protecting the safety of others and the deputy.**

300.2.1 DUTY TO INTERCEDE AND REPORT

Federal MODIFIED

Regardless of tenure and rank, any deputy present and observing another law enforcement official using force that the deputy knows or reasonably should know is beyond that which is objectively reasonable under the circumstances shall immediately intercede when physically or verbally able to do so. Additionally, the deputy shall promptly report these observations to their immediate supervisor, or another supervisor if their immediate supervisor was involved. This notification will take place prior to the end of the deputy's current shift. Failure to intercede and report will result in disciplinary action.

300.3 USE OF FORCE

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Deputies shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the deputy at the time of the event to accomplish a legitimate law enforcement purpose.

The reasonableness of force will be judged from the perspective of a reasonable deputy on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that deputies are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.

Deputies should exercise special care when interacting with individuals with known physical, mental health, developmental, or intellectual disabilities as an individual's disability may affect the individual's ability to understand or comply with commands from peace officers.

Given that no policy can realistically predict every possible situation a deputy might encounter, deputies are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

It is also recognized that circumstances may arise in which deputies reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by the Office. Deputies may find it more effective or reasonable to improvise their response to rapidly

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unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires a deputy to retreat or be exposed to possible physical injury before applying reasonable force.

300.3.1 ALTERNATIVE TACTICS - DE-ESCALATION

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When circumstances reasonably permit, deputies shall use non-violent strategies and techniques to decrease the intensity of a situation, improve decision-making, improve communication, reduce the need for force, and increase voluntary compliance (e.g., summoning additional resources, formulating a plan, attempting verbal persuasion).

300.3.2 USE OF OTHER THAN DEADLY FORCE

Federal **MODIFIED**

A deputy may use reasonable force (Minn. Stat. § 609.06 and Minn. Stat. § 629.33):

- (a) In effecting a lawful arrest.
- (b) In the execution of a legal process.
- (c) In enforcing an order of the court.
- (d) In executing any other duty imposed by law.
- (e) In preventing the escape, or to retake following the escape, of a person lawfully held on a charge or conviction of a crime.
- (f) In restraining a person with a mental illness or a person with a developmental disability from self-injury or injury to another.
- (g) When used by a public or private institution providing custody or treatment against one lawfully committed to it to compel compliance with reasonable requirements for the control, conduct, or treatment of the committed person
- (h) In self-defense or defense of another.

A deputy who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance of the person being arrested; nor shall such deputy be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.

300.3.3 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

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When determining whether to apply force and evaluating whether a deputy has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include but are not limited to:

- (a) Immediacy and severity of the threat to deputies or others.

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- (b) The conduct of the individual being confronted, as reasonably perceived by the deputy at the time.
- (c) Deputy/subject factors (e.g., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of deputies available vs. subjects).
- (d) The effects of suspected drug or alcohol use.
- (e) The individual's mental state or capacity.
- (f) The individual's ability to understand and comply with deputy commands.
- (g) Proximity of weapons or dangerous improvised devices.

The degree to which the individual has been effectively restrained and his/her ability to resist despite being restrained.

- (a) The availability of other reasonable and feasible options and their possible effectiveness (Minn. Stat. § 626.8452).
- (b) Seriousness of the suspected offense or reason for contact with the individual.
- (c) Training and experience of the deputy.
- (d) Potential for injury to deputies, suspects, and others.
- (e) Whether the individual appears to be resisting, attempting to evade arrest by flight, or is attacking the deputy.
- (f) The risk and reasonably foreseeable consequences of escape.
- (g) The apparent need for immediate control of the individual or a prompt resolution of the situation.
- (h) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the deputy or others.
- (i) Prior contacts with the individual or awareness of any propensity for violence.
- (j) Lighting (ie: daylight / darkness)
- (k) Any other exigent circumstances.

300.3.4 HARD EMPTY HAND TECHNIQUES

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Protracted hand-to-hand combat may be harmful to the public safety, the safety of law enforcement personnel, and the safety of the person being arrested or captured. Accordingly, it shall be deemed reasonable for deputies to use that type and degree of reasonable force necessary to bring a subject whom the deputy intends to arrest or capture quickly under control.

Hard empty hand techniques are those that are designed to distract, displace the balance of, or temporarily incapacitate a subject. Hard empty hand techniques can be applied with empty hands by the use of take-downs, punches, kicks, elbow or knee strikes. When hard empty hand techniques are used, there is the likelihood that the result will be a minimum of bodily harm where

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there is pain, injury, or impairment of physical condition. Hard empty hand techniques are generally used in response to levels of resistance which could cause harm to the deputy or another. Hard empty hand techniques are generally applied in response to levels of resistance ranging from active aggression to aggravated active aggression

300.4 PAIN COMPLIANCE TECHNIQUES

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Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Deputies may only apply those pain compliance techniques for which they have successfully completed office-approved training. Deputies utilizing any pain compliance technique should consider:

- (a) The degree to which the application of the technique may be controlled given the level of resistance.
- (b) Whether the individual can comply with the direction or orders of the deputy.
- (c) Whether the individual has been given sufficient opportunity to comply.

The application of any pain compliance technique shall be discontinued once the deputy determines that compliance has been achieved.

300.5 STATE RESTRICTIONS ON THE USE OF OTHER RESTRAINTS

Federal MODIFIED

Deputies may not use any of the following restraints unless the use of deadly force is authorized (Minn. Stat. § 609.06; Minn. Stat. § 609.066):

- (a) A chokehold. For purposes of this policy, a chokehold only refers to the method of applying sufficient pressure to an individual to make breathing difficult or impossible, and includes but is not limited to any pressure to the neck, throat, or windpipe that may prevent or hinder breathing, or reduce intake of air.
- (b) Tying all of an individual's limbs together behind the person's back to render the person immobile.
- (c) Securing an individual in any way that results in transporting the person face down in a vehicle.

300.6 USE OF FORCE TO SEIZE EVIDENCE

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In general, deputies may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, deputies are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, deputies should not intentionally use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be

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restricted. Deputies are encouraged to use techniques and methods taught by the Dakota County Sheriff's Office for this specific purpose.

300.7 DEADLY FORCE APPLICATIONS

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1. A deputy is authorized to use deadly force if an objectively reasonable deputy would believe, based on the totality of the circumstances known to the deputy at the time and without the benefit of hindsight, that such force is necessary. Use of deadly force is justified when one or both of the following apply;
 - (a) To protect the deputy or another from death or great bodily harm, provided that the threat:
 - i. can be articulated with specificity by the deputy;
 - ii. is reasonably likely to occur absent action by the deputy; and
 - iii. must be addressed through the use of deadly force without unreasonable delay; or
 - (b) To effect the arrest or capture, or prevent the escape, of a person whom the deputy knows or has reasonable grounds to believe has committed or attempted to commit a felony and the deputy reasonably believes that the person will cause the death or great bodily harm to another person under the threat criteria in paragraph (a), items (i) to (iii), unless immediately apprehended.
2. A deputy shall not use deadly force against a person based on the danger the person poses to self if an objectively reasonable deputy would believe, based on the the totality of the circumstances known to the deputy at the time and without the benefit of hindsight, that the person does not pose a threat of death or great bodily harm to the deputy or to another under the threat criteria in the paragraph (1a), items (i) to (iii).
3. Where feasible, the deputy shall identify themselves as a deputy and warn of his or her intent to use deadly force.

300.8 SHOOTING AT OR FROM MOVING VEHICLES

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A deputy should only discharge a firearm at a moving vehicle or its occupants when the deputy reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the deputy or others.

Deputies should not shoot at any part of a vehicle in an attempt to disable the vehicle.

300.9 REPORTING THE USE OF FORCE

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Incident reports and the Supplemental Response to Resistance Form will be completed for the following:

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- If there is observed, suspected or reported injury and the use of force did not rise above the level of soft empty hand, only an incident report will be completed.

Members of this office shall document promptly, completely and accurately in an appropriate report. The deputy should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances. To collect data for purposes of training, resource allocation, analysis and related purposes, the Office may require the completion of additional report forms, as specified in office policy, procedure or law.

300.10 NOTIFICATION TO SUPERVISORS

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Supervisory notification shall be made as soon as practical following the application of force in any circumstances.

300.11 MEDICAL CONSIDERATION

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Prior to booking or release, medical assistance shall be obtained for any person who exhibits signs of physical distress, who has sustained visible injury, expresses a complaint of injury or continuing pain, or who was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed.

Based upon the deputy's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff or medical staff at the jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another deputy and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

The on-scene supervisor, or if not available, the primary handling deputy shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the deputy reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called "excited delirium"), or who require a protracted physical encounter with multiple deputies to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Deputies who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away if appropriate.

300.12 STATE REPORTING REQUIREMENTS

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The Sheriff or designee shall provide for:

- (a) The filing of a report with the Bureau of Criminal Apprehension (BCA) on a monthly basis and in the form required by BCA (Minn. Stat. § 626.5534).
- (b) The collection and submission of data as required by Minn. Stat. § 626.8457 and consistent with the use of force reporting requirements as determined by POST (Minn. Stat. § 626.8457).

300.13 SUPERVISOR RESPONSIBILITY

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When a supervisor is able to respond to an incident in which there has been a reported application of force, the supervisor is expected to:

- (a) Obtain the basic facts from the involved deputies. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- (b) Ensure that any injured parties are examined and treated.
- (c) Ensure that recorded statements from the suspect and witnesses are obtained. The fact that a recorded interview was conducted should be documented in a report and the recording should be retained until all potential for civil litigation has expired.
- (d) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.
- (e) Ensure that deputies identify any witnesses not already included in related reports.
- (f) Review and approve all related reports.
- (g) Determine if there is any indication that the subject may pursue civil litigation.
 - 1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.
- (h) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance or if for any reason further investigation may be appropriate.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

300.14 TRAINING

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Deputies will receive training on this policy, including the learning objectives as provided by POST, at least annually (Minn. Stat. § 626.8452, Subd. 3).