

## **\*Use of Force\***

### **300.1 PURPOSE AND SCOPE**

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 deputy of the Sonoma County Sheriff's Office is expected to use these guidelines to make such decisions in a professional, impartial and reasonable manner. Even at its lowest level, the use of force is a serious responsibility and the Sonoma County Sheriff's Office recognizes the need for constant evaluation.

#### **300.1.1 DEFINITIONS**

**ACTIVE RESISTANCE/ASSAULTIVE BEHAVIOR:** When a subject verbally or physically indicates their intent to inflict bodily injury, assaults a deputy, or any other person. The deputy reasonably believes there is an imminent danger of violence. The subject may assume a fighting stance, display boxing or mixed martial art skills, attempt to escape, prevent his/her arrest, interfere with a deputy's lawful authority by inflicting pain or physical injury to the deputy, or any other person.

**COMPLIANCE TECHNIQUE:** The level of force utilized by a deputy to gain the compliance and control of a subject who refused to comply with a deputy's verbal commands or physical control techniques.

**COOPERATIVE/COMPLIANT:** The actions of a subject when they yield to the authority of a deputy with whom they have official contact.

**DEADLY FORCE:** Any use of force that creates a substantial risk of causing death or serious bodily injury, including but not limited to the discharge of a firearm (Penal Code § 835a).

**FORCE:** The application of physical techniques or tactics, 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.

**LESS-LETHAL WEAPON:** An authorized weapon used to launch, fire, or propel less-lethal munitions to engage a subject with the intent to gain their compliance and overcome a subject's active resistance or assaultive behavior. Less-lethal munitions when used properly, are less likely to result in a serious bodily injury or fatality and can be used to de-escalate a potentially deadly situation. (Examples of less-lethal munitions include: Taser, foam/rubber batons, and chemical agents).

**NO FORCE:** The professional command presence or de-escalation skills used by deputies to control an incident and gain the voluntary compliance of a subject in any given situation.

**PASSIVE RESISTANCE/NON-COMPLIANT:** Refusal by a subject to comply with a deputy's verbal commands. When a subject is passive or resists a deputy's authority and direction. This includes verbal and physical cues of non-compliance, not physically resistive, but not complying.

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**REASONABLENESS:** The Fourth Amendment "reasonableness" inquiry is whether the peace officers' actions were "objectively reasonable" in light of the facts and circumstances confronting them, at that moment, without regard to their underlying intent or motivation. The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, and its calculus must embody an allowance for the fact that peace officers are often forced to make split-second decisions about the amount of force necessary in a particular situation.

**REPORTABLE FORCE:** Any use of physical force by a deputy of this Sheriff's Office shall be documented. It is the responsibility of the deputy using force to ensure that the use of force is documented completely, promptly, and accurately in an appropriate report. The use of particular weapons such as chemical agents may require the completion of additional report forms as specified in Sheriff's Office policy or law. Actions not considered physical use of force are Sheriff's Office-approved searching or handcuffing when the suspect does not resist.

**SERIOUS BODILY INJURY/FATALITY:** When a subject commits a public offense where the deputy reasonably believes there is an imminent danger of violence to the deputy or any other person. The deputy reasonably believed the subject's actions may result in their risk of weapon loss, serious bodily injury, or fatality.

**VIOLENT FELONY:** A violent, forcible, act committed by a subject which threatens serious bodily injury or fatality to the deputy, or any other person.

**DE-ESCALATION:** When reasonable, deputies should consider slowing down an incident in a manner that allows them to decrease the intensity of a situation by creating more time, distance, and space which can allow for evaluating different tactical options during dynamic situations.

### **300.2 POLICY**

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. On a daily basis, deputies are involved in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

Deputies must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties.

The Office recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting deputies with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests. It is the policy of this Office that deputies shall use only that force which is objectively reasonable, given the facts and circumstances known at the time of the event to effectively bring an incident under control.

"Reasonableness" of the use of force will be determined from the perspective of a reasonable deputy on scene at the time of the incident.

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#### 300.2.1 DUTY TO INTERCEDE

Any deputy present and observing another deputy using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force. A deputy who observes another employee use force that they believe is unreasonable under the circumstances shall promptly report these observations to a supervisor.

#### **300.3 USE OF FORCE**

Deputies shall use only that amount of force that reasonably appears necessary given the facts and totality of the circumstances known to or perceived by the deputy at the time of the event to accomplish a legitimate law enforcement purpose (Penal Code § 835a).

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.

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 unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be objectively 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 LEGAL AUTHORITY FOR USE OF FORCE

California Penal Code Section 835: An arrest is made by an actual restraint of the person, or by submission to the custody of an officer. The person arrested may be subject to such restraint as is reasonable for his/her arrest and detention.

California Penal Code Section 835a: Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, prevent escape or to overcome resistance. A peace officer 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 subject being arrested; nor shall such officer be deemed an aggressor or lose their right to self-defense by the use of reasonable force to effect the arrest or to prevent escape

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or to overcome resistance. Retreat does not mean tactical repositioning or other de-escalation techniques (Penal Code § 835a).

Title 15, California Code of Regulations Section 3268: (Reasonable Force) The force that an objective, trained and competent employee, faced with similar facts and circumstances, would consider necessary and reasonable to subdue an attacker, overcome resistance, effect custody, or gain compliance with a lawful order.

#### 300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

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) The apparent immediacy and severity of the threat to deputies or others (Penal Code § 835a).
- (b) The conduct of the individual being confronted, as reasonably perceived by the deputy at the time.
- (c) Deputy/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of deputies available vs. subjects).
- (d) The conduct of the involved deputy leading up to the use of deadly force (Penal Code § 835a).
- (e) The effects of drugs or alcohol.
- (f) The individual's apparent mental state or capacity (Penal Code § 835a).
- (g) The individual's apparent ability to understand and comply with deputy commands (Penal Code § 835a).
- (h) Proximity of weapons or dangerous improvised devices.
- (i) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (j) The availability of other reasonable and feasible options and their possible effectiveness (Penal Code § 835a).
- (k) Seriousness of the suspected offense or reason for contact with the individual.
- (l) Training and experience of the deputy.
- (m) Potential for injury to deputies, suspects, and others.
- (n) Whether the person appears to be resisting, attempting to evade arrest by flight, or is attacking the deputy.
- (o) The risk and reasonably foreseeable consequences of escape.
- (p) The apparent need for immediate control of the subject or a prompt resolution of the situation.
- (q) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the deputy or others.

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- (r) Prior contacts with the subject or awareness of any propensity for violence.
- (s) Any other exigent circumstances.

#### 300.3.3 PAIN COMPLIANCE TECHNIQUES

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 subject can comply with the direction or orders of the deputy.
- (c) Whether the subject 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, or is ineffective.

#### 300.3.4 CAROTID CONTROL HOLD

The proper application of the carotid control hold may be effective in restraining a violent or combative individual. However, due to the potential for injury, the use of the carotid control hold is subject to the following:

- (a) The carotid control hold may only be used when circumstances perceived by the deputy at the time indicate that such application reasonably appears necessary to control a subject in any of the following circumstances:
  - 1. The subject is violent or physically resisting.
  - 2. The subject, by words or actions, has demonstrated an intention to be violent and reasonably appears to have the potential to harm deputies, him/herself or others.
- (b) The deputy shall have successfully completed Office-approved training in the use and application of the carotid control hold.
- (c) The application of a carotid control hold on the following individuals should generally be avoided: unless the totality of the circumstances indicates that other available options reasonably appear ineffective, or would present a greater danger to the deputy, the subject or others, and the deputy reasonably believes that the need to control the individual outweighs the risk of applying a carotid control hold.
  - 1. Females who are known to be pregnant
  - 2. Elderly individuals
  - 3. Obvious juveniles
  - 4. Individuals who appear to have Down Syndrome or who appear to have obvious neck deformities or malformations, or visible neck injuries

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- (d) In applying the carotid restraint, full pressure should be maintained for no longer than thirty (30) seconds. If the suspect is still conscious after thirty (30) seconds, pressure should be reduced so the carotid arteries are no longer compressed, but the neck remains immobilized until the deputy gets assistance or can safely use another method to restrain the suspect.
- (e) Any individual who has had the carotid control hold applied, regardless of whether he/she was rendered unconscious, shall be promptly examined by paramedics or other qualified medical personnel and should be monitored until examined by paramedics or other appropriate medical personnel.
- (f) Any deputy attempting or applying the carotid control hold shall promptly notify a supervisor of the use or attempted use of such hold.
- (g) The use or attempted use of the carotid control hold shall be thoroughly documented by the deputy in any related reports.
- (h) If two deputies are present and are able to maintain a safe scene, the carotid restraint should be applied as a two person technique, with the second deputy responsible for monitoring both the application of the hold to ensure it is placed correctly and the level of consciousness and recovery of the suspect, if possible.

#### 300.3.5 USE OF FORCE TO SEIZE EVIDENCE

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 subject from swallowing evidence or contraband. Deputies are encouraged to use techniques and methods taught by the Sonoma County Sheriff's Office for this specific purpose.

#### 300.4 DEADLY FORCE APPLICATIONS

If an objectively reasonable deputy would consider it safe and feasible to do so under the totality of the circumstances, deputies should evaluate the use of other reasonably available resources and techniques when determining whether to use deadly force. The use of deadly force is only justified in the following circumstances (Penal Code § 835a):

- (a) A deputy may use deadly force to protect him/herself or others from what he/she reasonably believes is an imminent threat of death or serious bodily injury to the deputy or another person.
- (b) A deputy may use deadly force to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the deputy reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. Where feasible, the deputy shall, prior to the use of force, make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the deputy has objectively reasonable grounds to believe the person is aware of those facts.

Deputies shall not use deadly force against a person based on the danger that person poses to him/herself, if an objectively reasonable deputy would believe the person does not pose an imminent threat of death or serious bodily injury to the deputy or to another person (Penal Code § 835a).

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An "imminent" threat of death or serious bodily injury exists when, based on the totality of the circumstances, a reasonable deputy in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the deputy or another person. A deputy's subjective fear of future harm alone is insufficient as an imminent threat. An imminent threat is one that from appearances is reasonably believed to require instant attention (Penal Code § 835a).

#### 300.4.1 SHOOTING AT OR FROM MOVING VEHICLES

Shots fired at or from a moving vehicle are rarely effective. If possible deputies should move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. 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 to themselves or the public, 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.

#### 300.5 REPORTING THE USE OF FORCE

Any use of physical force by a member of this Sheriff's Office shall be documented. Actions not considered physical use of force are Sheriff's Office-approved searching or handcuffing when the suspect does not resist.

It is the responsibility of the member using force to ensure that the use of force is documented completely, promptly, and accurately in an appropriate report depending on the nature of the incident. The use of particular weapons such as chemical agents may require the completion of additional report forms as specified in Sheriff's Office policy and/or law.

- (a) Body worn camera video footage shall be uploaded into Evidence.com and categorized as Use of Force.
- (b) Photographs of all involved parties shall be taken to document both physical injury and/or the lack of physical injury to any party.
  1. If for some reason a deputy is unable to capture body worn camera video footage or take photographs to document the physical condition of the parties involved in a use of force when he/she has a sustained or alleged an injury, the deputy shall document the reason these actions were not taken in a Sheriff's Office report.

#### 300.5.1 NOTIFICATION TO SUPERVISORS

Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances:

- (a) The application caused a visible injury.
- (b) The application would lead a reasonable deputy to conclude that the individual may have experienced more than momentary discomfort.
- (c) The individual subjected to the force complained of injury or continuing pain.

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- (d) The individual indicates intent to pursue litigation.
- (e) Any application of a TASER device or control device.
- (f) Any application of a restraint device other than handcuffs, shackles, or belly chains.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was struck or kicked.
- (i) An individual alleges any of the above has occurred.
- (j) All correctional deputies shall report any use of force as soon as practical.

#### 300.5.2 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

The Professional Standards Lieutenant, or the authorized designee shall ensure that data required by the Department of Justice (DOJ) regarding all officer-involved shootings and incidents involving use of force resulting in serious bodily injury is collected and forwarded to the DOJ as required by Government Code § 12525.2.

#### **300.6 MEDICAL CONSIDERATION**

Prior to booking or release, medical assistance shall be obtained for any subject 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.

The on-scene supervisor or, if the on-scene supervisor is not available, the primary handling deputy shall ensure that any subject providing medical care or receiving custody of a subject following any use of force is informed that the subject 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).

Subjects 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 subjects should be considered medical emergencies. Deputies who reasonably suspect a medical emergency should request medical assistance as soon as practical.

In the Detention Division, all incarcerated inmates shall be seen by jail medical staff for any use of force.

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#### **300.7 SUPERVISOR RESPONSIBILITY**

When practical, Supervisors are expected 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) If appropriate, separately interview the subject(s) upon who force was applied.
- (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 shall be attached to the appropriate report and uploaded into the use of force review.
- (e) Ensure all witnesses are included in related reports.
- (f) Review body worn camera video of the incident.
- (g) Review and approve all related reports.

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.

Prior to going on their regular days off, the supervisor will complete the use of force report in the administrative investigation management database and forward it to the Use of Force Lieutenant for review.

In the event that the supervisor believes the incident may give rise to potential civil litigation, the Watch Commander and Risk Management shall be notified.

#### **300.7.1 USE OF FORCE LIEUTENANT RESPONSIBILITY**

The Use of Force Lieutenant shall review each use of force by any personnel within his/her command to ensure compliance with this policy and to address any training issues. If a use of force is determined to be potentially outside the parameters of this policy, it will be assigned to Internal Affairs for additional investigation to determine if there were any violations of this, or any other policy.

#### **300.8 TRAINING**

Deputies will receive periodic training on this policy and demonstrate their knowledge and understanding.

#### **300.8.1 TRAINING REQUIREMENTS**

Assistant Sheriffs are required to ensure that all sworn personnel under their command qualify in accordance with this policy.

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- (a) Use of Force Instructors refers to Defensive Tactics and Firearms Instructors.
- (b) The Use of Force Instructors will keep a record of all those who attend training.
- (c) All sworn personnel must attend use of force training each quarter.
  - 1. For the Law Enforcement Division, it will consist of, at minimum, four (4) hours of training: Two (2) hours of defensive tactics and two (2) hours of firearms.
  - 2. For the Detention Division, it will consist of, at minimum, two (2) hours of defensive tactics training.
- (d) The quarters will be divided as follows:
  - 1. First Quarter: January through March
  - 2. Second Quarter: April through June
  - 3. Third Quarter: July through September
  - 4. Fourth Quarter: October through December
- (e) Failure to comply with this training (attendance and/or qualification) may result in disciplinary action.
  - 1. Only the Sheriff, or his designee, may exempt a deputy from the provisions mandated in this policy.
  - 2. If a deputy fails to attend at least one use of force training during a quarter, the deputy shall attend the first training offered of the following quarter.
- (f) Management is not required to attend the defensive tactics portion of this training. Management from the Law Enforcement division is required to attend the firearms portion of the training.

If a deputy fails to qualify after remediation, the Use of Force Instructor shall immediately notify the Use of Force Lieutenant verbally, and shall prepare a memo to be sent, via chain of command, as soon as practical, for determination of action.

### **300.9 USE OF FORCE ANALYSIS**

At least annually, the Law Enforcement Division Administration Captain and the Detention Division Captain, or their designee, should prepare a report on use of force incidents. The report should be submitted to the Sheriff. The report should not contain the names of deputies, suspects or case numbers, and should include:

- (a) The identification of any trends in the use of force by members.
- (b) Training needs recommendations.
- (c) Equipment needs recommendations.
- (d) Policy revision recommendations.

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## **300.10 RECORDS RETENTION**

Use of Force Reports shall be kept on file for a period of five (5) years, after which time such reports shall be deleted according to applicable State of California statute and County of Sonoma Ordinance.