

## 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 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, in accordance with:

- Minn. Stat. § 626.8452 Deadly Force and Firearms Use;
- Minn. Stat. § 626.8475 Duty to Intercede and Report;
- Minn. Stat. § 609.06 Authorized Use of Force;
- Minn. Stat. § 609.065 Justifiable Taking of Life; and
- Minn. Stat. § 609.066 Authorized Use of Force by Peace Officers.

#### 300.1.1 DEFINITIONS

Definitions related to this policy include:

**Authorized Device** - A device a deputy has received permission from the agency to carry and use in the discharge of that deputy's duties, and for which the deputy has:

1. obtained training in the technical, mechanical and physical aspects of the device; and
2. developed a knowledge and understanding of the law, rules and regulations regarding the use of such a device

**Bodily Harm** - Physical pain or injury, illness, or any impairment of physical condition.

**Choke Hold** - A method by which a person applies sufficient pressure to a person 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. Choke hold also means applying pressure to a person's neck on either side of the windpipe, but not to the windpipe itself, to stop the flow of blood to the brain via the carotid arteries.

**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

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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.

**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.

**Great Bodily Harm** - Bodily injury which creates a high probability 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 harm.

**Other Than Deadly Force** - Force used by a deputy that does not have the purpose of causing, nor create a substantial risk of causing, death or great bodily harm.

**Substantial Bodily Harm** - Bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member.

### **300.2 POLICY**

It is the policy of this law enforcement agency 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.

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.

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.

The decision by a deputy to use force or deadly force shall be evaluated from the perspective of a reasonable deputy in the same situation, based on the totality of the circumstances known to or perceived by the deputy at the time, rather than with the benefit of hindsight, and that the totality of the circumstances shall account for occasions when deputies may be forced to make quick judgments about using such force.

This policy is to be reviewed annually and any questions or concerns should be addressed to the immediate supervisor for clarification.

This policy applies to all licensed peace officers and part-time peace officers engaged in the discharge of official duties.

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#### 300.2.1 DUTY TO INTERCEDE AND REPORT

Any deputy, regardless of tenure or rank, present and observing another law enforcement officer or a member using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede physically or verbally to prevent the use of unreasonable force (Minn. Stat. § 626.8452; Minn. Stat. § 626.8475).

Any deputy who observes another law enforcement officer or a member use force that is potentially beyond that which is objectively reasonable under the circumstances shall report these observations in writing to the Sheriff within 24 hours (Minn. Stat. § 626.8452; Minn. Stat. § 626.8475).

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

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. Use of physical force should be discontinued when resistance ceases or when the incident is under control.

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 this 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 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 USE OF FORCE TO EFFECT AN ARREST

When de-escalation techniques are not effective or appropriate, a deputy may consider the use of other than deadly force to control a non-compliant or actively resistant individual. A deputy is authorized to use agency-approved other than deadly force techniques and issued equipment may use reasonable force in the following circumstances (Minn. Stat. § 609.06 and Minn. Stat. § 629.33):

- (a) In effecting a lawful arrest.

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- (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) 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.

#### 300.3.1 ALTERNATIVE TACTICS - DE-ESCALATION

A deputy shall use de-escalation techniques and other alternatives to higher levels of force consistent with their training whenever possible and appropriate before resorting to force and to reduce the need for force.

Whenever possible and when such delay will not compromise the safety of another or the deputy and will not result in the destruction of evidence, escape of a suspect, or commission of a crime, the deputy shall allow an individual time and opportunity to submit to verbal commands before force is used.

#### 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) Immediacy and severity of the threat to deputies or others.
- (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.
- (h) The degree to which the individual has been effectively restrained and his/her ability to resist despite being restrained.

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

### 300.3.2 RESTRICTIONS ON THE USE OF OTHER RESTRAINTS

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 choke hold.
- (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.

Less than lethal measures must be considered by the deputy prior to applying these measures.

Physical force shall not be used against individuals in restraints, except as objectively reasonable to prevent their escape or prevent imminent bodily injury to the individual, the deputy, or another person. In these situations, only the amount of force necessary to control the situation shall be used.

### 300.4 USE OF DEADLY FORCE

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 peace deputy or another from death or great bodily harm, provided that the threat:
  - i. can be articulated with specificity;
  - ii. is reasonably likely to occur absent action by the deputy; and

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- 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 death or great bodily harm to another person under the threat criteria in paragraph (a), items (i) to (iii), unless immediately apprehended.

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 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 paragraph (1a), items (i) to (iii).

Where feasible, the deputy shall identify themselves as a law enforcement officer and warn of his or her intent to use deadly force.

#### 300.4.1 MOVING VEHICLES

Shots fired at or from a moving vehicle involve additional considerations and risks, and are rarely effective.

When feasible, deputies should take reasonable steps to 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 imminent threat of the vehicle, or if deadly force other than the vehicle is directed at the deputy or others.

#### 300.5 REPORTING THE USE OF FORCE

Any use of force by a member of this office shall be documented promptly, completely and accurately in an appropriate report, depending on the nature of the incident. 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.

#### 300.5.1 NOTIFICATIONS 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 the Conducted Electrical Weapon (CEW) 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 unreasonable force was used or that any of the above has occurred.

### **300.6 MEDICAL CONSIDERATIONS**

Once it is reasonably safe to do so, medical assistance shall be obtained for any person who exhibits signs of physical distress, has sustained visible injury, expresses a complaint of injury or continuing pain, or was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed. Individuals should not be placed on their stomachs for an extended period, as this could impair their ability to breathe.

Based upon the deputy's initial assessment of the nature and extent of the individual's injuries, medical assistance may consist of examination by an emergency medical services provider or medical personnel at a hospital or 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 the on-scene supervisor is 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).

Individuals 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.

See the Medical Aid and Response Policy for additional guidelines.

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### 300.7 SUPERVISOR RESPONSIBILITIES

A supervisor shall respond to a reported application of force resulting in visible injury, if reasonably available. 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) Arrive with body worn camera activated.
- (b) 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.
- (c) Ensure that any injured parties are examined and treated.
- (d) Review and approve all related reports.
- (e) 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.

#### 300.7.1 DIVISION COMMANDER RESPONSIBILITY

The Division Commander or the authorized designee 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.

### 300.8 TRAINING

Deputies will receive training on this policy, including the learning objectives as provided by POST, at least annually (Minn. Stat. § 626.8452, Subd. 3). This includes the POST recommendations of general rules governing use of force to include:

- (a) Before carrying a firearm all deputies shall receive training and instruction with regard to the proper use of deadly force and to the agency's policies and State statutes with regard to such force. Such training and instruction shall continue on an annual basis.
- (b) Before carrying an authorized device all deputies shall receive training and instruction in the use of the device including training as it relates to its use in deadly force and/or other than deadly force situations. Such training and instruction shall continue on an annual basis.
- (c) Deputies will carry and use only authorized devices unless circumstances exist which pose an immediate threat to the safety of the deputy or the public requiring the use of a device or object that has not been authorized to counter such a threat.
- (d) In addition, training shall be provided on regular and periodic basis and designed to
  1. Provide techniques for the use and reinforce the importance of de-escalation
  2. Simulate actual shooting situations and conditions; and
  3. Enhance deputies' discretion and judgment in using other than deadly force in accordance with this policy.
- (e) With agency approval deputies may modify, alter or cause to be altered an authorized device in their possession or control.



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### 300.8.1 PROHIBITED TRAINING

Warrior-style training, as defined in Minn. Stat. § 626.8434, whether provided directly by the Office or through a third party, is prohibited (Minn. Stat. § 626.8434).

### 300.9 RECORDKEEPING REQUIREMENTS

The Sheriff or designee shall maintain records of the agency's compliance with use of force training requirements.

### 300.10 DEPUTY RESPONSE MODEL

[Deputy Response Model - RCSO.png](#)

The Deputy Response Model illustrates the options a deputy has at each level of resistance. It is provided as a visual aid in decision-making. The illustration is not to be interpreted as a mandatory step-by-step progression. It is recognized that a compliant encounter can escalate to a deadly force situation quickly.

#### **LEVELS OF RESISTANCE OR AGGRESSION:**

**Cooperative** - An individual who acknowledges direction of lawful orders and offers no passive, active, aggressive, or aggravated aggressive resistance.

**Passive Resistance** - The individual is not complying with a deputy's commands and is uncooperative but is taking only minimal physical action to prevent a deputy from placing them in custody and rendering the situation safe.

**Active Resistance** - The individual's verbal or physical actions are intended to prevent a deputy from placing them in custody and rendering the situation safe, but are not directed at harming the deputy.

**Aggressive Resistance** - The individual displays by their behavior the perceived intent to harm the deputy, themselves or another person and prevent a deputy from placing them in custody and rendering the situation safe.

**Aggravated Aggressive Resistance** - The individual's actions are likely to result in death or serious bodily harm to the deputy, themselves or another.

## Attachments

## Deputy Response Model - RCSO.png

