

	CLAY COUNTY SHERIFF'S OFFICE		Policy 300
	SUBJECT: USE OF FORCE		Approved by: Sheriff Will Akin
	ISSUED: 09/29/2016	REVISED: 01/05/2023	CANCELS:
	CALEA References: 4.1.1-7, 4.2.1-4, 1.2.10		

300.1 PURPOSE AND SCOPE

- (a) The purpose of this policy is to provide for the safe and appropriate responses by deputies during and after incidents where use of force is necessary and applied.
- (b) Note: Members engaged in operations within the Clay County Detention Center will abide by the Detention Center's jail-specific Use of Force policy.

300.1.1 DEFINITIONS

- (a) **Agitated/Excited Delirium** - State of extreme mental and physiological excitement, characterized by extreme agitation, hyperthermia, extreme tearing of the eyes, hostility, exceptional strength, and endurance without fatigue. Other signs or symptoms may include, but are not limited to, profuse sweating, foaming at the mouth, hallucinations, and exhibiting signs of a high body temperature.
- (b) **Carotid Control Hold** - A control technique designed to control an individual by temporarily restricting blood flow through the application of pressure to the side of the neck, and unlike choke hold, does not restrict the airway.
- (c) **Conducted Electrical Weapon (CEW)** - A weapon primarily designed to disrupt a subject's central nervous system by means of deploying electrical energy sufficient to cause uncontrolled muscle contractions and override an individual's voluntary motor responses. (Taser)
- (d) **Control Technique** - The method(s) a deputy uses to neutralize the unlawful physical actions of a subject, or to defend the deputy, the subject, or another from injury or death.
- (e) **Deadly force** - Any use of force that is likely to cause death or serious injury.
- (f) **De-escalation** - Proactive actions and approaches used to stabilize a situation so that members have time to disengage, re-evaluate a situation, and assemble the proper resources, equipment, and personnel to promote thoughtful resolutions to situations and to reduce the likelihood of harm to all persons. Such tactics may include: members making reasonable attempts to identify whether a person's lack of compliance is a deliberate attempt to resist rather than an inability to comply; verbal persuasion; warnings; tactical techniques; slowing down the pace of an incident; waiting out a subject; creating distance; and requesting additional resources.
- (g) **Force** - Any deliberate bodily impact or restraint for the purpose of gaining control of a person. It includes the use of oleoresin capsicum (OC) spray, chemical agents, less lethal devices/weapons, electronic devices, canine, and deadly force.
- (h) **Imminent** - Ready to take place; impending. Note that imminent does not mean immediate or instantaneous.
- (i) **Medical Personnel** - Individuals engaged in the delivery of a medical or health care service who have been licensed, certified, or otherwise properly qualified under the laws of Missouri applicable to that particular service.

- (j) **Non-Deadly Force** - Any use of force other than that which is considered deadly.
- (k) **Oleoresin Capsicum (OC)** – A chemical agent that irritates the eyes causing a burning sensation, pain, and impaired vision. (OC spray, MK9 and MK46 Fogger).
- (l) **Reasonableness** – A benchmark used in court when reviewing the decision made by a particular party. The reasonableness standard is a test that asks whether the decisions made were legitimate and designed to remedy a certain issue under the circumstances at the time.
- (m) **Serious Physical Injury** – Physical injury that creates a substantial risk of death or that causes serious disfigurement or protracted loss or impairment of the function of any part of the body
- (n) **Tactical Vehicle Intervention (TVI)** – A car to car contact technique to disable another vehicle, designed to intervene for the purpose of de-escalating or resolving the situation in the interest of public safety.
- (o) *All definitions of conditional terms, such as those for reasonable belief, serious physical injury, or similar terms used to qualify the directive, shall be included and reviewed during annual in-service training.*

300.2 POLICY

- (a) Force may be used only to the extent objectively reasonable to accomplish lawful outcomes. The Clay County Sheriff's Office and its members recognize and respect the value of human life. In permitting members with lawful authority to use force to protect the public welfare, and for the apprehension and control of subjects, a careful balancing of all human interests is required. When it is objectively reasonable that a subject is fully physically compliant and in law enforcement's control, the force must be terminated.
- (b) A member shall use only that amount of force that reasonably appears necessary given the facts and circumstances when such force is necessary to effect an arrest or to prevent an escape from custody (RSMo 563.046).
- (c) When safe and objectively reasonable, members will use de-escalation tactics to accomplish lawful outcomes. Members will assess the threat of a situation based on their knowledge and experience. The goal of de-escalation is to resolve an incident with the lowest potential of injury to the general public, law enforcement officers, and suspects.

300.3 PROCEDURES

(a) GENERAL GUIDELINES

1. Members will clearly document and articulate the factor(s), fear(s), or concern(s) that prompted the force they chose to accomplish a lawful outcome.
2. The affected Division Commander or Assistant Division Commander will respond to any incident where use of force results in serious physical injury or death.
3. A supervisor will respond to any incident when:
 - i. There is a request for a person to be placed in the Emergency Restraint Chair.
 - ii. The individual subjected to the force was rendered unconscious.
 - iii. An individual alleges unreasonable force was used or that any of the above has occurred.
 - iv. A member requires medical attention as a result of a subject using force.
 - v. A subject requires or requests medical treatment as the result of a member using force.

- vi. There is a successful Taser deployment.
- 4. Members are not to (except in situations where its use is objectively reasonable to prevent death or serious physical injury to the member or the general public):
 - i. Strike anyone in the head with a weapon (e.g., baton, shotgun, handgun, etc.); or
 - ii. Use a choke hold to subdue a resisting person.
- 5. Once a subject is under control and handcuffed, members will place the subject on their side or in a seated position while awaiting transportation to a detention facility. Members will not handcuff and shackle an arrestee's hands and feet together unless it is to prevent death or serious injury.
- 6. Members will seek medical attention for persons exhibiting signs of agitated/excited delirium as soon as circumstances allow. Additionally, they should monitor the subject for consciousness until medical assistance arrives.
- 7. Only a Clay County Sheriff's Office-issued Taser will be carried. The Taser will be carried on the non-gun side or on the front of an approved outer-vest, in a CCSO issued/approved holster, with an air cartridge attached to the front of the Taser and the safety engaged.
- 8. In any situation that results in a member being disarmed of the Taser, the member will use reasonable force to defend themselves to avoid incapacitation and possibility of the subject gaining control of the member's firearm.

300.4 GUIDELINES FOR NON-DEADLY FORCE

- (a) When members have determined that de-escalation tactics are ineffective, unreasonable, or unsafe, members will evaluate the situation to determine which available non-deadly force technique or issued equipment should be used to control the situation without compromising their safety or the safety of others.
- (b) Members may use Office-approved or objectively reasonable non-deadly force techniques and issued equipment to:
 - 1. Effect the arrest, restrain, or subdue an actively resistant individual.
 - 2. Protect themselves and others from physical injury.
 - 3. Bring an unlawful situation safely and effectively under control.
- (c) The utilization of wrist locks, empty hand tactics, and handcuffing alone do not require the Use of Force Form 300-1 to be completed. The wrist locks, empty hand tactics, and handcuffing should be noted when used in conjunction with the tactics outlined in this section.
- (d) When safe and reasonable to do so, members should give subjects warning that less than lethal equipment will be used if the subject fails to comply (i.e., Taser, OC spray, baton).
- (e) Following the use of non-deadly force, immediate medical attention will be provided or obtained for any individual if deemed necessary by the member or if requested by the individual.

300.4.1 POST-APPLICATION CARE OF NON-DEADLY FORCE

- (a) If a subject appears to be exhibiting signs of agitated/excited delirium members will:
 - 1. Request Emergency Medical Services (EMS) or Medical Staff to respond to the scene.
 - 2. Request a supervisor to respond to the scene of the incident.

(b) When a member uses the Taser the member will:

1. NOT ATTEMPT to remove a probe if it is imbedded in the following areas of soft tissue: face, neck, ear, breast, or groin. In this instance, THE PROBE SHOULD BE REMOVED BY MEDICAL PERSONNEL ONLY.
2. Remove probes using current training guidelines.
3. Provide an antiseptic wipe and clean dry bandage to the person that has been subjected to the Taser.
4. Request a supervisor to respond to the scene of the incident.

(c) When a member uses Oleoresin Capsicum aerosol spray or pepper foam (MK-46 and MK-9 Pepper Foggers) the member will:

1. Ensure the subject receives fresh air.
2. Rinse the affected area with large amounts of cool water.
3. Call for EMS or Medical Staff to respond to the scene if requested or appears necessary.
4. Request a supervisor to respond to the scene of the incident.

300.5 GUIDELINES FOR DEADLY FORCE

(a) Deadly force may only be used when a member reasonably believes the action is in defense of any human life in imminent danger of death or serious bodily injury.

1. Members are authorized to use any deadly force in order to protect themselves or others from what they reasonably believe is an immediate threat of death or serious physical harm.
2. Members who encounter a potential of violence or resistance to a lawful arrest should, if possible, attempt to verbally de-escalate the situation. (4.1.1)
3. Members are authorized to employ department-approved compliance techniques and less lethal devices/weapons in situations that escalate beyond the effective use of verbal techniques. (4.1.1)
4. Members will use only the amount of force that is objectively reasonable to overcome the resistance or threat being encountered. (4.1.1)
5. If resistance escalates, members are authorized to respond in accordance with their training with those techniques and devices at their disposal. (4.1.4)
6. Issued less lethal device/weapons may be employed when reasonably necessary to protect the member or another from physical harm, to restrain or subdue a resistant subject, and to bring the situation safely and effectively under control. (4.1.4)
7. Members will avoid the use of flashlights, radios, or any other items as a means of force unless there is a reasonable belief that an imminent threat of serious physical injury or death exists and no other option is available.
8. A member may use deadly force to stop a fleeing subject when the member has probable cause to believe that the individual has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the member reasonably believes that there is an imminent risk of serious bodily injury or death to any other person if the individual is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible. (RSMO 563.046)

300.5.1 DUTY TO INTERCEDE (1.2.10)

- (a) Any member present and observing another member 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.
- (b) Any member who observes another member use force that is beyond that which is objectively reasonable under the circumstances should report these observations to a supervisor as soon as feasible.

300.5.2 CAROTID CONTROL HOLD (4.1.6)

- (a) 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 limited to those circumstances where deadly force is authorized and is subject to the following:
 - 1. At all times during the application of the carotid control hold, the response of the individual should be monitored. The carotid control hold should be discontinued when circumstances indicate that the application no longer reasonably appears necessary.
 - 2. Any individual who has had the carotid control hold applied, regardless of whether they were rendered unconscious, shall be promptly examined by paramedics or other qualified medical personnel and should be monitored until such examination occurs.
 - 3. The member shall inform any person receiving custody, or any person placed in a position of providing care, that the individual has been subjected to the carotid control hold and whether the individual lost consciousness as a result.
 - 4. Any member attempting or applying the carotid control hold shall promptly notify a supervisor of the use or attempted use of such hold.
 - 5. The use or attempted use of the carotid control hold shall be thoroughly documented by the deputy in any related reports.

300.5.3 RESPIRATORY RESTRAINTS (4.1.7)

- (a) Respiratory restraints, also known as a choke hold, are a means of force that restricts the intake of oxygen for the purpose of gaining control of a subject.
- (b) The use of a respiratory restraint, also known as a choke hold, is limited to circumstances where deadly force is authorized and if applied, is subject to the same guidelines and requirements as a carotid control hold.

300.6 USE OF FORCE TO SEIZE EVIDENCE

- (a) Members may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence.
- (b) Members are discouraged from using force solely to prevent a person from swallowing evidence or contraband.
- (c) In the instance when force is used, members 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 restricted.
- (d) Members are encouraged to use techniques and methods taught by the Clay County Sheriff's Office for this specific purpose.

300.7 MOVING VEHICLES

- (a) Members generally should not discharge a firearm at a moving vehicle or from a moving vehicle unless the need to use deadly force is immediate.
 - 1. If possible, the sworn member's first responsibility is to attempt to move from the path of the on-coming vehicle.
 - 2. Consideration must be given to the consequences of disabling the driver of a moving vehicle prior to engaging the suspect.
- (b) Warning shots are prohibited.
- (c) Members should not shoot at any part of a vehicle in an attempt to disable the vehicle.

300.8 USE OF FORCE / RESPONSE TO RESISTANCE REPORTING

- (a) A report will be completed whenever a member (4.2.1):
 - 1. Discharges a firearm, for other than training or recreational purposes;
 - 2. Takes an action that results in, or is alleged to have resulted in, injury or death of another person;
 - 3. Applies force through the use of lethal or less lethal weapons; or
 - 4. Applies weaponless physical force at a level as defined by the agency
- (b) The Use of Force Form 300-1 will be completed by the member when they use:
 - 1. A non-deadly weapon (i.e., OC spray, baton if used as an impact weapon, Taser) used against a person, including any air cartridge discharge, drive stun, or misfire intended to impact a subject.
 - 2. Any force which causes injury that requires medical treatment.
 - 3. A beanbag round discharged at a person.
 - 4. The use of the Tactical Vehicle Intervention (TVI) technique.
- (c) Use of Force Form 300-1 will be completed by the member when a subject receives a canine bite as a result of an apprehension. This should be marked in the "Other" section of the form.
- (d) Any assisting member(s) who witnessed or engaged in the incident where force was used will complete a supplemental report. A Use of Force Form should only be completed if assisting members also used a level of force as defined by this policy.
- (e) When a report has been taken by a member no narrative will be completed on Use of Force Form 300-1. Members will refer to the case report number instead of rewriting or copying the narrative. No other report will be attached to the Use of Force Form. The Use of Force Form shall be completed and approved by a supervisor prior to the end of the shift.
- (f) An Incident/Offense Report shall be completed by the member, and approved by a supervisor prior to the end of the shift. Members will clearly document and articulate the factor(s), fear(s) or concern(s) that prompted the force they chose to accomplish a lawful outcome.
- (g) The utilization of wrist locks, empty hand tactics, and handcuffing alone do not require the Use of Force Form 300-1 to be completed. The wrist locks, empty hand tactics, and handcuffing should be noted when used in conjunction with the tactics outlined in this section.

- (h) The members on scene supervisor will complete the Use of Force Form 300-1 without a narrative, when:
 - 1. A member discharges a firearm at a person, involving death, injury, or no injury.
 - 2. A death or serious physical injury occurs as a result of any use of force.
 - 3. Any other time a formal statement is taken from the member.
- (i) Should the member using force be injured and unable to complete Use of Force Form 300-1, the immediate supervisor will ensure the form is completed.
- (j) A supervisor reserves the right to have a member complete Use of Force Form 300-1 in any circumstance that, in the opinion of the supervisor, documentation would be reasonable.
- (k) In the event a case report number is not obtained in conjunction with the Use of Force Incident, one will not be obtained for the sole purpose of completion.
- (l) If a member declines to provide a statement in a criminal investigation, the Sheriff may initiate a Professional Standards Investigation.
- (m) No information contained on the Use of Force Form will be released to persons or agencies outside the CCSO without prior approval from the Sheriff, with the exception of cases presented to the prosecutor.

300.9 MEDICAL CONSIDERATIONS

- (a) 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 the individual can be medically assessed.
- (b) Individuals should not be placed on their stomachs for an extended period, as this could impair their ability to breathe.
- (c) When a subject exhibits signs of physical distress, has obvious severe injuries, medical distress is apparent, the subject was exposed to OC or chemical agents, or if the subject is unconscious, members will contact CCSO Dispatch to notify Emergency Medical Services (EMS) to respond to the scene or secure area as soon as practicable. (4.1.5)
- (d) Members will ensure that the subject is evaluated by medical personnel for potential transport to a medical facility for treatment when necessary and appropriate.
- (e) Deputies or bystanders who are struck by a less lethal munition(s) will be evaluated by medical personnel for potential transport to a medical facility if deemed necessary.
- (f) 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 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.
- (g) Individuals who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics, and imperviousness to pain, 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.

- (h) 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).
- (i) While in custody, subjects will be closely monitored for notable changes in their condition after the application of any lethal or less lethal weapon by an officer.
- (j) Requirements will also apply to subjects who received injuries prior to law enforcement contact. Detention staff will be notified upon intake to monitor a subject being detained after an application of force.

300.10 TRAINING

- (a) At a minimum, all members shall receive annual training in the topic of Use of Force, including a review of this policy. Annual training should also include:
 - 1. Definitions of reasonable belief and serious physical injury shall be included and reviewed during annual training.
 - 2. De-escalation tactics, including alternatives to force.
 - 3. Guidelines regarding vulnerable populations, including but not limited to children, elderly, pregnant persons, and individuals with physical, mental, or intellectual disabilities.

300.11 ADMINISTRATIVE REVIEWS (4.2.2)

- (a) Each Use of Force will be reviewed by the Incident Review Board.
- (b) At least annually, the Support Services Division will prepare an analysis report on use of force incidents. The report should be submitted to the Sheriff. The report should not contain the names of members, suspects or case numbers, and should include (4.2.4):
 - 1. Impact of findings on policies, practices, equipment, and training;
 - 2. Trends or patterns resulting in injury to any person including employees;
 - 3. Trends or patterns related to race, age, and gender of subjects involved;
 - 4. Types of encounters resulting in use of force;
 - 5. Date and time of incidents;
 - 6. Policy revision recommendations;
 - 7. Equipment needs recommendations;
 - 8. Training needs recommendations; and
 - 9. The identification of any trends in the use of force by members.

300.11.1 ADDITIONAL RESPONSIBILITY

- (a) The Division Commander should ensure that the Support Services Commander is provided with enough information to meet the use of force reporting requirements of the Missouri Department of Public Safety (§ 590.1265, RSMo).

300.12 AGENCY RESPONSE

- (a) When the use of force caused death or serious physical injury, personnel directly involved shall be placed on administrative leave with pay after completing all internal investigative requirements, and until it is determined by a mental health professional that they are ready to return to duty. The sheriff's office shall ensure that both an administrative and criminal investigation of the incident are conducted.
- (b) The Incident Review Board will conduct a thorough investigation of the incident in question. At a minimum the process shall include the following:
 - 1. All reported uses of force will be reviewed by the appropriate agency authority (Incident Review Board) to determine if agency rules, policy, or procedures were violated; the relevant policy was clearly understandable and effective to cover the situation; and, agency training is currently adequate.
 - 2. All findings of policy violations or training inadequacies shall be reported to the Bureau Commander and Undersheriff for resolution or discipline.
 - 3. All use of force incident reports shall be retained as required by state law.
 - 4. There will be a regular review of use of force incidents by the appropriate agency authority to ascertain training and policy needs.

300.13 INCIDENT REVIEW BOARD

- (a) Each Use of Force will be reviewed by the Incident Review Board. See the Incident Review Board policy for guidelines.