

| <b>KEWAUNEE COUNTY SHERIFF'S DEPARTMENT</b>         |   |
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| <b>Departmental Standards and Policies</b>          | <b>Policy Number:        DSP95-003</b>  |
| <b>Subject:<br/>Use of Force</b>                    | <b>Effective Date:<br/>May 15, 1995</b> |
| <b>Policy Section:<br/>Weapons and Use of Force</b> | <b>Review Date:<br/>March 1, 2021</b>   |
| <b>Application:<br/>All Department Personnel</b>    | <b>Revised Date:<br/>March 1, 2021</b>  |
| <b>Authorization: _____ Matt J. Joski, Sheriff</b>  |   |

## **I.     PURPOSE**

Establish a policy, procedure, and standard for the use of force.

## **II.    POLICY**

Law enforcement officers may exercise the use force when it is needed to: achieve and maintain control of resistive subjects, detain persons reasonably suspected of criminal behavior, make lawful arrests, defend themselves or others and prevent escape. The use of force is governed by legal and ethical limits and the use of deadly force is the last resort to accomplish lawful objectives.

## **III.   DEFINITIONS**

- A.     Deadly Force** – The intentional use of a firearm or other instrument that creates a high probability of death or great bodily harm.
  
- B.     Great Bodily Harm** - means bodily injury which creates a substantial risk of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily injury.
  
- C.     Dangerous Weapon** - means any firearm, whether loaded or unloaded; any device designed as a weapon and capable of producing death or great bodily harm; any electric weapon, as defined in s. 941.295(4); or any other device or instrumentality which, in the manner which it is used or intended to be used, is calculated or likely to produce death or great bodily harm.

- D. Dangerous Crime** - a criminal act, which usually causes or imminently threatens to cause great bodily harm or death to the officer or others.
- E. Imminent Threat** – an impending likelihood of trouble about to happen.
- F. Reasonable Force** - A physical act by a police officer in the performance of duty when it is used to accomplish a legitimate law enforcement goal and the level of force used is reasonable considering all the facts and circumstances known to the officer at the time of the incident.
- G. Reasonably Believes** - Means that an ordinary, prudent and reasonably intelligent police officer believes that a certain fact situation exists and such belief is reasonable under the circumstances known to the officer at the time the officer acted.
- H. Electronic Control Device** - A less lethal force weapon utilized by trained personnel that can cause NMI (Neuromuscular Incapacitation) of a combative or potentially combative subject. The use of this device is intended to incapacitate the subject with a minimal potential for causing death or great bodily harm.
- I. Kinetic Energy Impact Projectiles** - Flexible or non-flexible projectiles, which are intended to incapacitate a subject with a minimal potential for causing death or great bodily harm, when compared to conventional projectiles.
- J. Less-Lethal Force Philosophy** - A concept of planning and force application, which meets operational objectives, with less potential for causing death or great bodily harm than conventional police tactics.
- K. PepperBall Launcher and Projectiles** - A Pepper ball Launcher is a less lethal weapon that consists of a high-pressure air launcher used to deliver chemical irritant filled projectiles from a distance. These projectiles burst on impact releasing Oleoresin Capsicum (OC) powder.

#### **IV. GENERAL RULES ON THE APPLICATION OF FORCE**

- A.** At all times, force is only to be applied by law enforcement officers when such use is "objectively reasonable" in a given situation, as determined by a "reasonable officer" at the scene. The factors, which, in general, determine whether force is "objectively reasonable", include:
  1. The severity of the alleged crime at issue;
  2. Whether the suspect poses an imminent threat to the safety of the officers and/or others; and

3. Whether the suspect is actively resisting or attempting to evade arrest by flight.
- B. Once an officer has control of a subject by using a reasonable amount of force, the force level shall be de-escalated to a level to sufficiently maintain control.
- C. Use of any force greater than an escort hold shall be covered in the written documentation for the incident.
  1. The Use of Force Report - CEW Supplement shall be required when the CEW is deployed.
- D. Once control is established, you must reduce your level of force to that level needed to maintain control.

## **V. APPROACH CONSIDERATIONS**

- A. When an officer approaches a situation involving contact or possible contact with a subject, there are several things that an officer must do to determine the proper response. Based on the determination that is made during approach considerations, you may or may not decide that use of force is required in order to accomplish a legitimate law enforcement objective.
- B. **APPROACH CONSIDERATION STEPS**
  1. Decision Making - Consider whether the officer can legally contact the subject(s), and whether making contact is desirable.
  2. Tactical Deployment – Assess the situation and make your decision on locating yourself and your partners in relation to the subject or situation.
  3. Tactical Evaluation – Attempt to assess the potential hazards in the contact and decide how to best minimize them, including whether this individual poses a threat to you and if so, how much of a threat.

## **VI. INTERVENTION OPTIONS**

- A. Officers will follow intervention option steps from lower use of force levels to higher levels, but will be allowed to advance to the force necessary to control the situation without having to follow each step when a situation that the officer is dealing with creates a threat greater than what the officer is presently displaying.
- B. **INTERVENTION OPTION STEPS:**

1. Presence - Presence is a non-physical force option, and involves the presence of you or several officers as a way of gaining or regaining control.
1. Dialog - Dialogue that covers the range of tactical communication from very low-level questioning to very directive commands. The purpose of dialogue is to persuade subjects to comply with an officer's lawful directives. The specific techniques used are covered extensively in Professional Communication Skills.
3. Control Alternatives – Control Alternatives are designed to control subjects who are resisting or threatening to resist your lawful orders.
  - a. Oleoresin Capsicum (OC) spray is the most readily available Control Device. Certain weather conditions, personal tolerances or circumstances may compromise the effectiveness of OC spray.
  - b. Electronic Control Devices may be used when a subject is threatening to actively resist or is actively resisting an officer and the subject poses an articulable threat of harm to an officer or another person.
    1. Conducted Energy Weapon (CEW) (Formally called Taser)
      - i. A CEW may be used by officers when a subject is threatening to actively resist or is actively resisting an officer and the subject poses an articulable threat of harm to an officer or another person.
      - ii. Officers required to employ a CEW shall be currently trained in the proper use of it.
    2. Stun Belt and/or Stun Shield
      - i. The stun belt and/or stun shield may be used for the justifiable control of a custodial individual.
      - ii. Officers required to employ the stun belt or stun shield shall be currently trained in the proper use of it.
4. Protective Alternatives – Protective Alternatives are designed to protect officers in situations when they face subjects continuing to resist or threatening to assault.

- a. The goal of active countermeasures is to create a temporary dysfunction of an actively resistive or assaultive subject.
- b. The goal of incapacitating techniques is to cause the immediate, temporary cessation of violent behavior.
- c. The goal of using intermediate weapons is to impede a subject, preventing him or her from continuing resistive, assaultive, or otherwise dangerous behavior.

1. Impact Weapon

- i. Each uniformed officer shall carry a baton during regular duty assignment.
- ii. An officer shall not intentionally strike an individual above the shoulders unless such an action would be justified under the use of deadly force guidelines.

2. Canine Unit

- i. Mutual aid from a canine unit of another law enforcement agency may be used when required.

3. Distraction Devices

- i. Distraction devices will be used only under the direction of the Sheriff or his designee.
- ii. Officers required employing distraction devices shall be currently trained in their proper use.

4. Chemical Munitions

- i. Chemical munitions will be used only under the direction of the Sheriff or his designee.
- ii. Officers required to employ chemical munitions shall be currently trained in their proper use.

5. Specialty Impact Munitions

- i. Specialty Impact Munitions will be used only under the direction of the Sheriff or his designee.

- ii. Officers required to employ specialty impact munitions shall be currently trained in their proper use.

6. PepperBall Launcher and Projectiles

- i. PepperBall Launcher and Projectiles will be used only under the direction of the Sheriff or his designee.
- ii. Officers required to employ PepperBall projectiles shall be currently trained in their proper use.

5. **Deadly Force** – The purpose of deadly force is to stop the threat. The firearm is the only tactic classified as deadly force and will be used by the officer as a last resort.

- a. Behavior which justifies your use of deadly force is that which has caused or imminently threatens to cause death or great bodily harm to you or another person or persons. Deadly force can be used only as last resort and then only:

- 1. When an officer reasonably believes that they or others are threatened by great bodily harm or death.
- 2. To make a legal arrest for a dangerous crime that the suspect has committed, attempted to commit or is about to commit and the officer reasonably believes that the arrest cannot otherwise be made or custody otherwise retained.

- b. Before using deadly force an officer shall, if reasonably possible, attempt to identify him or herself, order the suspect to desist from the unlawful activity, and threaten to use deadly force if the lawful order is not obeyed.

- c. Deadly force shall not be used under the following circumstances:

- 1. When firing from or at a moving vehicle unless an officer reasonably believes that he/she or others are threatened by great bodily harm or death.

2. When firing into a building or through doors and the person fired at is not clearly visible, unless officers are being fired upon from such building or through such door.

d. **WARNING SHOTS SHALL NOT BE FIRED.**

e. The use of deadly force shall not be threatened unless its use would be justified under this policy. No firearm shall be displayed as a threat unless its actual use in the situation would be proper. However, a firearm may be readied for use in situations where it is anticipated that it may be required.

f. **RESPIRATORY RESTRAINTS** The use of a respiratory restraint, also known as a chokehold, is limited to circumstances where deadly force is authorized. A choke hold is only permitted as a last resort, after all other options have been attempted and/or considered and those options would have been impractical or ineffective.

## **VII. FOLLOW-THROUGH CONSIDERATIONS**

A. Once you have gained control of a resistive subject through any of the specific steps in the Intervention Options, you must initiate certain follow-through procedures. These procedures include:

1. Stabilizing subject – which may include application of restraints, if appropriate.
  - a. Deputies may handcuff any person in custody, but discretion may be used.
2. Monitoring / debriefing
3. Searching, if appropriate
4. Escorting, if necessary
5. Transporting, if necessary
6. Turnover to another officer and/or agency, and removal of restraints, if necessary.

## **VIII. APPLICATION OF RESTRAINTS**

A As soon as possible in an arrest situation, officers shall stabilize the subject, including the likely use of handcuffs. The procedure for handcuffing depends on the degree of cooperation that the subject is giving.

- B. Handcuffs shall always be placed in the handcuff groove of the wrist, checked for tightness and safety locked prior to transporting the subject anywhere. Actively resistive or assaultive subjects may be initially handcuffed dynamically, though the appropriate adjustments shall be made prior to transporting from the scene.
- C. If the subject has a physical limitation that precludes the handcuffing of the subject behind their back, the officer may handcuff the individual in front of their body. An officer must realize that the subject will be harder to control handcuffed in this manner.
- D. No handcuffed subjects will be allowed to lay face down for any extended length of time without close monitoring.
- E. Ankle restraints may also be applied to subjects in custody. Other reasonable restraints may also be applied to secure the subject's legs.
  - 1. Apply the ankle restraints, leaving sufficient room for ankle movement while the subject is walking or standing.
  - 2. Always safety lock the ankle restraints.

#### **IX. DEADLY FORCE USED FOR ANIMAL DISPOSAL**

- A. The killing of a dangerous animal by an officer would be warranted only under circumstances where an officer has reasonable belief that such action is necessary in order to prevent bodily harm or death to any person, including the officer.
- B. Officers shall consider the size and apparent viciousness of the animal when determining if it is necessary to kill it.
- C. Section 951.15(4) WI Stats. states, "Whenever, in the opinion of such officer (law enforcement officer), an animal is hopelessly injured or diseased so as to be beyond the probability of recovery, it shall be lawful for such officer to kill such animal and the owner thereof shall not recover damages for the killing of such animal unless he shall prove that such killing was unwarranted.
- D. If the deadly force is used against an animal:
  - 1. The officer shall inform headquarters as soon as possible after such shooting. Headquarters will log the officer's action in the radio log.
  - 2. In written or oral communication, the term dispatched shall be used to describe deadly force against an animal.

#### **X. POST USE OF DEADLY FORCE**



- A. The procedure to be followed when an officer is responsible for the intentional or unintentional use of deadly force against a person by any means, including discharge of any firearm is:
  - 1. If the use of deadly force is used against or intended for another person(s) regardless of whether actual injury or death results:
    - a. The officer shall orally inform headquarters of the incident as soon as the situation stabilizes.
    - b. Headquarters shall immediately notify the ranking supervisor on duty. If no supervisor is on duty, an off-duty command level supervisor shall be notified.
    - c. Headquarters shall also notify the Sheriff and the Chief Deputy.
    - d. **Policy DSP12-001 Post Traumatic Incident Care policy will be initiated.**
- B. Unintentional Use of Deadly Force:
  - 1. In the event of an unintentional discharge of a firearm or any other form of unintentional use of deadly force (whether the act results in injury or not).
    - a. The officer shall orally inform headquarters of the incident as soon as possible.
    - b. The officer shall advise the on-duty supervisor of the incident, provide a written report and submit it to the on-duty supervisor before going off duty.
    - c. Headquarters shall also notify the Sheriff and the Chief Deputy.

## **XI. TRAINING**

- A. All officers shall stay familiar with current rules regarding the application of force.
- B. In addition to training required for firearms qualifications, the department will provide periodical training designed to simulate actual shooting situations and conditions and, as otherwise necessary, to enhance officers' discretion and judgment in using force in accordance with this policy

## **XII. FOR DEPARTMENTAL USE ONLY**

- A. This policy is for departmental use only and does not apply in any criminal or civil proceeding. The department policy should not be construed as the creation

of a higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this policy will only form the basis for departmental administrative sanctions.

This standard and policy takes effect on the above stated date and will remain in effect until amended, superseded, or cancelled by the issuing authority. This standard and policy is to become a permanent part of your department rules manual.