

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 agency is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner.

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 Techniques and Conducted Energy Device policies.

300.1.1 DEFINITIONS

Definitions related to this policy include:

Deadly force - Force reasonably anticipated and intended to create a substantial likelihood of causing death or very serious injury.

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

Imminent - About to happen. Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if a deputy or correctional officer reasonably believes any of the following:

- (a) The person has a weapon or is attempting to access one and it is reasonable to believe the person intends to use it against the deputy or correctional officer or another.
- (b) The person is capable of causing serious bodily injury or death without a weapon and it is reasonable to believe the person intends to do so.

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

Use of force - The application and/or use of physical techniques or tactics, chemical agents, or weapons to another person (e.g., compliance hold, hand strike, baton strike, decentralization, directing a subject to a surface) or any action that would likely cause an injury, impede breathing or blood flow to the head, or may render a person unconscious. It is not considered a use of force when a person allows him/herself to be searched, escorted, handcuffed, or restrained.

Use of force team technique - Ordinarily involves trained staff clothed in protective gear, who enter a subject's area in tandem, each with a specific task, to achieve immediate control of the subject.

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300.2 POLICY

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

Deputies and correctional officers 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 Agency recognizes and respects the value of all human life and dignity. Vesting deputies and correctional officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests.

300.2.1 DUTY TO INTERCEDE AND REPORT WITHOUT RETALIATION

All deputies and correctional officers have an affirmative obligation to protect the public and other members from excessive use of force. Regardless of rank, any deputy or correctional officer present and observing another deputy or correctional officer using prohibited, inappropriate, or unreasonable force (including applying force when it is no longer required) must, if a reasonable opportunity exists, intercede by verbal and physical means to prevent the use of unreasonable force. A deputy or correctional officer who observes another employee use force that exceeds the degree of force permitted by law must promptly report these observations to a supervisor. Failure to intercede as indicated above, will result in discipline to the same severity as if they themselves engaged in the unreasonable force.

This agency prohibits retaliatory conduct against, or interference with, an employee who reports or seeks to report any violation of this policy. (See Anti-Retaliation Policy)

300.2.2 PERSPECTIVE

When observing or reporting force used by a law enforcement officer, each deputy should take into account the totality of the circumstances and the possibility that other law enforcement officers may have additional information regarding the threat posed by the subject.

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

The reasonableness of force will be judged from the perspective of a reasonable deputy or correctional officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that deputies and correctional officers 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.

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Given that no policy can realistically predict every possible situation a deputy and correctional officer might encounter, deputies and correctional officers 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 and correctional officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by the Agency. Deputies and correctional officers 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 or correctional purpose.

Nothing in this policy requires a deputy or correctional officer to retreat or be exposed to possible physical injury before applying reasonable force.

300.3.1 USE OF FORCE TO EFFECT AN ARREST

A law enforcement officer may use reasonable force to arrest a person or execute a warrant. Additionally, a law enforcement officer making a lawful arrest may command the aid of any person, and such person shall have the same power as that of the law enforcement officer (Wis. Stat. § 968.07; Wis. Stat. 968.14).

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 behavior of the individual being confronted, as reasonably perceived by the deputy or correctional officer at the time.
- (c) Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of deputies available vs. subjects).
- (d) The effects of drugs or alcohol.
- (e) Subject'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 subject has been effectively restrained and his/her ability to resist despite being restrained.
- (i) The availability of other reasonable and feasible options and their possible effectiveness.
- (j) Seriousness of the suspected offense or reason for contact with the individual.
- (k) Training and experience of the deputy.

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- (l) Potential for injury to deputies, correctional officers, suspects, and others.
- (m) Whether the person appears to be resisting, attempting to evade arrest by flight or is attacking the deputy or correctional officer.
- (n) The risk and reasonably foreseeable consequences of escape.
- (o) The apparent need for immediate control of the subject or a prompt resolution of the situation.
- (p) Whether the behavior of the individual being confronted no longer reasonably appears to pose an imminent threat to the deputy, correctional officer, or others.
- (q) Prior contacts with the subject or awareness of any propensity for violence.
- (r) Any other exigent circumstances.

300.3.3 USE OF FORCE TO SEIZE EVIDENCE

In general, deputies and correctional officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, deputies and correctional officers are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, deputies and correctional officers are encouraged to use techniques and methods taught by the Milwaukee County Sheriff's Office for this specific purpose.

300.3.4 PROHIBITION ON NECK RESTRAINTS AND CHOKE-HOLDS

The agency does not teach or train the use of neck restraints, choke-holds, or carotid control hold (e.g. lateral vascular neck restraint). The use of neck restraints, choke-holds, or any maneuver or tactic that prevents breathing or obstructs an individual's airway is prohibited unless a deputy or correctional officer must protect him/herself or others from what he/she reasonably believes would be an imminent threat of death or serious bodily injury.

300.3.4 ALTERNATIVE TACTICS - DE-ESCALATION

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

300.4 DEADLY FORCE APPLICATIONS

When reasonable, the deputy shall, prior to the use of deadly force, make efforts to identify him/herself 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.

Use of deadly force is justified in the following circumstances involving imminent threat or imminent risk:

- (a) A deputy or correctional officer may use deadly force to protect him/herself or others from what he/she reasonably believes would be an imminent threat of death or serious bodily injury.

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- (b) A deputy or correctional officer may use deadly force to stop a fleeing subject when the deputy has probable cause to believe that the person has committed, or intends to commit, a felony involving the infliction of serious bodily injury or death, and the deputy reasonably believes that there is continued significant threat to the public, and the deputy reasonably believes there is no other way to capture the subject, and only as a last resort. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

300.4.1 SHOOTING AT OR FROM MOVING VEHICLES

Shots fired at or from a moving vehicle are rarely effective. 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 the operator of a moving vehicle or its occupants when the deputy reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the deputy or others.

300.5 REPORTING THE USE OF FORCE

Any use of force by a member of this agency shall be documented promptly, completely and accurately in an appropriate report, depending on the nature of the incident. The deputy or correctional officer should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances.

300.5.1 NOTIFICATION TO SUPERVISORS

Supervisory notification shall be made as soon as practicable following the use of force.

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.

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, correctional officer, 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 deputy shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that force was used on the subject. This notification shall include a description of the force used and any other circumstances the deputy or correctional officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

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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.

300.7 SUPERVISOR RESPONSIBILITIES

Absent exigent circumstances, a supervisor shall respond to an incident in which there has been a reported use 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) Once any initial medical assessment has been completed or first aid has been rendered, and if appropriate, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.
- (d) Identify any witnesses not already included in related reports.
- (e) Review and approve all related reports.
- (f) Make the appropriate administrative notifications.

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

300.7.1 DIVISIONAL COMMANDER RESPONSIBILITY

The Divisional Commander 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 POLICY AVAILABILITY

This policy shall be made available to the public upon open records request (Wis. Stat. § 66.0511(2)).

300.9 TRAINING

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

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300.10 USE OF FORCE ANALYSIS

At least annually, the Internal Affairs Divisional Commander should 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 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.