

USE OF FORCE

I. PURPOSE:

The purpose of this policy is to provide deputies of this department with guidelines on the reasonable use of force. This policy recognizes that the use of force by law enforcement requires constant evaluation. Even at its lowest level, the use of force is a serious responsibility. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, each deputy is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner.

The use of force by law enforcement personnel is a matter of critical concern both to the public and to law enforcement. Deputies are involved in numerous and varied human encounters on a daily basis and when warranted, may use force in carrying out their duties. Deputies must have an understanding of, and true appreciation for, the limitations of their authority.

This is especially true with respect to deputies overcoming resistance while engaged in the performance of their duties. The department recognizes and respects the value of all human life and dignity without prejudice to anyone. It is also understood that vesting deputies with the authority to use reasonable force and protect the public welfare requires a careful balancing of all human interests.

II. DEFINITIONS:

A. Deadly Force: An action, with or without the use of a weapon, intended to cause death or serious bodily injury; or, the use of any object in a manner intended to cause death or serious bodily injury.

B. Force, Non-Deadly Force, or Less-Lethal Force: Actions not calculated under the circumstances to cause death or serious bodily injury.

C. Serious Bodily Injury: Harm that creates substantial risk of death, serious permanent disfigurement, or loss or impairment of any bodily function or organ.

III. POLICY:

It is the policy of this department that 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 effectively bring an incident under control. "Reasonableness" of the force used must be judged from the perspective of a reasonable deputy on the scene at the time of the incident. Any interpretation of reasonableness must allow for the fact that deputies are often forced to make split-second decisions in circumstances that are tense, uncertain,

and rapidly evolving about the amount of force that is necessary in a particular situation.

Given that no policy can realistically predict every possible situation a deputy might encounter in the field, it is recognized that each deputy must be entrusted with well-reasoned discretion in determining the appropriate use of force in each incident. While it is the ultimate objective of every law enforcement encounter to minimize injury to everyone involved, nothing in this policy requires a deputy to actually sustain physical injury before applying reasonable force. Deputies will receive annual in-service training in the DCSD "Use of Force" Policy.

IV. PROCEDURES:

A. Use of Force to Effect an Arrest or Take Custody

A deputy, or any person whom he/she has summoned or directed to assist him/her, need not retreat or desist from efforts to make a lawful arrest or take a person into custody because of resistance or threatened resistance to the arrest. He/she is justified in the use of any force which he/she reasonably believes to be necessary to effect the arrest and any force which he/she reasonably believes to be necessary to defend himself/herself or another from bodily harm while making the arrest. However, he/she is justified in using force likely to cause death or great bodily harm only when he/she reasonably believes that such force is necessary to prevent death or great bodily harm to himself/herself or another person, or when he/she reasonably believes that:

1. Such force is necessary to prevent the arrest from being defeated by resistance or escape; and
2. The person to be arrested has committed or attempted a forcible felony which involves the infliction or threatened infliction of great bodily harm or is attempting to escape by use of a deadly weapon, or otherwise indicates that he/she will endanger human life or inflict great bodily harm unless arrested without delay.

A deputy making an arrest pursuant to an invalid warrant is justified in the use of any force which he/she would be justified in using if the warrant were valid, unless he/she knows that the warrant is invalid.

B. Factors Used to Determine the Reasonableness of Force

When determining whether or not to apply any level of force and evaluating whether a deputy has used reasonable force, a number of factors should be taken into consideration. These factors include, but are not limited to:

1. The conduct of the individual being confronted (as reasonably perceived by the deputy at the time).
2. Deputy/subject factors (age, size, relative strength, skill level, injury/exhaustion, and number of deputies vs. subjects).
3. Influence of drugs/alcohol (mental capacity).
4. Proximity of weapons.
5. The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
6. Time and circumstances permitting, the availability of other options (what resources are reasonably available to the deputy under the circumstances).
7. Seriousness of the suspected offense or reason for contact with the individual.
8. Training and experience of the deputy.
9. Potential for injury to citizens, deputies, and suspects.
10. Risk of escape.
11. Other exigent circumstances.

It is recognized that deputies are expected to make split-second decisions and that the amount of a deputy's time available to evaluate and respond to changing circumstances may impact his/her decision. While various degrees of force exist, each deputy is expected to use only that degree of force reasonable under the circumstances to successfully accomplish the legitimate law enforcement purpose in accordance with this policy. It is recognized however, that circumstances may arise in which deputies reasonably believe that it is impractical or ineffective to use any of the standard tools, weapons, or methods provided by the department. Deputies may find it more effective or practical to improvise their response to rapidly unfolding conditions they are confronting. In such circumstances, the use of any tool, method, or weapon of opportunity must nonetheless be objectively reasonable and utilized only to the degree reasonably necessary to accomplish a legitimate law enforcement purpose.

C. Non-Deadly Force Applications

Any application of force that is not reasonably anticipated and intended to create a substantial likelihood of death or very serious injury shall be considered non-deadly force. Each deputy is provided with equipment, training, and skills to assist in the apprehension and control of suspects as well as protection of deputies and the public. Non-deadly force applications may include but are not limited to leg restraints and control devices, described in the manual. A deputy's discharge of a firearm using ammunition designed to disable or control without creating the likelihood of death or great bodily harm are not considered deadly force when used in making an arrest.

D. Pain-Compliance Techniques

Pain-compliance techniques may be very effective in controlling a passive or actively resisting individual. Deputies may only apply those pain-compliance techniques for which the deputy has received departmentally-approved training and only when the deputy reasonably believes that the use of such a technique appears necessary to further a legitimate law enforcement purpose. Deputies utilizing any pain-compliance technique should consider the totality of the circumstance including, but not limited to:

1. The potential for injury to the deputies or others if the technique is not used.
2. The potential risk of serious injury to the individual being controlled.
3. The degree to which the pain-compliance technique may be controlled in application according to the level of resistance.
4. The nature of the offense involved.
5. The level of resistance of the individual(s) involved.
6. The need for prompt resolution of the situation.
7. If time permits (e.g., passive demonstrators), other reasonable alternatives.

The application of any pain-compliance technique shall be discontinued once the deputy determines that compliance has been achieved.

E. Deadly Force Applications

While the use of a firearm is expressly considered deadly force, other force might also be considered deadly force if the deputy reasonably anticipates and intends that the force applied will create substantial likelihood of causing death or serious bodily injury. Use of deadly force is justified in the following circumstances:

1. A deputy may use deadly force to protect himself/herself or others from what he/she reasonably believes would be an imminent threat of death or serious bodily injury.
2. A deputy may use deadly force to stop a fleeing suspect when the deputy has probable cause to believe that the suspect has committed a forcible felony involving the infliction or threatened infliction of serious bodily injury or death and the deputy reasonably believes that there is imminent or future potential risk of serious bodily injury or death to any other person if the suspect is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

F. Reporting the Use of Force

Any use of physical force by a member of this department shall be documented promptly, completely, and accurately in an appropriate report depending on the

nature of the incident.

1. Notification: Supervisory notification shall be made as soon as practical following the application of physical force, under any of the following circumstances:
 - a. The application of force appears to have caused physical injury.
 - b. The individual has expressed a complaint of pain.
 - c. The application of a control device.
 - d. The individual has been rendered unconscious.
2. Medical Attention: Prior to booking or release, medical assistance shall be obtained for any person(s) who has sustained visible injury, expressed a complaint of an injury or continuing pain, or who has been rendered unconscious. 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, when practical, should be witnessed by another deputy and/or medical personnel. If an audio recording is made of the contact or an interview with the individual, any refusal should be included, if possible.

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond physical characteristics, unusually high tolerance to pain, or who require a protracted physical encounter with multiple deputies to bring under control may be at an increased risk of sudden death and should be examined by qualified medical personnel as soon as practical. An individual exhibiting signs of distress after such an encounter shall be medically cleared prior to booking.

G. Supervisor Responsibility

When a supervisor is able to respond to an incident in which there has been a complaint regarding application of force, the supervisor is expected to:

1. Obtain the basic facts from the involved deputy.
2. Ensure that any injured parties are examined and treated.
3. Separately interview the subject(s) upon whom force was applied.
4. Ensure that photographs have been taken of any areas involving visible injury or complaint of pain as well as overall photographs of uninjured areas.
5. Identify any witnesses not already included in related reports.
6. Review and approve all related reports.

DeSoto County Sheriff's Department
Policy and Procedure Manual

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. Should the supervisor determine that any application of force was not within policy, a separate internal administrative investigation should be conducted.