

## USE OF FORCE AND DEADLY FORCE

### **POLICY:**

Human life is sacred. Protecting innocent life is a fundamental objective of Lamar County Sheriff's Department. We use only force that is objectively reasonable to effectively bring an incident under control or make an arrest while protecting the safety of the officer and others. Based on our professional perceptions, we use the level of force that a reasonably prudent officer would use under the same or similar circumstances.

### **DISCUSSION:**

From our training, we know the decision to use force requires careful attention to the facts and circumstances of each case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officer or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.

We know the 'reasonableness' of a particular use of force incident must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The question is whether the officers' actions are 'objectively reasonable' in light of the facts and circumstances confronting them.

Traditionally, the standards by which most enforcement officer's use of force and deadly force actions, is viewed in the light of the 4th Amendment to the U.S. Constitution. However, when we are involved in a force incident during an arrest, transport, lockup, or correctional setting, the use of force may also be viewed under the 8th and 14th Amendments. Our general guidance for the use of force comes from this policy based in part on:

- **4th Amendment** rights apply to non-detained persons, arrestees, and pretrial detainees, who have not been arraigned, and requires that the officer's actions be judged from the perspective of a reasonable officer on the scene, rather than with 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split second judgments in circumstances that are tense, uncertain, and rapidly evolving.

- The **8th Amendment** may apply to convicted individuals and requires a determination that an excessive force claim must show malice, sadism, and intent to cause harm. The unnecessary and wanton infliction of pain and actions taken in bad faith and for no legitimate purpose are cruel and unusual punishment. The question whether the measure taken inflicted unnecessary and wanton pain and suffering ultimately turns on whether the force was applied in a good-faith effort to maintain or restore discipline or maliciously and sadistically for the very purpose of causing harm.
- The **14th Amendment** may apply to pretrial detainees, who have been arraigned, but not yet convicted, and requires a determination of whether the force applied by an officer is done with deliberate or reckless indifference with ... a purpose to cause harm unrelated to the legitimate object of arrest will satisfy the element of arbitrary conduct shocking the conscience, necessary for a due process violation.

#### **DEFINITIONS:**

- **Deadly Force** - Action, with or without the use of a weapon, intended to cause serious bodily injury or death; or, the use of any object in a manner intended to cause death or serious bodily injury.
- **De-Escalation Techniques** - Acting or communicating verbally or non-verbally during a potential force encounter 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 use of additional 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, tactical repositioning, and soft hand techniques.
- **Exigent Circumstances** - Those circumstances that would cause a reasonable person to believe that an action is necessary to prevent physical harm to an individual, the destruction of relevant evidence, the escape of a suspect, or some other consequence improperly hindering legitimate law enforcement efforts.

- **Firearm** - Any device designated, made, or adapted to expel a projectile through a barrel by using energy generated by rapidly expanding gases or any device readily convertible to that use, including all handguns, rifles, and shotguns.
- **Force or Non-Deadly Force** - Procedures or weapons intended or designed to provide force, but not force intended to kill or cause serious bodily injury. The non-deadly force concept is also commonly referred to as less than deadly or less than lethal force. Regardless of the application name, reasonable officers know that – although unlikely – any force, especially when applied under tense, uncertain, and rapidly evolving situations, may cause injury or death, despite the best intentions of the officer.
- **Lateral Vascular Neck Restraint [LVNR]** – Sometimes correctly and incorrectly called a chokehold depending on the application, a method or manner of restraining or controlling a person by physically restraining the person's neck from behind. The technique involves the initial restraint of a person through contact and control methods, which may ultimately be used to incapacitate the person when the person refuses to submit to lesser levels of control.
- **Objectively Reasonable Standard** - The determination that the necessity for using force and the level of force applied based upon the officer's quick evaluation of the situation considering the totality of the circumstance at the time. Any Subsequent analysis centers on what a reasonably prudent officer would use under the same or similar situations. Any subsequent analysis is without the benefit of 20/20 hindsight.
- **Perception, Officer** - the act or faculty of perceiving, discern, or apprehending using the senses or of the mind; cognition; or understanding.
- **Serious Bodily Injury** - Injury that involves substantial risk of death, protracted and obvious disfigurement, or extended loss or impairment of the function of a body part or organ.
- **Warning Shot** - Discharge of a firearm to compel compliance from an individual, but not intended to cause physical injury.

## **PROCEDURES:**

### **General Provisions**

1. The use of physical force stops when resistance ceases, the threat is removed, and the incident is under control.
2. Physical force is not used against individuals in restraints, except as objectively reasonable to prevent their escape or prevent imminent bodily injury to the individual, officers, or another person. In these situations, you use only the amount of force necessary to control the situation.
3. After determining an incident scene is safe, you provide appropriate medical care, consistent with your training, to individuals with visible injuries, complaint of injuries, or requesting medical attention. Such care may include requesting emergency medical services, rendering first-aid buddy-aid, or arranging for transportation to a medical treatment facility.
4. We share a duty to intervene to prevent or stop the use of excessive force by another officer or person, when safe and reasonable to do so.
5. Use of force incidents are documented by involved officers and are reviewed and investigated by LCSO supervisory staff.

### **De-escalation**

1. We use de-escalation techniques and other alternatives to higher levels of force consistent with your skillset whenever practical to reduce the need for increased force.
2. Whenever practical, and when such delay does not compromise the safety of officers or others and is not likely to result in the destruction of evidence, escape of a suspect, or commission of a crime, we may allow a reasonable individual time and opportunity to submit to verbal commands before applying additional or higher levels of force.

### **Use of Less-Lethal Force**

When de-escalation techniques are not appropriate or effective, you may consider the use of less-lethal force to control a non-compliant or actively resistant individual.

An officer is authorized to use agency-approved, less-lethal force techniques and issued equipment to

1. Protect the officer or others from immediate physical harm,
2. Restrain or subdue an individual who is actively resisting or evading arrest, and
3. Bring an unlawful situation safely and effectively under control.

### **Use of Deadly Force**

1. You are authorized to use deadly force when you perceive it is objectively reasonable under the totality of the circumstances. Use of deadly force is justified when one or both of the following apply to:
  - a. Protect you or others from what you perceive to be an immediate threat of serious bodily injury or death; and
  - b. Prevent the escape of a fleeing subject when you have probable cause to believe that the person has committed, or intends to commit, a felony involving serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to the officer or another if the subject is not immediately apprehended.
2. When practical, you will identify yourself by your title and warn of your intent to use deadly force.
3. **Deadly Force Restrictions**
  - a. Generally, deadly force is not used against persons whose actions are a threat only to themselves or property. Exceptions to this guideline may include intervention in a suicide attempt or attempt to stop damage to property that, if interfered with, may cause mass casualties or life-threatening hazards.
  - b. Warning shots pose a danger to both deputies and the citizens alike. Therefore, warning shots are prohibited.

- c. Firearms are not discharged at a moving vehicle unless:
  - i. A person in the vehicle is threatening you or others with deadly force by means other than the vehicle; or
  - ii. The vehicle is being operated in a manner that you perceive is intended to strike you or another person, and you perceived that other reasonable means of defense or apprehension are not clear or practical.
- d. Firearms are not discharged from a moving vehicle except in exigent circumstances. In such situations, you must have an articulable reason for this use of deadly force.
- e. Lateral vascular neck restraint or chokeholds are prohibited unless deadly force is authorized.

## **FORCE CONTINUUM**

### **1. Officer Presence**

- a. Often the presence of one (1) or more deputies will be enough to quell a potential or actual disturbance. A display of more than one deputy may prevent a situation from escalating to the point where the use of physical force is necessary.
- b. When confronted with a situation that may require the use of physical force, consideration should be given to requesting additional assistance to prevent a situation from escalating.

### **2. Communication**

- a. The most desirable method of achieving compliance with a subject is through the use of simple instruction and directions. An attempt to control the subject through advice, persuasion and warnings should be used in appropriate situations prior to the application of force.
- b. The above should not be construed to suggest that a deputy should risk loss of control of a situation, thus endangering the safety of himself or others through the application of verbal direction in situations where physical force is the proper choice.

**3. Subject Control Spray/Taser**

**a. Subject Control Spray**

- i. The subject control spray is intended solely as a control device to enable deputies to carry out their duties in the safest, most efficient, and professional manner, with the least chance of injury or harm to either the deputy or suspect.
- ii. The subject control spray shall be carried in an appropriate pouch and never displayed or pointed at another individual in the form of intimidation or horseplay.
- iii. The subject control spray should be used before a deputy attempts to use any empty hand striking technique or impact weapon if the utilization does not put the deputy at risk of physical injury.
- iv. Multiple applications do not increase the effect of the subject control spray and are discouraged except where the repeated application would be considered a separate incident.
- v. It may be necessary to use the subject control spray on a prisoner who has been handcuffed and/or placed in a deputy's vehicle due to an attempt to harm himself, attack the deputy or damage property. If possible, a verbal warning and intention should be given prior to use of the subject control spray.
- vi. The subject control spray can be used as an extraction device to reduce the chance of property damage or bodily harm to suspects and/or deputies.
- vii. When a deputy books an arrestee who has been exposed to the subject control spray, the deputy will advise the jail personnel to prevent the unnecessary contamination of other jail occupants and custody personnel.
- viii. Replacement of the subject control spray will be as follows:
  1. Before the liquid in the canister is completely exhausted
  2. If any part of the canister or the canister itself becomes damaged

**b. Taser**

- i. Anytime that a taser is to be deployed in a field environment, and if the situation permits, the deputy using the taser shall announce

- that he is about to deploy by saying "TASER" in a clear and audible tone, so that other deputies will be aware that the shot is from a taser and not a firearm. Thus, lowering the probability of an accidental discharge of a firearm by fellow deputies serving as backup who could mistake the taser shot for a gunshot.
- ii. The taser should only be used to stop a threat. This would include, but not limited to, threats to officer safety, threats to others, and includes the threat of a suspect injuring himself.
  - iii. Once the subject is in custody, the on scene supervisor may request EMS to respond to the scene if he/she feels that the subject needs to be evaluated. In most instances, the suspect will not require transport to a medical facility. Point out the puncture sites as necessary to EMS personnel. Only EMS personnel may remove probes from sensitive tissue areas (i.e., face, neck, groin and female breast). Removal from other areas will be to the discretion of the on scene supervisor.

#### 4. **Physical Control**

Empty hand techniques are designed to control passive or defensive resistance. They are used when verbal directions and/or the subject control spray or taser are not effective and there is noncompliance with lawful orders. They include subject control techniques, such as the clinch, that allow for arrest or other simple de-escalation techniques. These techniques may be escalated when it is necessary to control active aggression and defensive resistance when lower forms of control have failed.

#### 5. **Intermediate Impact Weapons**

- a. The 21 inch, expandable baton shall be the primary intermediate weapon of the Lamar County Sheriff's Department.
- b. When carried, the baton shall be kept holstered unless the situation indicates that the use of the baton is imminent.
- c. Only those techniques authorized and/or taught by the Lamar County Sheriff's Department shall be authorized for use.
- d. Strikes to the head, throat, shoulders, and chest are prohibited except in situations where deadly force would be authorized.
- e. Flashlights and radios are authorized as a defensive weapon in cases where no other adequate weapon is available.



6. **Deadly Force:** Actions by the officer that a reasonable person would believe to cause serious bodily injury or death.

The officer must continually assess the situation and select the most reasonable option relative to those circumstances as perceived at that point in time. Situations continually change and it is the officer's responsibility to continually assess, plan, and act accordingly.

1. The primary responsibility of a law enforcement officer is to preserve and protect life.
2. The primary objective of any use of force is to ensure public safety.
3. Law enforcement safety is essential to public safety.

### **Reporting**

An Investigative Report must be completed for all use of force incidents. Each report must be accompanied by a use of force report.

