|  |  |
| --- | --- |
|  | **Number: MCSO 5.1 Page: 11** |
| MONROE COUNTY SHERIFF’S**OFFICE****MEMORANDUM** | **CALEA Standard Number:** |
| **1.2.2****1.3.1****1.3.2****1.3.3****1.3.5** | **1.3.6****1.3.7****1.3.8****1.3.9****1.3.10** | **1.3.13** |  |
| **Chapter: Use of force** | **Subject: Use of Force & Deadly Force** |

**POLICY:**

Human life is sacred. Protecting innocent human life is the most important mission of the Monroe County Sheriff's Office. Apprehending non-violent suspects and criminals is less important than protecting innocent human life, including the protection of the deputy's own life.

Deputies shall maintain a constant readiness and ability to act in instances where, in their perception, the use of force or deadly force may be appropriate. By maintaining readiness and capacity, Deputies reduce the likelihood of opposition and of the actual need for a forceful response of any kind. While deputy discretion is critical, the need for accountability and control of police activities is necessary to limit abuses of authority. Deputies only use the amount of force reasonably necessary to protect life and enforce the law under guidelines established by this policy manual.

**Choke Holds shall not be used by deputies, unless deadly force is warranted.**

###### DEFINITIONS:

**Authorized weapon:** A weapon approved by the department for sanctioned use by its Deputies. No weapon is authorized for carry or use by a deputy unless the agency expressly approves it and the deputy has demonstrated proficiency with the weapon type in accordance with agency guidelines.

**Auxiliary weapons of availability:** A deputy may become separated from their agency issued firearm or secondary impact weapons. Should this occur, the deputy might have access to a weapon of opportunity, including but not limited to a flash light, citation holder, handcuffs, or any object that could be used as a weapon in the defense of himself, herself or another.

**Baton or expandable baton**: An impact weapon capable of inflicting bodily injury by striking with a portion of the weapon. Only batons authorized by the department are carried or used. Carrying or using saps, Billy clubs or slapjacks is **prohibited.**

**Chemical weapon:** Weapons capable of temporarily incapacitating a person through the controlled release of some chemical irritant or agent.

**Qualification with weapon:** Deputy has demonstrated proficiency with a particular weapon, and been tested in its safe care and use. The deputy is thereby authorized to carry and use this weapon in the performance of his official duties regardless of whether the deputy is on-duty or off-duty. Without such qualification, the deputy may not carry or use this or a similar weapon.

**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.

**Electronic weapon:** Weapons using short bursts of electrical energy to temporarily incapacitate a person without the intent of causing death or serious bodily injury.

**Exigent circumstances:** Conditions that are of such urgency and seriousness as to justify a warrantless entry, search, or seizure by police when a warrant would ordinarily be required.

**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, non-deadly force, or less-lethal force**:Actions not calculated under the circumstances to cause death or serious bodily injury.

**Knife:** Any edged weapon that is designed to inflict serious bodily injury or death by stabbing, cutting, slicing, whether legal or illegal, and including swords, daggers, axes, hatchets, etc.

**Less than lethal or intermediate weapons**: Procedures or weapons that are designed to provide force, but usually less than deadly force. Less than lethal is sometimes referred to as less-lethal, or non-deadly force. Regardless of the name, Deputies know that any force, especially when applied under dangerous, tense, uncertain, and rapidly evolving situations, may cause harm, serious physical/bodily harm or death, despite the best intentions of the deputy.

**Physical strength and skill**: Any physical actions by one or more Deputies (e.g., holding, restraining, pushing, and pulling) which may include special skills (e.g., boxing, karate, and judo) but do not include the use of deadly force or any weapon.

**Reasonable Belief/Probable cause:**  Sufficient reason based upon known facts to believe a crime has been committed or that certain property is connected with a crime. Reasonable belief/probable cause must exist for a law enforcement deputy to make an arrest without a warrant, search without a warrant, or seize property in the belief the items were evidence of a crime. Reasonable belief/probable cause is often subjective, but if the deputy's belief or even hunch was correct, finding stolen goods, the hidden weapon or drugs may be claimed as self-fulfilling proof of reasonable belief/probable cause.

**Serious physical/bodily injury:** Harm that creates substantial risk of death, serious permanent disfigurement, or loss or impairment of anybody function or organ.

## PROCEDURES:

**Levels of Use of Force:**

Use of force or deadly force is controlled by the basic elements of a reasonable deputy’s perception and a reasonable deputy’s response. Deputies may use only the level of force that is reasonably necessary to stop the perceived threat.

To better understand and explain use of force and force issues, deputy perceptions and deputy force options are illustrated in the Use of Force Continuum or force continuum that is located on the last page of this policy. This chart illustrates five levels of perception and five corresponding levels of response. Deputies must be familiar with, and know how to apply and explain this compendium. Refer to the Use of Force Continuum, at the end of this policy.

Deputy’s general perception and corresponding force options are:

**Level 1 – (Compliant).** The suspect is perceived by the deputy to be compliant. The appropriate level of response is cooperative controls, including deputy presence, hand signals, verbal commands and instructions, light touching or patting, etc. In other words cooperation at this level is a two way street.

**Level 2 – (Passively Resistant).** The suspect is perceived by the deputy to be passively resistant. The appropriate level of response is contact controls, including strong or forceful soft hand, hand and arm holds, pressured physical movement of the suspect, removal, etc.

**Level 3 – (Actively Resistant).** The suspect is perceived by the deputy to be actively resistant. The appropriate response is compliance techniques. This is the threshold for any reasonable deputy to consider this suspect to be a potential threat to himself, the deputy, or other citizens. Compliance techniques may include all reasonable means to cause the suspect to comply as soon as reasonably possible. These techniques may include use of approved electronic weapons, use of chemical weapons, use of restraints, forced movement, forcing a suspect’s limbs behind his back, forcing a suspect down on the floor or against a wall, or using other forms of rough physical force, etc. Once suspects are perceived as actively resistant, Deputies should not relax care until the subject is fully secured.

**Level 4 – (Assaultive & A Threat to Minor Bodily Harm).** The suspect is perceived by the deputy to be assaultive – and a threat to serious physical/bodily harm. The appropriate level of response is immediate defensive tactics. The original assaultive behavior may have been directed at a fellow suspect, apparent victim or the deputy. Defensive tactics may include impact weapons, closed hand strikes, or any other reasonable means available and at hand to stop the aggression, defend against the attack, and bring the suspect into compliance. It is contemplated and understood that reasonable Deputies, while employing defensive tactics, may cause injury, serious injury, and in some isolated instances, death without intending such consequences.

**Level 5 – (Assaultive & Threat of Serious Physical/Bodily Harm or Death).** The suspect is perceived by the deputy to be assaultive – serious physical/bodily harm or death. The appropriate level of response is deadly force. Deadly force includes firearms, knives, or any other means immediately available that a reasonable deputy, in the same circumstance, would consider as potentially causing death or serious physical/bodily injury.

**Tactics, Applications, & Deputy’s Perceptions:**

**Level 1 – (Compliant).** **No or Slight Apparent Potential for Harm**

**Arrival & Presence:** Deputy present at the scene. This includes proper voice and/or other identification, body language, and awareness by the subject that he is dealing with a deputy of the law. May also include presence of the deputy’s vehicle, seeing the deputy in his uniform, hearing deputy identification, etc. A reasoning person seeing and hearing these things will normally alter their behavior, and respond to the Deputies instructions.

**Level 2 – (Passively Resistant).** **Moderate Potential for Physical Harm**

**Dialogue between Parties:** A two way, controlled, non-emotional communications between the deputy and the subject, aimed at a problem identification and/or resolution.

**Verbal Direction:** Deputy asks, advises, or commands subject to engage in, or refrain from, a specific action or non-action.

**Soft Hand Techniques:** Deputy may choose to employ some assistance in movement, compliance, or removal from the immediate scene.

**Level 3 – (Actively Resistant).** **Moderate Potential for Physical Harm**

**Restraint Devices:** Mechanical tools used to restrict a subject’s movement and facilitate searching such as, handcuffs, flex cuffs, leg irons, and belly chains.

**Chemical Agents Individual Protection Devices:** CS/OC spray agent used to subdue or bring a subject into compliance.

**Transporters:** Techniques used to control and/or move a subject from point A to point B with the minimum effort by the deputy or, to gain and retain control over the subject.

**Takedown:** Techniques that redirect a subject to the ground in a controlled manner to limit physical resistance and to facilitate the application of a restraint device, and to prevent intentional injury to the subject.

**Pain Compliance:** Techniques that force a subject to comply with a deputy, as a result of the deputy inflicting controlled pain upon specific points in the subject’s body, such as pressure point techniques.

**Level 4 – (Assaultive & A Threat to Bodily Harm).** **Serious Potential for Physical Harm**

 **Electronic Weapon:** Weapons using short bursts of electrical energy to

 Temporarily incapacitate a person.

**Incapacitation:** Techniques intended to stun or render a subject temporarily unconscious. These techniques may be an impact weapon, closed hand strikes, or a strike to a major nerve area, or

**Intermediate Weapon:** Impact weapons that are primarily used to control a subject such as a baton.

**Level 5 – (Assaultive & Serious Threat of Bodily Harm or Death).** **High Potential for Great Bodily Harm or Death**

**Deadly Force:** Techniques and implements that by their very nature are known to cause death or serious injury. To employ deadly force, Deputies must reasonably perceive that the threat posed to them or someone else is great enough to cause death or result in serious physical/bodily injury.

**Firearm/ Special Munitions:** Special munitions fired, launched, or discharged from a service handgun, shoulder weapon, or vehicle mounted weapon constitute a Level 5 application of the use of force, and must be used with extreme care. Although often referred to as less-lethal, Deputies know that “***less”*** refers to less chance of causing death or serious physical/bodily injury. Special munition rounds must not be deliberately fired or thrown at the face, chest, neck, or spine of any individual (For more information See: Policy 5.3 Special Munitions – Distraction Devices, & 5.4 Special Munitions – Less Lethal.)

It is important to remember that almost all incidents faced by deputies are not scripted, easy to understand, or predictable as to outcome. Deputies use their best effort to determine the threat level and apply the corresponding response. Time permitting, Deputies must use care in evaluating a suspect’s actions and perceived threat level. If there is reasonable doubt and time permits, seek assistance before acting. Justification for the use of force and deadly force must be limited to what is known or reasonably perceived by the deputy at the time of the incident. Facts unknown at the time force is used should not be considered later to determine whether the force was justified.

Deputies may not intentionally use more force than is necessary and reasonable under the circumstances. Deputies may never use force in response to mere verbal provocation or abusive language directed at the deputy. Deputies must never use deadly force, except to protect his life, or the life of other human being.

**Application of Use of Force & Deadly Force:**

Application of deadly force and force are authorized by a deputy only to achieve the following lawful objectives:

1. To defend himself, or others against serious threats of serious physical/bodily injury or death;
2. To stop dangerous felony flight, where there is serious imminent risk to the public of death or serious physical/bodily injury;
3. To prevent roaming at large by obviously mad or vicious animals; to relieve animals so badly injured that they cannot reasonably survive from injuries causing prolonged suffering: &
4. To stop imminent damage to or theft of property, which by its removal or damage seriously threatens the life or safety of others.

Only when there is a reasonable expectation that altered or damaged property may place others in imminent risk of death or serious physical/bodily injury is the application of deadly force appropriate to protect property. Some examples, though not all inclusive, of the use of deadly force to protect property are stopping a suspect from setting a fire, or throwing a bomb; preventing serious damage to a bridge; stopping sabotage to railroad tracks; or deterring the use or theft of what appears to be a weapon of mass destruction, bomb or other military equipment.

Application of force but not deadly force is authorized by a deputy only to achieve the following lawful objectives:

1. To preserve the peace;
2. To defend themselves, or others against unlawful violence;
3. To prevent the commission of self-inflicted injury, or suicide by any person;
4. To make lawful arrests or searches; to overcome resistance to such arrests or searches; and to prevent escape from custody;
5. To prevent or interrupt an intrusion on, or interference with the lawful possession of property; &
6. To prevent roaming at large by obviously mad or vicious animals, or to relieve animals so badly injured that it cannot reasonably survive from injuries causing prolonged suffering.

Before using any force against a suspect, time permitting, Deputies must:

1. Have reasonable belief/probable cause to arrest that suspect;
2. State his or her intentions to arrest the suspect and identify himself as a deputy; &
3. State the reason for the arrest.

The amount and degree of force Deputies may use to achieve an objective takes into consideration the following possible issues, if time and circumstances allow:

1. Nature and seriousness of the original offense committed by the suspect;
2. Nature and seriousness of the risk of injury to the deputy or others;
3. Age, physical condition, and behavior of the suspect;
4. Relevant actions by any third parties:
5. Physical conditions (e.g., visibility) at the scene:
6. Feasibility and availability of alternative actions: &
7. Opportunity and actual ability of the suspect to injure the deputy, himself, or others.

Before Deputies use force (but not deadly force) when protecting a person from self-inflicted serious physical/bodily injury (suicide attempt) or from uncontrollable circumstances, the deputy must consider other available alternatives to protect that person from harm.

Deputies may use unauthorized objects as weapons, or use weapons in unauthorized manners if emergency circumstances make it necessary to protect human life and prevent serious injury.

**Deputies shall not use (choke holds), unless deadly force is warranted.**

Deputies may draw and ready any authorized weapons for use only when they reasonably anticipate that they may have to use such weapon(s). This does not require Deputies to use the weapons.

Deputies of this department are allowed to be armed at all times, subject to state and federal laws, for the protection of themselves and the general public. Deputies will use proper care and tactics if called to respond to an incident off-duty. Every effort will be made to summon on-duty law enforcement prior to taking action. Should a deputy become involved in an off-duty use of force incident, he or she will make every effort to make it known that he or she is a deputy sheriff and shall reasonably present departmental identification. Once on-duty law enforcement Deputies arrive, they will be in command, and their lawful and safe commands will be followed.

If a deputy of this department travels to another jurisdiction on official business, he or she will report armed and in capacity as if in the jurisdiction of the Monroe County Sheriff’s Office, subject to state and federal law.

###### Use of Non-Deadly Force:

Deputies use physical strength and skill, restraint devices, chemical weapons, electronic weapons, or impact weapons to apply non-deadly force only.

Deputies have no obligation to retreat or back down before resorting to approved use of force, including deadly force. Deputies may consider retreat or withdrawal where delay could make a more peaceable arrest, or stop, likely if such tactics would not increase risk to him or others. In some cases, an increased show of force may reduce the amount of force necessary to accomplish the deputy’s objective.

Deputies may not attempt to affect arrests alone if there is substantial risk to himself from the arrestee or another party unless there are no available reasonable alternatives.

Deputies shall use handcuffs or other restraining devices on all arrestees unless it is obviously unnecessary or impractical (e.g. the elderly, young juveniles, amputees, crippled, injured, or other applicable subjects). Deputies must take reasonable precautions to protect arrestees from injury caused by handcuffs or other restraining devices. Only restraining devices and techniques approved by the department may be used.

Deputies may use chemical weapons for self-protection, or to subdue a person unlawfully resisting arrest. Any person on which a chemical weapon has been used must be treated or decontaminated for exposure to the chemical agent as soon as practical and thereafter monitored for possible latent effects.

Deputies may use approved electronic weapons in accordance with this policy and with the training of the use of the device(s).

Deputies may use impact weapons to protect him or another from assault or to arrest a person who unlawfully and violently resists arrest if lesser methods have failed, or if circumstances warrant the immediate use of the baton. However, Deputies should:

1. Avoid baton blows that are capable of inflicting serious physical/bodily injury;
2. Not raise the baton above the head to strike someone or use the baton as a club or bludgeon;
3. Deliver only short snappy body blows to vulnerable areas in order to temporarily incapacitate subjects; &
4. Not deliberately strike the face, head, neck, collarbone, spine, kidney area, solar plexus, knees, or elbows.

Deputies not trained and currently certified with impact weapons are not authorized to use flashlights or other similar devices as substitutes, except in extreme life-threatening emergencies.

###### Use of Deadly Force:

Deadly force may not be used under the following circumstances:

1. As a warning or threat (Deputies will refrain from recklessly firing shots intended to scare or threaten a person [warning shots]);
2. With the intent to maim or cripple a person;
3. On a person who has not caused or threatened to cause serious physical/bodily injury or death to another person, including the deputy;
4. On a person who simply flees or evades arrest;
5. At or from a moving vehicle, except in exigent circumstances, and only in an attempt to save human life;
6. Merely to prevent the destruction or theft of property; or
7. When the deputy has any doubt as to the justification for using deadly force.

Reporting Use of Force- Rendering Aid/medical attention following Use of Force Incidents:

In incidents where a deputy’s use of force results in physical/bodily injury or death, they will first provide what medical assistance they reasonably can, call for professional medical assistance, secure the scene as well as possible, and then notify their direct supervisor. Upon arrival, the supervisor takes charge of the scene along with any investigation concerning the incident and ensures that the sheriff has been notified.

Deputies, who discharge a firearm, use chemical weapons, electronic weapons, impact weapons, special weapons, knives, utilize control or restraint techniques at a higher Use of Force level than Soft empty hand( as defined in the Use of Force continuum in this policy), or who cause bodily injury or death to other persons by use of force or deadly force must notify their direct supervisor immediately. “Warning shots” are prohibited due to the potential for harm.

Deputies are required to complete a written report detailing the circumstances surrounding the use of force incident. This written use of force report requirement must be met even though other required reports may have already covered the situation (See below.)

In incidents involving the use of force, all Deputies will assist in every way possible with the investigation. Any report required by this policy receives executive review in an effort to:

1. Protect the integrity of the facts and the evidence;
2. Ensure that the deputy's use of force complied with all appropriate state and federal laws, and department policy;
3. Determine if the deputy's use of force indicates a need for special counseling, training, or disciplinary action;
4. Determine whether the situation requires further action; &
5. Evaluate the need for additional, or future, training.

## Reporting Requirements:

The Sheriff must be notified immediately when any type of deadly force is used and there are resulting serious physical/bodily injuries or death to any involved party.

Each deputy who witnessed the incident or responded to the scene must complete a written report. These witness reports must be completed no later than the conclusion of the shift in which the incident occurred and filed with the Chief Deputy.

The deputy(s) who actually used or employed the deadly force will be relieved of duty as soon as possible and transported to the station by another deputy. At the time the Deputies are relieved of duty the weapon(s) used in the incident are collected and tagged as evidence. The deputy may be issued a replacement weapon or have an armed deputy accompany him or her to the station. The Chief Deputy or next senior supervisor at the scene instructs the deputy(s) who used deadly force to:

1. Refrain from making any statements to the news media, other Deputies, or supervisors;
2. Refrain from discussing the matter between Deputies or witnesses [if more than one deputy];
3. Return directly to the station.

The deputy is to be given the opportunity to receive counseling if he/she or the department requests it. Each deputy involved will be subject to a psychological examination prior to returning to duty. Upon return to duty, the deputy(s) involved in the deadly force incident must complete his report and make all required statements. The deputy(s) should provide all required information as accurately as possible, recalling as much detail as possible. It should be noted, however, that subsequent to a deadly force incident, it is not uncommon for a deputy’s memory to have lapses in details.

All reports completed by the Deputies using force, other Deputies or witnesses must include the following:

1. A description of the events leading to the use of force or deadly force;
2. The original offense or reasonable belief/probable cause for the stop or action;
3. An accurate description of the incident and reasons for employing force;
4. A description of the weapon or device used and the manner in which it was used;
5. A description of the injuries suffered, and the treatment given or received;
6. A list of all participants and witnesses to the incident; &
7. A copy of all incident reports compiled because of the incident.

The Sheriff formalizes criteria for reporting incidents. Reports of all injuries are filed in the central file and the employee's personnel record.

**Review of Use of Force Reports:**

The reports filed subsequent to non-deadly use-of-force incidents shall be reviewed by the Shift Supervisor immediately following the submission of the report to ensure excessive force was not used. Also, all use of force reports will be reviewed annually for administrative purposes by a committee made up of the following department personnel:

* Chief Deputy
* Investigations Captain
* Patrol Captain

The same committee shall review each deadly use-of-force incident for administrative purposes within two weeks of the incident.

A report of findings of each review shall be comprised and delivered to the sheriff within one week of the meeting.

**Weapons Control & Issue:**

**Procedure**

Upon inspection, any unsafe or defective lethal or less- lethal weapon will be removed from duty by the firearms instructor. The firearms instructor will provide the deputy with a replacement weapon at that time.

**Guidelines**

Any weapon approved by the Monroe County Sheriff’s Office shall be handled and stored in a safe manner at all time, on duty or off duty.

Deputies may only carry or use authorized duty weapons, firearms and ammunition under these standards:

1. Firearm is recorded with the department.
2. Specific firearm and ammunition (manufacturer, type, and caliber) is approved for use by the lead firearms instructor.
3. Firearms have been inspected, by the department's firearms instructor, and/or certified armorer.
4. The deputy has demonstrated proficiency and has qualified in the last twelve (12) months in the use of all weapons and ammunition he carries on-duty or off-duty.
5. Deputy qualifies with the same weapon and similar type of ammunition (as approved by the lead firearms instructor) as actually carried on duty.
6. If a different firearm is carried off-duty, the conditions of 1-5 above apply to the off-duty weapon(s).

Deputies may not modify or alter an authorized weapon in any material way without Agency approval.

**Accidental Discharge:**

In the event that a deputy has any form of accidental discharge of a firearm, whether on-duty or off-duty, he or she must report the incident in writing to his or her supervisor and to the chief firearms instructor. Firearm discharges during training and recreational events are excluded insofar as they do not result in property damage, injury, or death. If any discharge results in personal injury or death, the reporting requirements listed in this policy under deadly use-of-force incidents will be followed.

**Firearms & Weapons Demonstrations of Proficiency:**

The firearms & weapons instructors train and mentor all Deputies in completing demonstrations of proficiency in the use of their primary and secondary firearms, as well as any off-duty firearms, and other weapons carried in the performance of official duties. Demonstration for all weapons (firearms, expandable batons, chemical agents, electronic devices, special munitions delivery systems, etc.) authorized and carried by department Deputies must be conducted on a recurring basis. For further detail on weapons demonstration of proficiency, refer to the Training and Proficiency testing policy (2.9) and the Firearms Training and Demonstration of Proficiency policy (2.10).

Under no circumstance may Deputies not having demonstrated proficiency with their weapons be allowed to carry or use those particular weapons. Deputies must demonstrate proficiency with each weapon, subject to the approval of the weapons instructor.

**Allegations against Staff:**

The Chief Deputy or his designee investigates all allegations of improper use of force & deadly force, after notifying the Sheriff. In cases where possible criminal acts are involved, the appropriate law enforcement agency or prosecutor’s office must be notified.

**Use of Force and Deadly force Training:**

All deputies that carry less lethal or lethal weapons will receive in-service training on the Monroe County Sheriff’s Office use of force policies.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Approval Authority Title and Signature Issue Date