

S.O.P NUMBER 8-8

Use of Force

1. PURPOSE

To establish guidelines governing the use of force and its limitations, and to clearly describe prohibited activities. Deputies shall make every effort to preserve the sanctity of human life in all situations. Deputies will treat all citizens fairly and consistently regardless of gender, gender identity, race, ethnicity, social status, dress language spoken, religion, religious symbols or personal characteristics of the individual. Deputies may recommend assistance to individuals directly involved in the situation particularly children and vulnerable adults.

2. POLICY

The Office shall hold Deputies accountable for upholding lawful, professional, and ethical standards through assertive leadership and supervision before, during and after every use of force incident.

Law enforcement duties may require Deputies to exert control over people by giving them verbal commands, directing their movement, taking them into custody and/or acting in self-defense. The Deputies goal always is to get subjects to comply *voluntarily*. If they do, the Deputy will have achieved the objective without making the encounter unnecessarily adversarial and without any risk of injury to him/herself, subject or others present during the incident.

Deputies are confronted regularly with situations requiring the use of force as a lawful response to resistance. Deputies are *required* to use only the amount of force that is objectively reasonable and necessary, given the totality of these circumstances at the time he/or she decides to use force. Except for deadly force, Deputies are *required* to use only the amount of force, which is objectively reasonable to achieve a lawful purpose in overcoming resistance and gaining or maintaining control of a subject and/or situation. Once force is used, Deputies shall reduce the level of force or stop using force as the resistance or threat decreases.

Deputies derive their authority to use force from the United States Constitution, federal and state laws, Department policies and the community. Unreasonable force degrades the legitimacy of the deputy's authority. The unreasonable use of force will subject deputies to discipline, as well as possibly criminal prosecution and/or civil liability.

Under this policy and the Supreme Court's decision in *Graham v. Connor*, 490 U.S. 286 (1989), use of force by deputies is considered from the perspective of a reasonable deputy on scene and other requirements consistent with this policy.

The Office requires deputies to exercise a higher duty of care than that set forth in Graham when performing their duties on behalf of the Office and the community. That means deputies will be held accountable by the Office when utilizing force that does not conform to this policy or training conducted by the Office.

Deputies shall clearly articulate the facts demonstrating that they used the minimum amount of force that was reasonable, necessary and proportional based on the totality of the circumstances confronting the deputy in order to bring about a lawful objective. These facts shall be clearly articulated in the deputy's report.

3. Definitions:

Discharge of a Firearm

1. Discharges of a lethal firearm by any officer, including accidental discharges and discharges where no person is struck. Range and training firings, destruction of animals and off-duty hunting discharges where no person is struck are not critical firearm discharges.

Electronic Control Weapon (ECW) Application

1. The contact and delivery of an electrical impulse to an individual with an ECW.

Escort Techniques

1. The use of an escort technique involves the application of "C-Clamp" to the wrist notch and triceps notch of the individual's arm. The escort is applied to maintain physical control to move a compliant individual to meet the officer's objective.

Feasible

1. An action is feasible when it can be done or carried out reasonably to achieve an arrest or lawful objective without increasing risk to the officer or other persons.

Force

1. Any physical means used to defend the officer or others, restrain, overcome resistance or otherwise gain physical control of an individual.

Hard Object

1. Any object used to forcefully strike an individual, which has the potential to cause serious physical injury or death through blunt force trauma. A hard object can include impact weapons (e.g., baton, beanbag rounds and 40-millimeter impact munitions) and improvised impact weapons. An officer's own hands, knees, forearms, elbows or feet do not constitute hard objects.

Immediate Threat

1. An immediate threat to an officer or other individual is one that can be delivered, without delay and requires an instant response by an officer to stop the threat or control the situation.

Imminent Threat

1. A dangerous or threatening situation which is about to occur or take place and is perceived to be unfolding.

Neck Hold (Choke Hold)

1. This term refers to the following types of holds: a carotid restraint hold; a vascular neck restraint; a chokehold that inhibits breathing by compression of the airway in the neck; or a hold with a knee or other object to the individual's neck. A neck hold is considered deadly force. This tactic should be used only as a last resort when a human life including the deputies is in imminent danger and shall cease once the subject has been physically controlled.
2. Incidental contact, pressure point contact, touching, guiding or controlling on the back of the neck do not constitute a neck hold. For more information on carotid restraint holds and lateral vascular neck restraint, refer to the definition of vascular neck restraint below.

Low Ready

1. Low ready is a position of preparedness with firearm, ECW, 40-millimeter impact launcher, in which the muzzle of the weapon is not covering an individual and the trigger finger is outside the trigger guard and straight along the frame. The angle of the low ready is based on the distance from the individual. A weapon at low ready is not a reportable show of force because the weapon is not pointed at the individual.

Minimum Amount of Force Necessary

1. The lowest level of force within the range of objectively reasonable force that is necessary to make an arrest or to achieve a lawful objective without increasing the risk to the deputy or others.

Necessary Force

1. Force is necessary when no reasonable alternative to the use of force exists. When force is necessary, deputies shall use the minimum amount of force required that is reasonably necessary to achieve a legitimate, lawful objective.

Objectively Reasonable: The totality of the circumstances from the perspective of a reasonable law enforcement officer at the scene with similar training and experience.

1. An action to attempt to calm a situation or to prevent a situation from escalating into a physical confrontation or injury by using verbal and non-verbal techniques, including active listening skills, tone of voice, announcement of actions, body posture, personal space, eye contact, empathy and compassion to promote deputy and individual safety.

Distraction Technique:

1. A technique used by a deputy with the specific intent to separate the individual's mind from body and break their focus. When effective, this technique creates time for the deputy to react and allow him or her to transition to another tool or technique in order to gain control or disengage and create distance.

Deadly Force: (Any action by the manner in which it is used, is likely to cause great bodily injury or death).

1. The firing of a firearm, even though no intent by the Deputy exists to kill or inflict great bodily harm.
2. Any force applied, in any manner and by any means that could reasonably be expected to cause death or great bodily injury.
 - A. **“Great Bodily Injury”** mean bodily injury that creates a substantial risk of death or injury that is likely to cause serious permanent disfigurement or loss of the function of any body limb or organ.

When applying deadly force, deputies objective must be to **“stop the action and incapacitate the suspect”**, not to kill, unless no other choice presents itself. The objective of the use of any force is to overcome the suspect's resistance to Deputy's lawful purpose: **Deputies shall avoid unnecessary or excessive applications of force.**

Facts or circumstances unknown shall not be considered in later determining whether the force was justified. The Office expects deputies to observe the following two guidelines in all applications of force:

1. Employ the minimum force reasonably necessary to accomplish a legal purpose.
2. Deputies may resort to more severe methods of force to overcome either increasing resistance or an increasingly dangerous threat to public safety.

B. Show of Force: A Deputy demonstrating the ability to use force but not employing it into action. There is no contact damage and the action can be recalled.

C. Less-Lethal Force: Force employed which is neither likely nor intended to cause or inflict serious injury.

Excessive Force:

1. Force is excessive when its application is appropriate to the circumstances, resulting in serious physical injury or death to a subject. The U.S Supreme Court, in **Graham v. Connor**, set forth guidelines for determining whether force has been excessively applied: the primary concern is objective reasonableness in its application and the totality of the circumstances as judged by the on-scene officer. Based on the objective reasonableness standard, the following considerations/factors contribute to a determination of excessive force:
 1. The severity of the crime.
 2. Whether the subject was an imminent threat to the officers or others.
 3. How the subject was actively resisting arrest or detention.
 4. How the subject was attempting to evade arrest by flight.
2. **In evaluating the objectively reasonable application of force, deputies must consider their own age, size, strength and skill level with Office weapons, state of health and the number of deputies opposing the number of suspects.**
3. **Other factors may include the following:**
 - a. The knowledge or belief the individual is under the influence of alcohol and/or drugs.
 - b. The individual's medical or mental health history or condition as known to the deputy at the time.
 - c. The individual's known history to include violent tendencies and/or previous combative encounters with law enforcement.
 - d. Disparities of force (i.e., differences in factors such as physical size, numbers, gender, age, weapons, injury, special knowledge or skills that place an deputy at an advantage (position) or disadvantage (negative disparity), are part of the "totality of the circumstances," and can have direct implications on the reasonableness of a use of force. The existence of negative disparity for the Deputy could justify the use of a higher level of force in a given situation.
 - e. The individual's condition, if known (e.g., it is apparent to the officer that an individual is in crisis), must be considered in the deputy's approach to the situation.
 - f. The opportunities the deputy had to give a warning using verbal de-escalation and use other de-escalation techniques or tactics to limit the amount of force used.
 - g. Whether the deputy made statement(s) or took action(s) that created the need to use force.

- h. The dynamics of a use of force encounter can quickly change which may cause the officer to reasonably escalate or de-escalate the level of force they are using against an individual in instances where situations become tense, uncertain and rapidly evolve.

Firearms: Any weapon from which a projectile is forcibly ejected by an explosive.

Reasonable Suspicion: When facts or circumstances the deputy knows or should have known, are such as to cause an ordinary and prudent person to act or think in a similar way under similar circumstances.

Passive Resistance: this is characterized primarily by a subject who is not trying to actively defeat the officer's efforts to touch and control the subject, but nevertheless does not voluntarily comply with verbal and/or physical attempts of control. Examples may include a subject who just lies on the ground and will not move (dead weight), or subject who locks his/her arms in front or to the side to prevent handcuffing. This type of resistance may occur at any time during the contact between the deputy and the subject.

Active Aggression/Resistance: This type of resistance occurs the least, but most commonly in arrest situations. It generally includes aggression in the form of punching, kicking, chokes, headlocks, bear hugs or wrestling techniques intended to inflict injury or otherwise harm the officer.

1. To detain persons reasonably suspected of criminal behavior
2. To make lawful arrests
3. In the defense of themselves or others
4. To prevent escape (in certain situations where there is imminent danger or great bodily injury or death)
5. To enforce a valid Certificate of Evaluation
6. The individual's known history to include violent tendencies and/or previous combative encounters with law enforcement.

Use of Force Prohibitions

- A. Deputies shall not use force to attempt to gain compliance with an unlawful command.
- B. Deputies shall not engage in actions with restrained or handcuffed individual unless the force is necessary:
 1. To prevent imminent bodily harm to the officer or another person or persons;
 2. To overcome active resistance; or
 3. To move an individual who is passively resisting.

- C. Deputies shall not use deadly force against any individual who is threatening suicide or self-injury unless the individual becomes an imminent threat to others.
- D. Deputies shall not use neck holds unless deadly force is justified.
- E. Deputies shall not fire warning shots.
- F. Deputies shall not fire less lethal or lethal munition at individuals in a crowded environment if, based upon the totality of the circumstances, the danger of hitting an innocent bystander outweighs the necessity and likelihood of stopping the individual.
- G. Deputies are prohibited from using deadly force solely in defense of protection of property.

Use of Force Procedures

A. General Procedures

1. When feasible, deputies shall identify themselves as peace officers and announce their intent to detain, search or arrest an individual before using force.
2. Deputies shall recognize and utilize distance, cover, concealment or intermediate barriers in order to maximize their reaction time and deployment of resources.
3. When feasible and when doing so would not increase the danger to officers or others, deputies shall issue verbal warning to the individual prior to using force.
4. Deputies shall take reasonable steps under the circumstances before and during any use of force to avoid unnecessary risk to bystanders, victims, hostages and other involved civilians, as well as other officers and emergency personnel.
5. In situations when the individual is forced into a face down position, deputies shall release pressure/weight from the individual and position the individual on their side or sit them up as soon as they are restrained and it is safe to do so. Deputies shall monitor the individual for any breathing problems or other signs of distress.
6. The use of leg sweeps, arm-bar takedowns or other defensive tactic techniques shall only be considered and used in the following circumstances:
 - a. To prevent imminent bodily harm to the deputy or to another person or persons; or
 - b. To overcome active resistance
7. Any on-scene deputy who observes another deputy using force that a reasonable deputy would view as excessive or unnecessary under the circumstances shall, when in a position to do so, safely intercede to stop the deputy's actions.
8. A deputy shall immediately notify a supervisor and document any use of force.

Response to High Threat Situations

1. Absent an immediate need to act, deputies should take time to plan how they will respond to the situation. When feasible, the deputies arriving on-scene will secure additional force options, to include less-lethal and lethal force, as part of a force array prior to the initial contact.
2. When an individual deputy arrives on scene of a potentially violent encounter, the deputy should not attempt to resolve the incident alone, unless there is an immediate threat of death or serious physical injury. For example, in an active shooter scenario immediate intervention shall be taken. Deputies shall continually evaluate whether their response is reasonable, necessary and proportional.
3. When feasible, deputies shall recognize and utilize distance, cover, concealment, or intermediate barriers to maximize their reaction time and deployment of resources.
4. Supervisors should manage the overall response to a potentially high threat or violent encounter by coordinating resources and ensuring a force array is employed.

Deadly Force

1. All provisions of this policy, which govern use of force, including the officer's duty to preserve human life, the use of de-escalation techniques and tactics, the requirement of officers to use only minimum amount of force reasonable, necessary and proportional under the circumstances.
2. Any nick-hold or choke hold;
3. Intentional trikes with a baton, flashlight, radio, weapon, stock/handle or improvised impact weapon to vital areas of the body to include the head, neck, or throat;
4. Intentionally striking an individual's head against a hard, fixed object such as a roadway, floor, wall or steel/iron bars;
5. Intentionally targeting the head, neck, or throat of an individual with a beanbag shotgun;
6. Intentionally targeting the head, neck, or throat, with a 40 millimeter impact munition launcher;
7. Intentionally targeting an individual's head, or neck, with an electronic Control Weapon (ECW);
8. Intentionally kneeling or kicking an individual's head or neck while the individual is in a prone or supine position; or
9. Deliberately striking an individual with a motor vehicle.

Deadly Force and Motor Vehicles

1. Deputy's should not reach into vehicles unless necessary to protect a Deputy or other individual.
2. Deputies shall not intentionally place themselves in the path of a vehicle.
3. When feasible, deputies shall move out of the path of a moving vehicle to a position of cover.
4. Deputies shall not discharge a firearm at or from a moving vehicle, unless an occupant of the vehicle the officer is engaging is using deadly force (other than the vehicle itself) against the officer or other person. Such action must be necessary for self-defense, for the defense of other officers, for the protection of another person, or because the officer has no reasonable alternative course of action.

Duty to Provide Medical Attentions and Transportation

1. Following a use of force and once it is safe to do so, an officer shall:
 - a. Determine whether any person was injured by the use of force;
 - b. Immediately render aid consistent with the officer's training;
 - c. Immediately request medical attention when an individual is injured or complains of injury;
 - d. Immediately request medical attention for the following use of force tools or techniques regardless of visible injury complaint of injury:
 - (i) Baton (expandable/straight or Bokken) or improvised impact weapon;
 - (ii) Oleoresin Capsicum (OC) spray
 - (iii) ECW
 - (iv) Use of Policing Service Dog;
 - (v) Use of force with a vehicle (See SSOP – Safe Pursuit);
 - (vi) Impact munitions; or vii. Firearm
2. If a deputy is unable to secure the scene, the deputy may safely extract the individual and transport them to a safe location for medical treatment, if necessary.
3. A deputy shall closely monitor individuals who are taken into custody if the individuals are injured, exhibit physical distress, complaint of pain or have been rendered unconscious.
4. A deputy transporting an individual to a medical facility for treatment shall take the safest and most direct route to the medical facility.

5. If a deputy transports an individual to a medical facility, the deputy shall notify communications of the starting and ending mileage of the transport vehicle.

Force Options:

(Force) Response Options may include:

1. Mere professional appearance.
2. Verbal requests and/or commands.
3. Deputy's strength to take physical control.
4. Empty-handed controls holds and techniques to direct movement, immobilize a subject, to control the subject and/or situation.
5. Use of personal body weapons in self-defense and to gain advantage over the subject.
6. Use of devices (baton, Taser, OC, etc.) to secure compliance and ultimately gain control of a person and/or situation.
7. Use of firearms or other available weapon or action in defense of self or others.

Duty to Intervene/Failure to Intervene

Definition: The act of attempting to prevent or attempting to stop the inappropriate or unlawful behavior of another.

1. The citizens of Santa Fe County and society in general expect that Law Enforcement Officers will use reasonable force and Santa Fe County Deputies will intervene if a fellow Deputy or Law Enforcement Officer from a different agency exceeds reasonable force.
2. Any Deputy who observes another Deputy or Law Enforcement Officer using force that a reasonable deputy would view as excessive or unnecessary under the circumstances shall, when in a position to do so, safely intercede to stop the excessive action.
3. Any Deputy, who observes the use of unreasonable or excessive force, shall immediately notify their immediate supervisor, as well as, provide written documentation of the incident.
 - (i) If the incident involves a Law Enforcement Officer from a separate agency, the duty commander shall notify the on duty commander of the Law Enforcement Officers' agency involved in the incident.
 - (ii) Documentation of the observed use of excessive force will be completed in memorandum form and submitted to Administration.

- (iii) Any video and/or photographs will also be submitted from the incident.

Special Operations Division or Emergency Response Team Procedure Following Use of Chemical Munitions and Noise Flash Diversionary Devices.

1. When deployed, noise flash diversionary devices (NFDD) and chemical munitions are considered a use of force. As such, their use will be documented and submitted through the chain of command for review. Documentation should consist of a description of the reasons for deployment, method of deployment, effects of the deployment, a description of any injuries or property damage resulting from the deployment and an assessment of the outcomes of the deployment.
2. Deployment of the below listed chemical munitions are considered a use of force because it is likely to cause only momentary discomfort during application and is utilized by personnel as a means of gaining compliance:
 - a. CS Triple Chaser;
 - b. OC Vapor Aerosol
 - c. Ferret 40mm Powder Barricade Round, OC; or
 - d. Ferret 40mm Powder Barricade Round, CS;
 - e. Direct impact 40mm OC or
 - f. Direct impact 40mm CS
3. When NFDD or chemical munitions are deployed, a Tactical Team Leader will have an after action report completed. Tactical Team Leader will:
 - a. Immediately identify the officer(s) involved in the use of force;
 - b. Review the involved deputy(s) lapel video;
 - c. Review the BWC video of other Deputies on-scene where there is uncertainty about whether the incident is a use of force;
 - d. Examine involved personnel and individual(s) for injuries;
 - e. Gather any evidence located at the scene;
 - f. Ensure photographs of the officer(s) and individual(s) are taken; and
 - g. When an NFDD is used as a means to gain the attention of an individual, it will not be considered a use of force if an intermediate barrier exists between the individual(s) and the NFDD. Use of an NFDD will still be documented in the after action report. An NFDD will only be deployed by trained tactical personnel upon authorization from a Tactical Supervisor.