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 office 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 - The intentional use of a firearm or other instrument that creates a high probability of death or great bodily harm.

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.

Subject behavior that justifies an Officer's use of force is: Behavior which has caused or imminently threatens to cause great bodily harm to you or another person or persons.

Force - The application of physical techniques or tactics, chemical agents, or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed, or restrained.

Imminent - Ready to take place; impending. Note that imminent does not mean immediate or instantaneous.

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.

Choke Hold- A physical maneuver that restricts an individual's ability to breathe for the purposes of incapacitation.

300.2 POLICY

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

Deputies 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.

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The Crawford County Sheriff's Office recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting deputies 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

Any deputy present and observing another law enforcement officer or a member using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force.

Any deputy who observes another law enforcement officer or a member use force that is potentially beyond that which is objectively reasonable under the circumstances should report these observations to a supervisor as soon as feasible.

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.

300.3 USE OF FORCE

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 accomplish a legitimate law enforcement purpose.

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

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

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires a deputy to retreat or be exposed to possible physical injury before applying reasonable force.

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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 conduct of the individual being confronted, as reasonably perceived by the deputy at the time.

(c) Deputy/subject factors (e.g., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of deputies available vs. subjects).

(d) The effects of suspected drug or alcohol use.

(e) The individual’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 individual 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.

(l) Potential for injury to deputies, suspects, and others.

(m) Whether the individual appears to be resisting, attempting to evade arrest by flight, or is attacking the deputy.

(n) The risk and reasonably foreseeable consequences of escape.

(o) The apparent need for immediate control of the individual or a prompt resolution of the situation.

(p) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the deputy or others.

(q) Prior contacts with the individual or awareness of any propensity for violence.

(r) Any other exigent circumstances.

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300.3.3 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Deputies may only apply those pain compliance techniques for which they have successfully completed office-approved training. Deputies utilizing any pain compliance technique should consider:

(a) The degree to which the application of the technique may be controlled given the level of resistance.

(b) Whether the individual can comply with the direction or orders of the deputy.

(c) Whether the individual has been given sufficient opportunity to comply.

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

300.3.4 CHOKE HOLD

The use of a choke hold, which is the intentional and prolonged application of force to the throat or windpipe, is limited to circumstances where deadly force is authorized and if applied, is subject to the same guidelines and requirements as a carotid control hold (Wis. Stat. § 66.0511).

300.3.5 USE OF FORCE TO SEIZE EVIDENCE

In general, deputies may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, deputies are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, deputies should not intentionally use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted. Deputies are encouraged to use techniques and methods taught by the Crawford County Sheriff's Office for this specific purpose.

300.3.6 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

(a) 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 may use deadly force to protect him/herself of others from what he/she reasonably believes is an imminent threat of death or serious injury.

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(b) A deputy may use deadly force to stop a fleeing subject when the deputy has probable cause to believe that the individual has committed, or intends to commit, a felony involving the infliction or threatened infliction of serous bodily injury or death, and the deputy reasonably believes that there is an imminent risk of serious bodily injury or death to any other person if the individual is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

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 reasonably believes that the individual has a weapon or is attempting to access one and intends to use it against the deputy or another person. An imminent danger may also exist if the individual is capable of causing great bodily harm or death without a weapon, and the deputy believes the individual intends to do so.

300.4.1 MOVING VEHICLES

Shots fired at or from a moving vehicle involve additional considerations and risks, and are rarely effective.

When feasible, deputies should take reasonable steps to 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 a moving vehicle or its occupants when the deputy reasonably believes there are no other reasonable means available to avert the imminent threat of the vehicle, or if deadly force other than the vehicle is directed at the deputy or others.

Deputies should not shoot at any part of a vehicle in an attempt to disable the vehicle.

300.5 EDGED WEAPONS

There may come a time when a member of this office is in a position where they are unable to access their primary duty firearm or the firearm would be ineffective. In those situations an edged weapon is authorized. This section allows for the carry of a fixed blade edged weapon under the following conditions:

(a) Either a single or double-edged blade is allowed.

(b) The edged weapon will be secured and under the control of the deputy

The Wisconsin Department of Justice (DOJ) provides guidance for the use of an edged weapon.

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The curriculum and training objectives are described in the Defense and Arrest Tactics (DAAT)
manual. Although the curriculum describes the deployment of an edged weapon from an ankle
position, a deputy will be allowed to carry an edged weapon in any manner which allows for ease of access to the weapon but yet in a manner that secures the weapon and keeps it under their personal control. In accordance with the DOJ curriculum, upon accessing the weapon, the deputy
will determine where to strike or shoot (in the event of a back up firearm) based upon the position of the suspect. Some of the areas that are most desirable to stop the threat are:

(a) Neck (carotid and trachea)
(b) Kidneys
(c) Femoral artery
(d) Under arm in an effort to affect the lungs
(e) Cervical spine area
(f) Head
(g) Chest (heart and lungs)

300.6 REPORTING THE USE OF FORCE

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

To collect data for purposes of training, resource allocation, analysis, and related purposes, the Office may require the completion of additional report forms, as specified in office policy, procedure, or law. See the Report Preparation Policy for additional circumstances that may require documentation.

300.6.1 NOTIFICATIONS TO SUPERVISORS

Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances:

(a) The application caused a visible injury.
(b) The application would lead a reasonable deputy to conclude that the individual may have experienced more than momentary discomfort.
(c) The individual subjected to the force complained of injury or continuing pain.
(d) The individual indicates intent to pursue litigation.
(e) Any application of the TASER device or control device.
(f) Any application of a restraint device other than handcuffs, shackles, or belly chains.

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(g) The individual subjected to the force was rendered unconscious.

(h) An individual was struck or kicked.

(i) An individual alleges unreasonable force was used or that any of the above has occurred.

300.6.2 REPORTING TO WISCONSIN DEPARTMENT OF JUSTICE

Statistical data regarding all qualifying use of force incidents is to be reported to the Wisconsin Department of Justice as required by Wis. Stat. § 165.845. For the purposes of this section, a qualifying use of force incident means any incident (Wis. Stat. § 165.845):

(a) Involving the discharge of a firearm by a deputy at or in the direction of a civilian.

(b) Involving the discharge of a firearm by a civilian at or in the direction of a deputy.

(c) Involving any action taken by a deputy in response to an act of resistance that results in great bodily harm or death (Wis. Stat. § 939.22).

(d) Involving an act of resistance taken by a civilian against a deputy that results in great bodily harm or death.

300.7 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.

Based upon the deputy's initial assessment of the nature and extent of the individual's injuries, medical assistance may consist of examination by an emergency medical services provider or medical personnel at a hospital or 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 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 handling deputy shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the deputy reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

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

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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.

300.8 SUPERVISOR RESPONSIBILITIES

When a supervisor is able to respond to an incident in which there has been a reported application 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, 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) Determine if there is any indication that the subject may pursue civil litigation.

1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.

(g) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance or if for any reason further investigation may be appropriate.

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.

300.9 POLICY AVAILABILITY

The Sheriff or the authorized designee should ensure that this policy (Wis. Stat. § 66.0511):

(a) Is made available free of charge within three business days of the request.

(b) Is publicly available on the office website and updated promptly upon amendment.

300.10 CEASING FORCE

Force shall never be used when a person has ceased to resist or attempt escape.

(Except mere physical restraints.)

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300.11 VERBAL COMMANDS

Control of a person through verbal commands shall always be the alternative to the use of physical force and/or non-deadly weaponry. It is recognized that this method is not always effective or appropriate in gaining compliance and it then becomes reasonable to escalate the degree of force. When it is determined that verbal commands are neither effective nor appropriate, an officer may escalate the degree of force based on the actions of the person they are attempting to control.

300.12 ESCALATING/DE-ESCALATING DEGREES OF FORCE

The concept of escalating or de-escalating degrees of force is based on an officer’s reaction to specific action of the person the officer is attempting to control.

Officers are not required to begin a confrontation at the verbal command level and escalate step by step until control is gained if the officer reasonably believes his/her reaction would be ineffective/ inappropriate based on the actions of the person they are attempting to control. Once a person is under control, officers are required to revert to the lowest degree of force necessary to maintain that control.

300.13 USE OF POLICE BATONS

The expandable baton, is the only baton that may be possessed by officers of this department in their normal and uniformed duties.

The Sheriff shall also prescribe as needed when larger riot batons can be carried. This will normally occur during time of civil disturbance and/or when requested on special assignments.

A baton may be used only when an officer reasonably believes a lesser degree of force would be insufficient to control the situation.

An officer shall never intentionally strike a person’s head with a baton unless such action is justified under the use of deadly force. This section is not intended to apply to an accidental strike to the head as a result of resistance.

Officer shall only use department approved DAAT management baton techniques.

Department authorized batons are the only authorized impact weapons. Other devices, i.e. flashlights, radio, firearms, etc. are not recommended to be used as impact weapons. However, the department recognizes self-defense situations involving other objects and instruments may occur.

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300.14 USE OF HANDCUFFS

An officer shall place handcuffs on any individual who is in custody or for whom a warrant or commitment has been issued. It shall be mandatory that all persons who have aggressively resisted or attacked another person be placed in handcuffs. Equipment bearing the trade name flex-cuffs or similar type of product may be used, in case of multiple arrests.

300.15 RESTRAINTS

Combative subjects are subjects being transported by squad car for other than conveyance purposes and should be handcuffed.

When restraining a subject, especially in the prone position, officers must continually monitor the subject’s respiratory system for signs of distress.

Concern involves “Positional Asphyxia” this can occur when the position of the body interferes with the subject’s ability to breath, due to pressure on the diaphragm. Subjects at risk include, but are not limited to:

Obesity-beer belly

Psychosis-Paranoia, schizophrenia

Drug and Alcohol induced psychotic behavior

Pre-existing physical conditions-heart disease, asthma, emphysema, bronchitis, epilepsy, etc.

Vigilance and monitoring of the subject during and after restraining him/her is stressed. Any problems observed, summon or render medical assistance.

300.16 AGENCY REVIEW OF USE OF NON-DEADLY FORCE

It shall be the duty of the Sheriff or Chief Deputy to review all incidents where the use of non-deadly force is involved.

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In those cases where the use of non-deadly force is questionable and there appears to be excessive use of non-deadly force, the officer designated by the Sheriff shall conduct an investigation. He shall also upon completion of the investigation, prepare a “Report of Finding” to the Sheriff, which shall include the relevant facts and circumstances surrounding the incident and conclusion as to whether the use of force violates any rule of conduct, directive or policy/ procedure.

The Sheriff shall be required to review every incident where an officer uses non-deadly force. If the facts of the incident support a conclusion that the use of non-deadly force was improper or excessive or misuse of police equipment, the officer(s) shall be required to undergo retraining as determined by the Sheriff in order to correct any deficiency or misuse of police equipment.

The Sheriff shall in addition make a determination as to any appropriate disciplinary action to be taken if the improper or excessive use of non-deadly force is found to have occurred.

300.17 OLEORESIN CAPSICUM (O.C.) AEROSOL WEAPONS SYSTEMS

PURPOSE

The O.C. Aerosol Weapons System in an addition to the Defensive Tactics Systems already approved for use by deputies of the Crawford County Sheriff’s Department. Its purpose is to aid and not replace systems or techniques currently in use.

Deputies certified in the use of O.C. Aerosol Weapons System are authorized to use this weapons system in a manner consistent with defensive tactics training.

TRAINING

Defensive tactics training regarding the use of O.C. Aerosol Weapons Systems will include but it is not necessarily limited to:

The theory of O.C. Aerosol Weapons Systems, application principles, body mechanics, psychomotor skills, justification for use, O.C. spray simulations, department policy, follow-up and documentation.

PRACTICAL APPLICATION OF O.C. AEROSAL

Situations that warrant the use of O.C. include:

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The defensive against the threat of an actual attempted battery against him/her self or in defense of a third party.

To effect an arrest whenever an officer has probable cause to believe that a suspect is about to resist arrest (whenever there is active resistance or the threat of resistance).

In very limited circumstances, to disarm an assailant consistent with the officer's training.

In circumstances not yet anticipated or trained for, provided the officer is acting in good faith, within the scope of his/her lawful authority and his/her actions are consistent with state statutes governing the use of force, given the totality of the circumstances.

After Care:

The responsibility of the officer after the use of O.C. will include (as soon as practical):

After spraying the subjects(s), the officer should allow the O.C. agent to drop (5 to 10 seconds) and verbalize proper commands. Approach the aggressor as you would any dangerous person and use proper restraint and control methods.

Subjects who are sprayed with O.C. should be monitored and verbally reassured that they are safe and that they will be all right.

Subjects who are sprayed should be removed to fresh air and faced into the wind when possible. They may be allowed to use cool water to rinse the O.C. from their face. Encourage them to open their eyes and flush with cool water. Ice may be applied if burning persists. If any subject(s) sprayed with O.C. is wearing contact lenses should be allow to remove them. Using soap and water will remove resins from the skin, which will assist in the recovery process. The subject(s), if wet with O.C., should dry before the subject(s) can get into a vehicle. If the subject(s) is still wet with O.C. Product the transporting officer(s) could become contaminated.

Do not allow subject(s) to apply any lotions, salves, and ointment to the face as this can trap the O.C.

Get medical attention if the subject(s) request it or if the symptoms persist beyond 45 minutes.

Continue to monitor and provide custodial care to the affected person(s).

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