



WEBER COUNTY SHERIFF'S OFFICE

POLICY AND PROCEDURES

Use of Force

EFFECTIVE DATE: 07/13/09 AMENDS/SUPERCEDES: 1.20-22 STANDARD NUMBER: 1.3.1	REVIEW DATE: 07/13/09 REVISION DATE: 07/13/09 APPROVED: _____ <div style="text-align: right;">Sheriff Signature</div>
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1.20.1 Purpose

To give deputies direction on the type of force appropriate to a situation and to the extent to which that force may be used to accomplish lawful objectives in the apprehension of criminal suspects and for the protection of deputies and citizens.

1.20.2 Rationale

- A. The Weber County Sheriff's Office respects and values each human life. Deputies (deputies and officers) have been legally delegated the responsibility to protect life and property and to apprehend criminal offenders. The deputy's responsibility for protecting life must include his own. Therefore, it is the policy of this office that deputies shall use that force which is reasonably necessary to accomplish lawful objectives and effectively bring a situation under control while protecting the life of the deputy or another. Force is to be used in a deliberate and measured manner and only to the extent that is reasonable.
- B. Laws and rules cannot anticipate every possible circumstance. Use-of-force force decisions sometimes must be made instantaneously and the decision making process, of necessity, becomes a matter of trained reactions. All deputies must exercise prudent judgment as fully as time and circumstances allow being aware at all times of the critical responsibility borne in exercising often irreversible force options, particularly deadly force options.

1.20.3 Definitions

- A. **Deadly Force** - Any use of force that is likely to cause death or serious bodily

injury.

- B. Non-Lethal - Any use of force that is not intended to, and not likely to, cause death or serious injury and which is not considered deadly force.
- C. Display of Force or Show of Force - Displaying deadly or non-lethal force and the willingness to employ such force if necessary. The display of force is not considered to be equivalent to the employment of that force.
- D. Forcible Felony - Aggravated assault, mayhem, aggravated murder, murder, manslaughter, kidnapping, aggravated kidnapping, rape, forcible sodomy, rape of a child, object rape, object rape of a child, sexual abuse of a child, aggravated sexual abuse of a child, aggravated sexual assault, arson, robbery, and burglary. Any other felony offense which involves the use of force or violence against a person so as to create a substantial danger of death or serious bodily injury also constitutes a forcible felony. Burglary of a vehicle does not constitute a forcible felony except when the vehicle is occupied at the time unlawful entry is made or attempted. (U.C.A.76-2-402. **Force in defense of person -- Forcible felony defined**)
- E. Reasonable Force: That level of force, given the totality of the circumstances, appropriate to bring about a resolution to a situation, to protect the Deputy or another from physical harm, prevent the commission of a forcible felony or to make an arrest.
- F. Aerosol Defensive Tools (ADT): Individually issued and carried O.C. spray canister.
- G. Office Approved Impact Weapons: Batons, PR-24s, ASPs and extended range kinetic energy impact devices (12 gauge, 40mm and 37mm bean bag and baton rounds).
- H. Conductive Energy Weapon (CEW) – A device, often in a pistol form, that is able to impart electrical energy for the purpose of disrupting a combative suspect's ability to control their legs and arms.
- I. Dangerous Weapon - Means:
 - (a) Any item capable of causing death or serious bodily injury; or
 - (b) a facsimile or representation of the item; and:
 - (i) the actor's use or apparent intended use of the item leads the victim to reasonably believe the item is likely to cause death or serious bodily injury; or

- (ii) the actor represents to the victim verbally or in any other manner that he is in control of such an item.

(U.C.A.76-1-601(5), **Definitions - “Dangerous Weapon”**)

J. Suspect Resistance:

1. Compliance (non-resistive) - The individual or suspect complies with deputies’ requests and commands regarding an arrest or investigation. This includes, but is not limited to, instructions to sit, move, desist, disburse, place hands behind back or back or head, etc., whether an arrest is imminent or not.
2. Passive Resistance - Though not arising to a level of attempting to assault or flee, an individual ignores or otherwise fails to comply with the lawful orders of a deputy. Examples of *passive resistance* may include the suspect stiffening his body to make searching or handcuffing more difficult, refusing to support his own weight and/or making statements indicating his intentions to not comply.
3. Active Resistance - An individual or suspect actively resists a deputy’s attempts to control him by attempting to flee, pull away, push away, hide hands or attempt to hide from deputies. The individual does not attempt to strike at or cause injury to the officer. *Active resistance* may also include a suspect barricading himself in an effort to prevent his discovery or apprehension.
4. Active Aggression - The individual or suspect assaults or prepares to assault a deputy or another in an attempt to interfere with official actions or to defeat an attempt to take custody or make an arrest. With *active aggression* the individual may employ non-deadly weapons. Active aggression **does not** include the use of deadly weapons for force likely to cause death or serious bodily injury.
5. Aggravated Aggression - The individual or suspect uses a dangerous weapon and/or the nature of the aggression is so extreme, that a deputy fears death or serious injury to himself or another if the aggression continues.

1.20.4 Policy

A. Use of Non-Deadly Force

1. Statutory Guidelines

a. U.C.A. 76-2-402. **Force in Defense of Person:**

- (1) *A person is justified in threatening or using force against another when and to the extent that he reasonably believes that such force is necessary to defend him/herself or a third person against such other's imminent use of unlawful force; however, a person is justified in using force which is intended or likely to cause death or serious bodily injury only if he reasonably believes that the force is necessary to prevent death or serious bodily injury to him/herself or a third person, or to prevent the commission of a forcible felony.*
- (2) *A person is not justified in using force under the circumstances specified in Subsection (1) if he:*
 - (a) *initially provokes the use of force against himself with the intent to use force as an excuse to inflict bodily harm upon the assailant; or*
 - (b) *is attempting to commit, committing, or fleeing after the commission or attempted commission of a felony; or*
 - (c) *was the aggressor or was engaged in a combat by agreement, unless he withdraws from the encounter and effectively communicates to such other person his intent to do so and the other notwithstanding continues or threatens to continue the use of unlawful force.*

b. U.C.A. 76-2-410. **Justification as a Defense – When allowed.**

Conduct, which is justified is a defense to prosecution for any offense based on the conduct. The defense of justification may be claimed.:

- (1) *When the actor's conduct is in defense of persons or property under the circumstances described in Sections 76-2-402 through 76-2-206 of this part;*
- (2) *When the actor's conduct is reasonable and in fulfillment of his duties as a governmental officer or employee;*
- (3) *When the actor's conduct is justified for any other reason*

under the laws of this state.

- c. **U.C.A. 77-7-7. Force in making arrest.**
If a person is being arrested and flees or forcibly resists after being informed of the intention to make the arrest, the person arresting may use reasonable force to effect the arrest. Deadly force may be used only as provided in Section 76-2-404.
- d. **U.C.A. 77.7.6, Manner of making an arrest, and, 77.7.8, Forcible entry to make arrest -- Conditions requiring a warrant.**

2. Force in Defense of Person:

- a. A member is justified in threatening or using force against another when and to the extent that he or she reasonably believes that force is necessary to defend himself or a third person against such other's imminent use of unlawful force.
- b. A member is justified in using force intended or likely to cause death or serious bodily injury only if he or she reasonably believes that force is necessary to prevent death or serious bodily injury to himself or a third person as a result of the other's imminent use of unlawful force, or to prevent the commission of a forcible felony.
- c. A member does not have the duty to retreat from the force or threatened force described in 1.22.1(A)(1) in a place where that person has lawfully entered or remained.
- d. In determining imminence or reasonableness the member may consider, but is not limited to, any of the following factors*:
 - i. The severity of the crime at issue;
 - ii. Whether the suspect poses an immediate threat to the safety of deputies or others;
 - iii. Whether the suspect was actively resisting;
 - iv. Whether the suspect is attempting to evade arrest or escape;
 - v. the suspect's history or propensity of violence.

* Graham v. Conner (see reference B below)

B. Deadly Force: See Policy Section 1.23, **Deadly Force**

C. A Deputy authorized to execute process issued by any court may use such force as

is reasonable and necessary to execute service of process. If necessary, he may seize, arrest, and confine persons resisting or aiding and abetting resistance to his service of process. (U.C.A. 77-4-1, Force by officer--Arrest).

- D. Where deadly force is not authorized, Deputies should assess the incident in order to determine which non-deadly technique or weapon will best resolve the incident and bring it under control in as safe a manner as possible.
- E. Deputies are authorized to display and/or use Sheriff's Office approved non-lethal force techniques and issued equipment for resolution of incidents, as follows:
 - 1. To protect themselves or another from physical harm; or
 - 2. To restrain or subdue a resistant individual; or
 - 3. To bring an unlawful situation safely and effectively under control.
- F. The Display of force, as defined above, may be used for tactical purposes to dissuade an individual from engaging in dangerous activity and to persuade them to comply with the lawful orders of a deputy. Examples include, but are not limited to, felony traffic stops, searches of buildings when there is a suspicion of a building burglary, robbery alarm calls, etc.
- G. Good judgment in each situation will dictate at which level of force a deputy will begin at. A deputy need not necessarily utilize each option before escalating, or de-escalating, to another force option. A deputy using any type of force is accountable for its use.
- H. Force in making an arrest: To make an arrest, a deputy may:
 - 1. Use any force, except deadly force, which he reasonably believes to be necessary to affect an arrest or to defend himself or another from bodily harm while making an arrest. This includes the display and threat to use force or a non-lethal weapon to persuade an individual to comply with the lawful orders of a deputy.
 - 2. Use reasonable force to affect the arrest if the person being arrested flees or forcibly resists after being informed of the intention to make the arrest. Deadly force may be used only as provided in UCA 76-2-403; 77-7-7.
 - 3. Break the door or window of the building in which the person to be arrested is located, or in which there are reasonable grounds for believing him to be. Before making the break, the Deputy shall demand admission

and explain the purpose for which admission is desired. Demand and explanation need not be given before breaking when:

- a. There is reason to believe the notice will endanger the life or safety of the deputy or another person or will likely enable the party being arrested to escape;
 - b. The person being arrested is actually engaged in the commission of, or attempt to commit, an offense; or
 - c. The person being arrested is pursued immediately after the commission of an offense or an escape; or
 - d. When there is reason to believe evidence will be secreted or destroyed (U.C.A. 77-7-8, ***Forcible entry to make arrest -- Conditions requiring a warrant.***).
- I. Firearms, weapons, and other tactical devices will be utilized only as necessary and in such a manner as to not cause unwarranted danger to the deputy or to others.
 - J. Deputies will be armed with (carry) or have immediate access to a Sheriff's Office approved firearm while on duty or when operating a Sheriff's Office vehicle. Deputies should insure immediate access to all Office issued equipment, including O.C. and ASP, when they might reasonably be expected to respond to or react to a law enforcement situation. DARE and School Resource Deputies will comply with this section at all times while on duty. (Deputies assigned to undercover responsibilities may be exempted.)
 - K. Any deputy who elects to carry an office issued conducted energy weapon (i.e. Tazer) must also carry one other non-lethal weapon.
 - L. Sheriff's Office approved non-deadly weapons may be used in the application of physical force, consistent with a Deputy's training and assessment when dealing with a situation.
 - M. Each Deputy shall receive training in basic arrest control and self-defensive techniques. Such training shall include weapon and weaponless applications. A record of each Deputy's training shall be maintained by the training section.
 - N. Choke holds or carotid restraint techniques are considered to be deadly force. **Use of any choke hold or carotid restraint is prohibited.** (See Section 1.28.5,I, **Carotid, Neck Choke Hold or Restraints Prohibited**)

- O. Use of Force Reporting - All uses of force will be documented in a Use of Force report and forwarded through the Deputy's chain of command.
- P. There will be an annual review of all use of force incidents by the Sheriff or his/her designee. See also 1.47, Annual Review of Incidents of Force.
- Q. Medical aid after use of lethal, non-lethal weapons – A deputy will provide or obtain appropriate medical assistance for any person subjected to any application of non-lethal, non-lethal or deadly force. This is in accordance with Section 1.31, **Medical Aid after Use of lethal and Non-Lethal Weapons**, of this policy manual.

1.20.5 Procedure

A. Continuum of Force

Upon arrival to a situation, after an assessment of an individual or suspect, and after assessing the situation, a deputy should make a judgment as to the use of force needed. This decision shall be based on the incident as it is occurring and the deputy will initiate the use of force at a level consistent with the guidelines in this policy section and with deference to the type of resistance given by the individual as described in 1.20.3,J of this section. The WCSO continuum of force consists of the following:

1. Verbal persuasion/commands: For dealing with *non-resistive* compliant suspects. To also be used in an attempt to convince passive resisters to become non-resistive and compliant.
2. Empty hand soft techniques: Come-alongs, wrist locks, control hold. For dealing with *passively resistant* suspects and to help position non-resistant compliant suspect for searching and handcuffing.
3. Empty hand hard techniques, punches, strikes, kicks take downs, aerosol defensive tools (ADT), CEW, baton, K-9 bite, and extended range impact weapons: To be used to defeat *active resistance* in the interest of stopping the suspect from escalating to a higher level of resistance or aggression; to defeat *active aggression* or when other defensive tactics have failed to stop active resistance and a higher level of force is necessary, in the best interest of the suspect and/or deputy, to accomplish custody; or to defeat active aggression.
4. Office approved firearms or other applications of deadly force as defined

in Section 1.23, Deadly Force, of this policy. To be used to defeat aggravated aggression.

B. Tactical Considerations: Deputies deploying non-lethal weapons or using force, other than deadly force, to affect arrests should consider the following:

1. Age – subjects of advanced age or juveniles may be at greater risk of injury.
2. Physical condition – Includes frail health, pregnancy and other suspected or apparent health risks.
3. Risk to the deputy's safety by the application of non-lethal force.
4. Proximity of cover or backup deputies/officers.
5. Other threats present, or as a consequence of the use of non-lethal weapons.

C. Procedure for Use of Force Reporting:

1. All uses of force will be immediately reported to the on-duty supervisor. This reporting will include:
 - a. The completion of the WCSO Use of Force Report from.
 - b. The review, comments and signature of the on-duty supervisor
 - c. The submission of the Use of Force Report form with the incident report at the end of the shift.
2. All uses of force will be documented and the report will be reviewed by the Bureau commanders, and/or lieutenants to determine whether:
 - a. Sheriff's Office rules, policy or procedures were violated;
 - b. The relevant policy was clearly understandable and effective to cover the situation;
 - c. Sheriff's Office training is currently adequate.
2. All findings of policy violations or training inadequacies shall be reported to the appropriate unit for resolution and/or discipline.
3. All use of force incident reports shall be outlined in an official report and retained as required by state law, by the Professional Standards Section Commander.

1.20.6 References

- A. Tennessee v. Garner, 105 S.Ct 1694 (1985)
- B. Graham v. Conner, 490 U.S. 386 (1989)