
Use of Force

300.1 PURPOSE AND SCOPE

This policy is intended to guide the reasonable use of force by Deputies in the performance of their duties. [§ 66.0511, Wis. Stats.] While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of the Door County Sheriff's Office (hereafter 'DCSO') is expected to use these guidelines to make such decisions in a professional, impartial and reasonable manner.

300.1.1 DEFINITIONS

Definitions related to this policy include:

Deadly force - Means force which the user reasonably believes will create a substantial risk of causing death or great bodily injury to another.

Force -Means the use of physical strength alone or with a device or object (including but not limited to an incapacitating device, firearm, or any other mechanical, electronic or physical object) to overcome resistance or compel another to act or refrain from acting in a particular way. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed or restrained.

Reasonable Belief / Reasonably Believes– Means the actor believes at the moment that the use of force is necessary in a given situation and such belief is reasonable under the circumstances.

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.

The DCSO 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

Any deputy present and observing another deputy using force that is clearly beyond that which is objectively reasonable under the circumstances should, when in a position to do so, intercede to prevent the use of unreasonable force. A deputy who observes another employee use force that exceeds the degree of force permitted by law should promptly report these observations to a supervisor.

Use of Force

300.3 USE OF FORCE

Deputies should 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.

Any calculus of reasonableness must allow for the fact that law enforcement officers are often forced to make split-second judgments ... with limited information and in circumstances that are tense, uncertain and rapidly evolving ... about the use of force that is necessary in a particular situation. The reasonableness of a particular use of force must be judged under the totality of the circumstances from the perspective of a reasonable law enforcement officer at the scene.

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 the DCSO. 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.

300.3.1 USE OF FORCE TO EFFECT AN ARREST

A law enforcement officer may use the force that is reasonably necessary under the circumstances 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 (§ 968.07 Wis. Stat.; 968.14 Wis. Stat.).

300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

Force is not excessive if it is reasonably necessary under the circumstances. In deciding whether force is reasonably necessary, a deputy should, if and as time and conditions allow, consider, among other factors, the following:

- (a) Immediacy and severity of the apparent threat posed to the safety deputies or others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the deputy at the moment, including whether the individual appeared to be actively resisting or attempting to avoid detention /arrest, or attacking the deputy .
- (c) Deputy/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of deputies available vs. subjects).
- (d) The effects of drugs or alcohol.
- (e) Subject's mental state or capacity.

Door County Sheriff's Office

Door County SO Policy Manual

Use of Force

- (f) Proximity of weapons or dangerous improvised devices.
- (g) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (h) The reasonable known availability of other options and their perceived effectiveness.
- (i) The seriousness of the suspected offense or apparent reason for contact with the individual.
- (j) The training and experience of the deputy.
- (k) Potential for bodily injury to deputies, suspects and others.
- (l) The perceived risk and reasonably foreseeable consequences of escape.
- (m) The apparent need for immediate control of the subject or a prompt resolution of the situation.
- (n) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the deputy or others.
- (o) Prior contacts with the subject or awareness of any propensity for violence.
- (p) Any other exigent circumstances.

300.3.3 INTERVENTION OPTIONS

Intervention options are divided into five modes, each reflecting the need for an increasing level of control. A deputy is allowed to disengage or escalate, skipping steps if necessary, in order to gain control.

- (a) Presence- a non-physical force option that basically involves the mere presence of one or more deputies as a way of gaining or regaining control. The purpose of this mode is to present a visible display of authority.
- (b) Dialog- a non-physical force option that involves the use of verbalization/communication skills to gain or regain control. The level of cooperation or lack of cooperation on the part of the subject will dictate the appropriate communication technique. The purpose of dialog is to persuade subjects to comply with a deputy's lawful directives.
- (c) Control Alternatives- a physical force option that includes escort holds, compliance holds, decentralization techniques (passive countermeasures), oleoresin capsicum (o.c.) spray or conducted electrical weapons (cew). The purpose of control alternatives is to overcome passive resistance, active resistance or their threats.
 - 1. 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 DRSO-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 person can comply with the direction or orders of the deputy.

Door County Sheriff's Office

Door County SO Policy Manual

Use of Force

- (c) Whether the person has been given sufficient opportunity to comply.
 - (d) The application of any pain compliance technique shall be discontinued once the deputy determines that compliance has been achieved.
2. The use of oleoresin capsicum (oc) spray is addressed in Policy 303.
 3. The use of a conducted electrical weapon is addressed in Policy 304.
- (d) Protective Alternatives – a physical force option that includes the use of active countermeasures, impact weapons, and incapacitating techniques such as the diffused strike. The purpose of protective alternatives is to overcome continued resistance, assaultive behavior or their threats. Protective alternatives are tools and tactics designed to protect the deputy when they must overcome continued resistance, assaultive behavior, or their threats.
1. The use of impact weapons is addressed in Policy 303.
- (e) Deadly Force- A physical force option which when used may result in death or great bodily harm. This level of force may be used when the subject is displaying violent behavior that may result in death or great bodily harm and all other options have been precluded. The purpose of deadly force is to stop the threat.

300.3.4 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 DCSO for this specific purpose.

300.4 DEADLY FORCE APPLICATIONS

Definition: Force which the user reasonably believes will create a substantial risk of causing death or great bodily injury to another.

General Justification: A deputy may use deadly force if s/he reasonably believes it is immediately necessary for the purpose of stopping the subject and preventing imminent death or great bodily injury to the deputy or others. Subject behavior that justifies a deputy's use of deadly force is any behavior the deputy reasonable believes has caused or imminently threatens to cause death or great bodily injury to the deputy or another person or persons.

Use of deadly force is justified in the following circumstances:

- (a) A deputy may use deadly force if s/he reasonably believes the suspect poses an imminent and significant threat of death or great bodily injury to the deputy or others.
- (b) If the suspect threatens the deputy with a weapon ... or there is probable cause to believe that the suspect has committed a crime involving the infliction or threatened infliction of serious bodily harm or death... and the deputy reasonably believes there

Door County Sheriff's Office

Door County SO Policy Manual

Use of Force

is an imminent risk of serious bodily harm or death to another if the suspect is not immediately apprehended ... then deadly force may be used if necessary to prevent escape ... and if, where feasible, some warning has been given.

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 any of the following:

1. The person has a weapon or is attempting to access one and it is reasonable to believe the person intends to use it against the deputy or another.
2. The person is capable of causing serious bodily injury or death without a weapon and it is reasonable to believe the person intends to do so.

Deputies should not use lethal force if its use creates a significant threat of death or great bodily injury to non-involved third parties, unless the deputy reasonably believes that the danger created by not using such force is greater than the danger created by using it.

The use of force should not be threatened unless its use would be justified under this policy. No firearm should be displayed or brandished as a threat unless its actual use in the situation would be proper and necessary based upon the circumstances. However, a firearm may be readied for use in situations where it is reasonably anticipated that it may be required.

300.4.1 SHOOTING AT OR FROM MOVING VEHICLES

Shots fired at or from a moving vehicle are rarely effective. Deputies should 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 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 REPORTING THE USE OF FORCE

Any use of force by a member of the DRSO 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, deputies are required to complete a use of force supplement and forward the completed form to an uninvolved state-certified defensive tactics instructor to begin the review process.

300.5.1 NOTIFICATION 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.

Door County Sheriff's Office

Door County SO Policy Manual

Use of Force

- (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.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was struck or kicked.
- (i) An individual alleges any of the above has occurred.

300.6 MEDICAL CONSIDERATIONS

Prior to booking or release, medical assistance shall be obtained for any person who exhibits signs of physical distress, who has sustained visible injury, expresses a complaint of injury or continuing pain, or who was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed.

Based upon the deputy's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff or medical staff at the 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).

Persons 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 medical emergency should request medical assistance as soon as practicable and have medical personnel stage away if appropriate.

300.7 SUPERVISOR RESPONSIBILITY

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:

Door County Sheriff's Office

Door County SO Policy Manual

Use of Force

- (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) When possible, separately obtain a recorded interview with the subject upon whom force was applied. If this interview is conducted without the person having voluntarily waived his/her *Miranda* rights, the following shall apply:
 - 1. The content of the interview should not be summarized or included in any related criminal charges.
 - 2. The fact that a recorded interview was conducted should be documented in a report.
 - 3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- (d) 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.
- (e) Identify any witnesses not already included in related reports.
- (f) Review and approve all related reports.
- (g) 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 notify command staff as soon as reasonably possible.
- (h) 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.

300.7.1 FIELD SERVICES/JAIL LIEUTENANT RESPONSIBILITIES

The Field Services/Jail Lieutenant should review each use of force by any personnel within his/her command to ensure compliance with this policy and to address any training issues.

300.8 REVIEW

This policy shall be made available to the public at no charge upon request (§ 66.0511(2) Wis. Stat.).

Door County Sheriff's Office

Door County SO Policy Manual

Use of Force

300.9 TRAINING

Deputies will receive periodic training on this policy and demonstrate their knowledge and understanding.

300.10 USE OF FORCE ANALYSIS

At least annually, the Chief Deputy should meet with the DCSO use-of-force instructors and prepare an analysis report on use of force incidents. The report should be submitted to the Sheriff. The report should not contain the names of deputies, suspects or case numbers, and should include:

- (a) The identification of any trends in the use of force by members.
- (b) Training needs recommendations.
- (c) Equipment needs recommendations.
- (d) Policy revision recommendations.