

	LANE COUNTY SHERIFF'S OFFICE POLICY	Number: G.O. 1.12
		Issue Date: March 21, 2005
		Revision Date: November 11, 2006; April 26, 2007; March 13, 2008; July 23, 2014; December 31, 2019; August 13, 2020; May 24, 2021; May 12, 2022
CHAPTER: Sheriff's Office Role and Authority		Related Policy: G.O. 1.03 (General Rules Concerning Firearms), G.O. 1.04 (Firearms Proficiency), G.O. 1.05 (Authorized Weapons, Ammunition and Carrying Devices), G.O. 1.13 (Use of OC Agents), G.O.1.14 (Conducted Electronic Weapons (CEW)), G.O. 1.15 (Deputy Involved Shooting/Employee Involved Homicide or Potential Homicide), G.O. 3.06 (Use of Force/Firearms Discharge Review Boards), G.O. 7.29 (Use of Long Rifle), and G.O. 7.30 (Less Lethal Force)
SUBJECT: Use of Force		<p>Related Laws: ORS 161.015 (3) (Deadly Physical Force Defined), ORS 161.015 (8) (Serious Physical Injury Defined), ORS 161.205 (Use of Physical Force Generally), ORS 161.235 (Use Of Physical Force In Making An Arrest Or In Preventing An Escape), ORS 161.219 (Limitations On Use Of Deadly Physical Force In Defense Of A Person), ORS 161.239 (Use Of Deadly Force In Making An Arrest Or In Preventing An Escape), and ORS 161.245 (Reasonable Belief Defined).</p> <p>Related Case Laws: <u>Smith v. City of Hemet</u> [2005 U.S. App. LEXIS 336 (9th Cir. Jan. 10, 2005)], <u>Vera Cruz v. City of Escondido</u> [139 F.3d 659, 661 9th Cir. (1997)], <u>Graham v. Connor</u> [490 U.S. 386, 109 S.Ct. 1865, (1989)], <u>Tennessee v. Garner</u> [471 U.S. 1, 105 S.Ct. 1694 (1985)].</p>

POLICY: Employees are expected, when acting within the scope of their duties, to use only the force which is Objectively Reasonable to bring an incident under control, prevent an escape, protect themselves or others from physical harm, to effect or overcome resistance to an arrest and in correctional settings, to restore or maintain correctional security, order and control. Given that no policy can realistically predict every possible situation an employee might encounter, it is recognized each employee must be entrusted with well-reasoned discretion in determining the appropriate use of force in each incident. While it is the ultimate objective of every law enforcement encounter to minimize injury to everyone involved, nothing in the policy requires an employee to actually sustain physical injury before applying reasonable force.

DEFINITIONS:

1. Control: A level of force for the purpose of: To exercise authority or dominating influence over; directing or regulating a person's behavior through a show of authority, advice, persuasion, warnings, verbal direction, occupying personal space, a guiding touch, escort hold, a show of force or the use of security restraints (i.e. handcuffs) in a standard manner for an arrest, escort or transportation of a person.
2. Physical Force:
Physical force is defined as the use of any object, to include hands and/or other body parts, to strike another person, the use of any type of chemical agent, the use of Conducted Electronic Weapons, a K-9 bite, and the use of firearms against another person. Physical force also includes any control that is used to overcome physical resistance, including but not limited to; control holds that result in the taking down of another person.

Physical Force includes control that renders a person unconscious or semi-conscious, results in an observable abrasion or breakage of the skin, or the swelling of any part of the body; or result in a claim of injury by the person who is recipient of physical control.

It is not a use of physical force when control (as defined) is used or when a person allows themselves to be searched, escorted, handcuffed or restrained.
3. Deadly Force; as applied by deputies in performance of their lawful duties: "Force that creates a substantial risk of causing death or serious bodily injury." [see Smith v. City of Hemet]
4. Deadly Force; as applied by threats - defined in ORS 161.015 (3): "Physical force that under the circumstances in which it is used is readily capable of causing death or serious physical injury."
5. Excessive Force: Any control or physical force that is not justified at the time or is not objectively reasonable, (i.e. reasonable officer standard) at the time of its use given the information known to the deputy at the time of use.
6. Immediate Measure of Defense: Implements or devices not normally intended to be weapons, or issued as public safety equipment, used to defend the employee's life or safety, or the life or safety of another.
7. Serious Physical Injury - defined in ORS 161.015 (8): "Physical injury which creates a substantial risk of death or which causes serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of a bodily organ."
8. Threat: Any person resisting arrest; resisting lawful control; or demonstrating the **intent**, and having the **means** and **opportunity** to inflict injury, serious physical injury, or death.

9. Reasonable Officer Standard: Officers with the same or similar training and experience, facing similar circumstances and based upon the information known at the time making similar decisions.

RULE:

1. Employees are routinely confronted with situations where control of an individual must be achieved to protect public safety or to affect an arrest. Such control may be achieved through advice, persuasion, warnings, verbal direction, physical contact, pressure point control, control holds, physical restraint, a show of force, or by the use of physical force.
2. Use of physical force is necessary when circumstances at the time would: render the use of reasonable control alternatives unwise or ineffective; subject persons to possible physical harm; or increase the risk of escape.
3. Anytime Physical Force is used, the employee must document the situation by submitting a Use of Force After Action Report.
4. A Use of Force After Action Report will be completed if the employee decides one is necessary or directed by a supervisor.
5. Chokeholds/Lateral Vascular Neck Restraint or other uses of force that knowingly impede a person's breathing or blood circulation by applying pressure to the neck or throat are prohibited unless the deputy is engaged in a life and death situation where deadly force is authorized.
6. No training on using any type of chokehold/lateral vascular neck restraint is authorized - except for training on how an officer can escape a chokehold if placed in one.
7. Anytime there is a reasonable opportunity to do so, a deputy must consider alternatives such as verbal de-escalation prior to using physical force on another person. Other options are to wait, or use other available resources or techniques when safe and feasible to do so. Deputies are required to give a verbal warning that physical force may be used and to provide a reasonable opportunity to comply prior to using physical force if safe and feasible to do. All de-escalation attempts and techniques will be documented in the deputy's report and Use of Force After Action Report.

PROCEDURE:

- I. Reasonable Amount of Force
 - A. The Sheriff's Office recognizes that use of physical force is reactionary to a Threat's actions or resistance to lawful control. Threats can largely control the circumstances of their actions and thus minimize the risk that force will be applied by complying with lawful control. Deputies must take the situation as

they find it. It is incumbent upon Deputies to meet a Threat's force with an appropriate level of counter-force and overcome a Threat's level of resistance as quickly as possible to minimize the possibility of injury (or the degree of injury) to the Threat, Deputy and/or others. Deputies are, therefore, expected to utilize the force reasonable, given the information the deputy has at the time, to overcome resistance.

- B. The Sheriff's Office recognizes that not all Threats are equally menacing and some Threats are obviously more serious than others. The determination of reasonable and necessary force shall be based upon the totality of the circumstances and facts known to the employee at the time force is used.
 - 1. Unnecessary force is defined as force that an employee uses against a person in a situation where that level of force is unjustified.
 - 2. When feasible, a supervisor should be notified prior to using force to overcome passive resistance.
- C. The Sheriff's Office recognizes that Deputies are expected to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is reasonable in a particular situation, in light of the facts and circumstances confronting them. Deputies should use the following guidelines, as a minimum, in determining reasonable force options.
 - 1. Whether the suspect poses an immediate threat to the safety of deputies or others
 - 2. Severity of the crime at issue
 - 3. Whether the suspect is actively resisting arrest
 - 4. Whether the suspect is attempting to evade arrest by flight
- D. The goal in a use of force situation is “control” not “over-control.” All force applications must be constantly assessed in order to assure their justification. Since the Threat's action(s) dictate the degree of control and force applied, the Threat can stop any applied force at any time by complying with lawful directions and/or lawful control. The application of physical force will stop when a Threat complies with lawful directions and/or lawful control; however Deputies will maintain justified control to secure and restrain the Threat.
- E. In an emergent situation, employees are authorized to employ any reasonable “immediate measure of defense” to protect themselves or others from physical harm.

- F. Nothing in this policy permits the use of excessive force. Personnel shall never maliciously or sadistically use force for the specific purpose of causing harm. Excessive force is prohibited by the Sheriff's Office and specifically includes:
1. Any force which is not justified in the light of all the circumstances.
 2. Any force applied for punitive reasons.
 2. Use of an unauthorized weapon; unless the officer is under attack or the use of such weapon is a reasonable "immediate measure of defense."
- G. If a deputy witnesses unjustifiable or excessive force being used they are required to intervene or stop those actions if that can be done safely. Deputies are required to report unjustifiable or excessive force to a supervisor as soon as practicable not to exceed 72 hours.

II. Use of Deadly Force

A. Determination of Deadly Force

1. In Tennessee v. Garner, the United States Supreme Court established a special rule concerning deadly force. However, it did not explain what it meant by that phrase. The U.S. Federal Ninth Circuit Court of Appeals ruled on January 10, 2005, that, "We define deadly force as force that creates a substantial risk of causing death or serious bodily injury." [see Smith v. City of Hemet] The Sheriff's Office uses this as the definition for Deadly Force as applied by deputies in performance of their lawful duties.
2. In judging whether force is deadly, we do not consider the result of the force, be it injury or serious physical injury, but whether the force used had a substantial risk of causing death or serious bodily injury. Whether a particular use of force has a substantial risk of causing death or serious bodily injury is a function of two factors:
 - a. The degree of force and
 - b. The accuracy with which it is directed at a vulnerable part of the human anatomy.
3. The greater the force, the less accurately it needs to be directed to cause death or serious bodily injury. Example: to be considered deadly force a firearm needs to be directed towards a vulnerable part of the human anatomy with less accuracy than a baton, and a baton with less accuracy than focused blows.

4. The determination of reasonable deadly force shall be based upon the totality of the circumstances and facts known to the Deputy at the time force is used and the guidelines established in Section I of this General Order.

B. Justified Use of Deadly Force [per Oregon Revised Statutes]

1. A Deputy is justified in using deadly force when they reasonably believe:
 - a. The Threat is using, or about to use, unlawful physical force that under the circumstances in which it is used, is readily capable of causing death or serious physical injury against a person.
 - b. The Threat is committing or attempting to commit a felony involving the use, or threatened imminent use, of physical force against a person; or
 - c. Their life or personal safety is endangered in the particular circumstances involved.
2. Nothing in this section constitutes justification for reckless or criminally negligent conduct by a Deputy amounting to an offense against or with respect to innocent persons whom the Deputy is not seeking to arrest or retain in custody.

C. Deadly Force to Prevent an Escape

1. A Deputy is justified in using deadly force to prevent an escape when they reasonably believe the crime committed by the person attempting to escape from was:
 - a. A felony, or an attempt to commit a felony, involving the use or threatened imminent use of physical force against a person; or
 - b. A felony or attempt to commit a felony and under the totality of the circumstances existing at the time and place, the use of such force was necessary.
2. A Deputy is justified in using deadly force to prevent an escape when they have probable cause to believe that the suspect poses a threat of serious physical harm, either to the officer or others, should the suspect evade capture.
3. Regardless of the particular offense which is subject of the arrest or attempted escape, a Deputy is justified in using deadly force when it is necessary to defend the peace officer or another person from the use, or

threatened imminent use, of deadly physical force as defined in ORS 161.015 (8).

D. Deadly Force Reporting

1. Any Deputy involved in the use of deadly force shall report such force in accordance with section IV of this general order.
2. The Sheriff's Office will fully investigate every incident involving a Deputy's use of any force that results in death, or which is reasonably likely to cause death, in accordance with G.O. 1.15.

Note: Such an investigation may include seeking assistance from an outside agency to conduct the initial or full investigation.

III. Custodial Care

Employees will provide reasonable care to any person in their physical custody or who is under their lawful control. This includes any person who is the recipient of physical force. Special attention will be paid to the following:

- A. All injuries sustained by any person during a use of force incident shall receive an appropriate level of First Aid and/or medical treatment. Both the injury and post treatment provided shall be documented in accordance with Section IV of this general order. All injuries shall be photographed, unless such photographic evidence would delay the delivery of medical care that is urgently needed.
 1. Any time physical force is used against an arrestee or inmate confined within the Corrections Division, whether an injury was sustained or not, they shall be examined by medical staff as soon as possible. The post treatment provided shall be documented in accordance with Section IV of this general Order.
 2. In instances where a complaint of injury by the person who is the recipient of control occurs, employees will ensure that the person receives an appropriate level of First Aid and/or medical treatment. Both the alleged injury and post treatment provided shall be documented in accordance with Section IV of this general order.
- B. Any time an OC agent is applied, post application care must be provided. Post application care for an OC exposure shall include:
 1. Provide fresh air and/or ventilation. Ventilating the room or moving the person to another area may accomplish this.

2. Provide instructions and fresh water for decontamination. The recipient of an OC agent should be instructed on how to flush their eyes with water. If the recipient of OC is physically restrained and cooperative, then water should be applied for them as soon as practical. Water may be applied using a variety of sources including a cup and the sink, a faucet, standard water hose, or a spray bottle carried in the trunk.
 3. Monitor the person's breathing. This includes placing the person in a position that prevents restraint asphyxia.
- C. Any application of handcuffs or leg irons will include the following precautions:
1. The restraints will be properly fitted, double locked, and checked for tightness.
 2. The restrained person will be placed in a position that will minimize restraint asphyxia.
- D. Precautions will be utilized when transporting combative subjects in a vehicle. Deputies are prohibited from transporting anyone in a vehicle who is lying on their stomach with their hands and feet bound together behind their back. If this high level of restraint is required to maintain control of a combative subject, the subject may be transported in a vehicle upright with their hands and feet bound together; or, on their side with the hands and feet bound together behind their back.

There will be two deputies in the transport vehicle any time a subject is transported on their side with the hands and feet bound together behind their back. The second officer's sole mission will be to closely monitor the breathing of the restrained subject. [REDACTED]

IV. Use of Force Reporting

- A. A Use of Force After Action report will be completed when:
1. Physical Force is used.
 2. Complaint of injury by the person who is the recipient of control.
 3. Use of control that results in an injury, observable abrasion, breakage of the skin or swelling of any body part.
 4. If the employee decides one is necessary or directed by a supervisor.

- B. A use of force situation is considered to be one incident for each recipient of physical force, no matter how many personnel are required to use force to gain control of the individual during the event.
 - C. If an employee applies physical force, as defined in this General Order, they shall:
 - 1. Promptly notify the on-duty supervisor, unless exigent circumstances delay the notification, and provide the supervisor with an oral report regarding their use of force.
 - 2. Complete a Use of Force After Action Report prior to the conclusion of the employee's shift, unless otherwise authorized by the employee's supervisor.
 - 3. Document the following in the Use of Force After Action Report:
 - a. The employee's specific application(s) of force used.
 - b. The facts known to the employee at the time force was used.
 - c. The justification for their use of force.
 - d. The post treatment and care provided any injured person or any person subjected to an OC or chemical agent.
 - D. If multiple employees apply physical force as defined in this General Order, only one employee involved in the application of the force shall document the use of such force on a Use of Force After Action Report. Supplemental information from other staff involved will be provided, if necessary as determined by the supervisor in the form of a memorandum.
 - E. All Use of Force After Action reports will be forwarded, through the chain of command for review, to the Chief Deputy.
 - F. Nothing in this policy requires a Use of Force After Action Report to be completed by an employee when they simply apply control, as defined in this General Order, against an individual involved in the use of force incident. However, any Use of Force After Action Report should list assisting deputies that attempted to apply control during the use of force incident.
- V. Review of the Use of Force Incident
- A. Each use of force incident shall be reviewed to determine if:
 - 1. Another employee with like or similar training and experience, facing like or similar circumstances, would act the same way or use similar judgment regarding the applied force.
 - 2. The employee using force acted within agency policy

3. Proper post care and treatment was provided any injured person or any person subjected to OC or chemical agent.
 4. Use of force training curriculum or teaching methods need to be modified.
- B. The employee's supervisor shall:
1. Assess each use of force incident reported to them.
 2. Ensure protection of the scene, if necessary (e.g. deadly force incident).
 3. Gather information, collect evidence, identify potential witnesses, and call out investigators as needed.
 4. Notify the chain of command.
 5. Review the Use of Force After Action Report to assure completeness, accuracy of information.
 6. Determine if the use of force was reasonable, within policy, and is justified based on the facts listed in the Use of Force After Action Report.
 7. Forward a copy of the employee's Use of Force After Action Report through the chain of command to the Chief Deputy.
- C. The Division Lieutenant shall review each Use of Force After Action Report before forwarding it to the Division Commander. The Division Lieutenant shall either concur or disagree with the findings of the reviewing supervisor. If the Division Lieutenant disagrees with the findings of the reviewing supervisor, they shall forward their comments regarding the Use of Force After Action Report in a separate memo to the Division Commander.
- D. The Division Commander shall review each Use of Force After Action Report and, after consultation with the Chief Deputy, shall recommend to the Sheriff that a Review Board be appointed and/or internal affairs investigation of the incident occurs.
- E. The Sheriff will make the final determination whether or not to convene a Board or to initiate an internal affairs investigation.

VI. Retention of Use of Force After Action Reports

- A. Use of Force After Action Reports shall be treated as confidential. Copies of the Use of Force After Action Reports shall not be forwarded to Records, nor shall they be attached to the case report.

- B. Upon completion of review, the Use of Force After Action Report and related documents will be forwarded to the Office of the Chief Deputy.
- C. The Chief Deputy will maintain a use of force log of all use of force incidents and documents related to them for review.
- D. The Chief Deputy shall regularly meet with a Use of Force Instructor Panel so they may review use of force applications for the evaluation of training effectiveness and curriculum needs.
- E. The Chief Deputy shall regularly review the use of force log for any irregularities observed or potential liability problems of repeated occurrences.
- F. The Chief Deputy shall provide the appropriate division Captain with a written report documenting any use of force irregularities observed or potential liability problems of repeated use of force occurrences within their division.