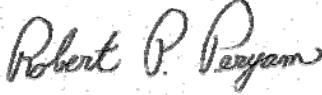


<b>CHAPTER:</b> 31 - A		<b>TITLE:</b> Use Of Force
<b>EFFECTIVE DATE:</b> August 19, 2009	<b>NO. Pages:</b> 9	<b>AMENDED:</b>
<b>REFERENCE:</b> CALEA 1.3		<b>RESCINDS:</b> General Orders, Chapter 31, IV, B, D (2) (3) (4)
		
<b>Sheriff of Monroe County</b>		

**PURPOSE:**

The purpose of this directive is to set forth the policy regarding the Control of Resistive Behavior for the Monroe County Sheriff's Office.

**DISCLAIMER:**

This policy is for internal use only. The policy does not claim to create a higher legal standard of safety or care on 3<sup>rd</sup> party claims. Violation of this policy may form the basis of M.C.S.O. sanctions only. Law violations may form the basis of civil or criminal action in a court of law.

**DISCUSSION:**

The Monroe County Sheriff's Office endorses the use of force guidelines as defined by the Florida Criminal Justice Standards and Training Commission and federal and state law. Florida Statutes Chapter 776 authorizes the use of force in arrest and detention situations, in preventing an escape, and in defense of persons.

**Use of Force Goal:**

The goal of using force is to achieve subject compliance.

Deputies may face situations where control must be exercised to effect an arrest or protect public safety. It is the philosophy of the Monroe County Sheriff's Office that physical safety of the deputy, suspect and inmate is of utmost importance.

A deputy's use of force will be judged against the totality of circumstances using an objective reasonableness standard. When force is used, authorities will ask "whether a deputy's actions were objectively reasonable in light of the facts and circumstances confronting the deputy. It is the duty of the deputy to determine the appropriate level of force based upon the facts and circumstances of each situation.

Deputies will only use the force necessary to accomplish lawful objectives. The nature of the control may range from the deputy's presence to the deputy's use of deadly force. The deputy must use no higher level of control than is necessary to control the subject or effect an arrest. Use of excessive control technique(s) or improper application of control technique(s) or force could result in disciplinary action against the deputy and create a liability for the Sheriff's Office.

**DEFINITIONS:**

**Totality of Circumstances** – a term the courts use to refer to all facts and circumstances known to the deputy at the time or reasonably perceived by the deputy as the basis for the use of force decision.

**Deadly Force** - force that is likely to cause death or great bodily harm.

**Less Lethal Force** - force that is not likely to cause death or great bodily harm.

**Less Lethal Weapons** - A weapon that is not fundamentally designed to cause death or great bodily harm such as electronic control devices (ECD), dart firing stun guns (TASER), expandable batons, flashlights, and chemical agent sprays.

**Less Lethal Munitions** – means a projectile that is designed to stun, temporarily incapacitate, or cause temporary discomfort to a person without penetrating a person’s body (F.S. 776.06 (2) (a))

**Great Bodily Harm** –means great as distinguished from slight, trivial, minor or moderate harm and as such does not include mere bruises as are likely to be inflicted in a simple battery.

**Reasonable Belief** – a reasonably prudent person in the circumstances would be warranted in the belief that his or her safety or that of others was in danger.

**Escalation** — increasing the use of force or resistance.

**De-escalation** — decreasing the use of force or resistance.

**Disengagement** — discontinuing a command or physical use of force.

## SUBJECT RESISTANCE LEVELS

**Passive Resistance** – a subject’s verbal and/or physical refusal to comply with a deputy’s lawful direction causing the deputy to use physical techniques to establish control.

**Active Resistance** – a subject’s use of physically evasive movements directed toward the deputy such as bracing, pushing, or pulling to prevent the deputy from establishing control over the subject.

**Aggressive Resistance** – a subject’s attacking movements toward a deputy that may cause injury, but are not likely to cause death or great bodily harm to the deputy or others.

**Deadly Force Resistance** – a subject’s hostile, attacking movements with or without a weapon that create a reasonable perception by the deputy that the subject intends to cause and has the capability of causing death or great bodily harm to the deputy or others.

## DEPUTY RESPONSES TO RESISTIVE BEHAVIOR

### Presence

- **Arrival**—you are on the scene, using proper voice, identification, and body language to make the subject aware that he or she is dealing with an officer of the law.
- **Interview stance**—adopting a stance at safe distance from the subject. The stance provides appropriate protection and forms the basis of an effective physical response if the subject attacks you.

### Communication

- **Dialogue** — conducting two-way, controlled, unemotional communication with the subject. The purpose of the conversation is problem solving and identification.
- **Verbal Direction** — telling or commanding a subject to engage in, or refrain from, a specific action or non-action.
- **Touch** — in a non-confrontational situation you use a soft assisting touch to comfort, console, or gain a subject’s attention.

### Physical Control

- Achieving compliance or custody through the use of empty-hand or leverage-enhanced techniques, such as Oleoresin Capsicum (OC) spray, pain compliance, transporters, restraint devices, takedowns, and countermoves or striking techniques.

## LESS LETHAL WEAPONS

[CALEA 1.3.4]

**Intent** - Responses intended to stun or render a subject temporarily unconscious or unable to continue to resist. These techniques may be delivered with or without an impact weapon.

**Conditions** - A decision by a deputy to use a dart-firing electronic stun device must involve an arrest or a custodial situation during which the person who is the subject of the arrest or custody escalates resistance to the deputy from passive physical resistance to active physical resistance and the person: (a) Has the apparent ability to physically threaten the officer or others; or (b) Is preparing or attempting to flee or escape. (FSS 943.1717)

## **DEADLY FORCE** [CALEA 1.3.2 ]

These techniques may result in death or great bodily harm. They include use of a firearm, eye gouges, empty-hand strikes to the throat, and impact-weapon strikes to the side of the neck.

### **PROCEDURE:**

**Necessary Force** -Deputies shall use only the force necessary to overcome the resistive force, gain compliance, of any subject they are trying to take into custody or prevent from further commission of a crime.

**Overcoming Resistance** -With the goal of overcoming resistance to achieve control, deputies are reminded that they are legally permitted to escalate their use of force as the subject resists and/or escalates his or her level of resistance. The deputy's response to resistance choices should be determined by the actions of the subject, and ultimately the risk of physical harm the actions pose to the deputy or others. Deputies are not obligated to begin a use of force encounter at the lowest level of force. The suspect's actions as part of the totality of circumstances will determine at what level the deputy responds.

**De-escalation** - Deputies must de-escalate in the use of force once control has been achieved or the subject has complied. De-escalation does not always mean the deputy should cease all use of force. It simply means the deputy should de-escalate to a point where they can still safely maintain control. A subject who is communicating that he/she wants to comply can instantly begin escalating again if the deputy fails to maintain control.

**Disengagement** - Though state law clearly states that deputies have no legal obligation to retreat in the face of subject resistance, disengagement may very well be the best tactical option under the circumstances. Though risk is inherent to the job of law enforcement, it does not mean that a deputy should recklessly or hopelessly endanger his or her life, when

other sound options are available. Factors that may indicate disengagement is a viable option may include that the deputy requires back up, the deputy is injured or outnumbered, or when the suspect has superior firepower.

**Justification for Response to Resistance** - Escalation and de-escalation of resistance and response may occur without going through each successive level. The deputy has the option to escalate or disengage at any point. The deputy can choose to disengage, repeat the technique, or escalate to any level at any time. However, the deputy will need to justify any response to resistance. If the deputy skips levels, he or she must explain why it was necessary to do so.

### **DEPUTIES ARE JUSTIFIED IN THE USE OF FORCE**

- Which the deputy reasonably believes to be necessary to defend himself or herself or another from bodily harm while making an arrest;
- When necessarily committed in retaking felons who have escaped; or
- When necessarily committed in arresting felons fleeing from justice.

**Fleeing Felons** -With dangerous fleeing felons, deadly force is justified if it was necessary to prevent the arrest from being defeated by such flight, and when feasible some warning has been given, and

- the deputy reasonably believes that the fleeing felon poses a threat of death or serious physical harm to the deputy or others; or
- the deputy reasonably believes that the fleeing felon has committed a crime involving the infliction, or threatened infliction of serious physical harm to another person.

## **Deadly Force Prohibited**

[CALEA 1.3.1; 1.3.2]

- Unarmed, Non-dangerous Fleeing Felon: Deputies are prohibited from using deadly force against unarmed, non-dangerous fleeing felons.
- Misdemeanor: Deputies are prohibited from using deadly force to effect an arrest or prevent escape of any person charged or convicted of a misdemeanor, traffic offense, or violation of any county or city ordinance.
- Risk to Innocent Persons: Deputies will not discharge a firearm or otherwise use deadly force if:
- Situations do not provide a high probability of striking the intended target.
- There is substantial risk to the safety of innocent bystanders.

**Totality of Circumstances** -Deputies shall consider the subject's ability, opportunity, and intent to cause death or great bodily harm when making a decision to use deadly force. If these three criteria are present and the deputy cannot control the threat using lesser means then deadly force is justified. The deputy's actions will be judged against the totality of circumstances at the time of the incident.

The totality of circumstances includes consideration of the subject's form of resistance, all reasonably perceived factors that may have an effect on the situation, and the response options available to the deputy.

**Situational Factors** - Some situational factors may include the following:

- Severity of the crime
- Subject is an immediate threat
- Subject's mental or psychiatric history, if known to the deputy
- Subject's violent history, if known to the deputy
- Subject's combative skills
- Subject's access to weapons
- Innocent bystanders who could be harmed
- Number of subject's vs. number of deputies

- Duration of confrontation
- Subject's size, age, weight, and physical condition
- Deputy's size, age, weight, physical condition, and defensive tactics expertise
- Environmental factors, such as physical terrain, weather conditions, etc.
- Deadly Force Prohibited.

## **SPECIAL CONSIDERATIONS**

**Warning Shots** - Warning shots are prohibited. [CALEA 1.3.3]

**Shots at or From Motor Vehicles**— Deputies will not intentionally place themselves in the path of an oncoming vehicle.

- When confronting an oncoming vehicle, deputies will make every attempt to move out of the vehicle's path, rather than discharge their weapon at the oncoming vehicle.
- Deputies will not discharge their weapon at a moving vehicle unless:
- The vehicle's occupant is using deadly force against the deputy or another person.
- Needed to prevent death or serious bodily harm to a deputy or another person.
- Needed to apprehend a person who has just committed a felony resulting in death or serious bodily harm.
- Deputies will not shoot from moving vehicles.

**Destruction of Animals** – Killing of animals is justified for a deputy's self defense, protection of others, or humanitarian reasons only if:

- All attempted requests for Animal Control's response to the scene have failed.
- Animals are so badly injured they require humane relief from further suffering.

**Supervisor to Respond to the Scene** – If deputies discharge a firearm to kill a dangerous or badly injured animal, their immediate supervisor will be dispatched to the scene to evaluate the incident and initiate applicable action.

**Treatment of In-Custody Persons:** Deputies will determine if a suspect is in need of medical assistance.

**Subjects in Custody will be Monitored** - All subjects placed into custody must be closely monitored and kept in a position not likely to cause asphyxiation.

"Hog-tying" is expressly forbidden.

If additional restraints beyond handcuffs are required, deputies are to utilize their training issued "RIPP Hobble restraint devices" in the Total Appendage Restraint Position ("TARP") or other approved hard restraints as applicable.

Suspects being restrained (including handcuffed) who exhibit violent behavior that has the potential to injure others or damage property may be temporarily further restrained with additional control techniques including Oleoresin Capsicum (OC) spray or application of an electronic control device in order to permit application of further hard restraints such as the RIPP hobble or other device.

## MEDICAL CONSIDERATIONS

**Medical Aid to Be Provided-** Appropriate medical aid shall be provided after the use of lethal or less lethal weapons and other use of force incidents.[CALEA 1.3.5]

Medical assistance may include:

- Increased observation of the suspect or detainee to detect obvious changes in physical condition
- Flushing chemical agents from the eyes
- Applying first aid.

**Subject Injured** - Any time a subject is injured or is the subject of a strike to the head, heart, or other vital organs, or has respiratory restrictions during a use of force incident the deputy shall:

- Request Emergency Medical Service personnel to respond to the scene to administer emergency medical aid.
- Contact an on-duty supervisor and advise him/her of the nature of the injury. The on duty supervisor will respond to the scene.

**Deputy Injured** - If the deputy(s) is also injured, adequate EMS personnel shall be requested to provide aid to all injured parties. EMS personnel shall treat the injured based on their training and triage protocols.

**Non- Interference with Medical Aid** - Sheriff's Office personnel shall not interfere with EMS personnel performing their duties, but may assist as directed.

**Relief from Effects of Chemical Agents** - With use of OC spray or other chemical agents, the subject shall be provided an opportunity to flush the agent from the eyes.

**Supervisor to Respond to the Scene** – If a deputy is injured, or seriously injures or kills a subject through a use of force, the deputy's on duty supervisor will respond to the scene to evaluate the incident and initiate applicable action.

## USE OF FORCE INCIDENTS

### Death or Critical Injury-

If use of force by deputies' results in death or critical injury, involved deputies will immediately notify Central Communications of:

- Their unit number
- Their location
- Incidents resulting in death or serious injury
- Any medical attention required
- Shots fired by a civilian or deputy
- Description and direction of flight for any wanted person.

Deputies actually involved in the incident will only take emergency action when:

- Administering first aid
- Protecting the scene

- Detaining witnesses
- Arresting suspects

**Perimeter Establishment**-Deputies arriving on the scene will set up a perimeter, secure the scene, preserve all evidence, and detain any witnesses and/or suspects until arrival of criminal investigators.

**Establish an Entry Control Point** -The on-scene supervisor will establish an entry control point (ECP) immediately outside the crime scene's perimeter. The ECP's purpose is to ensure the crime scene is not disturbed more than absolutely needed.

Each person reporting to the scene will check in, but not enter the scene unless assigned a specific task.

The ECP supervisor will maintain a log of all people entering the crime scene. The log will indicate the person's name, rank, address or agency, time in, time out, and the reasons for entering the scene.

**Communications to Make Notifications** - Upon learning a deputy is involved in a death or critical injury incident, the Communications Watch Supervisor will immediately notify the affected district and bureau chief.

All tapes of relevant radio/telephone transmission and conversations and the Communications Operator's written notes on the incident will be identified and preserved.

**Specialized Unit Notification** – The Central Communications shift supervisor will notify the Homicide Unit Supervisor, Internal Affairs Unit Commander, Public Information deputy, and the state attorney will be notified. Homicide investigators will contact the medical examiner if needed.

**F.D.L.E. Response** - Investigations of deputy involved death or critical injury may be conducted by the Florida Department of Law Enforcement as stipulated in the Memorandum of Understanding in effect at the time of the incident.

**Jurisdictional Notifications** - If the incident occurred inside the city limits of a Monroe County municipality, or outside of Monroe County, the appropriate jurisdiction will be notified by the Central Communications Shift Supervisor.

**Constitutional Safeguards** – If the investigation reveals an affected deputy may have committed a criminal violation, all applicable constitutional safeguards and Miranda Warnings will be given before interrogation. Deputies have the right for union representation, and to have that representative present at the scene.

## REMOVAL FROM DUTY

The Sheriff, Undersheriff, Bureau Chief or his or her designee(s) shall remove any employee, whose action(s) or use of force in an official capacity results in death or serious physical injury, from the line of duty assignment pending an administrative review. [CALEA 1.3.8]

This includes employees involved in a critical or traumatic incident, not limited to shootings, and may include incidents such as fatal vehicle collisions involving the employee.

During this period of administrative leave or reassignment, there shall be a post-incident debriefing and at least one mandatory psychological counseling session shall be required for the employee(s) involved.

## ADMINISTRATIVE ASSIGNMENT

A memorandum reflecting the deputy's administrative assignment will be sent by the deputy's district/ division commander to the deputy prior to the deputy's next shift or in compliance with any collective bargaining agreement. A copy of the memorandum will be sent to the Internal Affairs Commander within 24 hours.

An administrative assignment is not a judgment on the propriety of the deputy's actions, but serves to protect the rights of all concerned until a judgment is made.

Consistent with constitutional and Office rights and procedures, all involved personnel are expected to cooperate with the incident's official investigation.

## NON-CONTACT SHOOTINGS

If deputies intentionally or accidentally discharge their firearm, except for personal recreational activities (e.g., hunting) or training practice (range), they will immediately contact their supervisor.

Supervisors will immediately contact their district/division commander and Internal Affairs. An Offense Report will be made.

If an investigation reveals the involved deputy may have committed a criminal violation, all constitutional safeguards and Miranda warnings will be given before interrogation. Deputies have the right for union representation, and to have that representative present at the scene.

## REPORTING USE OF FORCE

**Offense Report Required** – An Offense Report will be written if deputies, in the performance of their duties: [CALEA 1.3.6]

- Take action resulting in or alleged to have resulted in the injury or death of another person.
- Apply force by using less-lethal or non-lethal weapons.
- Apply weaponless physical force causing injury or a complaint of injury requiring medical treatment.

**Completion of Subject Resistance Report Required** - When force is used, the offense report must document full details of the incident.

The Subject Resistance Report (SRR), in the SmartCop records management system, must also be completed and forwarded to the on-duty supervisor for review within 24 hours of the incident.

The deputy's Subject Resistance Report will include:

- The circumstances making the control necessary
- The type of control used
- The nature of any injury sustained and how the injury occurred
- The names of the persons involved.

**Supervisor to Complete the Subject Resistance Report if the Deputy is Injured or Incapacitated-**  
The on-duty supervisor or unit supervisor will

complete the Subject Resistance Report (SRR), in the SmartCop records management system, and forwarded to the next immediate supervisor for review within 24 hours of the incident.

**Supervisor's Responsibility for Use of Force Review** - The supervisor must review the SRR and the offence report describing the control of resistive behavior. This review of the use of force is to ensure the appropriateness of the control of resistive behaviors.  
[CALEA 1.3.7]

The supervisor must review the actions of all persons involved in the incident to insure the response to resistance was appropriate and within state statutes and Office policy. The supervisor will indicate the results of his or her investigative review on the Subject Resistance Report.

The supervisor must also take appropriate action when excessive force or a pattern of force is indicated in the report or a violation of statutes or Office policy and procedures is evident.

**Subject Resistance Report Distribution** - All original Subject Resistance Reports will be transmitted after district / division review, to the appropriate bureau chief, and to the Internal Affairs Division within 48 hours of the incident.

**Monthly Review Required** - On a monthly basis, the Training and the Internal Affairs Divisions shall obtain all SRRs from SmartCop records management system.

- The Training Division shall review each SRR for compliance with the law and policy, and for an assessment of the need for remediation by a particular deputy.

The Training Division, by the 15<sup>th</sup> of the month following the review, will forward the monthly review to the appropriate bureau chief for any appropriate action.

- The Internal Affairs Division shall input the data from the SRRs into the Early Warning System.

## **LAW ENFORCEMENT CUSTODIAL DEATH REPORT (Department of Justice Form #CJ-11A)**

**Purpose** – The Deaths in Custody Reporting Act of 2000 requires that all state and local law enforcement agencies participate in the federal data collection requirements of reporting all in-custody deaths.

**General** – The Law Enforcement Custodial Death Report must be completed and submitted to the Florida Department of Law Enforcement (FDLE) in all cases where a death occurs in the process of an arrest. This includes those persons whose deaths occur:

- In the physical custody or under physical restraint of a law enforcement officer, even if the person was not formally under arrest.
- From any use of force by law enforcement officers prior to booking.
- At a crime arrest scene or medical facility prior to booking
- In transit to or from law enforcement facilities
- In confined lock-ups or booking centers prior to arraignment.

**Procedure** – The primary deputy involved in the incident resulting in the in-custody death will obtain the Law Enforcement Custodial Death Report and enter all applicable case data.

After review by the deputy's supervisor, the Law Enforcement Custodial Death Report will be forward to the deputy's district/ division commander for review.

## **DISTRICT/DIVISION REVIEW REQUIREMENT**

Upon completion of review by the district command, the Law Enforcement Custodial Death report will be returned to the Records Division for final completion and review.

## **RECORDS DIVISION REQUIREMENT**

The Records Division supervisor will then send the original Law Enforcement Custodial Death Report to the FDLE Statistical Analysis Center. A copy will be filed with the Professional Standards Division.

## **TRAINING**

At least annually, all personnel authorized to carry weapons by the Office shall participate in in-service training on this Use of Force Policy. [CALEA 1.3.11]

## **ANNUAL ANALYSIS**

The Director of Training shall conduct a documented annual analysis of all Subject Resistance Reports for patterns or trends of training needs, equipment upgrades, and/or policy modifications. [CALEA 1.3.7]

The analysis report shall be completed by the 15<sup>th</sup> of January of each calendar year and sent to the Sheriff via Chain of Command to include recommendations for resolutions. [CALEA 1.3.13]

The following is the decision making process using FDLE Criminal Justice Standards and Training Commission's Force Guidelines.

# The Decision Making Process

## Subject Resistance

Is the subject verbally or physically resisting my lawful authority?

Is the subject making attacking movements that are not likely to cause death or great bodily harm?

Is the subject making attacking movements that are likely to cause death or great bodily harm?



## Situational Factors

What subject factors influence this situation? Weapon? Physical size? Demeanor? Others?

What officer factors influence this situation? Training? Experience? Physical size? Others?

What environmental factors influence this situation? Weather? Location? Presence of others?



## Justification

Were my actions reasonable based on the subject's resistance and the totality of the circumstances?

Am I able to articulate the reasons for my actions?

Was I in compliance with constitutional and state laws, a agency policy, and training?



## Officer's Response

Can I physically control the subject?

Could I use a non-lethal weapon not meant to cause death or great bodily harm?

Is deadly force the appropriate option to prevent death or great bodily harm to myself or others?

1