



Ohio Attorney General's Office
Bureau of Criminal Investigation
Investigative Report



2022-1115
Officer Involved Critical Incident – SR 339 near mile marker 3,
Belpre (L)

Investigative Activity: Review of Records
Involves: Deputy ██████ (S)
Date of Activity: 09/07/2022
Author: SA Shane R. Hanshaw, #102

Narrative:

On Tuesday, June 07, 2022, Ohio Bureau of Criminal Investigation (BCI) Special Agent (SA) Hanshaw received the Use of Force Policy utilized by the Washington County Sheriff's Office at the time of this incident.

A review of Deputy ██████ personnel file indicated that he had successfully completed the current Washington County Sheriff's Office firearms requalification training on May 10, 2021, and completed the most recent Use of Force training on November 4, 2021.

According to Deputy ██████'s current firearms requalification records, he successfully qualified with an MP 2.0 9mm, serial number ██████ pistol. This is the same firearm that Deputy ██████ discharged on the day of the incident.

The current Washington County Sheriff's Office Use of Force policy, Deputy ██████'s current Use of Force policy examination, and Deputy ██████'s current firearms requalification documents are attached to this report.

Attachments:

Attachment # 01: WCSO Use of Force policy
Attachment # 02: ██████ Use of Force Test 2021
Attachment # 03: ██████ 2021 Firearms Quals PDF

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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 - Force reasonably anticipated and intended to create a substantial likelihood of causing death or very serious injury.

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.

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.

300.1.2 CERTIFICATION STANDARDS

This policy contains content that pertains to the Ohio Collaborative Law Enforcement Agency Certification (OCLEAC) Standards.

See attachment: [OCLEAC Standards Compliance Checklist 5-19-2020.pdf](#)

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.

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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 Washington 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.

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.

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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

Any deputy who has reasonable cause to believe that the person to be arrested has committed a crime or public offense may use reasonable force to effect the arrest, to prevent escape or to overcome resistance. A deputy who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance on the part of the person being arrested, nor shall a deputy be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest, prevent escape or to overcome resistance.

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. subject(s)).
- (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.

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- (q) Prior contacts with the individual or awareness of any propensity for violence.
- (r) Any other exigent circumstances.

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 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. Deputies should consider the type of contraband being swallowed and the risk it may pose to the individual. 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. Washington County Sheriff's Office.

300.3.5 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).

300.3.6 RESPIRATORY RESTRAINTS

The use of a respiratory restraint, also known as a chokehold, 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.

300.4 DEADLY FORCE APPLICATIONS

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 reasonable in the following circumstances involving imminent threat or imminent risk:

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- (a) A deputy may use deadly force to protect him/herself or others from what he/she reasonably believes is an imminent threat of death or serious bodily injury.
- (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 serious 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.
- (c) Washington County Sheriff's Office prohibits the use of choke holds, except in those situations where the use of deadly force is allowed by law.

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 serious bodily injury 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 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. The deputy will complete the Washington County Sheriff's Office Response to Resistance and Aggression form CR-61. The CR-61 is to be used as a cover sheet for the report. The report shall contain all necessary information including but not limited to: narratives, photographs, recordings, diagrams, statements, etc. The report will be forwarded through the chain of command and reviewed by the use of force board (see policy 301 Use of Force Review Boards).

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300.5.1 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.
- (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 MEDICAL CONSIDERATION

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" Policy 345), or who require a protracted physical encounter with multiple deputies to be brought under control, may be at an increased risk

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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.

See the Medical Aid and Response Policy for additional guidelines.

300.7 SUPERVISOR RESPONSIBILITY

A supervisor should respond to a reported application of force resulting in visible injury, if reasonably available. 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) When possible, separately obtain a recorded interview with the subject upon whom force was applied. Most often the subject will be in custody and deputies need to adhere to *Miranda* rights requirement due to custodial interrogation. It is necessary for the supervisor to properly investigate the reasonableness of the use of force. However the rights of the subject cannot be violated in doing so. The supervisor shall document the fact the interview was recorded and summarize the interview within the report. A copy of the interview shall be made part of the report. The report shall be maintained pursuant to the Washington County Sheriff's Office retention schedule or when all potential for civil litigation has expired which ever is longer.
- (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 complete and route a notification of a potential claim through the appropriate channels.
- (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.

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300.7.1 SHIFT LIEUTENANT RESPONSIBILITY

The Shift Lieutenant shall review each use of force by any person within his/her command to ensure compliance with this policy and to address any training issues. The Shift Lieutenant shall forward the approved copy of the report through the chain of command for review by the use of force board (See policy 301 Use of Force Review Boards).

300.8 TRAINING

Deputies will receive periodic training on this policy and demonstrate their knowledge and understanding, at least annually, including use of deadly force, use of force and use of deadly force reporting, and use of force and use of deadly force reviews/investigations.

Deputies should review at least annually and be familiar with the following U.S. Supreme & District Court cases: **GRAHAM v. CONNOR**(1989) No. 87-6571; **TENNESSEE v. GARNER**(1985) No. 83-1035 **SCOTT v. HENRICH** No. 96-667.

Subject to available resources, deputies should receive periodic training on:

- (a) Guidelines regarding vulnerable populations, including but not limited to children, elderly, pregnant persons, and individuals with physical, mental, or intellectual disabilities.
- (b) De-escalation tactics, including alternatives to force.

300.9 USE OF FORCE ANALYSIS

At least annually, the Criminal Division Commander should 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.

WASHINGTON COUNTY SHERIFF'S OFFICE
MARIETTA, OHIO 45750

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USE OF FORCE / DEADLY FORCE
ANNUAL TEST

[Redacted Name]

Print Name

11-4-21

Date

1. Define Deadly Force?
 - a. Force reasonably anticipated and intended to create a substantial likelihood of causing death or very serious injury
 - b. Force that is used to keep us safe
 - c. Force that is justified and intended to create death
 - d. Force that is used to restrain an individual

2. What are the two land mark cases that govern use of deadly force by law enforcement?
 - a. Mississippi vs Frank & Ohio vs Stone
 - b. Tennessee vs Sturm & Virginia vs Henry
 - c. Tennessee vs Garner & Graham vs Connor
 - d. California vs Connor & Franks vs Rowe

3. How often should you train on the use of force/ deadly force according to the policy?
 - a. Periodic training on this policy and demonstrate their knowledge and understanding, at least annually, including use of deadly force, use of force and use of deadly force reporting, and use of deadly force reviews/investigations
 - b. Only after the use of deadly force is used
 - c. Once every 2 years the first time they receive it and that's all

4. After a use of force report has been completed, who is responsible to ensure that the report and actions are all in compliance with this policy?
 - a. Judge
 - b. Prosecutor
 - c. Shift Lieutenant
 - d. Division Commander

5. A Deputy will intercede when observing another Deputy using force that is clearly beyond that which is objectively reasonable under the circumstances?
 - a. True
 - b. False

6. When a Deputy observes another employee use of force that exceeds the degree of force permitted by law should promptly report these observations to a supervisor?
 - a. True
 - b. False

7. What are some of the factors used to determine the reasonableness of force
- The effects of drug or alcohol
 - Immediacy and severity of the threat to deputies or others
 - The conduct of the individual being confronted, as reasonably perceived by the deputy at the time
 - Subject mental state of capacity
 - Deputy/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, and the number of deputies available vs. subjects).
- d. All the above
8. Deputies utilizing pain compliance techniques should consider the following
- Whether the person has been given sufficient opportunity to comply
 - Whether the person can comply with the direction or orders of the deputy
 - The degree to which the application of the technique may be controlled given the level of resistance
- d. All the above
9. The application of any pain compliance technique shall be discontinued once the deputy determines that compliance has been achieved
- True
 - False
10. In general deputies can use reasonable force to lawfully seize evidence and to prevent the destruction of evidence
- True
 - False
11. A deputy may use deadly force to protect him/herself or others from what he/she reasonably believes would be an imminent threat of death or serious injury
- True
 - False
12. A deputy may use deadly force to stop a fleeing subject when the deputy has probable cause to believe that the person has committed or intends to commit, a felony involving the infliction or threatened infliction or serious bodily injury or death, and the deputy reasonably believes that there is an imminent risk or serious bodily injury or death to any other person if the subject is not immediately apprehended.
- True
 - False

13. Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the subject is not at the very moment pointing a weapon at someone. For example, an imminent danger may exist if a deputy reasonably believes any of the following:
- a. 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
 - b. 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
 - c. Fleeing from a Burglary
 - d. Both a and c
 - e. All of the above
 - f. Both a and b

