

# 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 department 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 Conducted Energy Device policies.

### 300.1.1 DEFINITIONS

Definitions related to this policy include:

**Active Aggression** - The subject is overtly attempting to injure the officer.

**Aggravated Active Aggression** -The subject's actions that are likely to result in the death or serious bodily injury to an officer or another person.

**Deadly force** - Force reasonably anticipated and intended to create a substantial likelihood of causing death or serious bodily injury.

**Defensive Resistance** - The subject engages in defensive resistance by taking action to prevent being taken into custody or detained.

**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 officer 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 themselves to be searched, escorted, handcuffed, or restrained.

**Imminent** - Ready to take place; impending. Note that imminent does not mean immediate or instantaneous.

**Intermediate Force** - Any force that has a substantial risk of injury. Intermediate force may result from a variety of applications, including: 1) Chemical agents; 2) Taser; 3) Impact Weapons; or 4) Canine

**Non-Deadly Force** – Any force with a minimal risk of injury.

**Objectively Reasonable** -The legal standard to determine the lawfulness of a use of force incident is the Fourth Amendment to the United States Constitution. *Graham v. Conner*, 490 U.S. 386 (1989). Graham states in part, "The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than the 20/20 vision of

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hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make splitsecond judgments - in circumstances that are tense, uncertain and rapidly evolving - about the amount of force that is necessary in a particular situation. The test of reasonableness is not capable of precise definition or mechanical application.

**Passive Resistance** - The subject uses non-compliant inaction to resist the officer's commands.

**Serious Bodily Injury** - Any injury which creates: 1) Substantial risk of death; 2) Causes serious permanent disfigurement or protracted loss or impairment of the function or process of a bodily member or organ; 3) at the time of the injury, can reasonably be expected to result in serious permanent disfigurement or protracted loss or impairment of the function or process of a bodily member or organ.

**Totality of the circumstances** - All facts and circumstances known to the officer at the time, taken as a whole, including the conduct of the officer and the subject leading up to the use of force.

### **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. Officers are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

Officers 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 Missoula Police Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation, and a careful balancing of all interests.

It is the policy of the Missoula Police Department that officers may use only that force which is objectively reasonable under the totality of the circumstances to (MCA 46-6-104):

- (a) Defend themselves (MCA 45-3-102);
- (b) Defend others (MCA 45-3-102);
- (c) Effect an arrest or detention (MCA 46-6-104); or
- (d) Prevent escape (MCA 45-3-106).
- (e) Maintain or restore peace
- (f) Prevent the destruction of evidence

#### **300.2.1 DUTY TO INTERCEDE AND REPORT**

Any officer 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.

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Any officer 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 as soon as feasible.

#### **300.2.2 PERSPECTIVE**

When observing or reporting force used by a law enforcement officer, each officer 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**

Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer 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 officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers 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 an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force option and degree of force in each incident. It is not necessary for officers to move progressively from one use of force option to the next while escalating or de-escalating the degree of force utilized.

- (a) Officer Presence
- (b) Verbal Commands
- (c) Physical Compliance
- (d) Intermediate Force
- (e) Impact/Less-Lethal Devices and Munitions
- (f) Deadly Force

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by this department. Officers 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 an officer to retreat or be exposed to possible physical injury before applying reasonable force.

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### 300.3.1 ALTERNATIVE TACTICS - DE-ESCALATION

When circumstances reasonably permit, officers 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).

### 300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer 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 officers or others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- (c) Officer/subject factors (e.g., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (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 officer commands.
- (g) Proximity of weapons or dangerous improvised devices.
- (h) The degree to which the individual has been effectively restrained and their 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 officer.
- (l) Potential for injury to officers, suspects, and others.
- (m) Whether the individual appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.
- (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 officer or others.
- (q) Prior contacts with the individual or awareness of any propensity for violence.
- (r) Any other exigent circumstances.

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#### 300.3.3 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Officers may only apply those pain compliance techniques for which they have successfully completed applicable training. Officers 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 officer.
- (c) Whether the individual has been given sufficient opportunity to comply.

The application of any pain compliance technique shall be discontinued once the officer determines that compliance has been achieved.

#### 300.3.4 CAROTID CONTROL HOLD

A carotid control hold is a technique designed to control an individual by temporarily restricting blood flow through the application of pressure to the side of the neck and, unlike a chokehold, does not restrict the airway. The proper application of the carotid control hold may be effective in restraining a violent or combative individual. However, due to the potential for injury, the use of the carotid control hold is limited to those circumstances where deadly force is authorized, there is no other reasonably available deadly force option, and is subject to the following:

- (a) At all times during the application of the carotid control hold, the response of the individual should be monitored. The carotid control hold should be discontinued when circumstances indicate that the application no longer reasonably appears necessary.
- (b) Any individual who has had the carotid control hold applied, regardless of whether they were rendered unconscious, shall be promptly examined by paramedics or other qualified medical personnel and should be monitored until such examination occurs.
- (c) The officer shall inform any person receiving custody, or any person placed in a position of providing care, that the individual has been subjected to the carotid control hold and whether the individual lost consciousness as a result.
- (d) Any officer attempting or applying the carotid control hold shall promptly notify a supervisor of the use or attempted use of such hold.
- (e) The use or attempted use of the carotid control hold shall be thoroughly documented by the officer in any related reports.

#### 300.3.5 RESPIRATORY RESTRAINTS

The use of a respiratory restraint, also known as a chokehold, are prohibited unless it is used as a last resort to defend the officer against death or serious bodily injury.

#### 300.3.6 USE OF FORCE TO SEIZE EVIDENCE

In general, officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, officers are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, officers

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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. Officers are encouraged to use techniques and methods taught by the Missoula Police Department for this specific purpose.

#### **300.4 DEADLY FORCE APPLICATIONS**

When reasonable, the officer shall, prior to the use of deadly force, make efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts.

Use of deadly force is justified in the following circumstances involving imminent threat or imminent risk:

- (a) An Officer may use deadly force to protect themselves or others from what they reasonably believe is an imminent threat of death or serious bodily injury.
- (b) An Officer may use deadly force to stop a fleeing subject when the officer 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 officer 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) Warning shots may be fired if an officer is authorized to use deadly force. Warning shot(s) may be fired only if the officer reasonably believes it can be fired safely in light of all circumstances of the encounter. Firing a warning shot is generally discouraged, but there may be circumstances in which doing so may reduce the possibility of the need to use deadly force.

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 an officer reasonably believes that the individual has a weapon or is attempting to access one and intends to use it against the officer 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 officer believes the individual intends to do so.

Officers may use deadly force to destroy an animal that represents a threat to public safety, or as a humanitarian measure where the animal is seriously injured, when the officer reasonably believes that deadly force can be used without harm to the officer or others.

##### **300.4.1 MOVING VEHICLES**

Shots fired at or from a moving vehicle involve additional considerations and risks, and are rarely effective.

When feasible, officers 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.

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An Officer should only discharge a firearm at a moving vehicle or its occupants when the officer 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 officer or others.

Officers 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 department shall be documented promptly, completely, and accurately in an appropriate report depending on the nature of the incident. The officer should articulate the factors perceived and why they believed the use of force was reasonable under the circumstances.

To collect data for purposes of training, resource allocation, analysis, and related purposes, the Department requires the completion of a separate use of force form by supervisors through the Missoula Police Department's LEA Admin Suite program. If a supervisor is involved in a use of force incident, a separate uninvolved supervisor must complete the use of force form.

##### **300.5.1 SUPERVISOR RESPONSE**

A supervisor shall respond when practicable following the application of force in any of the following circumstances:

- (a) The application caused significant visible injury.
- (b) The individual subjected to the force, or the officer, complained of injury or continuing pain.
- (c) Any time force is used on a juvenile, elderly, or pregnant person.
- (d) Any application of a restraint device other than handcuffs, shackles, or belly chains.
- (e) The individual subjected to the force was rendered unconscious.
- (f) An individual alleges unreasonable force was used or that any of the above has occurred.
- (g) It would be reasonable to expect the force has created or may create a substantial risk of death, serious disfigurement, disability or impairment of the functioning of any body part or organ.
- (h) Negligent or intentional discharge of a firearm regardless of injury.
- (i) Any time an intermediate force option is used.
- (j) Any time there is any blow, kick, strike, Taser application or similar force used against a handcuffed or otherwise restrained person and in-custody subject, regardless of injury.
- (k) Any time a police vehicle is used to strike a person (in a situation where deadly force is justified), or is intentionally used to strike another vehicle.

When a supervisor responds they are expected to complete an investigation as follows if injury to an individual results in hospitalization, or the summoning of EMS, whether or not the individual is transported by EMS or an officer to a hospital:

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- (a) Obtain the basic facts from the involved officers. 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 individual upon whom force was applied. If this interview is conducted without the individual 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 property or other 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.
  - 1. 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 all related video, evidence, reports and any other case materials.
- (g) Evaluate the circumstances surrounding the incident and complete a separate use of force report.

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 coordinate the completion of as many of the above items as circumstances warrant.

#### **300.6 MEDICAL CONSIDERATIONS**

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 the individual 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 officer'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. 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 officer 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.



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The on-scene supervisor or, if the on-scene supervisor is not available, the primary handling officer 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 officer 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, or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers 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 TRAINING**

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

Subject to available resources, officers 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.

#### **300.8 USE OF FORCE DATA**

Annually, the Lieutenant of Professional Standards should provide data on use of force incidents. The data should be routed through the chain of command to the Chief of Police, per Policy 301. The data should not contain the names of officers, suspects, or case numbers. This data could be used for:

- (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.

#### **300.9 USE OF FORCE CYCLE VISUAL AIDS**

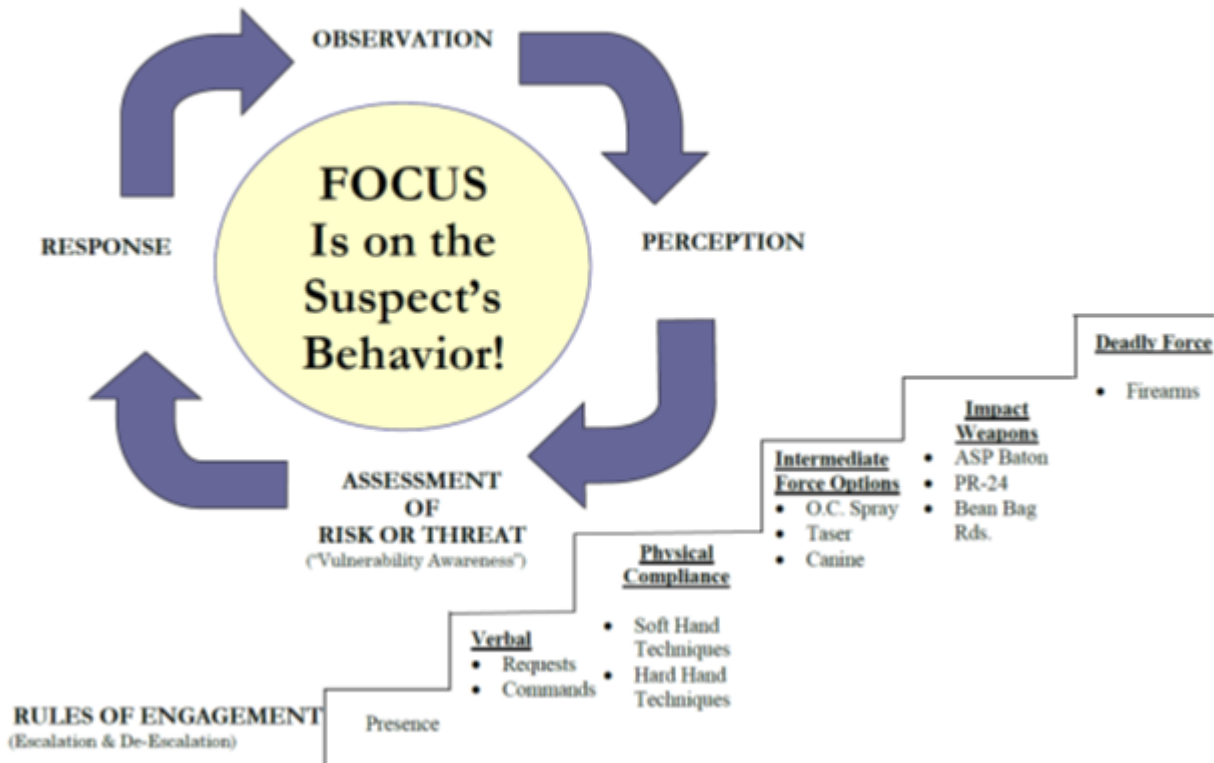
See attachment: [UOF Cycle.PNG](#)

See attachment: [UOF Cycle 2.PNG](#)

## **Attachments**

**UOF Cycle.PNG**

# THE USE OF FORCE CYCLE



## UOF Cycle 2.PNG

# *The Use of Force Cycle*

**OBSERVATION**

## **LEVELS OF RESISTANCE**

**Passive Resistance:** The subject uses non-compliant inaction to resist the officer's commands.

**Defensive Resistance:** The subject engages in defensive resistance by taking action to prevent being taken into custody or detained.

**Active Aggression:** The subject is overtly attempting to injure the officer.

**Aggravated Active Aggression:** The subject's actions that are likely to result in the death or serious bodily injury to an officer or another person.

**PERCEPTION**

**RESPONSE**

**ASSESSMENT  
OF**

**RISK OR THREAT**  
("Vulnerability Awareness")

**Lethal Force**

**Verbal Requests  
& Commands**

**Physical  
Compliance**

**O.C. Spray**

**Impact**

**Presence**

