



## Mercer County Sheriff's Office Policies & Procedures

### 13.13.15 - Use of Force - Critical Incident Support

*October 8, 1993; Revised October 1, 1994; October 28, 2005; March 29, 2016; September 25, 2020; November 12, 2020; November 20, 2020; December 11, 2020;*

I. The Purpose of policy is to direct deputies in the appropriate use of force, reporting use of force, and to provide post incident support in critical incident situations.

A. TRAINING / PROFICIENCY TESTING: [Standard: 1.1, 1.1a, 1.1b, 1.1c, 1.2, 1.2a, 1.2b, 1.2c, 1.3, 1.3a, 1.3b, 1.3c, 1.4, 1.4a, 1.4b, 1.4c]

1. All Sworn personnel will be issued copies of this use of force/use of deadly force policy and signed acknowledgement of receipt.
2. All sworn personnel will receive annual training on this use of force policy, which includes proficiency testing. Proficiency testing will commence on January 1 and be completed by January 31. Sworn personnel who are newly hired will receive a copy of this policy and tested for proficiency as part of the Field Training Program.
3. Proficiency testing compliance will be documented.
4. Changes to the policy will require a new copy to be issued, and require a new signed acknowledgement of receipt of the changes.

B. DEFINITIONS

1. **Physical Harm to Persons:** Physical pain, illness, or any impairment of physical or mental condition.
2. **Deadly Force:** Any force carrying a substantial risk that will proximately result in serious physical harm or the death of any person.
3. **Non-Deadly Force:** All uses of force other than those that are substantially likely to cause serious bodily harm or death.
4. **Imminent:** Impending or about to occur or circumstances are such that it is reasonable to believe it is impending or about to occur.
5. **Objectively Reasonable:** The amount of force that would be used by other reasonable and well-trained officers when faced with the circumstances with which the deputy using the force is presented.

6. **Serious Bodily Harm/Injury:** Serious bodily injury shall mean bodily injury which involves a substantial risk of death, or which involves substantial risk of serious permanent disfigurement, or protracted loss or impairment of function of any part or organ of the body.
7. **Active Resistance:** A subject actively resists when they take affirmative action to defeat an officer's ability to take them into custody.
8. **Passive Resistance:** A subject who takes no affirmative action to defeat the members' ability to make an arrest but who does not respond to verbal commands and presents a refusal to move by sitting down or acting as dead weight.
9. **Electronic Control Devices:** Electronic Immobilization Device (EID), Taser, or stun guns that disrupt central nervous system of the body.
10. **Serious Physical Harm to Persons:**
  - a. An action that would cause, promote, or increase any mental illness or condition of such gravity that would normally require hospitalization or prolonged psychiatric treatment.
  - b. Physical harm that carries a substantial risk of death.
  - c. Physical harm that involves some permanent incapacity, whether partial or total, or which involves some temporary or substantial incapacity.
  - d. Physical harm that involves acute pain of such duration resulting in substantial suffering, or which involves any degree of prolonged or chronic pain.
11. **Reasonable Belief:** Belief that a person has committed an act that if true would in law constitute an offense.

C. STATEMENT FOR USE OF FORCE AND USE OF DEADLY FORCE: [Standard: 1.1]

1. Deputies may only use the force reasonably necessary to affect lawful objectives. Preservation of human life is of the highest value. Deputies must have an objectively reasonable belief deadly force is necessary to protect life before the use of deadly force. The Sheriff's Office will provide post incident support for Deputies.
2. The use of force must be in accordance with United States and Ohio Supreme Court's decisions specifically entitled:
  - a. Tennessee v. Garner
  - b. Graham v. Conner

II. Use of Force: [Standard: 1.1]

A. Deputies may use "reasonable and appropriate physical force" to:

1. Maintain order in the Mercer County Detention Facility.
2. Affect an arrest or prevent an escape of an arrested person
3. Defend himself/herself or a third person from what is reasonably believed to be the use or imminent use of physical force while effecting, or attempting to effect, an arrest or while preventing, or attempting to prevent, an escape.
4. Take a person into protective custody for mental health or intoxicated conditions.

B. If active resistance has ceased and control has been gained, a deputy is no longer authorized to use force.

1. Medical assistance should be immediately rendered when needed, and reasonable to do so.
2. The person should be placed in a recovery position to assist and facilitate breathing.

C. **Force Options:** Deputies have several force options that will be dictated by the actions of the suspect. In any given situation there could be a range of options that could be used and would be reasonable. These options are not a “ladder” where deputies must follow the options step by step.

1. **Command Presence:** The visual appearance of the deputy where it is obvious to the subject, due to the deputy’s uniform or identification, the deputy has authority of law. All attempts should be made to de-escalate the situation prior to the use of any force.

2. **Verbal Commands:** Words spoken by the deputy directing the subject as to the deputy’s expectations.

3. **Soft Empty Hand Control:** Deputy’s use of hands on the subject to direct the subject’s movement, low potential of injury to the subject.

4. **Chemical Spray:** Chemical spray can be used to temporarily incapacitate the subject when the subject exhibits some level of active resistance. \*\* See Pepper Spray policy 8.07

5. **Electronic Immobilization Device (EID):** EID’s can be used to temporarily incapacitate the subject when the subject exhibits some level of active resistance. \*\* See Electronic Immobilization Device policy 8.10

6. **Hard Hand Control:** Punches, strikes, knee kicks, and elbow strikes have the possibility to create a stunned mental state or motor dysfunction.

7. **Impact Weapons:** Are prohibitive under the policies of the Mercer County Sheriff’s Office, with the exception of a flashlight. \*\* See Flashlight policy 8.09

8. **Canine:** Use of a canine to bite or hold a subject to prevent escape or to gain control of the subject who is actively aggressing toward deputy(s). An annunciated warning must be given before deploying a canine when reasonable to do so. \*\* See Canine policy 13.13.17

9. **Deadly Force:** Force that creates a substantial likelihood of causing serious bodily harm or death.

a. Kneeling or standing on the back or neck during cuffing of an arrestee is a life-threatening technique and is considered deadly force. Deputies using this technique must be able to articulate the need to use deadly force.

b. Choke holds shall not be used or applied, except in situations where the use of deadly force is permitted by law.

D. **Use of Deadly Force.** A Deputy is justified in using deadly force:

1. To defend himself/herself or a third person from what is reasonably believed to be the use or imminent use of deadly force.

2. The deputy has probable cause to believe the subject has committed a violent felony involving the infliction or threatened infliction of serious bodily harm or death the subject’s escape poses an imminent threat of serious bodily harm or death to the other.

E. **Firearms Restrictions:**

1. When circumstances permit and when reasonably practical, deputies will identify themselves as law enforcement officers and give verbal warning of their intent to use deadly force.

2. Warning shots are prohibited.

3. Discharge of firearms is prohibited when there is unreasonable risk to innocent third parties.
4. Discharge of firearms at an occupied vehicle is prohibited unless deadly force is justified.

III. After any use of force deputies will provide appropriate medical care consistent with their training to any individual. Medical care may include first aid, requesting emergency medical services and/or arranging for transport to a medical facility.

IV. No knock warrants. Use of no knock warrants are regulated by policy 13.13.16.

V. Reporting the Use of Force, Death, and Injuries: [Standard: 1.3]

*All use of force that results in any bodily injury or death will be reported to the deputy's immediate supervisor, and the Command Staff of the Sheriff's Office. Written reports will be required to be submitted prior to the end of the deputy's tour of duty. This reporting will include any actions from any law enforcement agency, including the Mercer County Sheriff's Office. Deputies have a duty to intervene if ANY law enforcement officer are using excessive force or a prohibited technique by the Mercer County Sheriff's Office.*

A. Whether on or off duty, deputies will report the following:

1. Use of chemical agents (oleoresin capsicum aerosol spray).
2. Use of Electronic Immobilization Device (EID)
3. Hard hand control
4. Intentional or accidental discharge of a firearm (except training and recreational shootings), or approved humane life termination of injured animals.
5. Use of canine, involving bites.
6. Incidents resulting in any physical harm to persons.
7. Firearm incidents not involving a discharge. Employees/deputies aware of an on or off-duty Deputy intentionally pointing or aiming a firearm at another person, and the other person/third party person (citizen) is aware of the firearm being pointed or aimed. *\*\* This does not include the drawing of a firearm and maintaining at a low ready position.*
8. Any incident, arrest, or circumstance, which in the deputy's or a supervisor's opinion involved a physical confrontation necessitating documentation of the incident.
9. Use of Deadly Force, including the use of any technique that involves kneeling on a suspects back or neck.
10. The Chief Deputy can select and assign deputies to review and make recommendations, when incidents involve the use of force.

VI. Use of Force Team: [Standard: 1.4]

- A. All reported incidents, resulting in injury, involving use of force or discharge of a firearm will be reviewed by the Office's Use of Force Team. Other incidents deemed necessary by the Sheriff or Chief Deputy shall also be subject to review.
- B. The Use of Force Team shall have overall responsibility for coordinating the investigation until its



culmination. The team shall consist of the Enforcement Captain, and the Chief Deputy.

C. Any Deputy using force resulting in a death or serious physical harm to persons shall be placed on administrative leave with pay, pending a review of the incident.

D. The Use of Force Team will coordinate the investigation from five major aspects:

1. Violation of any criminal law that could result in criminal prosecution.
2. Violation of any office rules and regulations that could result in disciplinary proceedings.
3. Protecting the rights of any involved Deputy.
4. Protecting the rights of suspects/arrestee
5. Reporting all findings in writing to the Sheriff, Chief Deputy

E. Serious incidents will be referred to an outside agency to review.

VII. Critical Incident Support - *The following shall be policy whenever a critical incident occurs involving any Deputy of the Office.*

A. An attitude of personal concern for the Deputy should be present, to assist in the Deputy's emotional and physical well-being. Supervisors and Deputies who respond to the scene should express genuine concern for the Deputy but avoid discussing the specific incident with the Deputy. Deputies shall not verbalize their opinions concerning justifications of actions, nor discuss the incident with any unauthorized person.

B. The Deputy involved shall be removed from the scene as soon as possible. Another Deputy shall accompany him/her to the Office and should remain with him/her unless he/she desires to be left alone. The Deputy will not be subjected to questioning during this time, except as absolutely necessary to the on-scene investigation.

C. The involved Deputy should not be offered stimulants such as coffee or cigarettes, but if he/she wishes to smoke or drink coffee, do not prevent him/her from doing so. Stimulants may further stress an already stressed system.

D. A reasonable recovery time (normally at least one [1] hour) will be allowed a Deputy before questioning, except for crucial investigative questions.

E. Arrangements to contact the Deputy's family shall be determined by the involved Deputy, whenever possible, advising them of the incident, and the procedures that follow. An open line of communication shall be established between the family and an office representative in order to answer questions, dispel rumors and meet the immediate family needs. If the Deputy is hospitalized, arrangements shall be made to transport the family to the hospital.

F. After the initial recovery time, the Deputy may be formally interviewed. Unless he/she is suspected of criminal wrong, the Miranda warning will not be given.

G. Within twenty-four (24) hours of the incident, the Chief Deputy or designee, shall arrange for a debriefing involving all involved personnel with a mental health professional.

H. Administrative leave of absence with pay is appropriate in matters of post incident trauma. At the discretion of the Sheriff, a temporary duty assignment may be authorized for a period of time determined on an individual basis. Considerations include:

1. Nature, scope, and magnitude of the incident.
2. Status or outcome of the investigation.
3. Quantity and type of media coverage that might further stress the recovery of the Deputy.

4. Psychological adjustment of the Deputy.
5. Reasonable needs of the Deputy's family.
6. Feelings and desires of the involved Deputy.
7. Any other considerations deemed applicable on an individual basis.

I. If the investigation indicates a possible violation of law by the involved Deputy, or if at any point it is deemed the Deputy may be in legal or civil jeopardy, the Chief Deputy will advise the Deputy as soon as possible.

J. During the investigation and for as long as necessary, all telephone calls to the involved Deputy shall be screened by his/her Supervisor or designee. If extensive or adverse media coverage, adverse public statements, or other extra ordinary circumstances aggravate the situation, or if harassing phone calls bother the Deputy or his/her family at home, arrangements shall be made to screen calls. Involved Deputies should be kept out of reach of any anti-law enforcement or radical groups or individuals as much as possible.

K. Arrangements for counseling at Office expense shall be coordinated through the Administrative Division.

L. Supervisors are responsible for dispelling rumors by communicating facts concerning the incident and investigation to subordinates at Deputy's meetings.

This is to certify that on: SEPTEMBER 6<sup>TH</sup>, 20 23

I SPENCER M. HEINL, was given a copy of the Mercer County Sheriff's Office "Use of Force/ Critical Support" policy. The policy was explained to me, discussed, and I was given the opportunity to ask questions for clarification.

I acknowledge receiving a copy of the complete policy and I understand it in its entirety.

Spencer M. Heinl  
(Employee's Signature)

9/6/2023  
(Date)