

## **605.00 – Use of Force**

**Stakeholder Review: 01/27/2025-02/26/2025**

### **Refer:**

- *Graham v. Connor*, 490 U.S. 386 (1989)
- ORS § 161.015 (3)
- ORS §161.015 (8)
- ***ORS 161.205 Use of physical force generally***
- ***ORS 161.233 Use of physical force by peace officer***
- ***ORS 161.237 Use of physical force involving pressure on throat or neck by peace officer or corrections officer***
- ***ORS 161.242 Use of deadly physical force by peace officer***
- ***ORS 161.265 Use of physical force by guard or peace officer employed in correctional facility***
- ***ORS 181A.681 Report of misconduct or violation of minimum standards***
- MCSO Agency Policy 610.00 – Post-Deadly Force and Death-In-Custody
- MCSO Agency Policy 615.00 – Reporting Efforts to Control a Person
- MCSO Agency Policy 620.00 – Control Event Report Reviews
- Oregon Jail Standards E-501-503, Use of Force

### **Definitions:**

- **Deadly Physical Force** – Physical force that under the circumstances in which it is used is readily capable of causing death or serious physical injury. ORS § 161.015 (3)
- **Intervene** – Take action to prevent or alter a result or course of events.
- **Physical Force** – The exertion of physical strength against another person's resistance, which includes, but is not limited to, the application of aerosol agents and other less-lethal devices used against another person. Escort holds and handcuffing, without resistance by the subject, does not constitute a reportable amount of force.
- **Serious Physical Injury** – Physical injury which creates a substantial risk of death, or which causes serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of function of any bodily organ. ORS §161.015 (8)

### **Policy:**

1. The Multnomah County Sheriff's Office respects the value and sanctity of human life and recognizes the inherent dignity of every person. The Sheriff's Office understands that investing members with the authority to use physical force to protect the public welfare creates a solemn obligation to guide members as they balance the important social and individual interests involved.

2. The Sheriff's Office further recognizes that the use of deadly physical force will emotionally, physically, and psychologically impact the member involved, the subject of the deadly physical force, and the family and friends of both and can impact the community as well.
3. The Sheriff's Office requires that members be capable of applying, when needed, effective and reasonable physical force and tactics on behalf of the community.
4. The Sheriff's Office places a high value on resolving confrontations, when practical, with less physical force than the maximum that may be allowed by law.
5. The Sheriff's Office adopts the constitutional standard for the use of force established by the United States Supreme Court, in *Graham v. Connor*, and subsequent case law. The *Graham* standard requires that members use objectively reasonable physical force under the totality of the circumstances presented. As such, in accordance with the primary factors set forth in *Graham*, members must also consider the feasibility of less intrusive methods or tactics in effecting an arrest or otherwise seizing an individual. Members are not required to avail themselves of the least intrusive means of responding to an exigent situation; they need to only act within that range of conduct that is reasonable. Any physical force that is not objectively reasonable under the circumstances is prohibited.
6. This policy also requires members to develop and display objectively reasonable confrontation and physical force management skills, in accordance with training.
7. Over the course of their careers, the Sheriff's Office expects members to develop and use skills that allow them to regularly resolve confrontations safely and effectively. The Sheriff's Office will provide training in force techniques and tactics, as well as provide sufficient resources, to help members safely and effectively resolve confrontations.
8. The Sheriff's Office holds its members to the highest levels of accountability. In addition, all members are responsible for their actions related to use of force. Sworn members are required to intervene, in any observed unjustified or excessive force that is objectively unreasonable under the circumstances or in violation of the use of force policy, unless the intervening member cannot do so safely. Failure to intervene and report as soon as practicable, consistent with any applicable collective bargaining agreement, but no later than seventy-two (72) hours as required by this section, is grounds for disciplinary action against the member. Law enforcement deputies may also be subject to suspension or revocation of their certifications by the Department of Public Safety Standards and Training, as provided in ORS 181A.630, 181A.640 and 181A.650.

**Procedure:**

1. De-escalation:
  - 1.1. Techniques or tactics, that when time and circumstances reasonably permit, are intended to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary. During an encounter, it will require the cooperation of the subject to provide members with the time and opportunity to employ these de-escalation techniques. Examples include verbal de-escalation, assessing the need for additional resources and waiting for those resources, use of cover or concealment and distance to communicate with the subject, or other techniques or methods that are reasonable, safe and feasible under the circumstances.
  - 1.2. When reasonable, feasible and safe, members should gather information about the incident, assess the risks, assemble resources and equipment, attempt to slow momentum, and communicate and coordinate a response. Members should start to develop a tactical plan prior to arriving at the scene and, when applicable, utilize intervention techniques by coordinating approaches to persons who are in crisis, are believed to be mentally ill, or have developmental disabilities.
  - 1.3. Before approaching a subject, when given the time and opportunity, and based on the totality of circumstances, members shall use de-escalation strategies or techniques consistent with training, to persuade the subject to voluntarily comply or to reduce the need to use a higher level of force. When members encounter subjects that do not voluntarily comply, reasonable levels of force may be used to achieve a successful resolution consistent with this procedure.
2. Warnings:
  - 2.1. When reasonable, feasible and safe, members will provide verbal warnings that force may be used; prior to using force and/or during the application of force. Members should, if reasonable, safe and feasible, provide the subject with a reasonable opportunity to comply with the warning. Members should provide a detailed description of the warning given in the report. If no warning is given, the member will document the reason why it was not given.
3. Purposes for which members may use the physical force authorized by this policy when members reasonably believe it necessary, under the totality of the circumstances known to the member, to:
  - 3.1. Prevent or terminate the commission or attempted commission of an offense.
  - 3.2. Lawfully take a person into custody, make an arrest, or prevent an escape.

- 3.3. Defend the member or other person from injury or the threat of injury or death.
- 3.4. Maintain the safety and security of Multnomah County Sheriff's Office members, other Multnomah County employees, third parties, or the general public in a Multnomah County facility.
- 3.5. Maintain order and discipline of a Multnomah County facility.
- 3.6. Accomplish an official purpose or perform a duty authorized by law or judicial decree.
4. Members may use force that is objectively reasonable under the totality of circumstances. Members will at a minimum consider the following three criteria in using force:
  - 4.1. Threat: Whether the individual poses an immediate threat to the safety of the member or others. The extent and immediacy of the threat are the most important determining factors when considering the need for and type of force that may be reasonable during an encounter.
  - 4.2. Severity: The severity of the crime at issue and the governmental interest in controlling the person.
  - 4.3. Active Resistance or Evading: Whether the individual is actively resisting control or attempting to evade.
  - 4.4. Though the above three (3) factors are of primary consideration, a reasonableness inquiry is not limited to these factors and force will be evaluated under the totality of the circumstance.
5. Adherence to Tactical Doctrine:
  - 5.1. Members must recognize that their approach to confrontations may influence whether physical force becomes necessary and the extent to which force must be used.
  - 5.2. Members shall not purposely and unreasonably place themselves in a dangerous and tactically unsafe position. Members who do so and then use physical force on another person may be subject to discipline or other corrective action.
  - 5.3. Members are expected to follow their defensive tactics and tactical training unless they have an objectively reasonable justification for deviating from recommended practice.
  - 5.4. In determining whether to use physical force, members will take in account all available and known information, when feasible, including subject

behavior, reports, and known history conveyed to or observed by the member, indicating that a person has, or is perceived to have, a mental illness or medical emergency.

- 5.5. When applying physical force, members will continually assess the amount of force required, including the number of members required to control a subject and, when reasonable, reduce the amount of force as subject resistance lessens.
- 5.6. When managing confrontations, members must pursue the goal of resolving a confrontation safely and effectively based on available resources with as minimal reliance on physical force as practical by employing the following tactics:
  - 5.6.1. When feasible, consider and attempt de-escalation to reduce risk and increase the options available.
  - 5.6.2. When feasible, use available time to marshal helpful, available resources and develop additional response options.
- 5.7. The Sheriff's Office will review a member's conduct under this section from the perspective of an objectively reasonable officer facing the same totality of circumstances.
- 5.8. Members may not use physical force as punishment.
6. Additional Rules for Deadly Physical Force:
  - 6.1. The decision to use deadly physical force is the most important decision that a member will make in the course of a law enforcement or corrections career. The Sheriff's Office recognizes that a member may be required to use deadly force to protect the life of the member or others, and authorizes the use of deadly force as follows:
    - 6.1.1. Members may use deadly force when objectively reasonable to protect themselves or others from an immediate threat of death or serious physical injury.
    - 6.1.2. If necessary to prevent escape, a member may use deadly force where the member has probable cause to believe that the subject has committed a felony crime involving the infliction or threatened infliction of serious physical harm, and the member reasonably believes the subject poses an immediate threat of death or serious physical injury to the member or others.
  - 6.2. Members must provide some warning prior to the use of deadly force, if tactically feasible and time permits.
  - 6.3. Members must be mindful of the risks inherent in employing deadly force, which may endanger the lives of innocent persons. A member's reckless or negligent use of deadly force is not justified in this policy or federal or state

law.

7. Restrictions on Use of Firearms as Deadly Force:

7.1. Warning shots:

7.1.2. Members are prohibited from firing warning shots.

7.2. Moving Vehicles:

7.2.1. Members shall not shoot at a moving or fleeing vehicle unless an immediate risk of death or serious physical injury to the member or others exists.

7.2.2. When feasible, members shall move out of the path of a vehicle rather than discharging a firearm at the vehicle or its occupants.

7.2.3. Members shall consider whether the threat to the member or other persons (including all vehicle occupants) is increased by incapacitating the vehicle operator. If the operator is incapacitated, the unguided vehicle may remain a threat to anyone in its path. Members shall weigh the threat of incapacitating the driver against the threat posed by allowing the driver to maintain control of the vehicle.

7.2.4. Members must be aware that shooting at a moving vehicle presents unique challenges of target and backstop.

7.2.5. Members must be aware that shooting from a moving vehicle creates additional challenges of stability and aiming that must be considered in the decision to employ deadly force.

7.2.6. Members shall not use poor tactics or positioning as justification for shooting at or from a moving vehicle.

7.2.7. Members are prohibited from entering an occupied vehicle that the member knows is readily capable of being driven (i.e., engine running or keys in the ignition) without substantial justification.

8. Other Authorized Uses for Firearms:

8.1. A member is also authorized to discharge a firearm in the performance of official duty:

8.1.1. To euthanize or deter a dangerous animal.

8.1.2. To euthanize an animal so badly injured that it should be destroyed to prevent further suffering.

8.1.3. At a firing range pursuant to all safety rules and regulations.

9. Vehicle Barricades and Ramming:

9.1. The Sheriff's Office authorizes the use of such barricades and ramming only when reasonably necessary to address an immediate threat of death or serious physical injury. A Pursuit Intervention Technique (PIT) is not considered ramming.

10. Vascular Neck Restraint/Choke Holds:

10.1. The Sheriff's Office recognizes that knowingly using physical force that

impedes the normal breathing or circulation of the blood of another person by applying pressure on the throat or neck of the other person may be readily capable of causing death or serious physical injury. Accordingly, members may only knowingly apply such neck restraints/choke holds in circumstances under which a member is permitted to use deadly physical force.

11. Post Use of Force Procedures:

11.1. Please refer to other Multnomah County Sheriff's Office policies for post use of force medical attention.

11.2. For duties, responsibilities, and procedures following a use of deadly force or an in-custody death, See MCSO Policy 610.00 – Deadly Force and Death-in-Custody.

**History:**

- Originating Policy/Procedure: 8/30/18
- Next Review Date: 8/30/20
- Review By: Sheriff's Office
- ***Reviewed: 01/13/2022 (Legislative Updates)***
- ***Next Review Date: 01/13/2024 (Comprehensive Stakeholder Review)***
- ***Review By: Executive Office***

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