


JOHNSON COUNTY SHERIFF'S OFFICE

<h1>215</h1>	SUBJECT CONTROL/USE OF FORCE			
Date of Issue:	09/13/2018		Revised:	10/08/2019
Amends:				
Rescinds:	2007-09 Subject Control/Use of Force			
Reference:	K.S.A. 21-5227 Law Enforcement Officer's Use of Force; 502 Employee Training and Education; 400 Employee Assistance Program; 507 Performance Evaluation; 700 Professional Standards			
Authority:	Calvin Hayden, Sheriff			

215.1 POLICY

Sheriff's deputies have the responsibility to protect life and property and to apprehend criminal offenders in accordance with legal requirements. The type of control or force used by an employee must be reasonable.

Kansas Statute:

21-5227 Law enforcement officer's use of force in making arrest

(a) A law enforcement officer, or any person whom such officer has summoned or directed to assist in making a lawful arrest, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. Such officer is justified in the use of any force which such officer reasonably believes to be necessary to effect the arrest and of the use of any force which such officer reasonably believes to be necessary to defend the officer's self or another from bodily harm while making the arrest. However, such officer is justified in using deadly force likely to cause death or great bodily harm only when such officer reasonably believes that such force is necessary to prevent death or great bodily harm to such officer or another person, or when such officer reasonably believes that such force is necessary to prevent the arrest from being defeated by resistance or escape and such officer has probable cause to believe that the person to be arrested has committed or attempted to commit a felony involving death or great bodily harm or is attempting to escape by use of a deadly weapon, or otherwise indicates that such person will endanger human life or inflict great bodily harm unless arrested without delay.

(b) A law enforcement officer making an arrest pursuant to an invalid warrant is justified in the use of any force which such officer would be justified in using if the warrant were valid, unless such officer knows that the warrant is invalid.

Landmark Case Law:

Graham v. Connor - The Supreme court announced that the standard for determining whether a law enforcement officer has used excessive force in the course of an arrest, investigatory stop, or other seizure of a free citizen is a Fourth Amendment “objective reasonableness” standard. The nature and quality of the intrusion must be balanced against the governmental interests at stake. Reasonableness of the force employed depends on three factors:

1. Severity of the crime;
2. Whether the suspect poses an immediate threat to the safety of officers or others; and
3. Whether the suspect is actively resisting arrest or attempting to evade arrest by flight.

Reasonableness will be judged from the perspective of a reasonable officer on the scene.

Johnson v. Glick - These factors are to be considered in determining when the excessive use of force gives rise to a cause of action under Sec. 1983, the right to “Due Process”.

1. The need for the application of force;
2. The relationship between that need and the amount of force used;
3. The extent of injuries; and
4. Whether the force was applied in good faith or maliciously and sadistically for the very purpose of causing harm.

Tennessee v. Garner - It is unconstitutional to use deadly force to effect arrests of “nonviolent felony or misdemeanor suspects”. Such force may be used only when it is necessary AND the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others, AND when feasible a verbal warning has been given.

215.2 DEFINITIONS

Baton - An impact tool.

Carotid Restraint Control Hold - a bilateral vascular restraint where pressure is applied bilaterally to the sides of the neck.

Chemical Munitions - Pepper spray and other non-lethal delivery systems.

Deadly Force - Force, which is reasonably likely to cause death or great bodily harm.

Defensive Force - The use of physical force that is reasonably necessary to safely prevent or avoid the threat from another; to defend a deputy or someone else from actual or apparent assault and/or battery.

Electronic Control Device (or Conducted Electrical Weapon) - Intermediate weapon that uses electrical output to control a subject by pain compliance or to temporarily incapacitate by disrupting the central nervous system. (i.e. Taser, the G.L.O.V.E., Stun-cuff, E-Band, etc.).

Empty Hand Techniques - Techniques that have minimal probability of causing serious injury.

Excessive Force - The use of force that exceeds what a reasonable deputy would consider necessary under the circumstances for the lawful control of a person.

Great Bodily Harm - Bodily injury that creates a substantial risk of death or that causes serious, permanent disfigurement or protracted loss or impairment of the function of any body part or organ.

NFDD - Noise Flash Diversion Devices are utilized simply to divert or distract the attention of suspects allowing deputies to deploy necessary tactics. The devices emit a loud noise and dazzling flash of light, which disorients a subject, and therefore can provide crucial time for a tactical team to gain control of a building/room, enable arrest, and reduce the potential risk of injury to the suspect and deputies.

Non-Deadly Force - Physical force which is not reasonably likely to cause death or which does not create some specified degree of risk that a reasonable deputy would consider likely to cause great bodily harm to another.

Rapidly Evolving Situation - A fluid situation where a deputy is faced with uncertain or rapidly evolving circumstances. Due to the actions of others, the deputy may have to reasonably use techniques, tools, and/or improvised weapons (Instruments of Opportunity) in a manner that are not consistent with the agency policy or training. The reactions of the deputy will be evaluated utilizing the objective reasonableness standard.

Restraining Force - Is the application of physical force reasonably necessary to safely control a person in a lawful detention, arrest or other lawful purpose.

Specialty Impact Munitions - A projectile intended for the purpose of controlling, and/or deterring individuals who offer a broad range of resistance without having to resort to the use of deadly force.

215.3 PROCEDURES

215.3.1 Non-Deadly Force

When reasonable, physical control methods should be applied in accordance with techniques taught by the Kansas Law Enforcement Training Academies or by the Sheriff's Office approved defensive tactics instructors. Only Sheriff's Office issued use of force equipment should be used in the application of force. In addition to the firearm, at least one intermediate weapon must be carried. If the deputy is properly certified with and issued a TASER, it also must be carried along with at least one other intermediate weapon. This does not apply while in a secured detention facility.

Non-deadly force may include, but must not be limited to:

- a. Chemical Munitions (i.e. OC)
 - i. Chemical munitions are used to create an environment that is physically uncomfortable for a subject with the intent to minimize resistance or aggression by that subject. It is a less intrusive means of force utilized to resolve the situation with minimal injury to innocent parties, the deputies, and the subject.
 - ii. Decontamination and medical attention should be provided as soon as it is practical and safe.
 - iii. After exposure to chemical munitions, the subject must be closely monitored for a minimum of two hours.

- b. Baton
 - i. Utilized in accordance with agency training guidelines.
- c. Specialty Impact Munitions (i.e. Bean Bag Round)
 - i. Only weapons designated by the Sheriff or designee for impact munitions will be utilized as such.
 - ii. Upon striking a subject with an impact munition, the deputy will summon medical attention for the subject even if no injury is stated or obvious. This will be done as soon as it is practical and safe.
 - iii. Photographs of the areas impacted should be taken regardless of whether physical signs of injury are visible or not.
- d. NFDD
 - i. Prior to a deputy deploying a NFDD, they will have obtained an end user certification, along with a refresher course annually.
- e. Electronic Control Device
 - i. Deputies who have completed agency approved training may be issued an ECD for use during their assignment. A deputy leaving a particular assignment may be expected to return their issued device to the agency's inventory.
 - ii. The TASER shall be carried in an agency approved holster on the support side of the body.
 - iii. Deputies are authorized to deploy an ECD only when it is reasonably necessary to control subjects that are displaying combative/physically aggressive behavior or are actively attempting to prevent a deputy's control. An ECD should not be used on passive resistive subjects.
 - iv. Upon deploying the device, the deputy shall attempt to minimize the uninterrupted duration and the total number of ECD applications. Users should avoid prolonged, extended, uninterrupted discharges or extensive multiple discharges whenever practical, unless the first application did not work or there is an apparent threat to the deputy or some other person(s) and it reasonably appears that it would bring about safe control of the subject. The subject should be secured as soon as practical.
 - v. An ECD shall never be used in a punitive or unreasonable manner.
 - vi. A deputy shall take every reasonable precaution to avoid deploying an ECD onto a subject contaminated with any flammable or explosive material or into any environment containing such. Such deployment is permitted only when reasonably necessary to prevent infliction of life threatening injury or great bodily harm and lesser alternatives reasonably appear not likely to do so.

- vii. A deputy shall not, except when it appears reasonably necessary to protect life (including the subjects) and/or great bodily harm to someone else, deploy an ECD in any environment where the subject's fall could reasonably result in death or serious bodily harm.
 - viii. Use of an ECD on animals shall be limited to situations where it reasonably appears necessary to prevent substantial harm to a person or other animal.
 - ix. Medical evaluations and clearance shall follow the procedures outlined in training.
 - x. The ECD may be equipped with a TASER CAM which is an audio-video recording device integrated into the power supply.
 - xi. Deputies shall at no time attempt to interfere with or prevent the TASER CAM from properly recording events involving the ECD or in any manner deleting events recorded on the TASER CAM.
 - xii. At any time the TASER CAM is activated, the video and audio data should be downloaded in accordance with current agency evidence procedures and referenced in any related reports.
 - xiii. After any deployment, the ECD and TASER CAM, if equipped, will be brought to the Training Division to download any appropriate reports from the device.
- f. Empty Hand Techniques
- i. Joint locks
 - ii. Limb control
 - iii. Strikes
- g. Carotid Restraint Control Hold
- i. If application of the carotid restraint control appears reasonable based on the totality of the circumstances , the deputy should:
 - (a) Attempt to apply the carotid restraint control hold from a ground position to reduce the risk of secondary injuries to the deputy and subject.
 - (b) If time and circumstances permit, the deputy should provide verbal commands and direction during the application of the hold in an effort to obtain voluntary compliance prior to rendering any person unconscious.
 - (c) Continually monitor the correct positioning and placement of the hold on the subject's neck to prevent respiratory distress or serious injury. If improper positioning is identified, immediately obtain the correct position or discontinue the hold.

- (d) If the hold has not achieved the desired effect within approximately 30 seconds the deputy should release bilateral pressure and either disengage from the carotid restraint control hold, re-assess placement and tactically reposition, or transition to another reasonable force option.
- ii. After any application or attempted application of the carotid restraint control hold, the deputy shall ensure the following steps occur:
 - (a) Initially position the subject onto their side into a lateral recovery position, check vital signs, and once consciousness is regained, the deputy will assess the subject for a reasonable level of cognitive function.
 - (b) Any individual who has had the carotid restraint control hold applied, regardless of whether they were rendered unconscious, shall be promptly examined by paramedics at the scene.
 - (c) Notify supervisor of the use or attempted use of the hold.
 - (d) Receive full medical clearance from an authorized medical facility prior to booking.
 - (e) Maintain visual monitoring of the subject for signs of medical distress for a minimum of two hours after application of the hold.
 - (f) Inform any person receiving custody, or any person placed in a position of providing care, that the individual has been subjected to the hold. The time of application and any pertinent medical information should also be provided.
 - (g) The use or attempted use of the carotid restraint control hold shall be thoroughly documented and justified by the deputy in the related incident report.

215.3.2 Canine Team

Utilized in accordance with 204 Canine Operations.

215.3.3 Authorization to use Deadly Force

A deputy may use deadly force in accordance with K.S.A. 21-5227. Warning shots are prohibited.

215.3.4 Reporting Requirements

All use of force incidents will be reported as soon as possible by the employee involved to a supervisor. The employee involved shall prepare a thorough report on the incident utilizing the Johnson County Sheriff's Office Subject Control Report Form, and complete all other required supplemental reports and attach all associated photographs. The report will be completed as soon as possible, or as directed by the supervisor. In the instance of a deputy-involved shooting, the reports may be completed by the investigating deputy/officer. The investigating supervisor will collect reports on the incident and complete the Supervisor Review Form. Upon the conclusion and disposition of the investigation, copies of the Subject Control reports will be forwarded to the Training Division Supervisor.

215.3.5 Investigation of Use of Force: Administrative Leave

Any employee directly involved in the use of deadly force, which injures or kills a person, will be placed on administrative leave. Such leave shall be without loss of pay or benefits, pending the results of the investigation, and shall not be interpreted to imply or indicate that the employee acted improperly. An employee who is subject to a criminal investigation for use of force shall be granted sufficient time to consult with an attorney before submitting a written report, to an interview, or meeting with investigators.

In cases where a person was injured or died as a result of the use of force by an employee, the employee involved, shall be required to undergo a psychological debriefing with a Sheriff's Office provided psychologist within seventy-two (72) hours of the incident. The psychologist's services will also be available to the immediate family of the employee, when requested. While on administrative leave, the employee shall remain available at all times for the official Sheriff's Office interviews and statements regarding the incident and shall be subject to recall to duty at any time. The employee shall not discuss the incident with anyone except Sheriff's Office personnel assigned to the investigation, District Attorney's Office personnel and the employee's attorney, psychologist, clergy and immediate family. This does not restrict the employee from receiving support from other employees and/or friends, but prohibits discussing the incident.

215.3.6 Civil Rights Investigation

The Sheriff's Office will respect the rights of the Federal Government to conduct an independent investigation to identify any alleged civil rights violations. An employee shall not be ordered to confer with Federal Investigators without the advice of counsel.

215.3.7 Civilian Specialist

The Sheriff's Office recognizes that Civilian Specialists may be involved in use of force incidents due to the nature of their employment. Civilian Specialists are trained in accordance with Sheriff's Office policies and are expected to protect themselves in the event of assault or battery or when said employee feels their safety is in jeopardy.

If a situation arises, Civilian Specialists will use reasonable, physical control methods in accordance with techniques taught by the Sheriff's Office approved defensive tactics instructors. Instances may arise where employees may use techniques, tools, and/or improvised weapons (Instruments of Opportunity) in a manner that are not consistent with Sheriff's Office policy or training. The reactions of the employee will be evaluated utilizing the objective reasonableness standard.

Civilian Specialist may be called upon during the performance of their duties to assist a deputy in restraint of a subject or directed to assist in the control of a subject by a deputy engaged in such activity. Civilian Specialists will be expected to act if and when a deputy has fallen into a position of disadvantage or has become incapacitated due to the actions of another. This includes but is not limited to: initiating an emergency code response, activating an emergency duress button, assisting the deputy in restraint, or control or giving verbal commands to the aggressor.

If a Civilian Specialist is involved in any use of force situation, after the incident has concluded, they will generate a use of force report in accordance with this policy and will be subject to the requirements therein to the extent determined by an investigating deputy or at the direction of the Command Staff.