

Use of Force

300.1 PREAMBLE

Agency Content

The Marin County Sheriff's Office is dedicated to upholding the Constitution and enforcing State and local laws in a fair, impartial, and ethical manner. The Sheriff's Office recognizes that the authority to use physical force is a serious responsibility that shall be exercised judiciously and with respect for all human rights and for the sanctity of human life. The Law Enforcement Code of Ethics requires all sworn law enforcement officers to carry out their duties with courtesy, respect, professionalism, and to never employ unnecessary force. The use of force by peace officers is of important concern to the community. Recognizing this, the Marin County Sheriff's Office shall evaluate the use of force by its deputies to ensure that the use of such force is lawful and consistent with this policy. In keeping with the public trust placed upon the members of the Sheriff's Office, every deputy shall treat individuals who they have sworn to protect and serve with professionalism as they meet the objectives of providing public safety to the citizens of Marin County.

300.1.1 PURPOSE AND SCOPE

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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 the Sheriff's Office is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner (Government Code § 7286).

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.

300.1.2 DEFINITIONS

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Definitions related to this policy include:

Deadly force - Any use of force that creates a substantial risk of causing death or serious bodily injury, including but not limited to the discharge of a firearm (Penal Code § 835a).

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 (Government Code § 7286(a)).

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.

Law enforcement agency - Any police department, sheriff's department, district attorney, county probation department, transit agency police department, school district police department, the

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police department of any campus of the University of California, the California State University, or community college, the Department of the California Highway Patrol, the Department of Fish and Wildlife, and the Department of Justice (Government Code § 7286(a)).

Serious bodily injury - A serious impairment of physical condition, including but not limited to the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement (Penal Code § 243(f)(4)).

Totality of the circumstances - All facts known to the deputy or perceived by the deputy at the time, including the conduct of the deputy and the subject leading up to the use of force (Penal Code § 835a).

300.1.3 PROCEDURES AND ATTACHMENTS

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There are no procedures associated with this policy.

[See attachment: MCSO Use of Force Report 2020.pdf](#)

300.2 POLICY

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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.

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 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 INTERVENE AND REPORT

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Any deputy present and observing another law enforcement officer or an employee using force that is clearly beyond that which is necessary, as determined by an objectively reasonable deputy under the circumstances, shall, when feasible, intervene to prevent the use of unreasonable force. Any deputy who observes a law enforcement officer or an employee use force that potentially exceeds what the deputy reasonably believes to be necessary shall promptly report these observations to a supervisor when present or as soon as feasible (Government Code § 7286(b)).

300.2.2 FAIR AND UNBIASED USE OF FORCE

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Deputies are expected to carry out their duties, including the use of force, in a manner that is fair and unbiased (Government Code § 7286(b)). See the Bias-Based Policing Policy for additional guidance.

300.2.3 PERSPECTIVE

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When observing or reporting force used by a law enforcement officer or an employee, each deputy should take into account the totality of the circumstances and the possibility that other law enforcement officers or employees may have additional information regarding the threat posed by a subject (Government Code § 7286(b)).

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Deputies shall use only that amount of force that reasonably appears necessary given the facts and totality of the circumstances known to or perceived by the deputy at the time of the event to accomplish a legitimate law enforcement purpose (Penal Code § 835a).

The reasonableness of force will be judged from the perspective of a reasonable deputy on the scene at the time of the incident, rather than with the benefit of hindsight, and without regard to the deputy's underlying intent or motivation. The calculus of reasonableness must embody allowance for the fact that deputies are often forced to make split-second judgments in circumstances that are tense, uncertain, and rapidly evolving about the amount of force that is necessary.

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. Deputies may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance (Government Code § 7286(b)).

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 approved tools, weapons, or methods provided by the Sheriff's 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 objectively 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 a deputy to retreat or be exposed to possible physical injury before applying reasonable force.

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300.3.1 USE OF FORCE TO EFFECT AN ARREST

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Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use objectively reasonable force to effect an arrest, to prevent escape, or to overcome resistance. A peace officer 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. Retreat does not mean tactical repositioning or other de-escalation techniques (Penal Code § 835a).

300.3.2 ALTERNATIVE TACTICS - DE-ESCALATION

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De-escalation is a fundamental principle of how the Sheriff's Office conducts its police work. Taking no action, passively monitoring a situation, or bringing in partners such as a mobile crisis unit may be the most reasonable response to a situation, particularly those involving mental health crises. As time and circumstances reasonably permit, and when community and deputy safety would not be compromised, deputies should consider actions that may increase deputy safety and may decrease the need for using force:

- (a) Summoning additional resources that are able to respond in a reasonably timely manner.
- (b) Formulating a plan with responding deputies before entering an unstable situation that does not reasonably appear to require immediate intervention.
- (c) Employing other tactics that do not unreasonably increase deputy jeopardy.

In addition, when feasible, deputies should evaluate the totality of circumstances presented at the time in each situation and, when feasible, consider and utilize reasonably available alternative tactics and techniques that may persuade an individual to voluntarily comply or may mitigate the need to use a higher level of force to resolve the situation before applying force (Government Code § 7286(b)(1)). Such alternatives may include but are not limited to:

- (a) Attempts to de-escalate a situation.
- (b) If reasonably available, the use of crisis intervention techniques by properly trained personnel.

Where feasible, deputies should determine whether an individual's failure to comply with an order is the result of one of the following factors:

- (a) Medical conditions
- (b) Mental impairment
- (c) Developmental disability
- (d) Physical limitation
- (e) Language barrier

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- (f) Drug interaction
- (g) Behavioral crisis

After evaluating whether the individual's failure to comply with an order is based on one of the factors listed above, the deputy must then determine whether physical force and what level of physical force, is necessary and appropriate to resolve the situation in a safe manner.

300.3.3 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

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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 (Government Code § 7286(b)). These factors include but are not limited to:

- (a) The apparent immediacy and severity of the threat to deputies or others (Penal Code § 835a).
- (b) The conduct of the individual being confronted, as reasonably perceived by the deputy at the time (Penal Code § 835a).
- (c) Deputy/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of deputies available vs. subjects).
- (d) The conduct of the involved deputy leading up to the use of force (Penal Code § 835a).
- (e) The effects of suspected drugs or alcohol.
- (f) The individual's apparent mental state or capacity (Penal Code § 835a).
- (g) The individual's apparent ability to understand and comply with deputy commands (Penal Code § 835a).
- (h) Proximity of weapons or dangerous improvised devices.
- (i) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (j) The availability of other reasonable and feasible options and their possible effectiveness (Penal Code § 835a).
- (k) Seriousness of the suspected offense or reason for contact with the individual prior to and at the time force is used.
- (l) Training and experience of the deputy.
- (m) Potential for injury to deputies, suspects, bystanders, and others.
- (n) Whether the person appears to be resisting, attempting to evade arrest by flight, or is attacking the deputy.
- (o) The risk and reasonably foreseeable consequences of escape.
- (p) The apparent need for immediate control of the subject or a prompt resolution of the situation.
- (q) 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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- (r) Prior contacts with the subject or awareness of any propensity for violence.
- (s) Any other exigent circumstances.

300.3.4 PAIN COMPLIANCE TECHNIQUES

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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 department-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 person can comply with the direction or orders of the deputy.
- (c) Whether the person 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.

300.3.5 USE OF FORCE TO SEIZE EVIDENCE

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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. 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. Deputies are encouraged to use techniques and methods taught by the Marin County Sheriff's Office for this specific purpose.

Deputies are banned from using any technique, including the Carotid Control Hold and Choke Hold, that restricts the air and blood flow by restricting the neck or throat of a person.

Deputies may use these techniques only if an individual is presently violent to the point where the deputy reasonably believes that the individual will cause serious bodily injury or death to deputies or others.

300.3.6 AUTHORIZED FORCE OPTIONS

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To further the aim of minimal reliance on force, all uniformed deputies must carry on their person at all times at least one less lethal weapon. Listed below are force options authorized for use by the Sheriff:

- (a) Physical control holds which include joint manipulations, pressure point application, and take down techniques.
- (b) Oleoresin Capsicum Agent (OC) and/or Mace (CN) (See the Control Devices and Techniques policy)

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- (c) Conducted Energy Weapon (TASER X-26, TASER X-26P, or TASER 7) (See the Conducted Energy Weapon policy)
- (d) Personal Body Weapons
- (e) Less Lethal Launcher (See the Control Devices and Techniques policy)
- (f) Use of Canine (See the Canines policy)
- (g) Impact Weapons (See the Control Devices and Techniques policy)
- (h) Firearms (See the Firearms policy)

300.4 DEADLY FORCE APPLICATIONS

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Where feasible, the deputy shall, prior to the use of deadly force, make reasonable 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 (Penal Code 835a(5)(c)(1)(B)).

If an objectively reasonable deputy would consider it safe and feasible to do so under the totality of the circumstances, deputies shall evaluate and use other reasonably available resources and techniques when determining whether to use deadly force. To the extent that it is reasonable under the circumstances, deputies should consider their surroundings and any potential risks to bystanders prior to discharging a firearm (Government Code § 7286(b)).

The use of deadly force is only justified when the deputy reasonably believes, based on the totality of the circumstances, it is necessary in the following circumstances (Penal Code § 835a):

- (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 to the deputy or another person.
- (b) A deputy may use deadly force to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the deputy reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

Deputies shall not use deadly force against a person based on the danger that person poses to him/herself, if an objectively reasonable deputy would believe the person does not pose an imminent threat of death or serious bodily injury to the deputy or to another person (Penal Code § 835a).

An "imminent" threat of death or serious bodily injury exists when, based on the totality of the circumstances, a reasonable deputy in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the deputy or another person. A deputy's subjective fear of future harm alone is insufficient as an imminent threat. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed (Penal Code § 835a).

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300.4.1 SHOOTING AT OR FROM MOVING VEHICLES

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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. Deputies shall not discharge a firearm at or from a moving vehicle unless one of the following circumstances exists:

- (a) Deadly force, or the imminent threat of deadly force, is being used against a deputy or another person by means other than the moving vehicle.
- (b) The driver is using or is attempting to use the vehicle as a means to cause injury or death to the deputy or another person.
- (c) When the driver of a vehicle continues to present an ongoing imminent threat of death or serious bodily injury to deputies or another person and deadly force is feasible to preserve the lives of the deputy or another person.

Deputies should not shoot at any part of a vehicle in an attempt to disable the vehicle.

300.4.2 DISPLAYING OF FIREARMS

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Given that individuals might perceive the display of a firearm as a potential application of force, deputies should use sound discretion when drawing a firearm in public by considering the following guidelines (Government Code § 7286(b)):

- (a) If the deputy does not perceive an imminent threat but reasonably believes that the potential for such threat exists (e.g., building search), firearms should generally be kept in the low-ready or other position not directed toward an individual.
- (b) If the deputy reasonably believes that an imminent threat exists based on the totality of circumstances presented at the time (e.g., high-risk stop, tactical entry, armed encounter), firearms may be directed toward such imminent threat until the deputy no longer perceives such threat.

Once it is reasonably safe to do so, deputies should carefully secure all firearms.

300.5 REPORTING THE USE OF FORCE

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Any use of force by a member of the Sheriff's 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 Sheriff's Office may require the completion of additional report forms, as specified in department policy, procedure, or law. See the Report Preparation Policy for additional circumstances that may require documentation.

300.5.1 NOTIFICATION TO SUPERVISORS

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Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances:

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- (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 a CEW 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

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Once it is reasonable and safe to do so, properly trained deputies should promptly provide, if trained to do so, or promptly procure medical assistance for any person injured or claiming to have been injured in a use of force incident (Government Code § 7286(b)).

Prior to booking or release, medical assistance shall be obtained for any person who exhibits signs of physical distress, who has sustained visible injury, expresses a complaint of injury or continuing pain, or who was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed.

Based upon the deputy's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff, or medical staff at the 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).

Persons 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"), or who require a protracted physical encounter with multiple deputies to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Deputies who reasonably suspect a

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medical emergency should request medical assistance as soon as practicable and have medical personnel stage away if appropriate

300.7 SUPERVISORY RESPONSIBILITY

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A supervisor should respond to any reported use of force, if reasonably available. The responding supervisor is expected to (Government Code § 7286(b)):

- (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) 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.
- (d) Identify any witnesses not already included in related reports.
- (e) Review and approve all related reports.
- (f) 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.
- (g) Complete Use of Force Document if appropriate in accordance with the Use of Force Document section of this policy.

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.

300.7.1 USE OF FORCE DOCUMENT

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Sergeants, or the appropriate supervisor, shall complete the Use of Force Document when any use of force options outlined in Section 1 of the Use of Force Document are met. Upon completion of the form, sergeants, or the appropriate supervisor, will electronically send the form to the Use of Force Team.

A review of the incident will be conducted upon receipt of the Use of Force Document by the Defensive Tactics Coordinator or by the authorized designee at the rank of sergeant or above. The review will include, but is not limited to any and all associated reports, photographs, and video images captured by the body worn camera or any other department owned video recording devices.

Compliant arrest techniques do not require the completion of the Use of Force Document.

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To download a copy of the Use of Force Document, refer to Procedures and Attachments section of this policy.

300.7.2 WATCH COMMANDER RESPONSIBILITY

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The Watch Commander shall review each use of force by any personnel within his/her command to ensure compliance with this policy.

300.8 TRAINING

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Deputies, investigators, and supervisors will receive periodic training on this policy and demonstrate their knowledge and understanding (Government Code § 7286(b)).

Subject to available resources, the Training Manager should ensure that deputies receive periodic training on de-escalation tactics, including alternatives to force.

Training should also include (Government Code § 7286(b)):

- (a) Guidelines regarding vulnerable populations, including but not limited to children, elderly persons, pregnant individuals, and individuals with physical, mental, and developmental disabilities.
- (b) Training courses required by and consistent with POST (Commission on Peace Officer Standards and Training) guidelines set forth in Penal Code § 13519.10.

300.9 USE OF FORCE COMPLAINTS

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The receipt, processing, and investigation of civilian complaints involving use of force incidents should be handled in accordance with the Personnel Complaints Policy (Government Code § 7286(b)).

300.10 USE OF FORCE ANALYSIS

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At least annually, the Field Services Bureau 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.

300.11 DUTY TO PREVENT THROUGH EARLY INTERVENTION

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The Marin County Sheriff's Office recognizes that through early intervention it may be possible to avoid the use of excessive force and prevent harm to the community. In this effort, the Sheriff's Office will implement early intervention systems to identify deputies who are at risk for engaging in the use of excessive force and to provide those deputies with re-training and appropriate behavioral interventions, re-assignments or other appropriate consequences to eliminate that risk.

300.12 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

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Statistical data regarding all officer-involved shootings and incidents involving use of force resulting in serious bodily injury is to be reported to the California Department of Justice as required by Government Code § 12525.2. See the Documentary Services Division Policy.

300.13 POLICY REVIEW

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The Sheriff or the authorized designee should regularly review and update this policy to reflect developing practices and procedures (Government Code § 7286(b)).

300.14 POLICY AVAILABILITY

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The Sheriff or the authorized designee should ensure this policy is accessible to the public (Government Code § 7286(c)).

300.15 PUBLIC RECORDS REQUESTS

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Requests for public records involving a deputy's personnel records shall be processed in accordance with Penal Code § 832.7 and the Personnel Records, Personnel Complaints, and Records Maintenance and Release policies (Government Code § 7286(b)).

Attachments

MCSO Use of Force Report 2020.pdf



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Patrol Div. Custody Div. Court Div.

SO Case #/Jail incident #

<input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4
Area

Date

Time

Location

Charges

Primary Deputy Name and ID#

Additional Deputy and ID#

Additional Deputy and ID#

1) **Type of Force Deployed:**

<input type="checkbox"/> Physical restraint on Actively Resisting Subject	<input type="checkbox"/> Baton/Asp	<input type="checkbox"/> CEW / Display	<input type="checkbox"/> WRAP
<input type="checkbox"/> Less Lethal Launcher	<input type="checkbox"/> Display of Firearm	<input type="checkbox"/> OC	<input type="checkbox"/> Discharge of Firearm
<input type="checkbox"/> Personal Body Weapons	<input type="checkbox"/> Death	<input type="checkbox"/> Other:	

2) **Subject Injured:**

3) **Medical Treatment:**

4) **Deputy(s) Injured:**

5) **Subject In-Custody:**

<input type="checkbox"/> Yes-Admitted	<input type="checkbox"/> Yes	<input type="checkbox"/> NCH	<input type="checkbox"/> Yes-Admitted	<input type="checkbox"/> Yes
<input type="checkbox"/> Yes-ER Only	<input type="checkbox"/> No	<input type="checkbox"/> MGH	<input type="checkbox"/> Yes-ER Only	<input type="checkbox"/> No
<input type="checkbox"/> No	Death	<input type="checkbox"/> KTL	<input type="checkbox"/> No	
<input type="checkbox"/> Complaint of Pain		<input type="checkbox"/> PARAMEDIC		
		<input type="checkbox"/> JAIL MEDICAL STAFF		

6) **Photographed:**

Yes No

7) Subject Name:	DOB	<input type="checkbox"/> M <input type="checkbox"/> F <input type="checkbox"/> O
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8) Sergeant Name and ID#	<input type="checkbox"/> Yes <input type="checkbox"/> No Present for Use of Force
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9) Reviewed By:	Date Reviewed:
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No Action Required

Further Discussion Required

Remedial Training