

	GENERAL ORDER Effective: 03-15-2022	# 09-02
	Section: Operations	Replaces or Modifies: GO #09-02
	Title: Use of Force Issued by: Chief Deputy Mattie Provost	

I. Purpose:

It is the purpose of this General Order to provide employees with guidelines on the use of force. This General Order is for internal use only and does not enlarge an employee’s civil liability in any way. The General Order should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees.

CORE PRINCIPLES

Sanctity of Human Life. FBCSO employees shall make every effort to preserve human life in all situations.

De-escalation. All FBCSO employees shall use de-escalation techniques and tactics to reduce any threats or gain compliance to lawful commands without the use of force or with the lowest level of force possible.

Procedural justice. Procedural justice is defined as the fairness of processes used by those in positions of authority to reach specific outcomes or decisions. Procedural justice is based upon four central principles, - treating people with dignity and respect, giving citizens “voice” during encounters, being neutral in decision making, and conveying trustworthy motives.

Fair and impartial policy. This policy is established to ensure FBCSO employees perform without bias or prejudice toward any person and that all policing activities are fair and impartial.

II. Policy Statement:

The use of force by FBCSO law enforcement and county jail personnel is a matter of critical concern to both the public and employees of the FBCSO. Peace Officers and Civilian Detention personnel are involved on a daily basis in numerous and varied encounters with the public / detained persons and when warranted, are expected to exercise lawful and appropriate control over others when carrying out their duties.

III. Definitions:

Objectively Reasonable – An objective standard viewed from the perspective of a reasonable Peace Officer or Civilian Employee in a use of force situation at the time the force is used (without benefit of 20/20 hindsight) and while considering the totality of the circumstances present at the time of the incident.

Passive resistance – Is when a person refuses to comply with a lawful directive from a law enforcement / detention officer but does not attempt to engage in physical action that is active resistance.

Active resistance – Is when a person refuses to comply with a lawful directive from a law enforcement / detention officer and the person uses any amount of physical force beyond just remaining

limp or motionless (e.g., a subject is lying down and refusing orders and when an attempt is made to handcuff or remove the person, the person responds by pulling away or placing hands/arms under the body and physically resists being handcuffed/removed – in this case the person is displaying active resistance).

Active Aggression – Is when a person refuses to comply with a lawful directive from a law enforcement / detention officer and the person uses any amount of physical force, directed toward the deputy, that could result or is intended to result in bodily injury.

Deadly Force – Is Use of force that is intended or known to cause death or serious bodily injury. Intended or known is evaluated using the Objectively Reasonable standard defined in this General Order.

Bodily Injury and Serious Bodily Injury – As defined in Texas Penal Code Section 1.07.

Exigent – An emergency situation requiring swift action to prevent imminent danger to life or serious damage to property, or to forestall the imminent escape of a suspect, or destruction of evidence.

V. Details and Procedures:

A. Legal Authority

1. Legal authority for Use of Force is found in Chapter 9 of the Texas Penal Code. All employees will have a working knowledge of and follow its provisions.

B. General Provisions Concerning Authorized Force

1. While the type and extent of force may vary, employees shall use only the amount of objectively reasonable force which appears necessary under the circumstance to successfully accomplish the legitimate law enforcement / detention purposes in accordance with Law and FBCSO policy.
2. Given that no policy can realistically predict every situation an employee might encounter, it is recognized that each employee must be entrusted with well-reasoned discretion in determining the appropriate response to resistance in each incident.
3. Circumstances may arise in which employees reasonably believe that it would be impracticable or ineffective to use any of the standard tools, weapons, or methods approved by the FBCSO. Employees may find it more effective or practicable to improvise their response to rapidly unfolding conditions they are confronting. In such circumstances, the use of any improvised device or method must still be objectively reasonable and used only to the extent which reasonably appears necessary to accomplish a legitimate law enforcement / detention purpose.
4. While it is the ultimate objective of every law enforcement / detention encounter to minimize injury to everyone involved, nothing in the FBCSO policies on use of force requires that an employee actually sustain physical injury before applying objectively reasonable force.
5. FBCSO employees shall only use reasonable, necessary, and proportional force to respond to the threat or resistance to effectively and safely resolve an incident, and will immediately reduce the level of force as the threat or resistance diminishes.

C. Use of force directed to the neck/throat area

1. Force to the neck/throat area that is designed or by its use could be reasonably seen to cut off the ability of a subject to breathe or constrict the blood flow to the brain is prohibited except in instances where an employee in an objectively reasonable manner believes that such use of force is the only means of protecting himself/herself or another from imminent

threat of serious physical injury or death and use of deadly force would be authorized by law/policy.

- D. Whenever using an approved restraint device other than normal handcuffing, the following rules apply
1. If practicable, a supervisor should be notified of the intent to apply such restraints and the supervisor will approve/deny authority for use.
 2. In all use cases a supervisor will be notified as soon as is practicable after the use of such restraints [with notification / actions noted in the report(s) or supplement(s)].
 3. Supervisor(s) are to respond to situations where these types of restraints are utilized to monitor and issue orders for action as appropriate.
 4. Devices will not be used in a manner that connects the hands to the legs/feet. The position created by this type of restraint increases the potential risk of positional asphyxiation.
 5. Devices will remain on the subject until he/she no longer poses a threat or a medical emergency dictates removal.
 6. Once secured by a restraint device:
 - a. The subject should be placed in a seated or upright position.
 - b. The subject should not be placed on their stomach for an extended period of time (as this may potentially reduce their ability to breathe).
 - c. The subject should be constantly watched by an employee while in the restraint. Observer(s) are to ensure that the subject does not roll onto and remain on his/her stomach. Observer(s) should look for signs of labored breathing and, where practicable, take appropriate steps to relieve or minimize any obvious factors contributing to this condition.
 - d. In the event that it appears reasonably necessary to restrain the subject in such position that the subject's ability to sit upright is restricted, an employee should monitor the subject in an effort to minimize restricted breathing. The subject should be placed in an upright position as soon as it reasonably appears safe and practicable.
 7. Handcuffing of the wrist area and use of devices on legs in the ankle area is considered normal handcuffing for purpose of this subsection (as long as there is no linkage of the wrist handcuffs to the devices on the legs that restricts a person's ability to maintain a full standing position). Use of devices on legs in the ankle area are allowed when warranted (generally in high escape risk situations and where a person has exhibited actions such as attempting to kick at persons after being handcuffed).
- E. Levels of Force (Lawful actions to gain control of a subject)
1. The tactics for gaining lawful control are as follows (from least degree to greatest degree of force):
 - a. Mere presence – Utilizing items such as uniform, badge, ID...
 - b. Verbal direction
 - c. Physical compliance tactics– Physical contact such as grabbing arms/hands for handcuffing or placing into an approved restraint device, utilizing FBCSO approved and trained tactics [such as PPCT, Krav Maga, or TEEX Defense Tactics], and/or similar physical control techniques
 - d. Intermediate Weapons – FBCSO approved items such as OC Spray, Batons, Distraction Devices, Electronic Control Devices (ECDs), less lethal impact weapons, etc...
 - e. Deadly Force – Example includes but is not limited to discharge of a firearm
 2. The actions of a subject may dictate that the employee immediately go to a higher degree or even to the highest degree of force – as the subject's actions dictate /escalate, so may the

degree of force increase.

F. Intermediate Weapons

1. Only those intermediate weapons approved under the process defined in this General Order (09-02) may be carried / used by employees.
2. The Chief Deputy will publish the approved list of intermediate weapons (which is by reference a part of this General Order).
3. Employees using Intermediate Weapons will do so in the manner detailed in the training received.
4. The Chief Deputy may issue an order that sets requirements on carry standards for intermediate weapons, all employees will abide by an order issued on this topic.
5. The exception noted that is found in V. B. 3. of this General Order is applicable to use of Intermediate Weapons.

G. Restraint Devices

1. Only those restraint devices approved under the process defined in this General Order (09-02) may be carried / used by employees.
2. The Chief Deputy will publish the approved list of restraint devices (which is by reference a part of this General Order). This list will detail the approved devices, any specific restrictions applicable, and any applicable training standards.
3. Employees using Restraint Devices will do so in the manner detailed in the training received and in compliance with Section D. of this General Order.
4. The exception noted that is found in V. B. 3. of this General Order is applicable to use of Restraint Devices.

H. Physical Compliance Tactics

1. The Chief Deputy will publish the approved list (which is by reference a part of this General Order). This list will detail the approved programs of physical compliance tactics.
2. Only approved programs will be taught to employees and employees utilizing the tactics will do so in the manner detailed in the training received.
3. Nothing in this section prohibits an employee from using general compliance actions (grabbing, holding, and similar techniques).
4. The exception noted that is found in V. B. 3. of this General Order is applicable to use of Physical Compliance Tactics.
5. Any use of force tactic used by an employee shall be documented in as much detail as possible in an offense report, supplement or significant incident report.

I. Deadly Force and Use of Firearms

1. Deadly Force may only be used when in compliance with FBCSO Policies, binding case law, and Chapter 9 of the Texas Penal Code.
2. When reasonably feasible, prior to discharge of a firearm as a use of force option an employee should identify themselves and make a declaration of intent to shoot. Nothing in this subsection is intended to require that any specific statement be made prior to discharge of a firearm if the situation does not allow time for any such statement or making such statement puts another life / other lives in jeopardy and there is justification for the use of deadly force.
3. Warning shots are prohibited.
4. Discharge of firearms at or from a moving vehicle is only permitted when use of deadly force is justified and the employee in an objectively reasonable manner believes the action is immediately necessary to avoid imminent harm to others. FBCSO personnel are

prohibited from moving into the path of an oncoming vehicle for the purpose of using deadly force.

5. Details on approved firearms, qualifications and similar policies are found in General Order 05-01.
6. In addition to Use of Force, an employee is authorized to discharge a firearm in performance of his/her duties in the following circumstances
 - a. During approved training/practice and qualifications
 - b. To destroy an animal that represents an immediate threat to public safety (including but not limited an employee protecting himself or herself from attack) or as an act of mercy concerning a seriously injured animal. In all cases applicable Laws will be followed. Unless the situation demands immediate resolution in the interest of public safety, supervisory approval will be obtained prior to destruction of an animal under this subsection.

J. Display/Safety of Firearms and Intermediate Weapons

1. Firearms and Intermediate Weapons may be pulled out of holsters or other carrying devices (including but not limited to being pointed at an individual) when a situation reasonably indicates a need for such a show of force / heightened readiness. When a FBCSO employee points a weapon at a person, a Use of Force Report will be written.
2. Once a situation no longer reasonably requires a show of force / heightened readiness firearms and intermediate weapons will be returned to holsters or other carrying devices.
3. Employees are responsible for insuring that firearms and intermediate weapons are carried/used in a safe manner taking all reasonable steps to avoid unintentional (accidental) discharge and to avoid hitting an unintended target.

K. Medical Aid

1. In cases where use of force causes bodily injury appropriate medical aid will be summoned.
2. In all use of force cases where medical aid is needed a supervisor not involved in the actual use of force will be summoned to the scene.

L. Reporting Requirements

1. A Use of Force Report [in addition to applicable offense/supplement report(s)] will be completed when any of the following apply:
 - a. When a firearm is discharged as a force option
 - b. When an intermediate weapon is used as a force option [see also Section XIII of this General Order for breeching / distraction devices]
 - c. When a restraint device is used and there is evidence of or complaint of physical injury (during normal handcuffing mere complaint of pain without physical signs of injury does not constitute physical injury that requires a Use of Force Report form; however, any allegation of pain will be documented in the offense/supplement report [along with any resolution]).
 - d. When physical compliance tactics using pain compliance are used as a force option.
 - e. Any time an employee uses any tactic or weapon and the result is bodily injury, serious bodily injury, or death to anyone. Note the bodily injury exception found preceding in this subsection concerning normal handcuffing procedures.
 - f. When an employee points a firearm at any person
2. The Use of Force Report format will be approved by the Chief Deputy along with filing procedures. The instructions developed and approved by the Chief Deputy concerning the Use of Force Report form will be followed by all employees.
3. On any instance where a Use of Force Report is required a supervisor that is not involved in

the Use of Force will be summoned to the scene and assume responsibility for investigative review and ensure reporting requirements are met.

- a. In any instance where there is serious bodily injury or death, the Bureau Commander shall ensure that the Chief Deputy and Sheriff are notified as soon as possible.
 - b. A Division Commander or higher authority may appoint specific responsibilities concerning a Use of Force Report review.
 - c. Photographs of any claimed injury are to be taken at the time of the report whenever possible. Video may also be taken if appropriate [determined on a case by case basis].
4. Firearms - Unintended discharge and discharge that is not a use of force option
- a. Any employee who unintentionally (accidentally) discharges a firearm will file a written report with their Division Commander after making immediate notification to an on duty patrol supervisor or higher authority. If the discharge is during an encounter where Use of Force is an option, then the Use of Force Report will be completed. Reports will be forwarded through the Chain of Command to the Chief Deputy. Further, the Bureau Commanders are responsible to ensure that the Chief Deputy and Sheriff are notified as soon as possible of any discharge under this subsection that results in bodily injury, serious bodily injury, or death to anyone.
 - b. An employee who discharges a firearm to destroy an animal that represents an immediate threat to public safety or as an act of mercy concerning a seriously injured animal will file an incident report on this action (Use of Force Report is not required).
 - c. Intended discharge during approved training does not need to be reported unless injury occurs, in which case reporting will be done in a similar manner to L. 4. a. of this General Order.

M. Breaching / Distraction Devices

1. These devices are defined as Intermediate Weapons under this General Order and only those approved under the listing for Intermediate Weapons are to be carried/used. Use shall be in the manner detailed in the training received.
2. Breaching devices
 - a. May be deployed when there is need to force entry and other less destructive options are not feasible or would expose employees to unreasonable risk.
 - b. Unless there is exigent need for deployment, prior to use of a breaching device that involves an explosive component or ramming with a vehicle (or attachment to a vehicle) a Division Commander or higher authority is needed.
3. Distraction devices
 - a. May be deployed in situations where there is a reasonable risk of violent confrontation and use of the distraction device is reasonably seen to reduce the threat of violent confrontation.
 - b. Unless there is exigent need for deployment, prior to use of a distraction device a Division Commander or higher authority is needed.
4. In all cases where a breaching or distraction device is used the details on its use will be documented in a supplement to a case report. [Including but not limited to damage to property]
5. If the use of a breaching or distraction device results in injury to anyone a Use of Force Report [detailed in Section L of this General Order] will be completed [in addition to any case report(s)].

N. Intervention Required For Excessive Force

1. A deputy / correctional officer has a duty to intervene to stop another peace officer from using force against a person suspected of committing an offense if :

- a. The amount of force exceeds that which is reasonable under the circumstances.
 - b. The deputy/ correctional officer knows or should know the other peace officer's use of force violates state or federal law.
 - c. The deputy / correctional officer knows or should know the other peace officer's use of force puts a person at risk of bodily injury and is not immediately necessary to avoid imminent bodily injury to a peace officer or other person.
 - d. The deputy / correctional officer knows or should know the other peace officer's use of force is not required to apprehend the person suspected of committing an offense.
2. A deputy / correctional officer who witnesses the use of excessive force by another peace officer shall promptly make a detailed report of the incident to his / her supervisor.
 3. Medical aid will be made available or given to the person the force was applied to if needed.

O. Force Review Board

1. The Chief Deputy or chief deputy's designee will convene a Force Review Board once each quarter for the purpose of reviewing use of force reports submitted within each quarterly period.
2. The Force Review Board will review each incident/offense report and the use of force report and reach a consensus on the following courses of action
 - a. Training recommendations
 - b. Policy revisions
 - c. Adequacy of any internal investigation