



CLERK

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CONTROLLER/ADMINISTRATOR

Lisa Sagala
(231) 398-3504

PUBLIC SAFETY COMMITTEE MINUTES

Friday, February 5, 2021
2:00 P.M.

Manistee County Courthouse & Government Center
Board of Commissioners Meeting Room

MINUTES

Members Present: Margaret Batzer (Zoom), Karen Goodman (Zoom), and Pauline Jaquish, Chairperson

Members Absent: None.

Others Present: Lisa Sagala, Administrator/Controller; Sheriff Brian Gutowski; Jim Espvik, 911 Director; Mike Machen, Deputy 911 Director; Tpr. Skorka, MSP; Lt. Matt McCaul, MSP; Chief Josh Glass, Manistee City Police; Chief Mark Cameron, Manistee City Fire Dept.; Robert Medacco, LRBO; Sean Adams, Fire Chief Bear Lake Fire Department; Julie Griffis, HR Generalist; Julie Schmeling, Administrative Assistant; Ariel Breen, Manistee News Advocate; and Lindsey Marquardt, Chief Deputy County Clerk

The meeting was called to Order at 2:00 p.m.

The County board and its Committees are operating remotely and electronically by Zoom under PA 254 of 2020 due to the COVID-19 pandemic.

NOTE – Items requiring Board Action are indicated in BOLD

PUBLIC COMMENT

None.

SHERIFF'S OFFICE STATISTICS

Sheriff Brian Gutowski presented the monthly statistics for the month of January 2021. (APPENDIX A) There were two big incidents in the past week. Sheriff Gutowski would like to thank all agencies that responded and assisted. The office is preparing for the upcoming Criminal Justice Reform changes, it will change how the Sheriff's Office

currently handles business. The Sheriff's Office will now have a detective available daily from 6:00 a.m. to 6:00 p.m. Sheriff Gutowski is in the finishing stages of setting up an apprentice program within the office. Sheriff Gutowski, along with the Undersheriff, have been working with Dave Cox from the ISD on how they can better address truancy. There has been a new evolution in truancy with online virtual learning.

2020 ANNUAL USE OF FORCE REPORT

Sheriff Gutowski presented the DOJ Use-of-Force Policy Certificate Letter and Report. (Appendix B) There was an executive order that required law enforcement agencies, to be eligible for grant money, to have their Use-of-Force policy reviewed. This is the first time the Sheriff's Office has done a Use-of-Force report. Sheriff Gutowski will present this at the end of his annual review at the Board meeting later this month.

CITY OF MANISTEE PUBLIC SAFETY ITEMS

Chief Josh Glass addressed staffing at the City Police Department. They have currently hired two new officers and are anticipating hiring another in the coming months. Chief Glass continues to add new training curriculum to the annual training required of the officers.

Chief Mark Cameron indicates that the fire department is also in the process of hiring. Call volume for the year 2020 was at 1,273 calls. Primarily 80 percent of those calls are medical related and average 100 calls per month.

STATE POLICE ITEMS

Lt. Matt McCaul would like to thank all entities that responded to the two large incidents that occurred within the last week. They will be getting three new troopers from the next trooper school and three senior troopers will be back from the academy.

TRIBAL POLICE ITEMS

Robert Medacco indicated they have one new hire, Tom Bruce, who has been hired as a conservation officer. They currently have one opening on the police side. No major change in complaint log from last year. Sergeant Matt Umlauf has completed forensics interviewer with the Child Advocacy Center training. There has been continued work on the tribe's EOC.

MMR ITEMS

No representative from MMR appeared. Lisa Sagala will contact them on behalf of the committee to be present at the next meeting. There was discussion regarding the concern of the level of service MMR is providing. Jim Espvik indicated that at times

Advanced Life Support ambulances are on transfers and there is not a unit available within the County. With these units unavailable the City of Manistee is often dispatched to calls outside the City to assist in those matters and not available should a need arise within the City. Sean Adams with the Bear Lake Fire Department informed the committee that there are ongoing issues with response times and availability at the north end of the county as well.

EMERGENCY MANAGEMENT COORDINATOR ITEMS

Sheriff Gutowski the CERT team has been working on the COVID-19 vaccine clinics. These are unpaid dedicated volunteers working hard for the community. Would like to thank them for all their work in the community.

JAIL ADMINISTRATOR ITEMS

Sheriff Gutowski indicated that the average daily population for the jail is averaging 17 inmates. With criminal justice reform coming, that may impact future population for the jail.

9-1-1 DIRECTOR ITEMS

Deputy Director, Mike Machen, indicated a decrease in January 2021 from January 2020, having 1,891 complaints. The biggest change comes from decreased traffic stops and decreased ambulance runs. They are currently full staffed with two dispatchers still in the training phase.

DISCUSSION REGARDING MANISTEE/MUNSON AGREEMENT REGARDING AMBULANCE SERVICE

No discussion.

OTHER ITEMS

Margaret Batzer would like to thank the CERT team on their excellent work on the COVID-19 vaccine clinics.

The meeting was adjourned at the Call of the Chair at 2:40 p.m.

Pauline Jaquish, Chairperson

Margaret Batzer

Karen Goodman

APPENDIX A

Manistee County Sheriff's Office Manistee County Station Daily

Month	JANUARY 2021																															Monthly Totals
	F	SA	SU	M	T	W	TH	F	SA	SU	M	T	W	TH	F	SA	SU	M	T	W	TH	F	SA	SU	M	T	W	TH	F	SA	SU	
Day:	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	
Date:	H																															

Officers on duty:

Officers	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	
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Daily Activities:

Patrol	25.0	21.0	21.5	15.0	17.5	35.5	27.0	22.0	9.5	9.0	8.5	7.0	25.5	24.0	16.0	18.0	14.0	25.5	18.0	16.0	12.5	29.5	34.5	17.5	21.0	11.5	30.5	20.5	20.5	22.5	21.0	7.0	603.5
Complaint	19.0	14.5	5.5	6.0	15.0	5.0	6.5	15.0	11.5	11.0	9.5	14.0	5.5	6.5	22.5	10.0	5.0	10.5	16.5	15.5	9.0	8.0	8.5	13.5	11.5	15.0	15.0	8.5	9.5	14.5	13.0	343.5	
Report Writing	9.5	12.5	17.0	13.5	11.0	4.5	4.0	6.5	9.0	6.0	9.0	10.0	8.5	10.5	7.5	20.0	20.0	14.0	15.5	7.0	15.0	13.0	9.5	15.5	8.5	4.5	9.5	10.0	10.0	9.0	326.0		
Court				1.0					0.5											3.0	1.0										5.5		
Transport											3.0																					3.0	
Airport																																0.0	
Community Service																																0.0	
ACC	2.5								0.5					2.0			2.5	1.0	1.0	1.0	1.0	0.5	1.0	1.0	1.0	2.0		1.5			16.5		
Inmate Services												1.0																				2.0	
Liquor Inspection																																0.0	
Civil Process																																7.5	
Other											0.5	1.0		1.0	1.5	0.5																47.5	
Training											5.0																					56.9	
Administrative										4.0	7.0	2.5	3.0	3.0	2.0	3.0	3.0	1.0	1.0	9.5	7.5	4.0	9.0	7.0	4.0	7.0	17.5	1.0			119.0		
Total Hours Daily:	48.0	46.0	48.0	48.0	48.0	48.0	48.0	48.0	48.0	48.0	48.0	48.0	48.0	48.0	48.0	48.0	48.0	48.0	48.0	48.0	48.0	48.0	48.0	48.0	48.0	48.0	48.0	48.0	48.0	48.0	1530.5		

Daily Stats:

Verbal Warnings	2.0	1.0													1.0		4.0	1.0	2.0	3.0	2.0		1.0	3.0	1.0	8.0	5.0	4.0	5.0	10.0	4.0	82.0
Traffic	1.0	1.0														2.0													2.0	1.0		13.0
Misc.																																9.0
Felony	2.0																												1.0	1.0		8.0
Property Inspections	5.0	5.0	7.0	1.0	8.0	10.0	4.0	10.0		13.0			1.0	8.0	24.0	6.0	10.0	15.0	1.0	10.0	4.0	9.0	10.0	5.0	17.0	5.0	6.0	12.0	7.0	12.0	2.0	227.0
Civil Papers																																16.0
Traffic Stops	1.0	1.0	1.0	3.0																												95.0
Persons Investigated	15.0	19.0	5.0	9.0	9.0	20.0	14.0	6.0	7.0	6.0	13.0	9.0	10.0	39.0	8.0	8.0	7.0	18.0	22.0	11.0	8.0	11.0	12.0	22.0	11.0	8.0	10.0	15.0	22.0	4.0	384.0	
Vehicles Assisted	1.0																	2.0						1.0								4.0
Mileage	415	385	356	235	479	644	571	710	267	207	512	483	424	554	430	405	605	685	308	297	568	678	449	530	242	794	475	428	344	308	13997.0	
PI / OWI																																0.0
OWI																																1.0
PIA ONLY																																2.0
PDA	2.0	3.0	1.0								1.0	1.0	1.0	3.0	3.0	1.0	1.0	1.0	1.0	1.0	1.0							1.0	3.0		23.0	



MICHIGAN ASSOCIATION OF CHIEFS OF POLICE

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APPENDIX B

ASSOCIATION OFFICERS

President
Chief Ronald L. Wilks
Grand Blanc Township

First Vice President
Chief Larry Weeks
Easton Rapids

Second Vice President
Chief Conigan O'Donohue
Royal Oak

Third Vice President
Chief Kyle Knight
Harbor Springs

Secretary-Treasurer
Chief Curtis Caid
Livonia

Immediate Past President
Chief Terrence A. McDonnell
East Jordan

BOARD OF DIRECTORS

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District 1 - Northville

Director Ronald Moore
District 2 - Wixom

Director Paul Myszenski
District 3 - Center Line

Chief Richard Freeman, Jr.
District 4 - Davison Township

Chief Eric Marshall
District 5 - Paw Paw

Chief Gregory T. Long
District 6 - Walker

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District 7 - Owosso

Chief Anthony DeGruis
District 8 - Ypsilanti

Chief Georgia Andres
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Chief Donald Mauer
District 10 - Frankenmuth

Chief Kyle Knight
District 11 - Harbor Springs

Chief R. Blake Reiboldt
District 12 - Marquette

Chief James E. Craig
District 13 - Detroit

Col. Joseph M. Gasper
District 14 - Director, MSP

EXECUTIVE STAFF

Robert M. Stavenson
Executive Director

Neal A. Rossow
Director of Professional Development
Accreditation Program Director

Janeice Morrow
Executive Assistant

Brianna Banas
Member & Communications Specialist

DOJ Use-of-Force Policy Certification Letter

January 22, 2021

Department: **Manistee County Sheriff's Office**

On behalf of the Michigan Association of Chiefs of Police, the **Manistee County Sheriff's Office** meets certain eligibility requirements, set forth by the U.S. Department of Justice, for discretionary federal grants. The agency is qualified to receive federal grants for three years from the date of this letter.

Pursuant to Section 2 of the Presidential Executive Order on Safe Policing for Safe Communities, dated June 16, 2020, Executive Order No. 13929 (the "Executive Order on Safe Policing"), the U.S. Department of Justice's discretionary grant funding is only available to state, local, and university or college law enforcement agencies that have obtained (or are in the process of seeking) credentials certifying that they meet certain standards on use of force. The Executive Order on Safe Policing empowers the U.S. Attorney General to designate independent credentialing bodies — including the Michigan Association of Chiefs of Police — to certify that a law enforcement agency meets the conditions of eligibility for federal grants.

Following our review, we have determined that the **Manistee County Sheriff's Office** meets the conditions for certification. Accordingly, the Michigan Association of Chiefs of Police will include your agency going forward within our database of certified law enforcement agencies. On or before January 1st each year, we will provide the name of each certified law enforcement agency to the U.S. Department of Justice. The certifications will be valid for a three-year period and will need to be renewed according to that schedule.

If you would like to discuss further, please do not hesitate to contact me either by email at nrossow@michiganpolicechiefs.org or by phone at 810-434-5920. Thanks very much.

Sincerely,

Neal A. Rossow
Director of Professional Development
Accreditation Program Director



**Manistee County Sheriff's Office
2020 Annual Use of Force Report**

A Message from the Sheriff

The Manistee County Sheriff's Office annual Use of Force Report reflects our office's commitment to transparency and accountability to the citizens of Manistee County. 2020 is the first year that the Manistee County Sheriff's Office has provided Use of Force reporting outside of the statutorily mandated reports.

I believe that the information contained in this report will substantiate our commitment to providing professional and ethical law enforcement and correctional service to our community. I take pride in the work that our road patrol and corrections divisions do every single day to provide that service.

I also encourage anyone who has questions regarding the policies of the Manistee County Sheriff's Office to contact me directly.

Thank you,



Brian Gutowski

Sheriff

Manistee County Sheriff's Office

Statutory Authority and Case Law

Under Michigan law, law enforcement officers may use force to protect life and property, to effect arrests, and to prevent escapes. Private persons, except in certain limited circumstances, may only use force in self-defense or in defense of others and must exhaust all attempts to retreat before using deadly physical force, except in their own dwellings. In contrast, law enforcement officers are obligated to take action, and are required to pursue fleeing perpetrators and use force, if necessary, to stop the flight.

The use of force by a law enforcement officer often results from a subject resisting arrest. Resisting lawful arrest is a crime under Michigan law.

Although law enforcement officers achieve compliance in the vast majority of encounters with verbal commands alone, when those commands are insufficient, and subjects choose to ignore instructions or resist, officers may use an array of force options to compel subjects to submit to lawful authority. These options range from physical force, to less-lethal options (e.g., OC Spray, conducted electrical weapons (CEW), or impact weapons), to deadly physical force, when justified by the threat of violence. Law enforcement officers are not required to move sequentially from one level of force to the next. For instance, they may escalate from verbal commands to pointing a CEW or may de-escalate from a threat of force or a use of force to verbal commands, as situations evolve.

Two Supreme Court cases, *Tennessee v. Garner*, 471 U.S. 1 (1985) and *Graham v. Connor*, 490 U.S. 386 (1989), established the constitutional standards for police use of force. *Graham* established a standard of "objective reasonableness" that restricts an officer's authority to compel or constrain an individual. *Garner* sets forth the standard governing use of deadly force, namely that officers may use deadly when there is probable cause to believe that the suspect poses a threat of serious physical harm.

In *Graham*, the Supreme Court wrote that the "the 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight." *Graham* explicitly acknowledges the strain under which officers make life or death use of force decisions.

Manistee County Sheriff's Office Policy (Attached)

The Manistee County Sheriff's Office is committed to providing a high level of law enforcement service to our community. The MCSO Use of Force policy reflects our commitment to adhering to state and federal law when fulfilling that commitment.

The Manistee County Sheriff's Office Use of Force policy has been certified by the Department of Justice and fulfills the requirements of the Safe Policing for Safe Communities Executive Order. The two required mandates for this Executive Order were that a law enforcement agency's Use of Force Policy adhere to all applicable federal, state, and local laws and contain a policy regarding respiratory restraint (commonly known as choke holds). The Manistee County Sheriff's Office policy not only includes these two required policies, but also includes all the other suggestions within the Executive Order including termination of Use of Force, duty to intervene, training protocols on use of force and de-escalation, appropriate medical care, warn before shooting, shooting at or from a moving vehicle, warning shots, and no-knock warrants.

The Manistee County Sheriff's Office policy manual requires the Undersheriff to complete an annual Use of Force report for the Sheriff. In the interest of transparency with the community we serve, this Use of Force Report will be presented publicly.

OVERSIGHT

Reporting the Use of Force

The MCSO Use of Force policy requires that any use of force by a member of the MCSO be documented promptly, completely, and accurately in an appropriate report, depending on the nature of the incident.

Use of Force Review

Deputies and Corrections Officers are required to notify a supervisor as soon as practicable following the application of force. A copy of the Use of Force incident and report is initially reviewed by the MCSO Use of Force instructor for adherence to policy and training. The Use of Force incident and policy is also reviewed by the Undersheriff to ensure compliance with the Use of Force policy and to address any training issues.

Investigating Misconduct

If a member of the Manistee County Sheriff's Office is accused of misconduct, the Sheriff, Undersheriff, and Jail Administrator begin the initial investigation into the misconduct. If any part of the allegation is substantiated, the investigation is turned over to Michigan Sheriff's Association MISSION investigators.

FIREARMS DISCHARGES

During 2020, the Manistee County Sheriff's Office did not have any incidents where a firearm was discharged to protect from the threat of serious bodily injury or death. Firearms discharges during 2020 were limited to dispatching wild game who were severely injured as a result of vehicle crashes. The Manistee County Sheriff's Office also had no unintentional discharges during 2020.

FIREARMS DISPLAY

During 2020, the Manistee County Sheriff's Office displayed two firearms during 2020. The first incident involved the arrest of a subject who had lead deputies on a pursuit. After coming to a stop, the driver was compliant with deputies and was taken into custody without incident. The second occurred during the arrest of a felony narcotics suspect. That suspect was also compliant with verbal commands and secured without incident.

CONDUCTED ELECTRICAL WEAPONS

The use of conducted electrical weapons (CEWs) – also referred to as electronic control weapons or tasers – is a less-lethal use of force option for law enforcement personnel. Under MCSO policy, CEWs may be used to control a violent or potentially violent individual. The appropriate use of such a device should result in fewer serious injuries to deputies and suspects.

CEWs use replaceable cartridges containing compressed nitrogen to propel two small probes that are attached to the handheld unit by insulated conductive wires. The wires transmit short controlled pulses of electricity in five-second cycles that stimulate the skeletal muscles of the human body. These short electrical pulses affect the sensory and motor functions of the peripheral nervous system causing

temporary incapacitation by preventing coordinated muscular action, without affecting vital organs. Once the five-second cycle is complete, an immediate recovery occurs. CEWs collect and store data regarding each use for post-incident review.

Research conducted by PERF, a nonprofit organization focused on policing issues, suggests that the likelihood of injuries to both suspects and police officers are reduced among agencies that authorize CEW usage compared to those that do not. Every member of the Manistee County Sheriff's Office road patrol division and corrections division are trained and authorized to use CEWs.

The use of the CEWs in cartridge mode is a force option that allows the police to engage noncompliant and/or aggressive subjects from a distance, providing members of our office more time to react and develop a tactical plan in what are typically fast-paced and violent situations. Additionally, CEWs often help members gain rapid control and compliance, thereby minimizing the likelihood of injury or fatal medical consequences for both members and subjects. Of course, when subjects are presenting members of our office or others with an imminent threat of serious bodily harm or death, the use of CEWs may not be the appropriate or reasonable option.

CEW Discharges

Jail

The corrections staff at the Manistee County Jail lodged 498 individuals during 2020. They also provided for the safety and security for an average of 23 inmates (Average Daily Population) each day during 2020.

The Manistee County Jail did not have a single CEW discharge during 2020.

Road Patrol

The Manistee County Sheriff's Office road patrol handled 7920 calls for service during 2020. Of these complaints, 2840 resulted in written complaints being filed. The MCSO road patrol also recorded 249 arrests during 2020.

Of those arrests, the road patrol only had one CEW discharge. This one discharge accounts for .4% of all arrests made during 2020. This also accounts for less than .1% of all complaints handled by the Manistee County Sheriff's Office road patrol.

The one discharge incident involved an EDP (Emotionally Disturbed Person) who was brandishing a knife during his interaction with the deputy.

Injuries

The sole discharge of a CEW by the Manistee County Sheriff's Office did not result in any injury to the suspect or to the deputy.

GENERAL USES OF FORCE

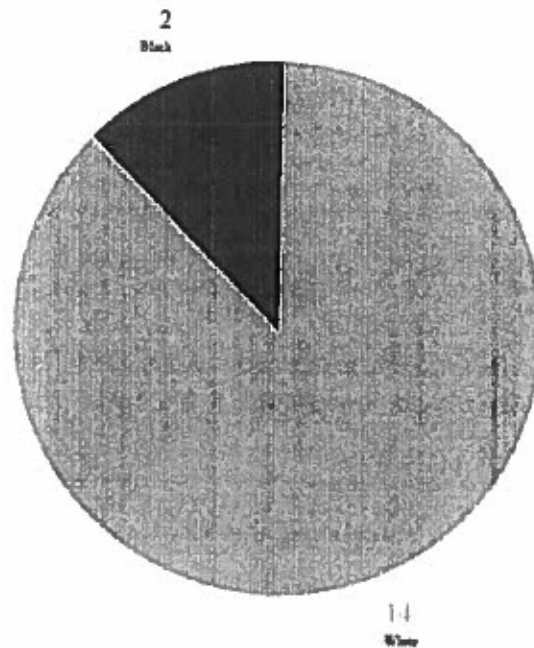
General uses of force consist of hands on force utilized to subdue and uncooperative or resistive subject. The general use of force consists of uses of force that do not include tools such as a firearm or CEW. The road patrol is typically forced to use force when a subject refuses to comply or resists arrest. The

Manistee County Corrections Staff typically uses force to secure unruly inmates, protect inmates from self-harm, stop fights among inmates, or move uncooperative inmates from their cells.

Jail

The Manistee County Jail Corrections Staff utilized force on 16 occasions during 2020. These 16 uses of force incidents were all "hands on" force where inmates failed to comply with verbal commands/orders.

MCSO JAIL Use of Force by Race



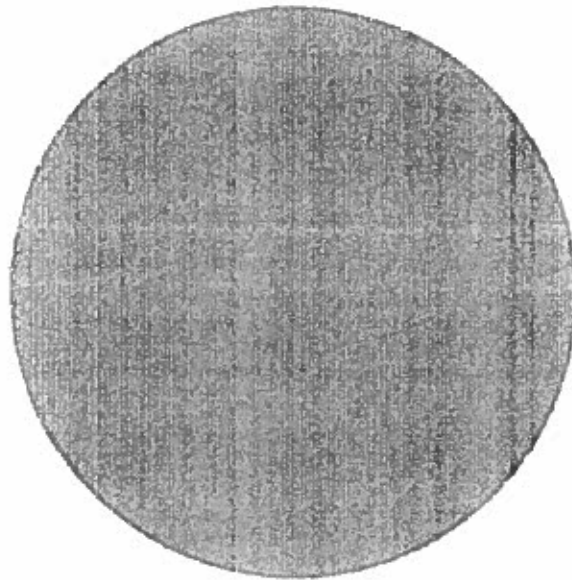
Injuries

The use of force in the Manistee County Jail during 2020 resulted in no injuries to any inmates. One corrections officer sustained injury during one incident. The corrections officer was treated and released from Munson Manistee Hospital.

Road Patrol

The Manistee County Sheriff's Office road patrol utilized force on 5 occasions during 2020. This equates to 2% of the 249 arrests made by deputies of the road patrol. This is .2% of all written complaints handled by the road patrol and .06% of calls for service that result in a use of force incident.

MCSO Road Patrol Use of Force by Race



3
4/20

Injuries

Of the five general use of force incidents from the road patrol, no reports of injuries to suspects or deputies were reported.

CONCLUSION

This report provides a comprehensive view of uses of force by members of the Manistee County Sheriff's Office in 2020. It reflects the Manistee County Sheriff's Office commitment to our mission statement of providing courteous professional service with respect for all.

Use of Force

300.1 PURPOSE AND SCOPE

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 this office is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner.

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 Conducted Energy Device policies.

300.1.1 DEFINITIONS

Definitions related to this policy include:

Deadly force - Force reasonably anticipated and intended to create a substantial likelihood of causing death or very serious injury.

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.

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.

Imminent - Ready to take place; impending. Note that imminent does not mean immediate or instantaneous.

Totality of the circumstances - All facts and circumstances known to the deputy at the time, taken as a whole, including the conduct of the deputy and the subject leading up to the use of force.

300.2 POLICY

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 Manistee County 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.

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300.2.1 DUTY TO INTERCEDE AND REPORT

Any deputy present and observing another law enforcement officer or a member using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force.

Any deputy who observes another law enforcement officer or a member use force that is potentially beyond that which is objectively reasonable under the circumstances should report these observations to a supervisor as soon as feasible.

300.2.2 PERSPECTIVE

When observing or reporting force used by a law enforcement officer, each deputy should take into account the totality of the circumstances and the possibility that other law enforcement officers may have additional information regarding the threat posed by the subject.

300.3 USE OF FORCE

Deputies shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the deputy at the time of the event to accomplish a legitimate law enforcement purpose.

The reasonableness of force will be judged from the perspective of a reasonable deputy on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that deputies are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.

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.

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 tools, weapons or methods provided by this 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 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.

300.3.1 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

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. These factors include but are not limited to:

- (a) Immediacy and severity of the threat to deputies or others.

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- (b) The conduct of the individual being confronted, as reasonably perceived by the deputy at the time.
- (c) Deputy/subject factors (e.g., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of deputies available vs. subjects).
- (d) The effects of suspected drug or alcohol use.
- (e) The individual's mental state or capacity.
- (f) The individual's ability to understand and comply with deputy commands.
- (g) Proximity of weapons or dangerous improvised devices.
- (h) The degree to which the individual has been effectively restrained and his/her ability to resist despite being restrained.
- (i) The availability of other reasonable and feasible options and their possible effectiveness.
- (j) Seriousness of the suspected offense or reason for contact with the individual.
- (k) Training and experience of the deputy.
- (l) Potential for injury to deputies, suspects, and others.
- (m) Whether the individual appears to be resisting, attempting to evade arrest by flight, or is attacking the deputy.
- (n) The risk and reasonably foreseeable consequences of escape.
- (o) The apparent need for immediate control of the individual or a prompt resolution of the situation.
- (p) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the deputy or others.
- (q) Prior contacts with the individual or awareness of any propensity for violence.
- (r) Any other exigent circumstances.

300.3.2 PAIN COMPLIANCE TECHNIQUES

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 office-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 individual can comply with the direction or orders of the deputy.
- (c) Whether the individual 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.

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300.3.3 USE OF FORCE TO SEIZE EVIDENCE

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 Manistee County Sheriff's Office for this specific purpose.

300.3.4 ALTERNATIVE TACTICS - DE-ESCALATION

When circumstances reasonably permit, deputies should use non-violent strategies and techniques to decrease the intensity of a situation, improve decision-making, improve communication, reduce the need for force, and increase voluntary compliance (e.g., summoning additional resources, formulating a plan, attempting verbal persuasion).

300.3.5 RESPIRATORY RESTRAINT

The use of a respiratory restraint, also known as a chokehold, is limited to circumstances where deadly force is authorized and if applied, is subject to the same guidelines and requirements as a carotid control hold.

300.4 DEADLY FORCE APPLICATIONS

When reasonable, the deputy shall, prior to the use of deadly force, make 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.

Use of deadly force is justified in the following circumstances involving imminent threat or imminent risk:

- (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.
- (b) A deputy may use deadly force to stop a fleeing subject when the deputy has probable cause to believe that the individual has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the deputy reasonably believes that there is an imminent risk of serious bodily injury or death to any other person if the individual is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if a deputy reasonably believes that the individual has a weapon or is attempting to access one and intends to use it against the deputy or another person. An imminent danger may also exist if the individual is capable of causing serious bodily injury or death without a weapon, and the deputy believes the individual intends to do so.

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300.4.1 MOVING VEHICLES

Shots fired at or from a moving vehicle involve additional considerations and risks, and are rarely effective.

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.

A deputy should only discharge a firearm at a moving vehicle or its occupants when the deputy reasonably believes there are no other reasonable means available to avert the imminent threat of the vehicle, or if deadly force other than the vehicle is directed at the deputy or others.

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

300.5 REPORTING THE USE OF FORCE

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

300.5.1 NOTIFICATIONS TO SUPERVISORS

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

- (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 the Conducted Energy Weapon (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 CONSIDERATIONS

Once it is reasonably safe to do so, medical assistance shall be obtained for any person who exhibits signs of physical distress, has sustained visible injury, expresses a complaint of injury or continuing pain, or was rendered unconscious. Any individual exhibiting signs of physical distress

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after an encounter should be continuously monitored until he/she can be medically assessed. Individuals should not be placed on their stomachs for an extended period, as this could impair their ability to breathe.

Based upon the deputy's initial assessment of the nature and extent of the individual's injuries, medical assistance may consist of examination by an emergency medical services provider or medical personnel at a hospital or 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).

Individuals 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 medical emergency should request medical assistance as soon as practicable and have medical personnel stage away.

See the Medical Aid and Response Policy for additional guidelines.

300.7 SUPERVISOR RESPONSIBILITIES

A supervisor should respond to a reported application of force resulting in visible injury, if reasonably available. When a supervisor is able to respond to an incident in which there has been a reported application of force, the supervisor is expected to:

- (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) When possible, separately obtain a recorded interview with the individual upon whom force was applied. If this interview is conducted without the individual having voluntarily waived his/her *Miranda* rights, the following shall apply:
 1. The content of the interview should not be summarized or included in any related criminal charges.
 2. The fact that a recorded interview was conducted should be documented in a property or other report.

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3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- (d) 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.
 1. These photographs should be retained until all potential for civil litigation has expired.
- (e) Identify any witnesses not already included in related reports.
- (f) Review and approve all related reports.
- (g) Determine if there is any indication that the individual may pursue civil litigation.
 1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.
- (h) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy noncompliance or if for any reason further investigation may be appropriate.

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 COMMAND STAFF RESPONSIBILITY

A member of the command staff shall review each use of force by any personnel to ensure compliance with this policy and to address any training issues.

300.8 TRAINING

Deputies will receive periodic training on this policy and demonstrate their knowledge and understanding.

Subject to available resources, deputies should receive periodic training on:

- (a) Guidelines regarding vulnerable populations, including but not limited to children, elderly, pregnant persons, and individuals with physical, mental, or intellectual disabilities.
- (b) De-escalation tactics, including alternatives to force.

300.9 USE OF FORCE ANALYSIS

At least annually, the Road Patrol Undersheriff 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.

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- (d) Policy revision recommendations.