

## **54 - USE OF FORCE**

Law enforcement personnel may use the level of control, which is reasonably necessary to perform their duties. In many situations, law enforcement personnel can gain control without the use of physical force. Law enforcement personnel may use varying levels of physical force and law enforcement defensive equipment to control the subject's actions, based on the resistance offered.

Law enforcement personnel may encounter situations where certain immediate and drastic measures must be undertaken to protect human life. In these situations, law enforcement personnel may use techniques or weapons not authorized by policy; however, in doing so, they must exercise the utmost common sense and caution reasonable under the circumstances.

### **54.01 - Authority**

See FSM 5301 for authorities related to use of force.

### **54.02 - Objectives**

To ensure appropriate and acceptable use of defensive equipment and use of force by law enforcement personnel.

### **54.06- References**

United States Marshal Policy and Procedure Manual. This manual is available at local U.S. Marshal Service offices.

### **54.1 - Levels of Resistance and Control**

Both resistance and control may be in the form of verbal responses, commands, or physical actions.

### **54.11 - Resistance**

Subjects may offer resistance when law enforcement personnel attempt to control them. The amount and type of resistance may vary. See sections 54.11a-11e for direction on the various categories of resistance and action.

#### **54.11a - Compliant**

The majority of law enforcement encounters involve cooperative compliance in response to lawful requests or directions from law enforcement personnel. The likelihood of a physical response is minimal.

#### **54.11b - Resistant (Passive)**

A subject may display low levels of non-compliance. At this stage, the subject is generally not combative but requires some degree of physical contact by law enforcement personnel to elicit compliance. For example, a subject verbally refuses to go with the officer following a lawful arrest. The subject offers no physical resistance other than to sit down and remain seated. This subject would be at the resistant (passive) level because the subject is resisting, but using no force and/or energy to enhance non-compliance.

#### **54.11c - Resistant (Active)**

At this level, the scope and intensity of the subject's resistance has increased. Indifference to control has changed or the subject has exhibited physical defiance. For example, during an arrest, the subject grabs the steering wheel of the car to prevent extraction from the vehicle. The subject would be classified at the resistant (active) level because the subject is using force and/or energy to maintain resistance.

#### **54.11d - Assaultive (Bodily Harm)**

The officer is met with active, hostile resistance whereby an attack upon an officer or another person, whether in response to the officer's attempt to gain lawful compliance or as an unprovoked attack, is attempted or has occurred.

#### **54.11e - Assaultive (Serious Physical Injury or Death)**

This category represents the least encountered but most serious threat to the safety of law enforcement personnel or another person. There must be reasonable perception on the part of the officer that the officer or another person is subject to imminent death or serious physical injury as a result of the circumstances and/or nature of an attack.

#### **54.12 - Control**

Law enforcement personnel may use the control necessary to stop the unlawful actions of a subject(s) or to protect a subject(s) from injuring themselves or others. The type of control law enforcement personnel use may vary based upon the facts and circumstances confronting them. See sections 54.12a-54.12e for a description of the various levels of control.

Law enforcement personnel shall assess all contacts to determine the appropriate level of control. When possible, law enforcement personnel shall attempt to gain control of subjects by using verbal commands/directives.

If verbal commands/directives are ineffective or are not feasible, law enforcement personnel may escalate the control methods. If force is necessary, law enforcement personnel shall determine which control technique(s) or authorized defensive equipment would best de-escalate the incident and bring it under control in the safest manner.

### **54.12a - Verbal Commands**

This level includes fundamental verbal skills and strategies that are available to the officer. In addition, the physical presence of the officer can be included in this category.

### **54.12b - Contact Controls**

When confronted with a subject demonstrating resistant (passive) behavior, the officer may use low-level physical tactics to gain control and cooperation. These tactics can be psychologically manipulative as well as physical, and include additional verbal persuasion skills, pressure point applications, and escort positions. For example, if a person who is to be placed under arrest refuses to cooperate with the officer, but remains at the lowest end on the resistance scale and is passive in refusal; the officer would most likely respond with contact controls. The officer could initiate controlled contact with the individual and direct compliance.

### **54.12c - Compliance Techniques**

When a subject becomes resistant (active), the officer may use physical control tactics of sufficient force to overcome the active resistance and remain vigilant for more aggressive behavior from the subject. For example, come-along holds, pressure point applications, joint locks, relative positioning strategies, takedowns, and aerosol subject restraints.

### **54.12d - Defensive Tactics**

At this stage, the subject attempts to assault the officer or another person. The officer is justified in taking appropriate physical action to immediately stop the assaultive action and to maintain control of the subject. For example, the use of blocking and striking techniques, impact weapons, electronic control devices, or aerosol subject restraints may constitute a reasonable amount of force to stop an assault.

### **54.12e - Deadly Force**

Deadly force shall be used only when necessary; that is:

1. When the officer has a reasonable belief that the subject of such force poses an imminent danger of death or serious physical injury to the officer or another person.
2. To prevent the escape of a fleeing subject if there is probable cause to believe:
  - a. The subject has committed a felony involving the infliction or threatened infliction of serious bodily injury or death; and
  - b. The escape of the subject would pose an imminent danger of death or serious bodily injury to the officer or to another person.

## **54.2 - Escalation and De-Escalation of Force**

1. Law enforcement personnel may escalate to the level of force that is reasonable and necessary to control the situation, based on the resistance encountered. Law enforcement personnel shall consider the potential for injury when escalating to each greater level. As the subject begins to de-escalate or lessen the resistance offered, law enforcement personnel shall similarly de-escalate.
2. Law enforcement personnel are not required to cease all control. Control must be maintained, but law enforcement personnel shall de-escalate to a level commensurate with the level of resistance the subject is offering.

### **54.21 - Factors That Affect Use of Force**

Law enforcement personnel shall consider the following factors when deciding to escalate or de-escalate the level of control:

1. Size and physical abilities of law enforcement personnel and the subject.
2. Environmental conditions.
3. Nature of the contact.
4. Exigent conditions, including the number of law enforcement personnel and subjects involved, and availability of back-up.
5. Reaction time. Consider the fact that action is faster than reaction.
6. Reactionary gap. This is the safety zone between the officer and the subject that affords law enforcement personnel more time to react to aggression.

## **54.3 - Non-Lethal Defensive Equipment**

### **54.31 - Handcuffs and Restraints**

Handcuffs, flex cuffs, electronic subject restraint belts, or other restraints may be used to restrain the movements of a subject in a manner that provides a safe means of transportation for law enforcement personnel and others. Restraints also may be used to control further physical resistance from a subject or to ensure officer safety during threatening conditions.

#### **54.31a - Procedures for Use of Handcuffs and Restraints**

1. Law enforcement personnel shall handcuff all subjects taken into custody behind the subject's back to ensure the safety of the subject, except when:
  - a. In the officer's judgment, the subject has an injury that does not permit the subject's arms to move behind the back.

b. In the officer's judgment, the subject's age, physical condition, or physical limitations warrant a change in this procedure.

c. The subject is being transported a long distance and, in the officer's judgment, handcuffing the subject behind the back would be impractical.

In the circumstances described in paragraphs 1a through 1c, law enforcement personnel shall handcuff the subject in the front, using a restraining belt or chain and leg restraints.

2. Law enforcement personnel shall double lock handcuffs when they are applied, except when due to the arrest environment, it would be tactically unsafe. Double lock handcuffs as soon as possible after leaving the unsafe environment.

3. Law enforcement personnel shall, when transporting a handcuffed subject, ensure that unnecessary tightness, which may cause injury, does not occur.

4. Law enforcement personnel shall not normally handcuff a subject to fixed objects such as posts, vehicles, buildings, and so forth.

5. Law enforcement personnel shall utilize appropriate and reasonable control techniques to prevent injuries when a handcuffed subject resists the officer.

6. Law enforcement personnel shall apply handcuffs to subjects taken into custody before conducting a search incident to arrest.

7. Law enforcement personnel shall use only authorized handcuffs and restraints (FSM 5387.2, para.3).

8. Law enforcement personnel may use handcuffs to affect a take-down technique or techniques other than routine applications when necessary to control a subject.

## **54.32 - Electronic Control Devices and Electronic Restraint Belts**

### **54.32a - Electronic Restraint Belts**

Electronic restraint belts provide law enforcement personnel with an effective means to control and transport subjects who have or may exhibit potentially violent behavior. They provide for a temporary incapacitation of subjects while providing a degree of safety for both the officer and the subject.

1. Situations. Electronic restraint belts may be employed by trained law enforcement personnel in the following situations:

a. To restrain a subject who has exhibited or may exhibit potentially violent behavior during transport.

- b. To remove a subject from a remote area when normal restraining devices would be impractical.
  - c. To control a potentially violent subject during the normal arrest processing or court proceedings, with the permission of the court.
2. Guidelines and Procedures. Following is a list of guidelines and procedures for use of electronic restraint belts:
- a. Law enforcement personnel shall use only authorized electronic restraint belts (FSM 5387.2, para. 3).
  - b. Law enforcement personnel may use authorized electronic restraint belts only after meeting training requirements (FSM 5372.53).
  - c. The responsible supervisor should notify the special agent in charge (for law enforcement personnel assigned to a region) or the Washington Office, Director of Law Enforcement and Investigations (for law enforcement personnel assigned to the Washington Office), or their designated acting by telephone, no later than the end of the next regular work day, following the activation of an electronic restraint belt while acting within the scope of employment, other than for training or administrative purposes.

#### **54.32b - Electronic Control Devices**

Electronic control devices (ECDs) provide law enforcement personnel with an effective control option (FSM 5372.51). They provide a temporary incapacitation of subjects while providing a degree of safety for both the officer and the subject.

1. Situations. No policy or guideline can anticipate every situation that law enforcement officers might encounter when considering using ECDs. The circumstances under which ECDs may be employed by trained law enforcement personnel include, but are not limited to, the following situations:
  - a. To affect custody during an arrest of a subject who actively resists or threatens to actively resist and does not comply with verbal commands. This level of resistance threatens the personal safety of the officer or others.
  - b. To defend oneself or others from an attack or threat of an attack by an animal.

2. Deployment and Aftercare.

a. A non-contact demonstration of the ability to discharge electricity (spark display) may be used to gain compliance with verbal commands. A spark display is conducted only when the cartridge has been removed from the device.

b. The ECD may also be used in a Touch Stun mode. Use of the Touch Stun mode is subject to the same deployment guidelines as that of the ECD in cartridge deployments.

c. Normally, ECD projectiles may be removed from the subject once they have been restrained. Take precautions to protect against the transfer of bodily fluids.

d. Take the subject to an emergency care facility in the following circumstances:

(1) For removal of the projectile in cases where it has penetrated sensitive tissues areas such as the groin, eye, female breast, face or neck or when the deploying officer or supervisor determines it is necessary.

(2) High risk subjects (pregnancy, excited delirium, elderly or very young, under the influence of drugs, known relevant medical conditions, and so forth).

(3) Individuals have received more than three exposures.

(4) If the subject displays signs of distress including loss of consciousness, chest pain, difficulty breathing, and so forth.

(5) If the subject requests medical treatment.

e. The special agent in charge (for law enforcement personnel assigned to a region) or the Washington Office, Director of Law Enforcement and Investigations (for law enforcement personnel assigned to the Washington Office), or their designated acting must be notified by telephone, not later than the end of the next regular work day, following the deployment of an electronic control device while acting within the scope of employment, other than for training or administrative purposes. The responsible supervisor should make the notification.

3. Flying with an ECD on commercial aircraft. Law enforcement personnel may carry an ECD onboard a commercial aircraft or common carrier provided they are flying armed and are in compliance with Transportation Security Administration requirements.

4. Flying with an ECD on Forest Service-owned, leased, or contracted aircraft. Law enforcement personnel may carry an ECD onboard a Forest Service-owned, leased, or contracted aircraft pursuant to Transportation Security Administration requirements.

### **54.33 - Aerosol Subject Restraints**

Aerosol subject restraints (ASRs) provide law enforcement personnel with an effective control option. The ASRs provide a temporary incapacitation of subjects while providing a degree of safety for both the officer and the subject.

The ASRs may be used by trained law enforcement personnel in the following situations:

1. To effect custody during a lawful arrest of a subject who physically resists or threatens to physically resist and does not comply with verbal requests. This level of subject action is considered resistant (active).
2. To defend oneself or others from attack by a subject or animal.

### **54.33a - Procedures on Use of Aerosol Subject Restraints**

1. Law enforcement personnel shall carry an aerosol subject restraint (ASR) in a manner that provides for the adequate security and retention of the ASR when not in use.
2. Law enforcement personnel may carry an approved ASR (FSM 5387.2, para. 1) only after meeting the training requirements (FSM 5372.22).
3. In the event law enforcement personnel are personally threatened with an ASR, they may use that degree of force reasonable and necessary in the circumstances to defend against the assault.
4. The responsible supervisor should notify the special agent in charge (for law enforcement personnel assigned to a region) or the Washington Office, Director of Law Enforcement and Investigations (for law enforcement personnel assigned to the Washington Office), or their designated acting must be notified by telephone, not later than the end of the next regular work day, following the use of an aerosol subject restraint on a person while acting within the scope of employment, other than for training or administrative purposes.

### **54.34 - Impact Weapons**

Impact weapons provide law enforcement personnel with an effective control option when confronted by potentially violent subjects. Impact weapons provide for the incapacitation of subjects by creating a temporary motor dysfunction. Trained law enforcement personnel may use impact weapons in the following situations:

1. To affect custody during a lawful arrest of a subject who reacts or threatens to react aggressively or violently and does not comply with verbal commands. This level of resistance threatens the personal safety of the officer or others without reaching a deadly force level and is an assaultive (bodily harm) level of resistance.
2. To defend oneself or others from attack by a subject or animal.

#### **54.34a - Procedures for Use of Impact Weapons**

1. Law enforcement personnel shall carry only authorized impact weapons (FSM 5387.2).
2. Law enforcement personnel may carry authorized impact weapons only after meeting training requirements (FSM 5372.22).
3. In situations where the use of an impact weapon is justified, law enforcement personnel may use a flashlight as an impact weapon when:
  - a. The authorized impact weapon is unavailable for use.
  - b. The authorized impact weapon is not readily accessible during an unexpected or spontaneous confrontation.
4. The flashlight must be utilized in a manner that is consistent with the techniques as instructed in the impact weapons training program the employee is certified in. Its use must be in strict compliance with all applicable sections of this policy and agency use of force policy.
5. The special agent in charge (for law enforcement personnel assigned to a region) or the Washington Office, Director of Law Enforcement and Investigations (for law enforcement personnel assigned to the Washington Office), or their designated acting must be notified by telephone, no later than the end of the next regular work day, following the use of an impact weapon on a person while acting within the scope of employment, other than for training or administrative purposes. The responsible supervisor should make the notification.

#### **54.4 - Firearms**

Firearms provide law enforcement personnel with the means to protect themselves or others from the imminent threat of death or serious physical injury. Consider the discharge of a firearm as deadly force and use only when necessary; that is:

1. When the officer has a reasonable belief that the subject of such force poses an imminent danger of death or serious physical injury to the officer or another person.
2. To prevent the escape of a fleeing subject if there is probable cause to believe:
  - a. The subject has committed a felony involving the infliction or threatened infliction of serious bodily injury or death; and
  - b. The escape of the subject would pose an imminent danger of death or serious bodily injury to the officer or to another person.
3. Firearms must not be fired solely to disable a moving vehicle or watercraft. Firearms may be fired at the driver or other occupants of a moving vehicle only when:
  - a. The officer has a reasonable belief that the subject poses an imminent danger of death or serious physical injury to the officer or to another person; and
  - b. The public safety benefits of using such force outweigh the risks to the safety of the officer or other persons.
4. Firearms may be fired from a moving vehicle or watercraft only when:
  - a. The officer has reasonable belief that the subject poses an imminent danger of death or serious physical injury to the officer or to another person; and
  - b. The public safety benefits of using such force outweigh the risks to the safety of the officer or other persons.
5. Do not fire warning shots.
6. A verbal warning to submit to the authority of the officer should be given prior to the use of deadly force, if feasible, and if to do so would not increase the danger to the officer or others.
7. Firearms may be directed against dogs or vicious animals when necessary in self-defense or defense of others.
8. Firearms may be used to destroy an animal that represents a threat to public safety, or as a humanitarian measure when the animal is seriously injured.
9. Firearms may be used to destroy an animal when consistent with state wildlife laws for the destruction of animals found to be harassing wildlife.

## **54.41 - Procedures for Use of Firearms**

1. Firearms and ammunition must be carried by uniformed law enforcement personnel in issued and authorized holsters and ammunition carriers. Non-uniformed law enforcement personnel shall carry their firearms in a holster that provides safety and security comparable to the issued and authorized uniform duty holster.
2. Law enforcement personnel may draw or display a firearm only when it is reasonably believed that a degree of imminent danger exists that may require the use of the firearm for their safety or the safety of others.
3. Law enforcement personnel shall carry identifying credentials and badge when carrying a concealed weapon unless working undercover assignments.
4. Law enforcement personnel shall carry only approved firearms (FSM 5381.1).
5. Law enforcement personnel may carry firearms off duty. Firearms carried while off duty must meet the specifications described in FSM 5381.11 and FSM 5381.12 and must be carried in a concealed manner. Law enforcement personnel shall submit the weapon for inspections and shall qualify prior to its use in an off-duty status.
6. The responsible supervisor should notify the special agent in charge (for law enforcement personnel assigned to a region) or the Washington Office, Director of Law Enforcement and Investigations (for law enforcement personnel assigned to the Washington Office), or their designated acting shall by telephone the same day, but in no case later than the end of the next regular work day, following the discharge of a firearm at a person.