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## **DISCLAIMER**

This policy is intended for internal agency use only and is not to be applied in any criminal or civil proceeding, nor does it create a higher legal standard of safety or care with respect to third parties. Violations of this policy will only be the basis of administrative discipline, while violations of the law will be the basis for civil and criminal penalties in a court of law.

## **POLICY**

It is the policy of the Douglas County Sheriff's Office (DCSO) that DCSO members will use only that amount of force which is objectively reasonable to take a subject into custody or otherwise bring an incident under control while protecting the safety of the member and others. In determining what degree of force is objectively reasonable, members will evaluate each situation requiring the use of force in light of known circumstances at the time of the event. DCSO members maintain the right to self-defense and have a duty to protect the lives of others. Members will refer to the "Use of Force – Reporting" policy for reporting procedures and the "Use of Force – Deputy-Involved Incident Investigations" policy for procedures to be followed when the use of force results in serious bodily injury or death.

## **DEFINITIONS (4.1.2)**

BSO: Building Security Officer.

Choke Hold: Any technique that restricts the intake of oxygen for the purpose of gaining control of a subject.  
(4.1.7)

Commander: For purposes of this policy, a Commander refers to Bureau Captains within the Operations Corps, and the Administration Chief Deputy within the Administration Corps.

Deadly Force: Any use of force that is likely to cause death or serious bodily harm.

De-escalation: The application of verbal and non-verbal techniques or strategies to reduce the intensity of an interaction(s) and potential for physical altercation. (4.1.1)

Deputy: A sworn member of the DCSO.

ESO: Entrance Security Officer.

Force: Any physical effort used to control or restrain a subject or to overcome the resistance of a subject.

Less-Lethal Force: Any use of force other than that which is considered deadly force.

Member: For the purposes of this policy, a member refers to sworn Deputies, Entrance Security Officers, and Building Security Officers.

Objectively Reasonable Force: The amount of force that a reasonable member would use when faced with the circumstances presented. A member's use of force is governed by the reasonableness standard set forth in *Graham v. Connor*, 490 US 386, 395 (1989). The inquiry is an objective one. The question is whether the facts Use of Force

and circumstances make the force reasonable without regard to the member's underlying intent or motivation. The reasonableness of a particular use of force will be judged from the perspective of a reasonable member on the scene, rather than with the 20/20 vision of hindsight. (1.2.2)

Reasonable Belief: A belief that a reasonably prudent member would hold given the facts and circumstances the member knows or should know. (4.1.2)

Serious Bodily Injury: Injury that creates a substantial risk of death, permanent disfigurement, or protracted loss or impairment of the function of any part or organ of the body. (4.1.2)

Vascular Neck Restraint: Any use of force application intended to gain control of a subject by restricting blood flow to the brain for the purpose of incapacitation. (4.1.6)

## PROCEDURE

### I. Variables in Use of Force Options

- A. DCSO members will demonstrate the highest degree of ethical behavior and professional conduct at all times.
- B. The DCSO realizes and acknowledges that during intense, uncertain, and/or rapidly evolving confrontations, it may be reasonable for members to use improvised techniques and weapons that are not part of DCSO's formal training program. However, the agency expects that its training and policies will be followed except in rare and unique circumstances, and the use of improvised techniques and weapons will be an exception that is justified by the totality of the circumstances.
- C. When determining the reasonableness of a member's actions, the totality of the circumstances will be considered. Circumstances such as the size disparity between the member and the subject, the number of potential assailants and DCSO members, environmental risk factors, and any other circumstances that can be articulated that would aggravate the danger level for DCSO members or citizens will be considered.

### II. Authorization for Use of Force

- A. Members will use only the reasonable amount of force necessary to accomplish lawful objectives and apply de-escalation techniques when possible. (4.1.1)
  - 1. A suspect does not have to be the first to exercise force or gain an advantage in a confrontation in order for force to be justifiable.
  - 2. Nothing in this policy should be interpreted to mean that a member is required to engage in hands on techniques before resorting to that method and type of force that will most safely, effectively, and humanely bring a suspect under physical control.
  - 3. Members actively engaged in the application of force must ensure that the use of force does not continue beyond the point that is objectively reasonable (see the definition for "Objectively Reasonable Force" in the definition section above). Members, and Supervisors who are present, will continually reassess the situation and ensure the level of force used is objectively reasonable.
- B. Deputies, regardless of seniority or rank, have an affirmative duty to attempt to intervene to prevent the use of excessive force and may be criminally and/or civilly liable if they fail to do so when:
  - 1. The Deputy had reason to know that excessive force would be or was being used.

-AND-

2. The Deputy had both the opportunity and the means to prevent the harm from occurring.
- C. Deputies, regardless of seniority or rank, will immediately report incidents of excessive force to a Command Officer while still on-scene or upon becoming aware of the incident.
- D. DCSO members who may be called upon to utilize use of force as part of their official duties include:
1. Deputies.
    - a. Deputies will be armed with approved firearms in accordance with the DCSO "Firearms" policy and the Approved Weapons List.
    - b. Deputies up to and including the rank of Lieutenant will carry two approved less-lethal weapons as follows:
      - (1) Less-lethal weapons that meet the requirement include:
        - (a) Taser Energy Weapon (TEW).
          - i. If the member has been issued a TEW one of the less-lethal weapons must be a TEW.
        - (b) OC.
        - (c) Baton.
        - (d) Police Canine.
          - i. A Police Canine is considered a less-lethal weapon and will constitute one of the two less-lethal weapons carried by K9 Team Deputies.
        - (e) PepperBall BLAST.
      - (2) The two less-lethal weapons will be carried when a member is on-duty and in the Class A or Utility Uniform with the following exception:
        - (a) Commanders will have discretion to determine plain clothes assignments that are required to carry two less-lethal weapons or uniformed assignments that are not required to carry two less-lethal weapons due to the nature of the assignment.
        - (b) Exceptions will be documented on an Inter-Bureau and submitted to the Administrative Coordinator for record keeping purposes.
  2. Entrance Security Officers (ESOs).
    - a. ESO I's may be armed with approved less-lethal weapons (see the Approved Weapons List).

- b. ESO II's will be armed with approved lethal and less-lethal weapons (see the DCSO "Firearms" policy and Approved Weapons List for approved lethal weapons).
- 3. Building Security Officers (BSOs).
  - a. BSOs may be armed with approved less-lethal weapons (see the Approved Weapons List).

**NOTE:** By policy, the respective Commander may require other sworn and non-sworn members to carry one or more less-lethal weapon(s), including the TEW.

E. ESOs and BSOs

- 1. ESOs and BSOs are not sworn law enforcement officers. As non-sworn members, ESOs and BSOs have the right to utilize deadly force to prevent imminent death or serious bodily harm to themselves or another person as with other members of the general public in accordance with Nebraska Revised Statutes section 28-1412. (1.2.2 & 4.1.2)
  - a. Before utilizing a firearm or other deadly force in defense of self or others, ESOs and BSOs will attempt to give loud verbal warnings/commands if possible. Due to the complexity of deadly force confrontations, the ability to give verbal commands may not be feasible in all situations.
- 2. ESOs and BSOs may utilize approved less-lethal weapons and techniques for which they have received training in order to detain and arrest individuals who have committed a felony or petit larceny in their presence (Nebraska Revised Statutes section 29-402). (1.2.2)
- 3. ESOs and BSOs will utilize all assigned weapons and weaponless techniques in accordance with DCSO training and procedures.

F. Deputies

- 1. Less-Lethal Force
  - a. Where deadly force is not authorized, Deputies will use discretion to determine which less-lethal technique or less-lethal weapon will best de-escalate the incident and bring it safely under control.
  - b. Deputies are authorized to use agency-approved less-lethal force techniques and weapons to:
    - (1) Protect themselves or others from physical harm.
    - (2) Restrain or subdue a resistant individual.
    - (3) Bring a situation effectively and safely under control.
- 2. Deadly Force in Defense of Life (4.1.2)
  - a. Deputies may utilize deadly force when the Deputy reasonably believes the action is in defense of any human life in imminent danger of death or serious bodily injury. (1.2.2)

- b. Before utilizing a firearm or other deadly force in defense of self or others, Deputies will attempt to give loud verbal warnings/commands if possible. Due to the complexity of deadly force confrontations, the ability to give verbal commands may not be feasible in all situations.
- 3. Deadly Force to Make a Lawful Arrest (1.2.2)
  - a. The justification for the use of deadly force to make a lawful arrest is extremely limited. Deputies will strictly adhere to the Nebraska Statutory guidance below.
  - b. The use of deadly force to make a lawful arrest is NOT justifiable per Nebraska Revised Statutes section 28-1412 unless:
    - (1) The arrest is for a felony.  
-AND-
    - (2) Such a person making the arrest is authorized to act as a peace officer or is assisting a person whom they believe to be authorized to act as a peace officer.  
-AND-
    - (3) The Deputy believes that the force employed creates no substantial risk of injury to innocent persons.  
-AND-
    - (4) The Deputy believes that:
      - (a) The crime for which the arrest is being made involved conduct including the use or threatened use of deadly force.  
-OR-
      - (b) There is substantial risk that the person to be arrested will cause death or serious bodily harm if the apprehension is delayed.
  - c. A fleeing felon will not be presumed to pose an immediate threat of death or serious bodily injury if apprehension is delayed. The threat will exist based on additional and separate articulable facts and circumstances.
  - d. Before using a firearm or other deadly force to make a lawful arrest, Deputies will attempt to give loud verbal warnings/commands, if possible. Due to the complexity of deadly force confrontations, the ability to give verbal commands may not be feasible in all situations.
- G. DCSO members involved in a use of force that results in death or serious bodily injury will render aid and notify their Supervisor(s) (this includes on and off-duty incidents). Members will adhere to the procedures in the DCSO "Deputy-Involved Incident Investigations" policy during such incidents.
- H. DCSO members will ensure appropriate medical aid is provided as quickly as reasonably possible following any use of force in which injuries have been sustained, to include calling a

rescue squad as appropriate in accordance with the DCSO "Medical Aid and Hospital Procedures" policy. (4.1.5)

### III. Use of Force Training

- A. No members will use or carry any weapon (lethal or less-lethal) or utilize a weaponless technique as part of their official duties with the DCSO until they have demonstrated proficiency and been certified in the use of the weapon through a DCSO approved training class (see the DCSO "Firearms" and "Training Administration" policies for additional training and qualifications information). (4.3.2)
  - 1. All members authorized to carry lethal and less-lethal weapons will receive instruction on and be provided with the DCSO Use of Force policies prior to being authorized to carry such weapons. The policy receipt will be documented. (4.3.4)
- B. The DCSO will provide documented training, by certified instructors, in accordance with the DCSO "Training Administration" policy. Training on each less-lethal weapon and technique is provided at least biennially and training on all firearms, Taser Energy Weapon (TEW), and Use of Force policies will occur at least annually. (4.3.3a & b)
  - 1. DCSO members are not permitted to carry weapons or utilize weaponless techniques until they have demonstrated proficiency and completed all required training. (4.3.2 & 4.3.3)
    - a. Members will be required to demonstrate proficiency on all approved lethal and TEWs annually and at least biennially for all other less-lethal weapons and weaponless control techniques (see the DCSO "Training Administration" policy). (4.3.3)
  - 2. If a member fails to qualify with an authorized weapon that member will be required to complete remedial training and qualify with the weapon prior to resuming official duties. Remedial training will be provided in accordance with the DCSO "Training – Requests/Attendance" and "Firearms" policies. (4.3.3c)

### IV. Firearms – Use of Force

- A. In addition to the reasons listed in Section II above, members may use a firearm in the performance of their duties to kill a dangerous animal, or kill an animal so badly injured that humanity requires its removal from further suffering.

**NOTE:** All attempts will be made to request assistance from the agency responsible for the disposal of animals (e.g., Humane Society, game warden, zoo representative, etc.). Destruction of vicious animals will be guided by the same rules set forth for self-defense and safety of others.
- B. DCSO members are prohibited from discharging their firearms in the following situations:
  - 1. In or over the heads of crowds unless a clearly identifiable assailant exists and there is not substantial risk to innocent bystanders.
  - 2. Warning shots. (4.1.3)
  - 3. Attention shots or shots to summon aid.

4. At fleeing suspects who do not meet the requirements detailed in Nebraska Revised Statutes section 28-1412.
  5. Through doors, walls, or into the darkness blindly.
- C. DCSO members will adhere to these guidelines when using firearms in the line of duty:
1. Before utilizing a firearm in defense of self or others, Deputies will attempt to give loud verbal warnings/commands if possible. Due to the complexity of deadly force confrontations, the ability to give verbal commands may not be feasible in all situations.
  2. DCSO members will not surrender their weapons to any suspect in such a manner that the suspect could use the weapon against the member, another member, or innocent bystanders.
  3. Caution will be exercised to prevent injury to innocent bystanders as a result of firing a firearm.
- D. Discharging a Firearm at a Moving Vehicle
1. When practical, members will avoid placing themselves in a path directly in front of or behind a moving vehicle in a manner which would lead to the use of deadly force. A member threatened by an oncoming vehicle will make every reasonable effort to move out of its path and into a position of safety instead of discharging a firearm at the vehicle.
  2. Members must consider whether discharging a firearm at a moving vehicle creates a danger to the public that outweighs the likely benefits of its use. A member may fire at a moving vehicle or boat when the following three conditions are met:
    - a. The member, or others, face an imminent deadly threat from a moving vehicle or from a clearly identifiable assailant within the vehicle (e.g. occupant shooting).
    - b. The member has no other reasonable alternative.

-AND-

    - c. A *reasonable officer* would believe the use of deadly force will remove the danger the vehicle poses without creating substantial risk to bystanders.
  3. Discharging a firearm at a moving vehicle is not authorized when it's reasonable to believe that the vehicle may contain an innocent passenger or if it's reasonably apparent that the vehicle may careen out of control and injure an innocent bystander.
  4. Members will not discharge a firearm at a moving vehicle in an attempt to disable the vehicle.
  5. Members will not shoot from a moving vehicle or boat except as the ultimate measure of self-defense or defense of another. The firing of weapons from a moving vehicle or boat may only be done under extreme circumstances, at close range, and when there is no other reasonable safe alternative.
- E. Members will refer to the DCSO "Firearms" policy for general firearms procedures.

## V. Less-Lethal Weapons (4.1.4)

- A. DCSO members may use approved less-lethal weapons systems and techniques to de-escalate potentially violent interactions in accordance with DCSO training.
  - 1. DCSO members will conform to all training methods taught during certification classes when utilizing less-lethal weapons and techniques with the following exception:
    - a. If an incident becomes a deadly force situation, less-lethal weapons may be used in any manner necessary, to include targeting the suspect's eyes, face, throat, spine, or groin, to prevent death or serious bodily injury to the involved DCSO member(s) or any other person(s).
- B. Members may use only less-lethal weapons, ammunition, and techniques authorized by the agency in the performance of their responsibilities. (4.3.1) Less-lethal weapons authorized for use include: (4.3.1a)
  - 1. Taser Energy Weapon (TEW).
  - 2. Baton/Impact Weapon.
  - 3. Oleoresin Capsicum (OC) Spray.
  - 4. Weaponless Force.
  - 5. Police Canine (see the "Canine Operations" policy for canine policies and procedures).
  - 6. Stun Belt/Vest System.
  - 7. 40 mm Launcher.
  - 8. PepperBall Launcher.
  - 9. Handheld Munitions
  - 10. PepperBall BLAST.
- C. The Training Division will maintain an Approved Weapons List that will list the types and specifications of approved less-lethal weapons and ammunition, including those used by members of the Emergency Response Unit and Special Response Unit (see the DCSO "Emergency Response Unit (ERU)" and "Special Response Unit (SRU)" policies). (4.3.1a & b).
  - 1. The list of approved weapons will be reviewed annually by the Training Division and changes will be recommended by the Training Division and approved by the Sheriff or Administration Chief Deputy if necessary. (4.3.1c)
  - 2. In the event changes are made, DCSO members will be notified via an Information Order. (4.3.1c)
- D. Less-lethal weapons will be reviewed and inspected during line inspections and practical testing by a qualified instructor and/or armorer. Agency-owned less-lethal weapons will be inspected during Operational Readiness Inspections (see the DCSO "Inspections" policy). (4.3.1c)
  - 1. Unsafe weapons will be removed from use until the deficiency has been corrected. (4.3.1d)



- E. Prior to using less lethal weapons, Deputies will attempt to give loud verbal warnings/commands if possible.
- F. Taser Energy Weapon (TEW) (4.1.4)
  - 1. The DCSO has authorized the use of the Taser 10 and X26P TASER, manufactured by Axon. (4.3.1a)
    - a. Only DCSO owned TEW units are authorized for use.
  - 2. The initial training certification will be an eight-hour class consisting of written and practical exams. Ongoing training will be conducted annually in accordance with the DCSO "Training Administration" policy.
  - 3. Maintenance
    - a. Commanders will designate a DCSO member to be responsible for the assignment, maintenance, and storage of the TEW and cartridges. The designated member will:
      - (1) X26P - Maintain a record of the cartridge location(s) by recording the serial number of the cartridge and to whom they were issued.
      - (2) Taser 10 – Maintain a record of how many cartridges were issued by the Training Division.
      - (3) Periodically check cartridges and request replacements for those that have exceeded their expiration date.
      - (4) Report all malfunctions, defects, or damage to the TEW to the Training Division. The Training Division is responsible for maintenance and ordering additional supplies for the TEW.
    - b. When completing Line Inspections, if issued, Supervisors will note the TEW serial number, DCSO number, and if carrying an X26P all cartridge serial numbers on the Uniform Inspection form (SF-100a) (see the DCSO "Inspections" policy for inspection procedures). (4.3.1e)
    - c. Taser 10 Armory and Battery Procedures
      - (1) Members assigned to the USB or CSB upon starting their shift will sign out a Taser 10 TEW for the duration of their shift. Upon completion of their shift, members will return the TEW to the armory, or as directed by a Supervisor. Supervisors will ensure the battery is docked once every 30 days.
      - (2) Members in specialty assignments that are assigned a Taser 10 TEW will dock the TEW battery at least once every 30 days. Members of specialty assignments will then replace the depleted battery with a charged battery.
      - (3) Specialty units assigned a single Taser 10 TEW for the unit will dock the TEW at least once every 30 days.
  - 4. Deployment Procedure

- a. DCSO members who use the TEW will ensure that the unit is in proper working order as follows:
  - (1) Taser 10 - Conducting a function test before the start of their tour of duty.
  - (2) X26P – Spark testing the TEW before the start of their tour of duty.
- b. DCSO members who are issued TEWs will secure them both on and off duty in accordance with the same procedures for firearms.
- c. DCSO members will wear the TEW on the side of their bodies opposite their duty firearm.
- d. TEWs will be worn in a cross draw manner and in DCSO approved holsters.
- e. The member deploying the TEW will state (when practical) loudly and repeatedly (prior to and during firing) “Taser-Taser-Taser.” Members utilizing a Taser 10 will also attempt, when practical, a warning alert.
  - (1) This will be done to inform all other personnel on scene that a TEW is being deployed.
  - (2) If possible, an announcement that a TEW is about to be deployed should be broadcast on the radio prior to the TEW being deployed.
- f. The TEW will not be pointed at any individual unless the DCSO member involved reasonably believes it may be necessary to use the device.
- g. When deploying the TEW at a suspect, members will not target the suspect’s eyes, face, throat, genitals, or spine unless deadly force is authorized. The primary target areas for the TEW are as follows:
  - (1) Forward facing person: Lower torso, arms and legs.
  - (2) Rear facing person: Below neck.
- h. The tactical use of the TEW is at the discretion of the member, based on training and DCSO policies and procedures. Members will take into consideration the presence of any of the following risk factors prior to TEW deployment:
  - (1) Presence of flammable liquids/gases may cause spontaneous ignition.
    - (a) The TEW will not be used when the member has knowledge of being in the proximity of flammable liquids, gases, blasting materials or any other highly combustible materials that may be ignited by use of the device, including but not limited to any subject who may have been contaminated with combustible liquids.
  - (2) Subjects in elevated positions that would foreseeably result in serious physical injury.
  - (3) Pregnancy.

- (a) Other less lethal options should be considered when considering deployment on a known or obviously pregnant female due to the increased risk factors.
- (4) Subjects running/fleeing.
- (5) Subjects in bodies of water (e.g., lakes, pools, ponds).
  - (a) Subjects in bodies of water may not be able to prevent themselves from drowning.
- (6) Age.
  - (a) Juveniles, especially younger juveniles, and the elderly require greater justification for use.
- (7) Subjects who are frail or infirm.
- (8) Subjects operating moving motor vehicles.
  - (a) Such subjects pose an increased danger to themselves as well as members and bystanders. Due to these increased risk factors, members should consider other less lethal force options in situations where a resistant subject is in control of a vehicle.
- i. The TEW will not be used on a suspect who has already been sprayed with OC or other chemical agent.
- 5. Probe Removal (4.1.5)
  - a. A DCSO member at the scene, in accordance with the manufacturer's guidelines and the member's training may remove TEW Probes that penetrate the skin in a non-sensitive area.
    - (1) Properly trained medical personnel (EMS) will remove probes imbedded in sensitive tissue areas such as the neck, face, and groin.
    - (2) Removal from other areas (e.g., female breasts and buttocks) can be made at the discretion of the on-scene supervisor.
    - (3) Probes that have been removed from suspects will be placed back in the cartridge 'sharp end first', sealed, booked into evidence, and stored in accordance with DCSO "Property and Evidence" policy.
  - b. Additional medical aid will be provided as needed in accordance with the DCSO "Medical Aid and Hospital Procedures" policy. (4.1.5)
- 6. Procedures Following Use
  - a. The Training Division will be copied on all Blue Team Entries documenting a TEW deployment (see the "Use of Force – Reporting" policy).
  - b. Taser 10 Procedures

- (1) Following use, the Taser 10 TEW batteries will be removed from the Taser 10 handle and docked into the battery dock station at the respective members assigned unit to upload and sync as soon as feasible. The Taser handle number that was deployed will be noted in the applicable Case Report and Use of Force Entry.
  - (a) Members will replace the used battery with a charged battery from the docking station.
  - (b) The member will receive the appropriate amount of replacement cartridges deployed during the use of force from their Supervisor.

c. X26P TEW

- (1) Following use, the X26P TEWs will be removed from service and turned into the Training Division. The information from the TEW will then be downloaded by the Training Division, printed, and forwarded to the Internal Affairs Division as soon as possible after deployment.

G. Baton/Impact Weapons (4.1.4)

1. Batons/Impact Weapons may be used in self-defense or defense of another, to make an arrest, or to overcome resistance.
2. Members will receive initial and ongoing training as part of training in accordance with the DCSO "Training Administration" policy. (4.3.3)
3. Supervisors will document the batons/impact weapons carried by members on the Uniform Inspection Form (SF-100a) (see the DCSO "Inspections" policy for inspection procedures). (4.3.1e)
4. When an impact weapon strike is delivered, it will be delivered utilizing the objectively reasonable level of force necessary.
5. Medical aid will be provided as needed in accordance with the DCSO "Medical Aid and Hospital Procedures" policy. (4.1.5)

H. Oleoresin Capsicum (OC) Use (4.1.4)

1. Only oleoresin capsicum (OC) aerosol products specified on the Approved Weapons List are authorized for use by DSCO members. (4.3.1a)
  - a. Supervisors will document the make, size, serial number, and expiration date of OC carried by members on the Uniform Inspection Form (SF-100a) (see the DCSO "Inspections" policy for inspections procedures). (4.3.1e)
  - b. OC munitions will be inventoried and inspected on monthly Operation Readiness Inspections of the division they are assigned to (see the DCSO "Inspections" policy for inspection procedures).
2. Prior to carrying OC products all members will first complete a four-hour certification course which will include a direct 'level one' exposure. Ongoing training will be completed in accordance with the DCSO "Training Administration" policy.

3. The primary target area for OC spray is the face. Specifically, members will aim at the eyes, nose, and mouth areas. OC specialty munitions are used for area saturation.
4. Members will not use OC on subjects who are physically restrained, by handcuffs or other means unless the subject is still violently resisting and lesser means of controlling the subject have failed.
5. Once a subject has been exposed to OC, positional restraint techniques, or any other manner of restraint that may restrict the subject's ability to breathe will not be used.
6. Following the use of OC, members will, after establishing control, provide the exposed subject with a means of decontamination. These means may include but are not limited to time, water, and air. (4.1.5)
  - a. If symptoms of exposure persist more than one hour after exposure, or if the exposed subject shows evidence of blistering, sunburn-like symptoms, or difficulty breathing, he/she will be given medical attention.
  - b. In addition, a subject who has been exposed to OC and admits to, or indicates a history of drug use, high levels of alcohol intoxication, heart disease, lung problems, diabetes, high blood pressure or any other potentially serious medical condition, will be evaluated by medical personnel.
  - c. Any subject who requests medical attention after being exposed to OC will receive medical attention.
  - d. DCSO members are required to monitor a subject exposed to OC for two hours after the exposure.
  - e. Additional medical aid will be provided as needed in accordance with the DCSO "Medical Aid and Hospital Procedures" policy. (4.1.5)
7. If an exposed subject is incarcerated, the member will notify the agency receiving custody of the exposure.
  - a. The member will also notify the receiving agency of the amount of time remaining in the two-hour observation period, if any remains.

I. Weaponless Systems (4.1.4)

1. Deputies are trained and authorized to use a Krav Maga based system.
2. Non-sworn members (e.g., ESOs and BSOs) are trained and authorized to use the Pressure Point Control Tactics (PPCT) system.
  - a. The PPCT system utilizes the following force continuum:
    - (1) Levels of Resistance
      - (a) Psychological Intimidation: Non-verbal cues, attitude, appearance, physical readiness, etc.
      - (b) Verbal Non-Compliance: Verbal responses indicating unwillingness to cooperate or threats.

- (c) Passive Resistance: Physical actions that do not prevent a member's attempts at control.
  - (d) Defensive Resistance: Physical actions which attempt to prevent a member's control.
  - (e) Active Aggression: Advancing, challenging, or physical assault.
  - (f) Deadly Force Assault: Any force used against a member and/or another person that may result in serious bodily injury or the loss of human life.
- (2) Levels of Control
- (a) Officer Presence: Identification of authority.
  - (b) Verbal Direction: Commands of direction or arrest.
  - (c) Empty Hand Control
    - i. Soft empty hand control-minimal chance of injury: Joint locks, pressure points, come-along holds.
    - ii. Hard empty hand control-higher probability of injury: Hand strikes, leg strikes, neck restraints, and OC spray.
  - (d) Intermediate Weapons: With the exception of OC spray, all less-lethal weapons are considered intermediate weapons on the force continuum.
  - (e) Deadly Force: Any force used that may result in serious bodily injury or the loss of human life.

**NOTE:** The force continuum is designed to give members a model in which to learn the various levels of subject resistance and the appropriate subject control response. This continuum is only a model. The member's response should be based on the subject's actions, the member's perception of the threat and the member's knowledge of his/her own abilities.

- 3. The approved systems use various techniques that utilize various target areas of the body. The techniques and their appropriate target areas will be covered during Defensive Tactics training in accordance with the DCSO "Training Administration" policy.
  - a. Vascular neck restraints are not an authorized weaponless technique. Neither of the approved weaponless systems incorporates the use of vascular neck restraints. (4.1.6)
- 4. The use of choke holds or any other use of force technique that restricts the intake of oxygen for the purpose of gaining control of a subject are not authorized weaponless techniques and, if used, would be considered deadly force and an improvised weaponless technique (see Section I above). Deputies and non-sworn members will not use any choke hold except to defend themselves or others from what is reasonably believed to be imminent threat of death or serious bodily injury. (4.1.7)

5. Medical aid will be provided as needed in accordance with the DCSO "Medical Aid and Hospital Procedures" policy. (4.1.5)
- J. Police Canine (4.1.4)
1. The use of a canine team may be authorized by a Canine Handler when it is necessary to apprehend a Serious Felony or Violent Misdemeanor suspect and/or a suspect that is a danger to the public or law enforcement officers (see the "Canine Operations" policy). Prior deploying a canine in a use of force situation, the following criteria will be considered:
    - a. The severity of the crime.
    - b. Whether the suspect(s) pose an immediate threat to the safety of the officers or the public.
    - c. Whether the suspect(s) is actively resisting arrest or attempting to evade arrest by flight.
  2. The canine handler will make every effort to ensure that the canine uses only the amount of force necessary to affect the apprehension.
  3. Medical aid will be provided as needed in accordance with the DCSO "Medical Aid and Hospital Procedures" policy. (4.1.5)
  4. Each canine and handler must successfully complete a basic training program and approved ongoing training to be authorized to use force to apprehend a suspect.
  5. The Community Resource Division Lieutenant or designee will keep a record of all police canines utilized by the agency (see the "Canine Operations" policy). (4.3.1e)
- K. Stun Belt/Vest System (4.1.4)
1. The Stun Belt/Vest System is authorized for use only by certified DCSO members.
    - a. Deputies will not operate the Stun Belt /Vest System unless they have completed the approved certification course, which includes written and practical exams, and demonstrated proficiency. (4.3.3)
    - b. Re-training, including demonstrated proficiency, will be conducted annually in accordance with the DCSO "Training Administration" policy. (4.3.3)
  2. The Courts Services Division Lieutenant will designate the DCSO member authorized to maintain the Stun Belt/Vest System including a record each Stun Belt/Vest System utilized by the agency (4.3.1e).
    - a. Stun Belt/Vest System assigned to the District Court Team will be secured in the storage room on the 6th Floor when not in use.
      - (1) The Stun Belt/Vest System units will be stored with the unit turned 'off'.
    - b. The District Court Team Sergeant or designee will be responsible for conducting monthly Operational Readiness Inspections in accordance with the DCSO "Inspections" policy.

- c. Each Stun Belt/Vest System has a remote that is specifically programmed for each unit.
  - d. Users will report all malfunctions, defects, or damage to maintenance personnel.  
(4.3.1d)
    - (1) If the Stun Belt/Vest System are found to be defective or unsafe it will be removed from service until the deficiency has been corrected.
    - (2) Only certified instructors will perform maintenance or coordinate repairs with Stun Belt/Vest System.
3. The Stun Belt/Vest System may be used by Court Security Unit Deputies for the control of inmates/prisoners during certain judicial hearings or transport assignments as follows:
- a. The Stun Belt/Vest System will only be used upon approval of the Team Sergeant or on-duty Unit Commander. When considering whether to approve the use of the system, the Sergeant or on-duty Unit Commander will consider the following factors:
    - (1) Nature of crime (e.g., Murder 1, Sexual Assault 1 or 1st Degree Assault).
    - (2) Mental capacity.
    - (3) Physical health and conditions.
    - (4) Escape/security threat.
    - (5) Threat to others (Judge, County Attorney, Witness, etc.).
    - (6) Mode of transportation.
    - (7) Deputy availability.
    - (8) Type of trial (e.g., high risk trial, jury trial).
  - b. Prior to use, the Control Deputy will conduct a system check as outlined on the "Stun Belt/Vest System Application Form" to ensure that the system is operating properly before use.
  - c. The Control Deputy will complete and read the "Stun Belt/Vest System - Inmate/Prisoner/ Defendant Advisory Form" to the prisoner and have the prisoner sign the form acknowledging the advisement. Deputies will document a refusal to sign on the form.
  - d. The system may be used alone or in conjunction with any other combination of restraints.
  - e. Stun Belt/Vest System preferred placement is as follows:
    - (1) Stun Belt: Lower back kidney area.
    - (2) Stun Vest: Upper Back Scapulae and Lower Back Kidney area.
  - f. The Control Deputy will maintain control of the transmitter at all times.



- g. Prisoners will not be left unattended while wearing the Stun Belt/Vest System.
  - h. The Stun Belt/Vest System may be activated under the following circumstances:
    - (1) Outburst or quick movement.
    - (2) Hostile act.
    - (3) Tampering with system.
    - (4) Attempt to escape.
    - (5) Loss of view of subject's hand(s).
    - (6) Overt act against any person within 50 feet.
  - i. Immediately after activation of the Stun Belt/Vest System, Deputies will apply necessary restraints to control the prisoner and notify the immediate Supervisor of its activation.
    - (1) In the event the prisoner is able to resist being immobilized after a single activation, a second activation may be initiated.
    - (2) Subsequent activations may be used only if the prisoner is still actively attempting to escape or is being assaultive.
    - (3) If the prisoner's actions are limited to resistance to be restrained, other less-than-lethal techniques should be attempted.
  - j. Each transmitter has a red override button in the event the unit does not automatically shut off after being activated.
  - k. Control Deputies will charge the Stun Belt/Vest System after each use regardless if the unit was activated in accordance with manufacturer recommendations.
4. The Stun Belt/Vest System will not be used in the following circumstances:
- a. On pregnant women.
  - b. On persons known to have heart diseases, multiple sclerosis, muscular dystrophy, or other complicating disease as confirmed by DCDC Medical Staff.
  - c. The elderly.
  - d. For the purpose of unlawfully threatening, coercing, harassing, taunting, belittling, or abusing any person.
  - e. For any form of horseplay between staff or with persons from outside the DCSO.
5. Persons injured or claiming injury from a Stun Belt/Vest System activation will be evaluated by medical personnel and provided medical aid as needed in accordance with the DCSO "Medical Aid and Hospital Procedures" policy. (4.1.5)

- a. Deputies will request FSD in order to photograph the signature marks and any secondary injuries.
- b. Deputies will use caution when an inmate is transported to a medical facility for care, as this could be part of a planned escape. Deputies will adhere to procedures in the "Prisoner Transport – General Procedures," "Prisoner Transport – Institution to Institution," and "Medical Aid and Hospital Procedures" policies.

L. 40 mm Launcher (4.1.4)

- 1. Only 40mm launchers and munitions specified on the Approved Weapons List are authorized for use by certified DCSO members.
  - a. The initial 40mm launcher certification is a 3-hour course which includes both classroom and practical instruction. Biennial recertification provided by the Training Division is required to maintain proficiency.
- 2. Commanders will designate a DCSO member to be responsible for the assignment, maintenance, and storage of the 40mm and munitions assigned to their bureau/section.
  - a. The designated member will:
    - (1) Maintain a record of the 40mm assignment location(s). (4.3.1e)
    - (2) Complete monthly Operational Readiness Inspections in accordance with the DCSO "Inspections" policy. (4.3.1c)
    - (3) Check munitions to ensure adequate supplies exist with each weapon.
    - (4) Report all malfunctions, defects, usage or damage of the 40mm to the Training Division. Defective or unsafe 40 mm Launchers will be removed from service until the deficiency has been addressed. (4.3.1d)
  - b. The Training Division is responsible for maintenance and ordering additional supplies for the 40mm.
- 3. DCSO members assigned or designated to carry the 40mm launchers will carry the launcher in the provided soft-side case with the assigned munitions.
- 4. DCSO members deploying the 40mm launchers use the bandolier to keep the provided munitions accessible and maintain security.
- 5. DCSO members will, whenever practical, announce their intent to use the 40mm launcher to other law enforcement in the area.
- 6. The 40mm launcher fires a projectile, which can possibly cause serious injury or death in certain circumstances. For this reason, the 40mm launcher will not be pointed at an individual unless justification is present for its use.
- 7. The Primary Target area will be determined by the member deploying the 40mm launcher and in accordance with policy, law, and applicable case law. The need for immediate incapacitation must be balanced with the potential for causing injury to the subject. These and other variables will determine the target area selected.

- a. Zone 1 consists of large muscle groups and therefore hits in this area can be anticipated to result in the lowest risk of serious injury to the subject. This zone includes the buttocks, thigh, and calf. If possible, the groin should be avoided.
  - b. Zone 2 consists of the abdominal area and represents a higher risk of injury. This targeting zone may be reasonable if the threat is of a higher level or the danger to the Deputy or other third party is greater than originally anticipated.
  - c. Zone 3 consists of the chest, spine, head and neck and represents the greatest risk of serious or fatal injury. Intentionally targeting of this area will be reserved for situations involving the potential for death or serious injury to the member or third party.
- 8. Following the firing of munitions with the 40mm launcher, the unit used will be tagged with a repair tag for cleaning. The tear off portion of the tag will be forwarded to the Training Division so that the described repair/ cleaning will be performed. (4.3.1e)
  - 9. Any person suspected of being hit by the 40mm launcher will be evaluated by medical personnel and provided aid in accordance with the DCSO "Medical Aid and Hospital Procedures" policy. (4.1.5)
    - a. Persons exposed to the 40mm OC munitions will be treated in the same manner as listed under Oleoresin Capsicum (OC) section in this policy.

M. PepperBall Launcher (4.1.4)

- 1. Only PepperBall Launchers and munitions specified on the Approved Weapons List are authorized for use by certified DCSO members.
- 2. Members will be certified via a DCSO-approved certification course and will be recertified at least biennially by certified instructors.
- 3. Commanders will designate a DCSO member to be responsible for the assignment, maintenance, and storage of the PepperBall Launchers and munitions assigned to their Bureau/Section.
  - a. The designated member will:
    - (1) Maintain a record of the PepperBall Launchers assignment location(s). (4.3.1e)
    - (2) Complete monthly Operational Readiness Inspections in accordance with the DCSO "Inspections" policy. (4.3.1c)
    - (3) Check munitions to ensure adequate supplies exist with each weapon.
    - (4) Report all malfunctions, defects, usage or damage of the PepperBall Launcher to a certified armorer. Defective or unsafe PepperBall Launchers will be removed from service until the deficiency has been addressed. (4.3.1d)
  - b. Certified armorers are responsible for maintenance and ordering additional supplies for the PepperBall Launchers.

4. Deputies will clearly announce, when possible, to other Deputies on the scene that the PepperBall Launcher is about to be fired.
5. The PepperBall Launcher should be deployed as follows:
  - a. The primary target areas of the front of the subject's body include:
    - (1) Arm above or below the elbow.
    - (2) Upper torso.
    - (3) Legs above or below the knee.
  - b. The primary target areas of the rear of the subject's body include:
    - (1) Torso, excluding the spine.
  - c. The head, neck, groin, and spine should be avoided as targets unless deadly force is justified.
  - d. The optimal deployment range of the PepperBall Launcher is between 0-60 feet with a round PepperBall and 3-120 feet with a VXR round.
  - e. The PepperBall Launcher may be deployed to change the behavior of a crowd or suspect without having to directly impact the subjects. The optimal deployment range of a PepperBall Launcher, in order to saturate an area, can be done at distances up to 150 feet. Target areas for area saturation are:
    - (1) The ground in front of crowds or suspects.
    - (2) Walls to the side or above crowds or suspects.

**NOTE:** This DCSO trained tactic is not considered warning shots for the purposes of this policy.
6. Deputies should use caution when firing the PepperBall Launcher at:
  - a. Young juveniles.
  - b. Pregnant women.
  - c. The elderly.
7. Following the firing of munitions with the PepperBall Launcher a certified armorer will be notified who will determine if the Launcher needs to be serviced. (4.3.1e)
8. Persons suspected of being hit by the PepperBall Launcher will be evaluated by medical personnel and provided with medical aid when possible in accordance with the DCSO "Medical Aid and Hospital Procedures" policy. (4.1.5)
  - a. Persons exposed to the OC munitions will be treated in the same manner as listed under Oleoresin Capsicum (OC) section in this policy.

N. Handheld Munitions (4.1.4)

1. Only Handheld Munitions specified on the Approved Weapons List are authorized for use by certified SRU and ERU members.
2. Members will be certified via a DCSO-approved certification course and will be recertified at least biennially by certified instructors.
3. The ERU and SRU Commanders or designee will be responsible for the maintenance and storage of Handheld Munitions maintained by their respective Unit.
  - a. The designated member will:
    - (1) Maintain a record of the Handheld Munitions maintained by the respective unit. (4.3.1e)
    - (2) Complete monthly Operational Readiness Inspections in accordance with the DCSO "Inspections" policy. (4.3.1c)
    - (3) Check munitions to ensure adequate supplies exist.
    - (4) Report all malfunctions, defects, usage or damage of the Handheld Munitions to the ERU or SRU Commander. Defective or unsafe Handheld Munitions will be removed from service until the deficiency has been addressed. (4.3.1d)
4. Handheld Munitions may be deployed to change the behavior of a crowd or suspect without having to directly impact the subjects. When using Handheld Munitions Deputies will clearly announce, when possible, to other Deputies on the scene that the Handheld Munition is about to be deployed.
5. Handheld Munitions will be used in accordance with DCSO training/deployment procedures and manufacturer guidelines.
6. Deputies should use caution when deploying Handheld Munitions towards:
  - a. Young juveniles.
  - b. Pregnant women.
  - c. The elderly.
7. Persons suspected of being impacted by the Handheld Munition will be evaluated by medical personnel and provided with medical aid when possible in accordance with the DCSO "Medical Aid and Hospital Procedures" policy. (4.1.5)
  - a. Persons exposed to the OC munitions will be treated in the same manner as listed under Oleoresin Capsicum (OC) section in this policy.

O. PepperBall BLAST (4.1.4)

1. Only PepperBall BLAST units specified on the Approved Weapons List are authorized for use by sworn members.

- a. Supervisors will document the PepperBall BLAST unit and the date of manufacture of the unit carried by members on the Uniform Inspection Form (SF-100a) (see the DCSO "Inspections" policy for inspection procedures). (4.3.1e)
  - b. Members will mark the date of manufacture, as located on the original PepperBall packaging, on the barrel of the BLAST Unit. BLAST units will be expired and require replacement after three (3) years from the listed manufacture date.
  - c. Members are encouraged to maintain a BLAST Live-X Refill Kit in the event that the BLAST is used against suspects for reloading at a later time.
2. Members will be certified in the use of the BLAST through the DCSO PepperBall User Certification course and will be recertified at least biennially by certified instructors. (4.3.3)
3. The primary targeting area for the BLAST is the face of suspects, specifically the eyes, nose, and mouth. BLAST may also be used for area saturation and area denial in instances of barricaded parties or crowd disturbances.
4. Deputies will not carry BLAST units in a manner other than holster carry unless being deployed for use.
  - a. Holsters for the BLAST may be worn either on the member's duty belt or external carrier
  - b. Only specified holsters on the Approved Weapons List may be utilized.
  - c. Deputies in plainclothes assignments or other specialized units may carry the BLAST in a pocket-carry configuration with written approval from their respective Unit Commander.
5. BLAST units equipped with glass-breaking equipment will be used in the following manner:
  - a. Forcing entry into a vehicle when probable cause exists to place an individual into custodial arrest or removing parties at risk of death and/or serious bodily injury.
  - b. Breaking vehicle or residential windows for delivery of the chemical (PAVA) contained within the BLAST.
  - c. All use of the glass-breaking capability will conform to standards listed in the "Forced Entry" policy.
6. Members will not use PepperBall BLAST on subjects who are physically restrained, by handcuffs or other means unless the subject is still violently resisting and lesser means of controlling the subject have failed.
7. Once a subject has been exposed to PepperBall BLAST, positional restraint techniques, or any other manner of restraint that may restrict the subject's ability to breathe will not be used.

8. Following the use of PepperBall BLAST, members will, after establishing control, provide the exposed subject with a means of decontamination. These means may include but are not limited to time, water, and air. (4.1.5)
  - a. If symptoms of exposure persist more than one hour after exposure, or if the exposed subject shows evidence of blistering, sunburn-like symptoms, or difficulty breathing, he/she will be given medical attention.
  - b. In addition, a subject who has been exposed to PepperBall BLAST and admits to, or indicates a history of drug use, high levels of alcohol intoxication, heart disease, lung problems, diabetes, high blood pressure or any other potentially serious medical condition, will be evaluated by medical personnel.
  - c. Any subject who requests medical attention after being exposed to PepperBall BLAST will receive medical attention.
  - d. DCSO members are required to monitor a subject exposed to PepperBall BLAST for two hours after the exposure.
  - e. Additional medical aid will be provided as needed in accordance with the DCSO "Medical Aid and Hospital Procedures" policy. (4.1.5)
9. If an exposed subject is incarcerated, the member will notify the agency receiving custody of the exposure.
  - a. The member will also notify the receiving agency of the amount of time remaining in the two-hour observation period, if any remains.
- P. Use of Less-Lethal Weapons Off-Duty (4.3.1a & b)
  1. DCSO members may lawfully use and carry the following less-lethal weapons during off duty employment:
    - a. OC Spray.
    - b. TEW.
    - c. Baton/ASP.
    - d. PepperBall BLAST.
  2. Any off-duty use will be reported in adherence with the DCSO "Use of Force – Reporting" policy.

## **VI. Reporting**

- A. Use of Force incidents will be reported in accordance with the DCSO "Use of Force – Reporting" policy.

## **REFERENCES**

### **I. Laws**

- A. US Supreme Court: *Graham v. Connor*, 490 US 386, 395 (1989).

- B. Nebraska Revised Statutes section: 28-1412 and 29-402.

## **II. DCSO Orders**

- A. Previous DCSO General Orders include: #20-2023, #10-2022, #53-2021, #41-2021, #16-2021, #84-2020, #80-2020, #79-2020, #35-2020, #94-2019, #50-2019, #82-2018, #13-2017, #23-2016, #14-2016, #14-2015, #3-2015, #22-2014, #16-2014, and #30-2011.
- B. Previous CSB Bureau Directives include: #3-2016, #5-2015, and #3-2013.

## **III. Accreditation Standards**

- A. Applicable Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA)  
Accreditation standards include: 1.2.2, 4.1.1, 4.1.2, 4.1.3, 4.1.4, 4.1.5, 4.1.6, 4.1.7, 4.3.1, 4.3.2, 4.3.3, and 4.3.4.

## **IV. Review Schedule**

- A. Annual.