

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

#### 300.1.1 DEFINITIONS

Definitions related to this policy include:

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

**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.

### 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. Officers are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

Officers 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 Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests.

#### 300.2.1 DUTY TO INTERCEDE

Any officer present and observing another officer 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. An officer who observes another employee use force that exceeds the degree of force permitted by law should promptly report these observations to a supervisor.

### 300.3 USE OF FORCE

Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer 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 officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably

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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 an officer might encounter, officers 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 officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by the Department. Officers 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 an officer to retreat or be exposed to possible physical injury before applying reasonable force.

### 300.3.1 USE OF FORCE TO EFFECT AN ARREST

Any peace officer may use reasonable force to effect an arrest, to prevent escape or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance on the part of the person being arrested; nor shall an officer be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest, prevent escape or to overcome resistance (Penal Code § 835a).

### 300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer 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 officers or others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- (c) Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The effects of drugs or alcohol.
- (e) Subject's mental state or capacity.
- (f) Proximity of weapons or dangerous improvised devices.
- (g) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (h) The availability of other options and their possible effectiveness.

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- (i) Seriousness of the suspected offense or reason for contact with the individual.
- (j) Training and experience of the officer.
- (k) Potential for injury to officers, suspects and others.
- (l) Whether the person appears to be resisting, attempting to evade arrest by flight or is attacking the officer.
- (m) The risk and reasonably foreseeable consequences of escape.
- (n) The apparent need for immediate control of the subject or a prompt resolution of the situation.
- (o) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (p) Prior contacts with the subject or awareness of any propensity for violence.
- (q) Any other exigent circumstances.

### 300.3.3 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Officers may only apply those pain compliance techniques for which they have successfully completed department-approved training. Officers utilizing any pain compliance technique should consider:

- (a) The degree to which the application of the technique may be controlled given the level of resistance.
- (b) Whether the person can comply with the direction or orders of the officer.
- (c) Whether the person has been given sufficient opportunity to comply.

The application of any pain compliance technique shall be discontinued once the officer determines that compliance has been achieved.

### 300.3.4 CAROTID CONTROL HOLD

The proper application of the carotid control hold may be effective in restraining a violent or combative individual. However, due to the potential for injury, the use of the carotid control hold is subject to the following:

- (a) The officer shall have successfully completed department-approved training in the use and application of the carotid control hold.
- (b) The carotid control hold may only be used when circumstances perceived by the officer at the time indicate that such application reasonably appears necessary to control a person in any of the following circumstances:
  - 1. The subject is violent or physically resisting.

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2. The subject, by words or actions, has demonstrated an intention to be violent and reasonably appears to have the potential to harm officers, him/herself or others.
- (c) The application of a carotid control hold on the following individuals should generally be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective, or would present a greater danger to the officer, the subject or others, and the officer reasonably believes that the need to control the individual outweighs the risk of applying a carotid control hold:
1. Females who are known to be pregnant
  2. Elderly individuals
  3. Obvious juveniles
  4. Individuals who appear to have Down syndrome or who appear to have obvious neck deformities or malformations, or visible neck injuries
- (d) Any individual who has had the carotid control hold applied, regardless of whether he/she was rendered unconscious, shall be promptly examined by paramedics or other qualified medical personnel and should be monitored until examined by paramedics or other appropriate medical personnel.
- (e) The officer shall inform any person receiving custody, or any person placed in a position of providing care, that the individual has been subjected to the carotid control hold and whether the subject lost consciousness as a result.
- (f) Any officer attempting or applying the carotid control hold shall promptly notify a supervisor of the use or attempted use of such hold.
- (g) The use or attempted use of the carotid control hold shall be thoroughly documented by the officer in any related reports.

### **300.3.5 USE OF FORCE TO SEIZE EVIDENCE**

In general, officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, officers are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, officers 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. Officers are encouraged to use techniques and methods taught by the Walnut Creek Police Department for this specific purpose.

### **300.4 DEADLY FORCE APPLICATIONS**

Use of deadly force is justified in the following circumstances:

- (a) An officer may use deadly force to protect him/herself or others from what he/she reasonably believes would be an imminent threat of death or serious bodily injury.

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- (b) An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the person has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to any other person if the subject 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 an officer reasonably believes any of the following:

1. The person has a weapon or is attempting to access one and it is reasonable to believe the person intends to use it against the officer or another.
2. The person is capable of causing serious bodily injury or death without a weapon and it is reasonable to believe the person intends to do so.

### **300.4.1 SHOOTING AT OR FROM MOVING VEHICLES**

Shots fired at or from a moving vehicle are rarely effective. Officers should move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others.

Officers 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 department shall be documented promptly, completely and accurately in an appropriate report, depending on the nature of the incident. The officer 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 Department may require the completion of additional report forms, as specified in department policy, procedure or law.

#### **300.5.1 NOTIFICATION 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 officer 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.

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- (d) The individual indicates intent to pursue litigation.
- (e) Any application of a CEW or control device.
- (f) Any application of a restraint device other than handcuffs, shackles or belly chains.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was struck or kicked.
- (i) An individual alleges any of the above has occurred.

### 300.5.2 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

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

### 300.6 MEDICAL CONSIDERATION

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

Based upon the officer's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff or medical staff at the jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer 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 officer 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 officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called "excited delirium"), or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away if appropriate.

### 300.7 REPORTING AND REVIEWING INDIVIDUAL USE OF FORCE INCIDENTS

- (a) Reportable Force Defined

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- Any on duty or off duty incident in which officers, pursuant to their official capacity, use the intermediate level of force or higher; or any incident in which an injury occurs; or complaint of pain by the subject at the time of release from WCPD custody, shall be reported immediately or as soon as practical. An intermediate level of force includes the use of chemical agents such as mace or an oleoresin capsicum based product (OC); the use of a Conducted Energy Weapon (Taser); the use of a Carotid Restraint upper-body control hold; Impact Weapons when used in an impact mode; Personal Body Weapons (PBW) such as hands, feet, elbows, and knees when used to strike the subject; and the deployment of a Police Canine (K9) when such deployment results in an injury to the subject.
- (b) Officer Responsibilities
  - Officers using reportable force shall:
    - Obtain medical assistance for subjects who have suffered injuries or complaint of injury or who have been rendered unconscious.
    - Promptly notify their supervisor, or the on duty field supervisor if their supervisor is not on duty, unless exigent circumstances delay the notification. Once the exigent circumstances have been resolved, then notification will be made.
    - Document the use of force in an arrest/crime report. Documentation shall include:
      1. A detailed description of the incident describing the severity of the crime.
      2. A detailed description of the subject's actions and officer's response to those actions and why.
      3. When appropriate, statements from witnesses and involved parties and collection of evidence, including photographs of injuries or alleged injuries.
      4. Complete the Use of Force (UF) "Detail" page and populate the study flag field, on the first page of the report, with "UF" for Use of Force.
  - Officers observing a use of reportable force, who do not believe the spirit and intent of the reporting requirements are being met, shall advise his/her immediate supervisor.
- (c) Supervisor's Responsibilities
  - When the supervisor has been notified of a reportable force incident, the supervisor shall:
    - Ensure the case is thoroughly investigated and documented following department procedures and guidelines.
    - Ensure that the study flag field, on the first page of the report, has been populated with "UF" for Use of Force.

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- Notify the shift watch commander of the incident. If the sergeant is also assuming watch commander duties, the sergeant would also assume the initial reporting requirements of the watch commander.
- (d) Watch Commander Responsibilities
  - When a reportable force incident occurs, the watch commander or supervisor shall complete an after action report and forward it to the Operations Division Commander within 5 days of the incident.
- (e) Department Responsibilities
  - In every reportable force incident, the department will:
    - Have the Operations Division Commander, or designee, review the incident and initiate any additional action deemed necessary. If necessary, the Chief of Police should be notified of the incident and the status of the investigation.
    - Forward appropriate information regarding the incident to the Defensive Tactics Team Lieutenant for review by the Tactical Review Committee. The Tactical Review Committee will include the Defensive Tactics Team Lieutenant and the supervisors from the Defensive Tactics Team and the supervisors of the Firearms Team as appropriate. They will review each reportable force incident from a purely tactical standpoint. Recommendations of the committee can include both policy or procedure revisions and training needs. This committee does not determine whether a particular use of force is within policy and it does not recommend disciplinary action. The Defensive Tactics Team Lieutenant will complete an annual memorandum and forward the report to the Operation's Division Commander, outlining the individual incident findings and any identified trends, training or departmental needs.
  - Reportable force incidents are not a part of an officer's personnel file and may be purged after 3 years or may be retained longer if appropriate.

### **300.8 TRAINING**

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

### **300.9 USE OF FORCE ANALYSIS**

At least annually, the Defensive Tactics Team should prepare an analysis report on use of force incidents. The report should be submitted to the Operations Division Commander. The report should not contain the names of officers, suspects or case numbers, and should include:

- (a) The identification of any trends in the use of force by members.
- (b) Training needs recommendations.



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- (c) Equipment needs recommendations.
- (d) Policy revision recommendations.