
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 sworn member of this department is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner (Government Code § 7286).

In addition to those methods, techniques, and tools set forth below, the guidelines for the reasonable application of force contained in this policy shall apply to all policies addressing the potential use of force, including but not limited to the Control Devices and Techniques and Conducted Energy Device policies.

300.1.1 DEFINITIONS

Definitions related to this policy include:

Deadly force - Any use of force that creates a substantial risk of causing death or serious bodily injury, including but not limited to the discharge of a firearm (Penal Code § 835a).

Feasible - Reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the sworn member or another person (Government Code § 7286(a)).

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.

Serious bodily injury - A serious impairment of physical condition, including but not limited to the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement (Penal Code § 243(f)(4)).

Totality of the circumstances - All facts known to the sworn member at the time, including the conduct of the officer and the subject leading up to the use of force (Penal Code § 835a).

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

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

Use of Force

The OLES recognizes that while performing authorized law enforcement actions, a sworn member may interact with a person in crisis. When appropriate for the person and mindful of officer safety practices, the sworn member will consider alternatives to using force, such as verbal de-escalation, to minimize physical or emotional harm to the affected person.

300.2.1 DUTY TO INTERCEDE

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

When observing force used by a law enforcement officer, each sworn member should take into account the totality of the circumstances and the possibility that other law enforcement officers may have additional information regarding the threat posed by the subject (Government Code § 7286(b)).

300.2.2 FAIR AND UNBIASED USE OF FORCE

Sworn members are expected to carry out their duties, including the use of force, in a manner that is fair and unbiased (Government Code § 7286(b)). See the Bias-Based Policing Policy for additional guidance.

300.2.3 DUTY TO REPORT EXCESSIVE FORCE

Any sworn member who observes a law enforcement officer or an employee use force that potentially exceeds what the sworn member reasonably believes to be necessary shall promptly report these observations to a supervisor as soon as feasible (Government Code § 7286(b)).

300.3 USE OF FORCE

Sworn members shall use only that amount of force that reasonably appears necessary given the facts and totality of the circumstances known to or perceived by the sworn member at the time of the event to accomplish a legitimate law enforcement purpose (Penal Code § 835a).

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

Given that no policy can realistically predict every possible situation a sworn member might encounter, sworn members are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident. Sworn members may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance (Government Code § 7286(b)).

Use of Force

It is also recognized that circumstances may arise in which sworn members reasonably believe that it would be impractical or ineffective to use any of the approved tools, weapons, or methods provided by the OLES. Sworn members may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting, where a sworn member or employee is being violently attacked. In such circumstances, the sworn member is authorized to use any improvised device or method, however, it must be objectively reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement or life-preserving purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires a sworn member to retreat or be exposed to possible physical injury before applying reasonable force.

300.3.1 CAROTID RESTRAINT AND CHOKEHOLDS

Sworn members are prohibited from using the following control holds:

- (a) Carotid restraint techniques
- (b) Chokehold: choking by means of applying pressure to the subject's trachea or other means that prevent breathing.

300.3.2 USE OF FORCE TO EFFECT AN ARREST

Sworn members may use objectively 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 a sworn member 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. Retreat does not mean tactical repositioning or other de-escalation techniques (Penal Code § 835a).

300.3.3 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether a sworn member has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit (Government Code § 7286(b)). These factors include but are not limited to:

- (a) The apparent immediacy and severity of the threat to sworn members or others (Penal Code § 835a).
- (b) The conduct of the individual being confronted, as reasonably perceived by the sworn member at the time (Penal Code § 835a).
- (c) Sworn member/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of sworn members available vs. subjects).
- (d) The conduct of the involved sworn member leading up to the use of force (Penal Code § 835a).
- (e) The effects of suspected drugs or alcohol.

Use of Force

- (f) The individual's apparent mental state or capacity (Penal Code § 835a).
- (g) The individual's apparent ability to understand and comply with sworn member commands (Penal Code § 835a).
- (h) Proximity of weapons or dangerous improvised devices.
- (i) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (j) The availability of other reasonable and feasible options and their possible effectiveness (Penal Code § 835a).
- (k) Seriousness of the suspected offense or reason for contact with the individual prior to and at the time force is used.
- (l) Training and experience of the sworn member.
- (m) Potential for injury to sworn members, suspects, bystanders, and others.
- (n) Whether the person appears to be resisting, attempting to evade arrest by flight, or is attacking the sworn member.
- (o) The risk and reasonably foreseeable consequences of escape.
- (p) The apparent need for immediate control of the subject or a prompt resolution of the situation.
- (q) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the sworn member or others.
- (r) Prior contacts with the subject or awareness of any propensity for violence.
- (s) Any other exigent circumstances.

300.3.4 USE OF FORCE TO SEIZE EVIDENCE

In general, sworn members may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, sworn members are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, sworn members 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. Sworn members are encouraged to use techniques and methods taught by the Office of Law Enforcement Support for this specific purpose.

300.3.5 ALTERNATIVE TACTICS - DE-ESCALATION

As time and circumstances reasonably permit, and when community and officer safety would not be compromised, sworn members should consider actions that may increase sworn member safety and may decrease the need for using force:

- (a) Summoning additional resources that are able to respond in a reasonably timely manner.
- (b) Formulating a plan with responding sworn members before entering an unstable situation that does not reasonably appear to require immediate intervention.

Use of Force

- (c) Employing other tactics that do not unreasonably increase sworn member jeopardy.

In addition, when reasonable, sworn members should evaluate the totality of circumstances presented at the time in each situation and, when feasible, consider and utilize reasonably available alternative tactics and techniques that may persuade an individual to voluntarily comply or may mitigate the need to use a higher level of force to resolve the situation before applying force (Government Code § 7286(b)). Such alternatives may include but are not limited to:

- (a) Attempts to de-escalate a situation.
- (b) If reasonably available, the use of crisis intervention techniques by properly trained personnel.

300.3.6 RESTRICTIONS ON THE USE OF A CHOKE HOLD

Sworn members of this department are not authorized to use a choke hold. A choke hold means any defensive tactic or force option in which direct pressure is applied to a person's trachea or windpipe (Government Code § 7286.5).

300.4 DEADLY FORCE APPLICATIONS

Where feasible, the sworn member shall, prior to the use of deadly force, make reasonable efforts to identify him/herself as a peace officer and to warn that deadly force may be used, unless the sworn member has objectively reasonable grounds to believe the person is aware of those facts (Penal Code 835a).

If an objectively reasonable sworn member would consider it safe and feasible to do so under the totality of the circumstances, sworn members shall evaluate and use other reasonably available resources and techniques when determining whether to use deadly force. To the extent that it is reasonably practical, sworn members should consider their surroundings and any potential risks to bystanders prior to discharging a firearm (Government Code § 7286(b)).

The use of deadly force is only justified when the sworn member reasonably believes it is necessary in the following circumstances (Penal Code § 835a):

- (a) A sworn member may use deadly force to protect him/herself or others from what he/she reasonably believes is an imminent threat of death or serious bodily injury to the sworn member or another person.
- (b) A sworn member may use deadly force to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the sworn member reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

Sworn members shall not use deadly force against a person based on the danger that person poses to him/herself, if an objectively reasonable sworn member would believe the person does not pose an imminent threat of death or serious bodily injury to the sworn member or to another person (Penal Code § 835a).

An "imminent" threat of death or serious bodily injury exists when, based on the totality of the circumstances, a reasonable sworn member in the same situation would believe that a person

Use of Force

has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the sworn member or another person. A sworn member's subjective fear of future harm alone is insufficient as an imminent threat. An imminent threat is one that from appearances is reasonably believed to require instant attention (Penal Code § 835a).

300.4.1 SHOOTING AT OR FROM MOVING VEHICLES

Shots fired at or from a moving vehicle are rarely effective and may involve additional considerations and risks. When feasible, sworn members should take reasonable steps to move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. A sworn member should only discharge a firearm at a moving vehicle or its occupants when the sworn member reasonably believes there are no other reasonable means available to avert the imminent threat of the vehicle, or if deadly force other than the vehicle is directed at the sworn member or others (Government Code § 7286(b)).

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

300.4.2 DISPLAYING OF FIREARMS

Given that individuals might perceive the display of a firearm as a potential application of force, sworn members should carefully evaluate each tactical situation and use sound discretion when drawing a firearm in public by considering the following guidelines (Government Code § 7286(b)):

- (a) If the sworn member does not initially perceive a threat but reasonably believes that the potential for such threat exists, firearms should generally be kept in the low-ready or other position not directed toward an individual.
- (b) If the sworn member reasonably believes that a threat exists based on the totality of circumstances presented at the time (e.g., high-risk stop, tactical entry, armed encounter), firearms may be directed toward such threat until the sworn member no longer perceives such threat.

Once it is reasonably safe to do so, sworn members should carefully secure all firearms.

300.5 REPORTING THE USE OF FORCE

Any use of force by a sworn member of this department shall be documented promptly, completely, and accurately in an appropriate report, depending on the nature of the incident. The sworn member 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 OLES may require the completion of additional report forms, as specified in department policy, procedure, or law. See the Report Preparation Policy for additional circumstances that may require documentation.

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.

Use of Force

- (b) The application would lead a reasonable sworn member to conclude that the individual may have experienced more than momentary discomfort.
- (c) The individual subjected to the force complained of injury or continuing pain.
- (d) The individual indicates intent to pursue litigation.
- (e) Any application of a control device.
- (f) Any application of a restraint device other than handcuffs, shackles, or belly chains.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was struck or kicked.
- (i) An individual alleges unreasonable force was used or that any of the above has occurred.

300.5.2 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 Section Policy.

300.6 MEDICAL CONSIDERATION

Once it is reasonably safe to do so, properly trained sworn members should promptly provide or procure medical assistance for any person injured or claiming to have been injured in a use of force incident (Government Code § 7286(b)).

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 sworn member'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 sworn member 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 sworn member 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 sworn member 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

Use of Force

multiple sworn members to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Sworn members who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away if appropriate.

300.7 SUPERVISOR RESPONSIBILITY

A supervisor should respond to any reported use of force, if reasonably available. The responding supervisor is expected to (Government Code § 7286(b)):

- (a) Obtain the basic facts from the involved sworn members. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- (b) Ensure that any injured parties are examined and treated.
- (c) Notify the law enforcement agency with primary investigative responsibility.
- (d) When possible, separately obtain a recorded interview with the subject upon whom force was applied. If this interview is conducted without the person having voluntarily waived his/her *Miranda* rights, the following shall apply:
 - 1. The content of the interview should not be summarized or included in any related criminal charges.
 - 2. The fact that a recorded interview was conducted should be documented in a property or other report.
 - 3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- (e) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.
- (f) Identify any witnesses not already included in related reports.
- (g) Review and approve all related reports.
- (h) Determine if there is any indication that the subject may pursue civil litigation.
 - 1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.
- (i) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance or if for any reason further investigation may be appropriate.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

Use of Force

300.7.1 CHIEF RESPONSIBILITY

The Chief of OLES shall review each use of force by any sworn member within his/her command to ensure compliance with this policy.

300.8 TRAINING

Sworn members, and supervisors will receive periodic training on this policy and demonstrate their knowledge and understanding (Government Code § 7286(b)).

Subject to available resources, the Training Manager should ensure that sworn members receive periodic training on de-escalation tactics, including alternatives to force.

Training should also include (Government Code § 7286(b)):

- (a) Guidelines regarding vulnerable populations, including but not limited to children, elderly persons, pregnant individuals, and individuals with physical, mental, and developmental disabilities.
- (b) Training courses required by and consistent with POST guidelines set forth in Penal Code § 13519.10.

300.9 USE OF FORCE COMPLAINTS

The receipt, processing, and investigation of civilian complaints involving use of force incidents should be handled in accordance with the Personnel Complaints Policy (Government Code § 7286(b)).

300.10 POLICY REVIEW

The Chief of OLES or the Chief's designee should regularly review and update this policy to reflect developing practices and procedures (Government Code § 7286(b)).

300.11 POLICY AVAILABILITY

The Chief or the authorized designee should ensure this policy is accessible to the public (Government Code § 7286(c)).

300.12 PUBLIC RECORDS REQUESTS

Requests for public records involving a sworn member's personnel records shall be processed in accordance with Penal Code § 832.7 and the Personnel Records and Records Maintenance and Release policies (Government Code § 7286(b)).