

Use of Force

632.1 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, and reasonable manner, without explicit bias.

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 Officer-Involved Shooting, Arrest of Probationers; Handcuffing and Restraints; Rapid Containment Baton and Oleoresin Capsicum Guidelines; and Energy Conducted Weapons System policies.

632.1.1 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).

De-escalation – The use of respectful interpersonal communication to avoid or reduce conflict or escalating situations that may lead to violence, utilizing techniques, if appropriate, such as: active listening, expressing empathy, building rapport, and influence.

Explicit bias - Conscious belief or attitude toward a specific social group that may lead an individual to act in discriminatory ways.

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 officer or another person.

Force - The application of physical techniques or tactics, chemical agents, or weapons to another person. It is not a use of force when a person permits themselves to be searched, escorted, handcuffed or restrained.

Imminent threat - An “imminent” threat of death or serious bodily injury exists when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the officer or another person. An officer’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.

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.

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Totality of the circumstances - All facts known to the officer at the time, including the conduct of the officer and the subject leading up to the use of force.

632.2 AUTHORITY AND REFERENCES

- 243(f)(4) PC; 835a PC; 12525.2 GC; 7286 GC; PC 13519.10; GC 7286(b);
- Commission on Peace Officer Standards and Training: POST Use of Force Standards and Guidelines;
- Policy 412 - Racial or Bias-Based Profiling;
- Policy 202 - Establishing, Revising and Reviewing of Departmental Policy and Procedures.

632.3 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 training, monitoring, evaluation and a careful balancing of all interests.

The use of force is restricted to circumstances authorized by law and only to the level necessary to accomplish a lawful probation task in accordance with established policies.

Officers shall utilize de-escalation techniques or other alternatives prior to using force when safe and feasible to do so.

This policy shall be accessible to the public via the Department's website.

This policy shall be regularly reviewed and updated in accordance with the Department's Establishing, Revising and Reviewing of Departmental Policy and Procedures Policy to reflect developing practices and procedures.

632.3.1 DUTY TO INTERCEDE

Any officer present and observing another officer using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, shall, when in a position to do so, intercede (including, but not limited to verbal and/or physical intervention) 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 or manager.

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When observing force used by a law enforcement officer, each officer 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)).

632.3.2 FAIR AND UNBIASED USE OF FORCE

Officers 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 Racial or Bias-Based Profiling Policy for additional guidance.

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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 (Penal Code § 835a).

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 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. Officers 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, considering the totality of the circumstances.

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.

The use of force options following officer presence (command presence and professional demeanor) and/or verbal commands (communication skills, dialogue, and negotiation) for officers listed below are restricted to those in which the officer has been successfully trained and authorized.

- (a) Physical restraint/leverage: control holds, mechanical restraints;
- (b) Pain compliance techniques;
- (c) Defensive strikes and kicks;

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- (d) Chemical agents;
- (e) Rapid Containment Baton (RCB);
- (f) Energy Conducted Weapon System;
- (g) Lethal force.

Vascular neck restraints or other similar restraints or holds or other defensive tactics in which pressure is applied to the sides of a person's neck that involves a substantial risk of restricting blood flow and may render a person unconscious are not authorized. Additionally, restraints or holds or other defensive tactics in which direct pressure to the person's trachea or windpipe are not authorized.

632.4.1 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 § 835). "Retreat" does not mean tactical repositioning or other de-escalation tactics.

632.4.2 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:

Training and experience of the officer.

- (a) The apparent immediacy and severity of the threat to officers or others (Penal Code § 835a).
- (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, and/or the number of officers available vs. subjects).
- (d) The conduct of the involved officer (Penal Code § 835a).
- (e) The effects of drugs or alcohol.
- (f) The individual's apparent mental state or capacity (Penal Code § 835a).
- (g) The individual's apparent ability to understand and comply with officer 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).

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

632.4.3 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

632.4.4 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.

632.4.5 ALTERNATIVE TACTICS - DE-ESCALATION

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

- (a) Summoning additional resources (such as probation officers or collaborative agencies) that are able to respond to the location in a timely manner.

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- (b) Establishing a plan to respond to a potentially unstable situation before entering a location.
- (c) Employing other tactics as defined under de-escalation above, that would not unreasonably jeopardize officer safety.

In addition, when reasonable, officers 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)(1)).

632.5 DEADLY FORCE APPLICATIONS

If an objectively reasonable officer would consider it safe and feasible to do so under the totality of the circumstances, officers should evaluate the use of other reasonably available resources and techniques when determining whether to use deadly force. The use of deadly force is justified in the following circumstances (Penal Code § 835a):

- (a) An officer 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 officer or another person.
- (b) An officer may use deadly force to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. Where feasible, the officer shall, prior to the use of force, make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts.

632.5.1 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.

632.5.2 EXHIBITION OF A FIREARM

Given that individuals might perceive the display of a firearm as a potential application of force, officers 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 officer 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.

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- (b) If the officer reasonably believes that a threat exists based on the totality of circumstances presented at the time (e.g., high-risk stop, high-risk arrest, tactical entry, armed encounter), firearms may be directed toward such threat until the officer no longer perceives such threat. Once it is reasonably safe to do so, officers should carefully secure all firearms.

CONSIDERATION OF SURROUNDINGS:

Any discharge of a firearm entails significant risk of an unintended outcome and may endanger the lives of bystanders. Accordingly, to the extent reasonably practical under the circumstances, officers must consider their surroundings (including location and traffic), and potential risks to bystanders before discharging a firearm.

632.6 REPORTING THE USE OF FORCE

Any use of force, as defined by 632.1.1 by a member of this department shall be documented promptly, completely and accurately in an incident report. The officer should articulate the factors perceived and why 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.

Use of force incident reporting shall be consistent with departmental incident reporting and critical incident response policies.

632.6.1 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.
- (d) The individual indicates intent to pursue litigation.
- (e) Any application of an Energy Conducted Weapon System (e.g. TASER) device 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.

632.6.2 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.

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632.7 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. Properly trained officers shall render first aid until medical assistance arrives.

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 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.

632.8 SUPERVISOR RESPONSIBILITY

When a supervisor is able to respond to an incident in which there has been a reported application of force, the supervisor is expected to:

- (a) Obtain the basic facts from the involved officers. 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) 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.
- (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:

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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) Review and approve all related reports.
- (f) Identify any witnesses not already included in related reports.
- (g) Evaluate the circumstances surrounding the incident if there is a question of policy non-compliance or if for any reason further investigation may be appropriate, forward those concerns to division management.
- (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 note concerns in the report to division management.
 2. If appropriate, the division managers shall contact the director of the Professional Standards Bureau who will consult with Risk Management.

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.

632.8.1 SUPERVISOR REVIEW

The unit supervisor shall review each use of force by any personnel within his/her command to ensure compliance with this policy and to address any training issues. All use of force incidents shall be forwarded to the respective division managers for review.

632.9 TRAINING

Officers and supervisors will receive training on this policy and demonstrate their knowledge and understanding (Government Code § 7286(b)), as defined in the department's annual training catalog, and the requirements set by Police Officer Standards and Training (POST). This policy shall be reviewed with staff during each appropriate course as identified below.

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.

The following courses meet the objectives in this policy:

- (a) Armed Staff Training
 1. OIS Critical Incident

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2. Force on Force Scenario Training
 - (b) Chemical Agents
 - (c) Crisis Intervention Training
 - (d) De-Escalation Training
 - (e) Mandatory Defensive Tactics Training (Field and Institutions; Armed and Unarmed)
 - (f) Supervisor Mandatory Defensive Tactics Training (Armed and Unarmed)
 - (g) Probation Search and Weapon Safety
 - (h) Utilizing Emotional Intelligence to Understand Implicit Bias
 - (i) PC 832 Module on Cultural Diversity

632.10 USE OF FORCE ANALYSIS

At least annually, the Chief Deputy Probation Officer(s) over Field Services should prepare an analysis report on use of force incidents. The report should be submitted to the Chief Probation Officer. 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) Policy revision recommendations.
- (c) Equipment needs recommendations.
- (d) Training needs recommendations.

Date last reviewed: 08/20/2021

Date(s) revised: 08/20/2021; 04/06/2021; 06/05/2020; 10/10/2014; 11/24/2009; and, 04/28/1998

Created: 03/27/1995