

## Use of Force

### 300.1 PURPOSE AND SCOPE

This policy recognizes that the use of force by law enforcement requires constant evaluation. Any use of force is a serious responsibility. The purpose of this policy is to provide Members of this Department with 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, each Member is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner.

#### 300.1.1 DEFINITIONS

**Member(s):** For the purpose of Department Policy 300, a "Member(s)" is a Deputy Sheriff, Deputy Coroner, or Sheriff's Special Officer who is authorized to utilize a use of force application, has successfully completed Department approved training in the use of force application being deployed and whose job duties are such that they may be, or are likely to be, presented with the need to use force.

**Use of Force:** A use of force is defined as any incident in which a Member, either on or off duty, while performing a law enforcement function, overcomes resistance through the application of physical contact or any other force option.

This does not include the use of a firm grip control hold while performing routine functions such as searching, handcuffing, or escorting. It also does not include reasonable intervention necessitated by the physical incapacity of the subject (e.g., lifting an intoxicated or disabled person). However, Members shall make appropriate notifications in any instance that results in injury, the appearance of injury or complaint of pain.

**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 Member or another person (Government Code § 7286(a)).

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

**Objectively Reasonable Force:** Force that is proportionate to the threat presented by, or the need to lawfully control, a subject in a particular moment. The threat or need would be perceived in that moment, and without benefit of hindsight. Force is not objectively reasonable if under the circumstances and in the relevant moment, it would be clear to a reasonable Member that lesser force would likely lead to safe control.

**Serious Bodily Injury:** 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)).

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**Physical Force:** Striking, holding, pulling, pushing, throwing, or exerting strength against another person.

**Hospitalized:** Receiving some form of medical treatment at a medical facility, other than an x-ray or being cleared for booking.

**Totality of the circumstances:** All facts known to the Member at the time, including the conduct of the Member and the subject leading up to the use of force (Penal Code § 835a).

**Excessive Force:** A level of force that is found to have violated Section 835a of the Penal Code, the requirements on the use of force required by Section 7286 of the Government Code, or any other law or statute (Government Code § 7286(a)(2)).

**Intercede:** Includes but is not limited to, physically stopping the excessive use of force, recording the excessive force, if equipped with a body-worn camera, and documenting the efforts to intervene, efforts to deescalate the offending officer's excessive use of force, and confronting the offending officer about the excessive force during the use of force and, if the officer continues, reporting to dispatch or the watch commander on duty and stating the offender officer's name, unit, location, time and situation, in order to establish a duty for that officer to intervene (Government Code § 7286(a)(4)).

**Retaliation:** Demotion, failure to promote to a higher position when warranted by merit, denial of access to training and professional development opportunities, denial of access to resources necessary for an officer to properly perform their duties, or intimidation, harassment, or the threat of injury while on duty or off duty (Government Code § 7286(a)(6)).

### **300.2 POLICY**

It is the policy of this Department that Members shall use only that amount of force that appears objectively reasonable, given the facts and circumstances perceived by the Member at the time of the event, to effectively bring an incident under control. "Reasonableness" of the force used must be judged from the perspective of a reasonable Member on the scene at the time of the incident. Any interpretation of reasonableness must allow for the fact the Sheriff's Department Members are often forced to make split-second decisions in circumstances that are tense, uncertain, and rapidly evolving about the amount of force that is objectively reasonable in a particular situation.

Given that no policy can realistically predict every possible situation a Member may encounter, it is recognized that each Member must be entrusted with well-reasoned discretion in determining the appropriate use of force and tactics used. While it is the ultimate objective of every law enforcement encounter to minimize injury to everyone involved, nothing in this policy requires a Member to actually sustain physical injury before applying reasonable force. 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. The use of any force to accomplish unlawful objectives is prohibited. The Department will not tolerate excessive and/or punitive force.

It is recognized that circumstances may arise in which Members are unable to effectively use the tools, weapons, or methods provided by the Department. In such circumstances, the Member

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may use alternative items or methods readily available to them, so long as the item or method was utilized in an objectively reasonable manner and only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose. In all circumstances, Members are expected to exercise sound judgment and critical decision-making when using force options.

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)).

#### 300.2.1 PHILOSOPHY

The use of force by law enforcement personnel is a matter of critical concern both to the public and to the law enforcement community. Members are involved on a daily basis in numerous and varied human encounters and when warranted, may use force in carrying out their duties.

Members must have an understanding of, and true appreciation for, the limitations of their authority. This is especially true with respect to Members overcoming resistance while engaged in the performance of their duties.

The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. It is also understood that vesting Members with the authority to use reasonable force and protect the public welfare requires a careful balancing of all human interests.

The use of force is based on the "Objectively Reasonable" standard as stated in U.S. Supreme Court case *Graham vs. Connor* (1989). This is the standard considered to be the benchmark across the United States. It is contemporary, reflecting the most current judicial wisdom and it mirrors the standard prescribed by the Commission on Peace Officer Standards and Training (POST). The appropriate application of this standard requires that all factors surrounding a particular event be considered. This is true when determining whether to use force, as well as writing the requisite reports to document an event where force was used and in the supervisory review of the same event to determine the appropriateness of the action.

#### 300.2.2 VOLUNTARY COMPLIANCE / DE-ESCALATION TECHNIQUES

When feasible, Members should ask for and allow reasonable time for compliance. Members shall evaluate the totality of the circumstances presented at the time in each situation and, when feasible, consider and utilize de-escalation techniques, crisis intervention tactics, and other alternatives to force 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. When possible, Members will record the interaction (PVS, BWC, handheld camera). De-escalation tactics, such as time, distance, cover, and concealment, and less lethal alternatives should be part of the decision-making process leading up to the consideration of deadly force, when reasonably feasible. Other alternatives may include:

1. Summoning additional resources that are able to respond in a reasonably timely manner.
2. Formulating a plan with responding Members before entering an unstable situation that does not reasonably appear to require immediate intervention.

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3. Employing other tactics that do not unreasonably increase Member jeopardy.
4. In a custodial setting, when encountering a problem with a lone inmate in a cell, the safest and most practical solution may be to back out, close and secure the door and notify a sergeant of the situation.

#### **300.2.3 DUTY TO INTERCEDE**

Any Member present and observing another Member using force that is clearly beyond that which is necessary, as determined by an objectively reasonable 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 another Member, each Member should take into account the totality of the circumstances and the possibility that the other Member may have additional information regarding the threat posed by the subject (Government Code § 7286(b)).

A Member who has received the required training on the duty to intercede and then fails to act to intercede when required by law, will be disciplined up to and including in the same manner as the Member that committed the excessive force (Government Code § 7286(b)).

#### **300.2.4 WITNESS TO A USE OF FORCE**

Any Member involved in or who witnesses a use of force shall notify a supervisor as soon as practical. Failure to notify a supervisor of a use of force may result in discipline pursuant to Department policy. Such notification shall be made as soon as reasonably possible.

#### **300.2.5 DUTY TO REPORT POTENTIAL EXCESSIVE FORCE**

A Member shall immediately report potential excessive force to a supervisor when present and observing another Member using force that the Member believes to be beyond that which is necessary, as determined by an objectively reasonable Member under the circumstances based upon the totality of information actually known to the Member (Government Code § 7286(b)).

#### **300.2.6 RETALIATION PROHIBITED FOR REPORTING**

Members shall not be retaliated against for reporting a suspected violation of a law or regulation of another Member to a supervisor or other person in the Department who has the authority to investigate the violation (Government Code § 7286(b)).

### **300.3 USE OF REASONABLE FORCE TO EFFECT AN ARREST, PREVENT ESCAPE OR OVERCOME RESISTANCE**

Any Member who has reasonable cause to believe that the person to be arrested has committed a public offense may use objectively reasonable force to effect the arrest, to prevent escape, or to overcome resistance. A Member who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance of the person being arrested nor shall such officer be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance. Retreat does not mean tactical repositioning or other de-escalation techniques (Penal Code § 835a, 836.5(b)). A Member may only use a level of force that they reasonably believe is proportional to

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the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance (Government Code § 7286(b)(2)).

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

When determining whether or not to apply any level of force and evaluating whether a Member has used reasonable force, a number of factors should be taken into consideration.

These factors include, but are not limited to:

1. The apparent immediacy and severity of the threat to officers or others (Penal Code § 835a).
2. The conduct of the individual being confronted (as reasonably perceived by the Member at the time).
3. Member/subject factors (age, size, relative strength, skill level, injury/exhaustion, and number of Members vs. subjects).
4. The conduct of the involved officer (Penal Code § 835a).
5. The individual's apparent mental state or capacity (Penal Code § 835a).
6. The effects of drugs or alcohol.
7. The individual's apparent ability to understand and comply with officer commands (Penal Code § 835a).
8. Proximity of weapons or dangerous improvised devices.
9. The degree to which the subject has been effectively restrained and their ability to resist despite being restrained.
10. Time and circumstances permitting, the availability of other reasonable and feasible options and their possible effectiveness (Penal Code § 835a).
11. Seriousness of the suspected offense or reason for contact with the individual.
12. Training and experience of the Member.
13. Potential for injury to citizens, Members, and suspects.
14. Whether the person appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.
15. The risk and reasonably foreseeable consequences of escape.
16. The apparent need for immediate control of the subject or a prompt resolution of the situation.
17. Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
18. Prior contacts with the subject or awareness of any propensity for violence.
19. Any other exigent circumstances.

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It is recognized that Members are expected to make split-second decisions and that the amount of a Member's time available to evaluate and respond to changing circumstances may impact his/her decision.

While various degrees of force exist, each Member is expected to use only that degree of force reasonable under the circumstances to successfully accomplish the legitimate law enforcement purpose in accordance with this policy.

### **300.4 NON-DEADLY FORCE APPLICATIONS**

Each Member is provided with equipment, training, and skills to assist in the apprehension and control of suspects as well as protection of Members and the public. Non-deadly force applications may include but are not limited to control holds/take downs, chemical agents, Conducted Energy Devices, less lethal weapons, batons, and personal body weapons.

#### **300.4.1 CONTROL HOLD/PAIN COMPLIANCE TECHNIQUES**

Pain compliance techniques may be very effective in controlling a passive or actively resisting individual. Members may only apply those techniques for which the Member has received Department approved training and only when the Member reasonably believes that the use of such a technique appears necessary to further a legitimate law enforcement purpose. Members utilizing any control technique should consider the totality of the circumstances including, but not limited to:

1. The potential for injury to the Member(s) or others if the technique is not used.
2. The potential risk of serious injury to the individual being controlled.
3. The degree to which a pain compliance technique may be applied should be proportionate to the amount of resistance by the suspect.
4. Whether the person can comply with the direction or orders of the officer.
5. Whether the person has been given sufficient opportunity to comply.
6. The nature of the offense involved.
7. The level of resistance of the individual(s) involved.
8. The need for prompt resolution of the situation.
9. If time permits (e.g., passive demonstrators), other reasonable alternatives.

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

#### **300.4.2 FORCE WEAPONS, TOOLS, AND EQUIPMENT**

All weapons, force tools, or restraint equipment carried while on-duty, or off duty under the Member's authority, shall be those issued by the Department or approved for carry by the Sheriff or his/her designee. No other such instruments shall be carried or used. No issued or approved equipment or weapon is to be altered or modified unless specifically authorized by the Sheriff or his/her designee. All weapons, tools, and equipment shall be maintained in good working order.

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and any defect shall be reported to appropriate authority and resolved expeditiously. All weapons and equipment shall be carried and used in a manner consistent with Department training as well.

#### **300.4.3 RESTRICTIONS ON THE USE OF CAROTID RESTRAINT HOLD**

Members are not authorized to use a carotid restraint hold. A carotid restraint means a vascular neck restraint or any similar restraint, hold, 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 the person unconscious in order to subdue or control the person (Government Code § 7286.5).

#### **300.4.4 RESTRICTIONS ON THE USE OF A CHOKE HOLD**

Members are prohibited from using a choke hold. A choke hold means any defensive tactic or force option in which pressure is applied to a person's trachea or windpipe (Government Code § 7286.5).

#### **300.4.5 ADDITIONAL RESTRICTIONS**

Members are not authorized to use any restraint, technique or transportation method that involves a substantial risk of positional asphyxia. "Positional asphyxia" means situating a person in a manner that reduces the ability to sustain adequate breathing. This includes, without limitation, the use of any physical restraint that causes a person's respiratory airway to be compressed or impairs the person's breathing or respiratory capacity, including any action in which pressure or body weight is unreasonably applied against a restrained person's neck, torso, or back, or positioning a restrained person without reasonable monitoring for signs of asphyxia (Government Code § 7286.5).

#### **300.4.6 PREGNANT INMATES**

In Custody and Court Operations, inmates known to be pregnant shall not be tased, pepper sprayed or exposed to other chemical weapons (Penal Code § 4023.8(h)). Correctional Health Services shall evaluate inmates for pregnancy upon intake and follow-up as needed. Inmates medically confirmed to be pregnant will be issued pink pants and are required to wear them while in custody. Deputies may rely on the inmate's clothing to determine whether an inmate is pregnant.

### **300.5 DEADLY FORCE APPLICATIONS**

Where feasible, the 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 Member has objectively reasonable grounds to believe the person is aware of those facts (Penal Code § 835a).

To the extent that it is reasonable under the circumstances, Members shall consider their surroundings and any potential risks to bystanders prior to discharging a firearm (Government Code § 7286(b)).

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### 300.5.1 DEADLY FORCE AGAINST A PERSON

While the use of a firearm is expressly considered deadly force, other force might also be considered deadly force if the Member reasonably anticipates and intends that the force applied will create a substantial risk of serious bodily injury or death. Use of deadly force is justified in the following circumstances:

1. A Member may use deadly force when the Member reasonably believes, based on the totality of the circumstances, that such force is necessary to defend against an imminent threat of death or serious bodily injury to the Member or another person.
2. A Member may use deadly force when the Member reasonably believes, based on the totality of the circumstances, that such force is necessary to apprehend a fleeing suspect for any felony that threatened or resulted in death or serious bodily injury, if the Member reasonably believes that the suspect will cause death or serious bodily injury to another unless immediately apprehended. Where feasible, a Member 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 Member has objectively reasonable grounds to believe the person is aware of those facts (Example: "Police/ Sheriff's Department! Stop or I'll shoot!").

Officers shall not use deadly force against a person based on the danger that person poses to himself/herself, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer 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 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 imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed (Penal Code § 835a).

### 300.5.2 DEADLY FORCE AGAINST AN ANIMAL

Members are authorized to use deadly force against an animal in circumstances where the animal reasonably appears to pose an imminent threat to human safety and alternative methods to neutralize the threat are not reasonably available or would likely be ineffective.

In circumstances in which Members have sufficient advanced notice that a potentially dangerous domestic animal (e.g., dog) may be encountered, such as the serving of a search warrant, Members should develop reasonable contingency plans for dealing with the animal without the use of deadly force (e.g., fire extinguisher, Taser, OC Spray, animal control officer). Nothing in this policy shall prohibit any Member from resorting to deadly force to control a dangerous animal if circumstances reasonably dictate that a contingency plan has failed or becomes impractical.



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Injured animals (with the exception of dogs and cats) may be euthanized only after a reasonable search to locate the owner has been made (Penal Code § 597.1(b)). Injured dogs and cats found without their owners shall be taken to an appropriate veterinarian for determination of whether they should be treated or humanely destroyed (Penal Code § 597.1(c)). However, if any animal is too severely injured to move or where veterinarian is not available and it would be more humane to dispose of the animal, the Member may euthanize the animal after obtaining approval of a supervisor (Penal Code § 597.1(e)). **Department Commander notification shall be made as soon as reasonably possible prior to or immediately following the euthanizing of any animal.**

### 300.5.3 SHOOTING AT AND/OR FROM MOVING VEHICLES

The discharge of a firearm at and/or from a moving vehicles/vessels is limited to only those situations where deadly force is justified under the law and no other reasonable alternatives were available at the time. It presents a significant risk to the public, involved Member(s), and others. It is intended to ensure such actions are lawful, necessary, proportional to the threat, and does not create greater danger (CPC § 835a and Government Code § 7286(b)).

Members shall evaluate the following:

#### Backdrop Safety

- Risk to uninvolved persons (e.g., hostages, children in the vehicle, other motorists, and pedestrians).
- The dynamic environment caused by due vehicle speed and movement.

#### Ballistic Effectiveness

- Likelihood of round deflection or ineffective penetration through:
  - Structural vehicle components (e.g., A-, B-, and C-pillars).
  - Windshields and other hardened areas.

#### Vehicle or Vessel Control

- Risk of losing control of the police vehicle or vessel when discharging a firearm.
- Risk of collateral damage if the suspect is incapacitated and the vehicle or vessel continues moving (e.g., striking other motorists, bystanders, or pedestrians).

#### Alternatives to Firearms

- Availability of other tactical options:
  - Containment.
  - Tactical disengagement.
  - Use of cover.

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- Coordinated unit response.
- Pursuit Intervention Tactics.
- Whether allowing the vehicle or vessel to flee presents less risk to the public than an immediate use of force.

Members shall not discharge their firearms at a moving or fleeing vehicle/vessel to disable the vehicle/vessel or prevent escape unless deadly force is justified.

Members shall actively attempt to move out of the path of an approaching motor vehicle. Members should not position themselves or intentionally remain in the path of a moving vehicle.

#### 300.5.4 WARNING SHOTS

Generally, warning shots or shots fired for the purpose of summoning aid are discouraged and may not be discharged unless the Member reasonably believes that they appear necessary, effective, and reasonably safe.

#### 300.5.5 REPORT OF WEAPON DISCHARGE

Any Department Member who discharges a weapon intentionally, whether on or off duty, while exercising peace officer powers, shall notify the Department Commander as soon as circumstances permit.

Any Department Member who discharges a weapon unintentionally shall notify his/her immediate supervisor and the Department Commander as soon as circumstances permit. All unintentional discharges shall be reviewed to determine if the discharge was the result of accident, equipment malfunction, negligence, or inadequate training.

#### 300.5.6 POST SHOOTING PROCEDURE INVOLVING INJURED SUSPECT(S), VICTIM(S), ARRESTEE(S), OR ANY SUBJECT(S) WITHIN THE CARE OR CUSTODY OF THIS DEPARTMENT

If it becomes necessary for a Member to use deadly force, the following post-shooting procedures should be followed:

1. Approach with caution; be alert for additional subjects and weapons.
2. Handcuff and immediately search the subject. Keep the subject under continuous observation and control.
3. After you have determined the subject is no longer a threat:
  - (a) Notify dispatch of your location and circumstances if it has already not been done.
  - (b) Render whatever first aid that may be required.
  - (c) Preserve the scene.
  - (d) Assist paramedics when and if they respond, but continue to maintain control and observation of the subject until removed from the scene.

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- (e) If removed from the scene in an ambulance, a Member shall accompany that subject inside the ambulance in order to preserve evidence, to ensure the recording and legitimacy of dying declarations, and to provide safety to both the injured and medical personnel.

#### **300.5.7 DISPLAYING OF FIREARMS**

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)):

1. If a 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.
2. If the Member reasonably believes that a threat exists based on the totality of circumstances presented at the time, firearms may be directed toward such threat until the Member no longer perceives such threat.
3. If a Member is involved in an inherently high-risk situation, which calls for the use of tactics that include directing firearms at individuals (e.g., high-risk stop, tactical entry, sniper/spotter operation, incidents requiring a tactical response), the Member may do so until the situation is resolved.
4. A Member shall not draw their firearm, direct it toward a person, and threaten to shoot if the person is compliant and does not present a danger.

#### **300.6 MEDICAL CONSIDERATIONS**

Once it is reasonable and safe to do so, Members shall promptly provide, if properly trained, or otherwise promptly procure medical assistance for any person injured or claiming to have been injured in a use of force incident (Government Code § 7286(b)).

1. Based upon the Member's initial assessment of the nature and extent of the subject's injuries, render whatever first aid that may be required until the subject can receive further medical assistance. Medical assistance may consist of examination by fire personnel, paramedics, hospital staff, or medical staff at the jail. The on-scene supervisor, or if not available, the primary handling 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 Member reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).
2. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until medically assessed. Any individual exhibiting signs of distress after an application of force shall be medically evaluated as soon as practicable by either paramedics at the scene or taken to a hospital for examination. Signs of distress may include shortness of breath, chest pain, and/or dizziness.
3. Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain, or who require a protracted physical encounter with multiple

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

4. If the subject is in custody or is the responsibility of the Department and requires transportation by ambulance/paramedic unit, a deputy shall accompany that subject inside the ambulance until properly relieved.
5. If the subject is an inmate at one of the five Orange County Sheriff's jail facilities at the time of the use of force, then Correctional Health Services will be notified and directed to respond, and once on scene will assume responsibility for medical care.
6. Any individual who refuses medical attention shall have his or her refusal fully documented in related reports and be witnessed by medical personnel and if possible, another Member. If medical staff is willing to provide a copy of the subject's medical refusal, this document should be collected and included with the report package. If possible, an audio recording of the refusal should also be made and a notation in the report indicating the subject's refusal was recorded and either booked as evidence or stored on the Department's digital video server system.

### **300.7 POST USE OF FORCE PROCEDURES**

Supervisory notification shall be made as soon as reasonably possible following a use of force.

Any use of force by a Member of this Department shall be documented by that Member promptly, completely, and accurately in an appropriate report depending on the nature of the incident. When documenting a Use of Force event, the Department Member is encouraged to review Department audio/video recordings (e.g. Patrol Video System (PVS), jail facility cameras) as a means of ensuring factual accuracy and enhancing recollection. Use of such materials in preparation of reports shall be documented, and done on an individual rather than collective basis. For further, refer to policy 303 - Department Media.

#### **300.7.1 LESS-LETHAL MUNITIONS PROTOCOL**

Any time less lethal munitions (40mm or .12 Gauge Super Sock "bean bag") are deployed and the suspect or anyone involved in the incident sustains serious bodily injury or is hospitalized, the Homicide Unit shall be notified, via the Department Commander, and be responsible for conducting the investigation.

In all instances, excluding ones occurring within a county detention facility, in which kinetic energy projectiles and/or chemical agents are used for crowd control, the Department's Crowd Control Less Lethal Deployment Report shall be completed. This document shall include the following:

1. A description of the assembly, protest, demonstration, or incident, including the approximate crowd size and the number of officers involved.
2. The type of kinetic energy projectile or chemical agent deployed.
3. The number of rounds or quantity of chemical agent dispersed, as applicable.

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4. The number of documented injuries as a result of the kinetic energy projectile or chemical agent deployment.
5. The justification for using the kinetic energy projectile or chemical agent, including any de-escalation tactics or protocols and other measures that were taken at the time of the event to deescalate tensions and avoid the necessity of using the kinetic energy projectile or chemical agent.

This report will be completed as part of the Supervisor's Use of Force analysis.

For further Less Lethal requirements, refer to policy 384 - Less Lethal.

#### **300.7.2 DEATH OR LIFE THREATENING INJURY NOTIFICATION PROTOCOL**

Per the MOU with the Orange County District Attorney's Office, all cases where an individual dies or suffers serious injury which is life threatening while in the custody or control of a Member of this Department, or is incarcerated in an Orange County Jail facility, shall be referred to the Orange County District Attorney's Office, via the Homicide Unit. The Orange County District Attorney's Office may decline to respond.

Notwithstanding the MOU with the Orange County District Attorney's Office, when an officer-involved shooting results in the death of an unarmed civilian, the California Attorney General's Office will investigate the incident (Government Code § 12525.3).

#### **300.7.3 CRM REPORTING PROTOCOL**

If a Use of Force incident involves an investigation by the Homicide Detail and/or the District Attorney's Office, the SAFE Division shall be responsible for entering the initial notification of the use of force into the CRM database system. The SAFE Division shall also be responsible for the Administrative Investigation.

If it is determined the case will not be investigated by the Homicide Detail and/or District Attorney's Office or California Attorney General's Office, the use of force analysis shall be handled by an uninvolved supervisor and reviewed through the normal CRM database review process.

#### **300.8 SUPERVISOR RESPONSIBILITY**

Upon notification of a use of force, (with the exception of any Officer Involved Shooting - See "Shooting Incidents" Policy #310), the supervisor shall respond and conduct an investigation of the incident. If the designated supervisor is unable to respond, the Patrol Department Commander or Jail Watch Commander shall assign another available supervisor. A supervisor who is a participant and applies force during the involved incident cannot conduct the supervisory analysis.

The handling supervisor's responsibilities include but are not limited to the following:

1. Shall obtain the basic facts from the involved Member. If the Member's statement of basic facts is likely to result in the disclosure of actions that violate policy, the supervisor should adhere to Government Code section 3303(i), which states, "Whenever an interrogation focuses on matters that are likely to result in punitive action against any public safety officer, that officer, at his or her request, shall have the right

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to be represented by a representative of his or her choice who may be present at all times during the interrogation." If the disclosure of basic facts is not likely to result in disclosure of actions that violate policy, the supervisor may direct the Member to provide the basic facts.

2. Ensure that any injured parties are examined and treated.
3. Separately interview the subject(s) upon whom force was applied. Questioning should be related to possible injuries sustained during the use of force and/or if the subject(s) has received medical attention. Prior to investigatory questioning, the supervisor will confirm the subject(s) has been read their Miranda Rights warning due to the questioning possibly or likely eliciting an incriminating response. The entire interview shall be recorded.
4. Ensure that photographs have been taken of any areas involving visible injury or complaint of pain as well as overall photographs of uninjured areas (consistent with CPC 4030).
5. Identify and interview any witnesses. The entire interview shall be recorded.
6. Complete a summary of the audio and video/digital recording (s) and include with the incident documentation.
7. Shall ensure all audio and video/digital media are booked into evidence in accordance with Policy 802 Property and Evidence, including the identification in Remedy that the evidence relates to a use of force.
8. When possible, review and approve all related reports.
9. Complete the "Preliminary Notification" in the CRM system as soon as practical as well as the Supervisory Use of Force Analysis report to include assigning a determination to each Member involved as:
  - (a) In Policy, No further action required.
  - (b) Training or corrective action addressed.
  - (c) Refer to Command Staff for investigation.
10. In the event the Use of Force includes use kinetic energy projectiles and/or chemical agents for crowd control, complete the Department's Crowd Control Less Lethal Deployment Report. This report should be completed as soon as practical, however no later than 45 days from the incident. This requirement does not apply to incidents occurring within a county detention facility.
11. Scan and attach all related reports to the notes section of CRM, if the report is not included in FBR.
12. Forward electronically to the assigned Lieutenant/Captain for review.

If Non-Custodial Personnel (e.g. patrol, investigations) are involved in a UOF at the IRC, Patrol Operations Sergeants will complete the administrative UOF review process and assign it to their perspective chain of command. Custody Operations Sergeants will be responsible for Sections 2, 3, 4, 5, including the "Supervisory Use Of Force Supplemental" listed above.

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If the UOF at the IRC involves Non-Custodial and Custodial Personnel, the IRC Watch Commander and Department Commander will discuss and determine which command should be assigned the administrative UOF review process.

#### **300.9 CAPTAIN OR LIEUTENANT RESPONSIBILITY**

1. Review and evaluate all submitted reports, photographs, audio, and video recordings.
2. Based on all submitted documentation, evaluate the overall incident and the appropriateness of all actions taken by staff.
3. Review the Supervisory Use of Force Analysis submitted into the CRM by the supervisor. Resubmit to the Supervisor for any changes and ultimately approve the Supervisory Use of Force. Assign a determination to each staff member involved as:
  - (a) In Policy, No further action required.
  - (b) Training or corrective action addressed.
  - (c) Refer to Command Staff for investigation.
4. Forward electronically to the Commander for review.

#### **300.10 COMMANDER RESPONSIBILITY**

1. Review and evaluate all submitted reports, photographs, audio, and video recordings.
2. Based on all submitted documentation, evaluate the overall incident and the appropriateness of all actions taken by each Member.
3. Assign a determination to each Member involved in the incident as:
  - (a) In Policy, No further action required.
  - (b) Training or corrective action addressed.
  - (c) Refer to Command Staff for investigation.
4. Finalize the Supervisor, Lieutenant, and Division Commander's determinations by electronically submitting the completed assessment within the CRM system.

#### **300.11 NOTICE OF DISPOSITION**

The Commander responsible for reviewing the Supervisory Use of Force Analysis shall determine whether the Member's actions were "In Policy, No further action required"; "Training or corrective action addressed"; "Refer to Command Staff for investigation" or other determination, and they shall provide the Member a written or emailed notice of that determination. The Members shall be provided with a notice of disposition at the conclusion of investigation.

#### **300.12 USE OF FORCE COMPLAINTS**

The receipt, processing, and investigation of complaints involving use of force incidents should be handled in accordance with Policy 1020 Personnel Complaint Procedure (Government Code § 7286(b)).

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A Member will be prohibited from training other Members for a period of at least three years from the date that an abuse of force complaint against the Member is sustained (Government Code § 7286(b)).

### **300.13 TRAINING**

Members will receive periodic training on policy and demonstrate their knowledge and understanding (Government Code § 7286(b)). This training includes guidelines regarding vulnerable populations, including but not limited to children, elderly persons, pregnant individuals, and individuals with physical, mental, and developmental disabilities.

This list of training courses include curriculum which covers the objectives set forth within this policy, this list is not all inclusive:

- Less Lethal Basic
- Less Lethal Recertification
- Taser Basic
- Taser Recertification
- Crisis Intervention Training
- Arrest Control Techniques
- Tactical Communications

Additional training courses are offered periodically to stay consistent with POST guidelines set forth in Penal Code § 13519.10.

### **300.14 PUBLIC RECORDS REQUESTS**

Requests for records relating to an incident involving the discharge of a firearm at a person by a peace officer, an incident in which the use of force by a peace officer against a person resulted in death or great bodily injury, a sustained finding involving a complaint that alleges unreasonable or excessive force, or a sustained finding that a Member failed to intervene against another Member using force that is clearly unreasonable or excessive will be processed in accordance with Penal Code section 832.7 and Policy 805.

### **300.15 REPORTING TO THE CALIFORNIA DEPARTMENT OF JUSTICE**

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

### **300.16 POLICY REVIEW**

The S.A.F.E. Division will regularly review and, as necessary, update this policy for the Sheriff's approval to reflect developing practices and procedures.



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#### **300.17 PUBLICATION OF CROWD CONTROL LESS LETHAL DEPLOYMENT REPORTS ON DEPARTMENT'S PUBLIC WEBSITE**

Incidents in which kinetic energy projectiles and/or chemical agents are used for crowd control will be summarized within the Use of Force Analysis. The summary must comply with all content requirements of California Penal Code §13652.1(b) and will be limited to the information known at the time of the report. The S.A.F.E. Division and P.A.C.E. Division will collaboratively publish a summary of the incident, in accordance with CPC 13652.1(b), within 60 days, or 90 days with just cause, of the incident on the Department's public website.