

Use of Force - Peace Officers

351.1 BACKGROUND

The French Camp McKinley Fire District (District) recognizes and respects the value of all human life. Fire Investigator-Peace Officers are involved in numerous encounters daily with a variety of people and may be called upon to use reasonable force in carrying out their duties in a manner that is fair and unbiased. Investigators must understand the limitations of their authority with respect to overcoming resistance from those with whom they come in official contact. Vesting Investigators with the authority to use reasonable force and protect the public welfare requires a careful balancing of all human interests.

351.2 PURPOSE AND SCOPE

The purpose of this policy is to provide District Peace Officers with guidelines for the reasonable use of force, as well as procedures for after-force medical care, and reporting of the incidents after an application of force. This policy recognizes the use of force is a serious responsibility and requires constant evaluation.

While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every Peace Officer of this district 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.

This policy applies to all District Peace Officers.

351.3 POLICY

- I. It is the policy of this District that District Peace Officers shall use only that force which is reasonable, given the facts and circumstances perceived by the officer at the time of the event, to effectively bring an incident under control. The reasonableness of the force shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight, and that the totality of the circumstances shall account for occasions when officer may be forced to make quick judgments about using force.
- II. Given that no policy can realistically predict every possible situation an Investigator might encounter, Investigators are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident. Investigators 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.
 1. District Peace Officers may use force in the performance of their duties when they reasonably believe any of the following conditions exist:

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- (a) To protect a person from injuring themselves;
 - (b) To effect a lawful arrest, prevent escape, or overcome resistance;
 - (c) To prevent the commission of a public offense;
 - (d) In defense of another person;
 - (e) In Self-defense;
 - (f) To prevent the destruction of evidence.
- III. District Peace Officers may use force in the performance of their duties pursuant to PC 835a. 835a. (a) The Legislature finds and declares all of the following:
1. That the authority to use physical force, conferred on peace officers by this section, is a serious responsibility that shall be exercised judiciously and with respect for human rights and dignity and for the sanctity of every human life. The Legislature further finds and declares that every person has a right to be free from excessive use of force by officers acting under color of law.
 2. As set forth below, it is the intent of the Legislature that peace officers use deadly force only when necessary in defense of human life. In determining whether deadly force is necessary, officers shall evaluate each situation in light of the particular circumstances of each case, and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer.
 3. That the decision by a peace officer to use force shall be evaluated carefully and thoroughly, in a manner that reflects the gravity of that authority and the serious consequences of the use of force by peace officers, in order to ensure that officers use force consistent with law and agency policies.
 4. That the decision by a peace officer to use force shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight, and that the totality of the circumstances shall account for occasions when officers may be forced to make quick judgments about using force.
 5. That individuals with physical, mental health, developmental, or intellectual disabilities are significantly more likely to experience greater levels of physical force during police interactions, as their disability may affect their ability to understand or comply with commands from peace officers. It is estimated that individuals with disabilities are involved in between one-third and one-half of all fatal encounters with law enforcement.
 - (a) Any peace officer 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.
 - (b) (1) Notwithstanding subdivision (b), a peace officer is justified in using deadly force upon another person only when the officer reasonably

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believes, based on the totality of the circumstances, that such force is necessary for either of the following reasons:

- A. To defend against an imminent threat of death or serious bodily injury to the officer or to another person.
 - B. 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, a peace 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.
- (c) (2) A peace officer shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the peace officer or to another person.
- (d) A peace officer who makes or attempts to make an arrest need not retreat or desist from their efforts by reason of the resistance or threatened resistance of the person being arrested. A peace officer shall not be deemed an aggressor or lose the right to self-defense by the use of objectively reasonable force in compliance with subdivisions (b) and (c) to effect the arrest or to prevent escape or to overcome resistance. For the purposes of this subdivision, "retreat" does not mean tactical repositioning or other de-escalation tactics.
- (e) For purposes of this section, the following definitions shall apply:
1. "Deadly force" means 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.
 2. A threat of death or serious bodily injury is "imminent" 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 peace 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.
 3. "Totality of the circumstances" means all facts known to the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force.

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351.4 USE OF FORCE OPTIONS

- I. Examples of force options are provided to officers in Appendix A and do not imply any continuum for force. These examples are not exhaustive nor are they intended to limit an officer's reasonable response to a perceived threat (see Appendix A).
- II. Despite the options provided in Appendix A, the following should be noted:
 - Per California Assembly Bill 1196 (Government Code 7286.5), the carotid restraint and chokehold are not authorized; however, it is not the intent of Assembly Bill 1196 to take away the general right to self-defense or defense of others against great bodily injury or death.
 - Intentionally restricting oxygen or blood flow to the brain is prohibited unless deadly force is authorized. If an officer does restrict oxygen or blood flow to a subject's brain, and once the subject is detained, the officer shall:
 - (a) Provide medical assistance if necessary (CPR, first aid, etc.).
 - (b) Advise jail medical and booking staff for monitoring.
 - (c) Arrange transport to a hospital and obtain clearance by a medical doctor prior to booking.
 - Kneeling, placing bodyweight, or utilizing an object directly upon a subject's neck is prohibited unless overcoming active resistance, or other means of defense or standard weapons are not available or practical.
 - Kneeling or placing bodyweight upon a subject's torso is prohibited unless overcoming resistance. If officers place their weight on a subject's upper back or torso in order to apply handcuffs, once the subject is handcuffed and compliant, officers shall place the subject in a recovery position. Officers need to be aware of positional asphyxia. Officers should monitor the subject and address any medical emergencies should they occur.
 - Kneeling or placing bodyweight upon a non-resistive prone or supine subject's torso is prohibited.
 - Distraction blows, strikes, or punches done for the sole purpose of distracting someone in an attempt to gain control, detain, or arrest are prohibited.
 - Ignoring a subject's plea regarding a medical emergency (chest pains, difficulty breathing, etc.) is prohibited.

351.5 DE-ESCALATION AND INTERVENTION

- A. Officers must also recognize situations, which require de-escalation and/or crisis intervention. When such situations arise, officers shall consider and use alternative tactics to try to persuade the individual to voluntarily comply to mitigate the need for a higher level of force to resolve the situation. In these situations, officers shall attempt to de-escalate the situation, use crisis intervention tactics by properly trained personnel, and other alternatives to force when reasonable (Government Code § 7286(b)(1)).

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- B. 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:
 - 1. Summoning additional resources that are able to respond in a reasonably timely manner.
 - 2. Formulating a plan with responding officers before entering an unstable situation that does not reasonably appear to require immediate intervention.
 - 3. Employing other tactics that do not unreasonably increase officer jeopardy.
- C. Additionally, any employee present and observing another employee using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intervene to stop the use of unreasonable force. Additionally, any employee who observes another employee using force that exceeds the degree of force permitted by law shall immediately report those observations to a supervisor.

351.6 DISPLAYING OF FIREARMS

- A. 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)):
 - 1. 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 a position not directed toward an individual.
 - 2. If the officer 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 imminent threat until the officer no longer perceives such threat. Once it is reasonably safe to do so, officers should carefully secure all firearms.

351.7 DEADLY FORCE APPLICATIONS

- A. Where feasible, the officer 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 officer has objectively reasonable grounds to believe the person is aware of those facts (Penal Code 835a(5) (c)(1)(B)).
- B. If an objectively reasonable officer would consider it safe and feasible to do so under the totality of the circumstances, officers 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, officers should consider their surroundings and any potential risks to bystanders prior to discharging a firearm (Government Code § 7286(b)).
- C. The use of deadly force is only justified when the officer reasonably believes it is necessary in the following circumstances (Penal Code § 835a):

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1. 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.
 2. 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.
- D. Officers shall not use deadly force against a person based on the danger that person poses to him/ 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).
- E. 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 (Penal Code § 835a).

351.8 SHOOTING AT OR FROM A MOVING VEHICLE

- A. An Officer shall not fire at or from a moving vehicle unless there is reasonable assurance that such firing will not endanger innocent persons.
- B. The use of firearms from, or against, moving motor vehicles is inherently dangerous and often times ineffective.
- C. Officers should, whenever possible, avoid assuming a position in the path of a moving vehicle. A department member threatened by an oncoming motor vehicle shall, where reasonable, consider moving out of the vehicle's path to mitigate the threat.

351.9 MEDICAL

Immediately following any application of force officers must promptly provide and/or obtain medical care for persons injured or claiming to be injured in a use of force incident, when reasonable and safe to do so.

351.10 REPORTING

- A. Any use of force which results in an apparent or reported injury shall be documented utilizing an incident report, which may include, but is not limited to, a crime/arrest report, a casualty report, a 5150 report, or an information report.
- B. Any Application of Force or Use of Deadly Force, as described in sections II.B and II.C of Appendix A of this order, against any person by an employee of this Department (sworn or non-sworn) shall be documented utilizing an incident report which may include, but is not limited to, a crime/arrest report, a casualty report, a 5150 report, or an information report.

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1. Exception- Documentation is not required for the use of control/compliance holds handcuffs, shackles, or other restraint devices when used to restrain persons for security or transportation purposes unless the application resulted in an apparent or reported injury.
 2. In instances where officers used firearms, a report shall be completed no later than the end of the shift.
- C. The complete use of force report, whether an incident, pursuit, casualty, or crime report, should include, but is not limited to, the following:
1. Reason for response or enforcement activity;
 2. Witness/suspect behavior reported prior to and upon arrival of officers;
 3. Suspect actions and statements prior to arrest/use of force;
 4. Descriptions of physical stature and behavior; i.e., height/weight, appearance of being under the influence of alcohol or drugs, demonstrated fighting skill;
 5. Type and amount of resistance offered;
 6. Type and amount of force used to overcome resistance;
 7. Medical treatment requested and by whom provided;
 8. Time of supervisory notification and to whom;
 9. Third party witness statements;
 10. Evidence collected, to include description of injuries if applicable.
 11. If applicable, include any attempts at de-escalation. Documentation should include a description of what efforts were attempted, the suspect's response to the attempts, and why the de-escalation procedures were not successful.
- D. Supervisory notification shall be made as soon as practical following the application of force which, at the time, appears likely to have caused physical injury. Medical assistance for any injured persons shall be obtained as soon as possible.

Additionally, certain use of force incidents, officer involved shootings and incidents involving use of force resulting in serious bodily injury will be reported to the California Department of Justice as required pursuant to Government Code § 12525.2, by the law enforcement authority having jurisdiction.

351.11 DEBRIEFING

Management and/or supervisory personnel shall plan and facilitate debriefings of any use of force incident, which results in serious bodily injury or death to a citizen, officer, or suspect. The debriefing shall include personnel involved in the incident and any other concerned personnel at the discretion of the coordinating manager/supervisor. Debriefings shall occur as soon as possible after the incident, but no later than 30 days afterward.

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351.12 TRAINING

- A. Officers, investigators, and supervisors will receive periodic training on this policy and demonstrate their knowledge and understanding (Government Code § 7286(b)).
- B. Subject to available resources, the Division of Training shall ensure that officers receive periodic training on de-escalation tactics, including alternatives to force.
- C. Training should also include (Government Code § 7286(b)):
 1. Guidelines regarding vulnerable populations, including but not limited to children, elderly persons, pregnant individuals, and individuals with physical, mental, and developmental disabilities.
 2. Training courses required by and consistent with POST guidelines set forth in Penal Code § 13519.10

351.13 USE OF FORCE ANALYSIS

- A. At least annually, the lead investigator should prepare an analysis report of all Use of Force incidents. The report shall be submitted to the Fire Chief for review. The report will not contain the names of peace officers, subjects, or case number. The report should include:
 1. Any identified use of force trends identified;
 2. Training needs/recommendations;
 3. Equipment needs/recommendations;
 4. Policy review and revision recommendations

351.14 PUBLIC RECORDS REQUESTS

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

351.15 USE OF FORCE COMPLAINTS

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

351.16 POLICY REVIEW

The Fire Chief or their designee will regularly review and update this policy to reflect developing practices and procedures (Government Code § 7286(b)).

351.17 USE OF FORCE APPENDIX A

- I. Examples of Factors Which May Affect an Officer's Use of Reasonable Force:
 - A. Number of suspects/officers

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- B. Suspect factors (age, size, gender, relative strength, skill level)
 - C. Officer physical condition (injury, exhaustion level)
 - D. Influence of drugs, alcohol, or mental capacity
 - E. Proximity to weapons
 - F. Availability of other options
 - G. Seriousness of the suspected offense
 - H. Potential for injury to citizens, officers, and suspects
 - I. Actively resisting or attempting to evade arrest by flight
 - J. Prior knowledge or contact
 - K. Environmental factors (lighting, footing, traffic, terrain, bodies of water, hostile crowds)
 - L. Other exigent circumstances
- II. Types of Force Which May Be Applied Include, But Are Not Limited To:
- A. Displays of Force – Physical contact may occur, although physical injury is not likely.
 - 1. Physical contact: directional touching or physical separation of persons, absent the use of a compliance hold
 - 2. Voice commands
 - 3. Mere presence
 - 4. Display of firearm
 - 5. Display of chemical weapons
 - 6. Display of impact weapons
 - B. Application of Force – Force used may or may not cause injury, depending upon the actions or resistance level of the subject.
 - 1. Use of chemical weapons
 - 2. Use of restraint devices
 - 3. Use of kicks/punches/strikes/grabs/takedowns
 - 4. Use of carotid constriction – limited to situations of self-defense or defense of another only
 - 5. Use of control/compliance holds
 - 6. Use of vehicles
 - 7. Use of impact weapons, including weapons of necessity*
 - C. Deadly Force – Any force that creates a substantial risk of death or serious bodily injury.

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- (a) Empty hands
- (b) Firearms
- (c) Impact weapons, including weapons of necessity*
- (d) Vehicles/legal intervention

*In situations of self-defense or defense of another where standard weapons are not available or practical, officers may use any weapon at hand, if necessary.