

## SAN DIEGO POLICE DEPARTMENT PROCEDURE

**DATE:** JANUARY 23, 2019

**NUMBER:** 1.04 - ADMINISTRATION

**SUBJECT:** USE OF FORCE

**RELATED POLICY:** 1.04, 1.05, 1.06

**ORIGINATING DIVISION:** INTERNAL AFFAIRS

**NEW PROCEDURE:** ☐

**PROCEDURAL CHANGE:** ☒ **MINOR CHANGES**

**SUPERSEDES:** DP 1.04 – 03/08/2018

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### **I. PURPOSE**

This Department procedure establishes guidelines on the use of force options available to Department personnel.

### **II. SCOPE**

This procedure applies to all members of the Department.

### **III. BACKGROUND**

The San Diego Police Department recognizes and respects the value of human life, having this as its highest priority. It is the policy and practice of the Department to train its personnel in the use of the safest, most humane restraint procedures and force options currently known. The Department seeks to demonstrate integrity, and make decisions that are fair, respectful, lawful, and based on good judgment.

In the performance of their duties, officers may encounter situations where the use of force is reasonable in order to effect a detention or arrest, to overcome resistance, or to protect themselves or others. Force, as authorized by Penal Code section 835a, and as set forth in this policy, may be used in those situations. The decision to use deadly force in response to an imminent threat of death or serious bodily injury to the officer or another person is one of the most critical decisions an officer will ever be called upon to make.

Only force that is reasonable to overcome resistance may be used to effect a detention or an arrest, or take a mentally ill or emotionally disturbed person into protective custody.

The U.S. Supreme Court in *Graham v. Connor*, 490 U.S. 386 (1989), acknowledged that the “reasonableness” test in analyzing the use of force is “not capable of precise definition or mechanical application.” For that reason, in determining whether an officer’s use of force is reasonable in a particular case, it is necessary to evaluate the facts and circumstances confronting the officer at the time that force was used. All of the surrounding circumstances will be considered, including whether the subject posed an imminent threat to the safety of the officer or others, the severity of the crime at issue, and whether the suspect actively resisted arrest or attempted to flee.

Penal Code section 835a authorizes an officer to use reasonable force to make a lawful arrest, prevent an escape, or to overcome resistance. Officers are not required to retreat or desist from their efforts by reason of resistance or threatened resistance of the person being arrested.

The evaluation of an officer’s use of force will be undertaken from the perspective of a reasonable officer on the scene, not through the 20/20 vision of hindsight. The central inquiry in every use of force case is whether the amount of force used by the officer was objectively reasonable in light of the particular circumstances faced by the officer.

#### **IV. DEFINITIONS**

- A. Active Resistance - behavior that consists of a refusal to comply with verbal commands and conveys a threat to the officer or another person, or consists of physical opposition to attempts of control by the officer.
- B. Assaultive Behavior - behavior that consists of aggressive physical opposition to being physically controlled and conveys a threat of injury to the officer; or, behavior that consists of a threat of attack conveyed through aggressive physical actions or aggressive physical actions coupled with verbal threats. Verbal threats alone do not constitute assaultive behavior. Assaultive behavior can be directed at the officer or others.

- C. Compliant Behavior - behavior that complies with the officer's verbal commands.
- D. Crowd Control and Mobile Field Force Techniques - levels of force that include close range strikes with an impact weapon. These strikes are designed to redirect or move a subject who fails to follow verbal commands. The amount of force used in delivering the strike should be reasonable given the circumstances. The intent of the technique is to move a subject backwards or to the side.
- E. Deadly Force - force that creates a substantial risk of causing death or serious bodily injury.
- F. Defending Force - the force needed to stop assaultive behavior against an officer or another person. This level of force generally involves impact strikes by the officer. Impact strikes can be delivered either by personal body weapons (e.g., hands, feet, knees, etc.) or impact weapons (e.g., PR-24, OPN, Baton, Flash light). Due to the potential for serious injury, intentional strikes with an impact weapon are prohibited from being directed at the head, face or throat of the subject unless the subject's actions and behavior pose an imminent threat of death or serious bodily injury to the officer or others.
- G. Distraction Techniques - acts used to divert or redirect a subject's focus away from resistive behavior in order to assist the officer in gaining control of the individual. Distraction techniques may include a controlled strike, using a lower level of force aimed at a specific area which is not intended and not likely to cause injury. Personal body weapons may be used under these constraints, when lesser controlling force has not been effective or the officer reasonably believes lesser controlling force will not be effective. If a distraction technique proves ineffective, a different distraction technique or force option should be considered.
- H. Force - the act of gaining and/or maintaining control of a subject or situation.
- I. Greater Controlling Force - the force needed to control a subject who engages in active resistance. This level of force may involve the use of techniques such as takedowns, distractions techniques, chemical agents, and the carotid restraint.
- J. Lesser Controlling Force - the force needed to control a subject who engages in passive resistance. This level of force generally involves use of physical strength, pain compliance defense techniques, and control holds.
- K. Life-threatening Behavior - behavior likely to cause serious bodily injury or death.

- L. Passive Resistance - behavior that consists of a refusal to comply with verbal commands and does not convey a threat to the officer or another person.
- M. Verbal Control - a tactic used when encountering compliant behavior. Such control consists of the officer's mere presence, requests, explanations and orders.

## **V. PROCEDURES**

- A. Force, as defined above, may be used to effect an investigative detention or arrest; control a subject who is in lawful custody; prevent an escape; or, protect the officer, the subject, or another person from injury or death. Any time force is used, the officer shall apply a level of force that is reasonable for the situation.
- B. Officers should use caution when using a takedown technique on a handcuffed prisoner. There is potential for injury since the prisoner's hands are behind his or her back, and they have no way of breaking his or her fall. If possible, when the person is handcuffed, officers should consider other controlling methods prior to a takedown.
- C. The use of canines, extended range impact weapons, and standard impact weapon techniques may be used to control an actively resisting subject reasonably believed to possess, or have immediate access to, a deadly weapon.
- D. Officers should maintain control of enforcement situations. Officers who are not readily identifiable as police officers, whether on- or off-duty, shall identify themselves as police officers, unless identification would jeopardize the safety of the officer or others. Subjects should not be allowed to gain the advantage in a physical confrontation. Officers may need to use a force option which is greater than the subject's force level and which is reasonable under the circumstances.
- E. The use of force by an officer can be viewed as a matrix of force options that can be used in response to a subject's actions and behavior. The matrix is designed to assist officers in understanding how force can escalate and assist officers in documenting the subsequent force used. The force matrix illustrates the relationship between a subject's actions and the officer's response. As force options move from lesser to greater levels, the risk of injury to the subject and/or officer increases. However, there may be situations and circumstances that do not conform to this matrix. Officers who experience those unusual situations must use only that amount of force that is reasonable, based upon the subject's actions and behavior.

- F. The Force Matrix is broken down into the following five levels:
1. First level - officers attempt to gain compliance by talking or otherwise communicating with the subject, explaining what the subject is to do and giving the subject the opportunity to comply with the officer's demands.
  2. Second level - officers use control tactics, such as escorting or compression and pain compliance techniques, on subjects displaying passive resistant behavior. Controlling force is used when the subject passively fails to respond to verbal direction.
  3. Third level - officers seek to control a subject's active resistance by using lesser force options, in addition to neck restraint, chemical agents, distraction techniques, and Taser.
  4. Fourth level - officers defend themselves or others against a subject's assault, or threat of assault, with the use of defending force or lesser force options. Defending force includes strikes with hard impact and personal body weapons.
  5. Fifth level - officers defend themselves or others against the subject's life-threatening behavior with the use of deadly force.
- G. Various factors, which pertain to officers and/or subjects, will effect an officer's force options and tactics. These factors include, but are not limited to, the following:
1. Age;
  2. Availability of other options;
  3. Confined spaces;
  4. Ground fighting;
  5. Distance between subject(s) and officer(s);
  6. Influence of alcohol or drugs;
  7. Injury/disability;
  8. Location/terrain/lighting conditions;
  9. Multiple subjects/officers;
  10. Nature of offense;

11. Proximity to weapons;
12. Size;
13. Skill;
14. Special knowledge/imminent danger;
15. Strength/endurance; and,
16. Crowd control situations.

H. Use of Firearms

1. Officers shall not discharge any firearm in the performance of their duties, except as authorized by this Department procedure.
2. No officer shall discharge a firearm in the performance of duty except:
  - a. During authorized training at a target range;
  - b. When the officer has a reasonable belief that a subject (or animal) poses an imminent threat of death or serious bodily injury to the officer or another person;
  - c. When necessary to apprehend a fleeing suspect if there is probable cause to believe the suspect has committed a felony involving the infliction or threatened infliction of death or serious bodily injury, and the officer reasonably believes the suspect is armed with a deadly weapon and the suspect's escape would pose an imminent threat to the officer or others; or,
  - d. As permitted by Department Procedure 6.09, Handling of Injured Animals.
3. A verbal warning to submit to the authority of the officer shall be given prior to the use of a firearm, if feasible, and if doing so would not increase the danger to the officer or other persons.
4. Officers shall exercise the utmost care in their handling and use of firearms while engaged in the performance of their duties and while exercising their option to carry a loaded and concealed weapon while off- duty. Factors that should be considered before an officer discharges a firearm include, but are not limited to, the following:
  - a. Immediacy of the threat;

- b. Suspect(s) age, size, skill, injury, or disability;
  - c. Environment (field of fire);
  - d. Capabilities of the suspect's weapon;
  - e. Officer's present capability with the weapon; and,
  - f. Type of crime.
5. Firearms are found to be generally ineffective in stopping vehicles. Firearms shall not be discharged at a vehicle solely in an attempt to disable the vehicle. Officers shall consider the ramifications when shooting at moving vehicles, such as:
- a. Moving vehicles present a rapidly changing field of fire;
  - b. If the driver is incapacitated, the vehicle would be uncontrolled; or,
  - c. The action could create a danger to the public that outweighs the need to use deadly force.
6. Officers shall not discharge a firearm at an occupant of a vehicle unless:
- a. The officer has probable cause to believe that the subject or the vehicle poses an **immediate threat of death or serious physical harm to the officer and there is no reasonable alternative for the officer to avoid the harm**; or,
  - b. The officer has probable cause to believe that the subject or the vehicle poses an **immediate threat of death or serious physical harm to other persons**.
7. Officers shall not knowingly position themselves in the path of a moving vehicle.
8. Warning shots present a danger to the officer and other persons. They are prohibited, except under exigent circumstances when:
- a. The officer has a reasonable belief that a subject (or animal) poses an imminent threat of death or serious bodily injury to the officer or another person.

- b. The warning shot is necessary to apprehend a fleeing suspect if there is probable cause to believe the suspect has committed a felony involving the infliction or threatened infliction of death or serious bodily injury, and the officer reasonably believes the suspect is armed with a deadly weapon and the suspect's escape would pose an imminent threat to the officer or others.
- 9. Firearms are not designed or intended for use as impact weapons and shall not be used to strike another person, except when necessary to protect the officer or another person from death or serious bodily injury.

## **VI. REPORTING THE USE OF FORCE**

- A. Officers who use force shall ensure that detailed, accurate reports (arrest, detention, or ARJIS-9) describing the force used and all the circumstances and facts surrounding the use of that force are prepared, including, but not limited to, factors listed in the Force Matrix section of this procedure. In addition, force effectiveness statistical data is also collected whenever force is used. To facilitate this, officers will complete a Use of Force, BlueTeam entry.

- B. Reportable Force

For reporting purposes, the following are considered use of force incidents requiring a report:

- 1. Any force option, control hold, or weaponless defense technique applied to a person, or any force that causes injury or complaint of injury to either the officer or the subject being restrained;
- 2. Discharge of a firearm in an official capacity;
- 3. Discharge of a Taser;
- 4. Use of the baton, police nunchaku (OPN), or other impact weapons where the suspect has been struck;
- 5. Use of any type of chemical agent (mace, OC, etc.);
- 6. Use of carotid restraint;
- 7. Use of a police service dog, when a bite or other injury occurs;
- 8. Use of a cord cuff;



9. Use of a safety control chair, as outlined in Department Procedure 6.01, Handcuffing, Restraining, Searching, and Transporting Procedures;
  10. Use of restraint car seats, as outlined in Department Procedure 6.01, Handcuffing, Restraining, Searching, and Transporting Procedures;
  11. When the officer overcomes physical resistance to applying the handcuffs;
  12. Use of “specialty munitions,” as defined in Department Procedure 1.36, Use of Specialty Munitions; and,
  13. The pointing of a firearm at a person to gain compliance.
- C. Officers who use a force option shall personally prepare the appropriate report (arrest, detention, ARJIS-9) documenting their use of force. An exception to an officer personally preparing a document (detailing force used) is if an SDPD investigator interviews the officer and his/her statements (regarding the force used) are documented in the investigator’s report.
- D. In the event San Diego Police Department officers are involved in a situation with an outside agency, the SDPD officer responsible for writing the report shall request documentation describing the outside agency officers/deputies use of force options.
- E. Whenever physical force used by an officer results in an injury that necessitates medical treatment of any person, the officer shall immediately contact a field supervisor (Refer to Department Procedure 6.01, Handcuffing, Restraining, Searching, and Transporting Procedures).
1. The field supervisor shall evaluate the circumstances surrounding the incident.
  2. When appropriate, the field supervisor shall notify the Watch Commander and/or field lieutenant.
  3. If the Watch Commander or field lieutenant deems the incident to be of significant magnitude, Internal Affairs will be notified and given the opportunity to respond and conduct an on-scene investigation.
  4. If Internal Affairs responds to the scene, the Watch Commander shall immediately telephone the Police Officers' Association and report the general nature of the incident.
  5. All statements made by the subject regarding his/her alleged or apparent injury should be documented.

6. Photographs shall be taken to document the existence or absence of injury to the subject, officers, or other persons. Photographs shall also be taken of any damage to the clothing or personal property of the subject, officers, or other persons at the scene. The photographs shall be impounded as evidence.

NEW

## **VII. ASSEMBLY BILL 953**

Assembly Bill 953 (AB 953), also known as the Racial and Identity Profiling Act (RIPA) of 2015, requires law enforcement agencies to collect data on all stops, detentions, and searches. This includes consensual searches and instances where force was utilized. In order to capture this data, a new application will be available for every event generated through the Department's MPS and Intranet systems beginning July 1, 2018. There is a template to collect the required data in the F: Drive under Templates/Patrol Based Forms/PD-953, if the database application is temporarily unavailable. The data documented on this form shall be entered into the electronic application prior to the end of officer's shift unless exigent circumstances exist.

Under this mandate, the data collected will include the date, time, and duration of the stop, the location, perceived race or ethnicity, perceived gender, perceived LGBT, perceived or known disability, English fluency, perceived age, and the reason for the stop, detention, or search. The reason for the stop may be generated from a call for service, a traffic violation, reasonable suspicion or knowledge that the person was engaged, or about to engage in criminal activity and conclude with the actions taken by the officer. These actions will describe the basis of the search, whether or not contraband or other evidence is discovered, the reason for and type of property seized and the results of the stop or detention. The data collected under RIPA replaces the data previously collected from vehicle stop data cards.

NEW

- A. When completing a detention and/or arrest report, officers will ensure the narrative includes that a RIPA entry was submitted for every person being arrested or detained.

NEW

- B. Supervisors will verify officers have documented the RIPA entry in their narrative prior to approval.

SAN DIEGO POLICE DEPARTMENT

# Use of Force Matrix

## Suspect's Behavior

Compliant Behavior	Passive Resistance Behavior	Active Resistance Behavior	Assaultive Behavior	Life Threatening Behavior
<p>Touch Verbal Control (Orders, explanations, requests, officer's presence)</p>	<p>Impact Weapons – Close Range strikes with an impact weapon may be used in crowd control situations as outlined in this procedure.) Impact Weapon Control Holds (PR-24, OPN, ASP, flashlight) Control Holds (other than with impact weapons), Pain Compliance, Pressure Points, Body Weight, Physical Strength</p> <p>Touch Verbal Control (Orders, explanations, requests, officer's presence)</p>	<p>Carotid Neck Restraint, Takedown Techniques, Distraction Techniques, Chemical Agents (OC spray may be used on a spitting person to assist officers in gaining control.).</p> <p>Canine, Taser, Extended Range Impact (ERI) and Impact Weapons <b>may be used as defined in section V.C. of this procedure</b></p> <p>Impact Weapons – Close Range strikes with an impact weapon may be used in crowd control situations as outlined in this procedure.) Impact Weapon Control Holds (PR-24, OPN, ASP, flashlight) Control Holds (other than with impact weapons), Pain Compliance, Pressure Points, Body Weight, Physical Strength</p> <p>Touch Verbal Control (Orders, explanations, requests, officer's presence)</p>	<p>Hard Impact Weapons (PR-24, OPN, ASP, flashlight) Personal Body Weapons (head, hands, elbow, knees and feet)</p> <p>Carotid Neck Restraint, Takedown Techniques, Distraction Techniques, Chemical Agents (OC spray may be used on a spitting person to assist officers in gaining control.), Canine, Taser, Extended Range Impact (ERI) and Impact Weapons</p> <p>Impact Weapons – Close Range strikes with an impact weapon may be used in crowd control situations as outlined in this procedure.) Impact Weapon Control Holds (PR-24, OPN, ASP, flashlight) Control Holds (other than with impact weapons), Pain Compliance, Pressure Points, Body Weight, Physical Strength</p> <p>Touch Verbal Control (Orders, explanations, requests, officer's presence)</p>	<p>Firearms Hard Impact Weapons (Blows to the head, face, neck and throat are prohibited unless defending against life-threatening behavior as defined in this procedure.)</p> <p>Hard Impact Weapons (PR-24, OPN, ASP, flashlight) Personal Body Weapons (head, hands, elbow, knees and feet)</p> <p>Carotid Neck Restraint, Takedown Techniques, Distraction Techniques, Chemical Agents (OC spray may be used on a spitting person to assist officers in gaining control.), Canine, Taser, Extended Range Impact (ERI) and Impact Weapons</p> <p>Impact Weapons – Close Range strikes with an impact weapon may be used in crowd control situations as outlined in this procedure.) Impact Weapon Control Holds (PR-24, OPN, ASP, flashlight) Control Holds (other than with impact weapons), Pain Compliance, Pressure Points, Body Weight, Physical Strength</p> <p>Touch Verbal Control (Orders, explanations, requests, officer's presence)</p>
Minimal Force	Lesser Controlling Force	Greater Controlling Force	Defending Force	Deadly Force

Officer's Response