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Chief of Police

4.30 USE OF FORCE POLICY:

A. PURPOSE:

The Police Department's primary function is to protect the rights of all persons within its jurisdiction to be free from criminal attack, secure in their possessions, and to live in a peaceful atmosphere. In order for the Department to carry out this function, police officers may be required to use physical force. **It is in the public interest that this Department's officers be guided by a Use of Force Policy which is fair, appropriate, and creates public confidence in the law enforcement profession.** The application of physical force, and the type of force employed, depends on the situation as perceived by the officer. The purpose of this policy is to provide guidance as to when physical force may be employed, and the type of physical force that the law will permit. However, policy cannot cover every possible situation presented to officers. Therefore, officers must be reasonable in their actions.

B. PHILOSOPHY:

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

Officers must have an understanding of, and true appreciation for, the limitations on their authority, particularly with respect to overcoming resistance from those with whom they come in official contact.

This Department recognizes and respects the sanctity of human life and dignity. Vesting officers with authority to use force to protect the public welfare requires a very careful balancing of the rights of all human beings and the interests involved in a particular situation.

C. POLICY:

The Department's Use of Force Policy is as follows:

In a complex urban society, officers are confronted daily with situations where control must be exercised to effect arrests and to protect the public safety. Control may be achieved through verbalization techniques such as advice, warnings, and persuasion, or by the use of physical force. Officers are permitted to use whatever force that is reasonable to protect others or themselves from bodily harm. The Department's Use of Force Policy must comply with applicable California and federal law. California Penal Code Section 835a states that an officer who has reasonable cause to believe that a person to be arrested has committed a public offense may use reasonable force to effect the arrest, prevent escape, or overcome resistance. **A peace officer who makes or attempts to make an arrest need not retreat or desist from his or her efforts by reason of resistance or threatened resistance of the person being arrested; nor shall such officer be deemed an aggressor or lose his or her right to self-**

defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.

Each situation explicitly requires the use of force to be reasonable and only that force which reasonably appears to be necessary may be used to gain control or resist attack. Mere verbal threats of violence, verbal abuse, or hesitancy by the suspect in following commands do not, in and of themselves, justify the use of physical force **without** additional facts or circumstances which, taken together, pose a threat of harm to the officer or others. Officers must be prudent when applying any of the use of force techniques. **Unreasonable** application of physical force is a violation of California and federal law which may result in criminal prosecution and/or civil liability for the officer. A violation of the Department's use of force policy may also subject the officer to Departmental discipline. Officers should clearly understand that the standard for determining whether or not the force applied was reasonable is that conduct which a reasonable peace officer would exercise based upon the information the officer had when the conduct occurred. Officers must pay careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he/she is actively resisting arrest or attempting to evade arrest by flight.

Furthermore, the Department expects officer(s) to use the most appropriate force option given the circumstances. The decision should take into account the situation facing the officer as well as his/her training and experience.

D. ESCALATION/DE-ESCALATION OF FORCE:

The primary objective of the application of force is to ensure the control of a suspect with such force as is objectively reasonable under the circumstances. Ideally, officers should attempt to control a suspect through advice, warning, or persuasion, but be prepared for the use of physical force. The types of force an officer may utilize will vary, depending on the aggressive behavior or degree of resistance used by a suspect and the tactical practicability of a particular use of force technique. In situations when physical force is applied, an officer must escalate or de-escalate to the amount of force which reasonably appears to be necessary to overcome the suspect's resistance and to gain control.

The concept of escalation and de-escalation of physical force must be put into a proper perspective so that officers can effectively handle all types of resistant suspects. There are three key points regarding the concept of escalation and de-escalation of physical force.

1. Physical force is used to control a suspect;
2. Whenever force is used, the officer's defensive reactions must be in response to the suspect's actions;

NOTE: This does not mean that an officer has to wait until a suspect attacks. Based on the circumstances, an officer may be justified in using reasonable force to prevent an attack.

3. An officer may use only the amount of force which reasonably appears to be necessary to control the suspect. **The Fourth Amendment of the United States Constitution requires that police officers use only such force as is objectively reasonable under the circumstances. Officers need not avail themselves of the least intrusive means of responding to an exigent situation; they need only act within that range of conduct identified as reasonable.**

E. USE OF FORCE TECHNIQUES:

The ability to successfully execute the proper control technique when attempting to control a suspect is essential for officer safety. The following use of force techniques are described in general indicating the six (6) approved levels of force to control suspects under increasing resistant actions. Each technique is fully described in a separate training bulletin.

Level 1: Presence:

California Penal Code Section 834a states that if a person has knowledge, or by the exercise of reasonable care, should have knowledge that they are being arrested by a peace officer, it is the duty of such person to refrain from using force or any weapon to resist such arrest. In addition, Section 148 makes it a crime to willfully resist, delay, or obstruct a peace officer in the performance of their duties.

Consequently, the mere presence of a uniformed or other appropriately identified officer, coupled with good verbal communication, will generally gain the willful submission necessary to avoid a further escalation of force.

Level 2: Verbalization:

Verbalization, "talking a suspect to jail," is the most commonly used technique to effect the arrest of a suspect. Verbalization may be advising, warning, or persuading. Actual field experience demonstrates that certain techniques of verbalization, coupled with an advantageous position, and a mature, professional attitude can prevent further escalation of a situation. These techniques include:

- ! explaining any actions about to be taken;
- ! allowing a suspect to save face in front of his/her peers;
- ! recognizing a suspect's remarks are not a personal attack against the officer; and
- ! allowing a suspect to retain dignity whenever possible.

Officers should attempt to de-escalate confrontations by utilizing verbalization techniques prior to, during, and after any use of physical force.

Level 3: Empty Hand Control:

Empty hand control is generally used to counter a weaponless suspect's passive or active resistance to an officer's verbal commands. Firm grip and control techniques were designed to safely initiate physical contact and gain control of an uncooperative suspect. When verbalization proves ineffective, a firm grip may be all that is necessary to overcome resistance. If the use of a firm grip is unsuccessful, an officer may decide to utilize a control technique as a restraint or come-a-long hold.

When the suspect's physical actions become actively resistant to a point which prevents the officer from gaining control or effecting an arrest, more aggressive countermeasures may become necessary. At this level of force, these techniques consist of:

- ! avoidance,
- ! blocks,

- ! empty hand control holds such as: wrist lock, twist lock, finger flex, arm bar and escort position,
- ! pressure points,
- ! controlled take downs such as: leg sweep, hip throw, front leg wrap, front and rear take downs, figure four and wrist turn-out,
- ! and ground tactics (using the officer's body weight and/or any combination of empty hand control holds to control the subject),

and are designed to create a temporary dysfunction of the suspect and allow the officer the opportunity to gain the advantage.

Level 4: Chemical Irritant/Electrical Control Devices/Team Take Down/ Carotid Restraint:

Officers should remain mindful that the use of force options described in Level 4, below, are described in order of preference where time and circumstances allow the officer to consider various options. This is based on the affected officer(s) having the time and ability to weigh the circumstances and avoid direct physical engagement (team take downs and carotid restraints.) Whenever possible and where practical, officers are encouraged to employ those techniques that do not require them to directly physically engage the subject so as to minimize risk to both the officer and the subject.

Chemical irritant may be used to overcome and control a suspect's aggressive actions when verbalization is unsuccessful. Verbal threats of violence by a suspect do not alone justify the use of chemical irritants. Chemical irritant may be used if the officer reasonably believes that it would be unsafe to approach and control the suspect. When it is tactically unwise to entangle with the suspect, and it is desirable to maintain a distance, chemical irritant may prove to be useful.

Currently, the only Electrical Control Device which is departmentally approved is the Taser. The Taser is a non-lethal control device which may be used to control violent or potentially violent suspects when an officer reasonably believes the following conditions exist:

- ! Deadly force does not appear to be justifiable and/or necessary, and
- ! There is a reasonable expectation that it will be unsafe for officers to approach and place themselves within range of the suspect.

The team takedown is another intermediate force tool utilized to reduce risk of injury to officers and arrestees while achieving maximum control. Two or three man takedown teams under the direction of one leader move as a unit and make contact with the arrestee simultaneously. Contact should not be made until all other lesser levels of control have been exhausted and sufficient officers are present to minimize risk of injury to the officers and arrestee.

The Carotid Restraint Control Hold offers peace officers a method for controlling violently resisting suspects when higher levels of force may not be justified.

The Carotid Restraint Control Hold should not be confused with the bar-arm choke hold or any other form of choke hold where pressure is applied to restrict the flow of air into the body by compression of the airway at the front of the throat.

Choke holds are considered ineffective and create the potential for a suspect to panic and react with greater resistance when pressure is applied in this manner by a peace officer. Also, there

is greater risk of serious injury to the suspect. Choke holds shall not be used by any member of this department.

The carotid restraint may be utilized to control a violently resisting suspect, and allows for control against varying degrees of resistance. Once the technique is applied, the officer has the capability of restraining the subject by using only that degree of force **which is reasonable** to control the suspect. Caution should be exercised to prevent a disadvantageous position which might expose the officer's baton and/or firearm to the suspect. Any time a carotid restraint is applied, whether or not the suspect is rendered unconscious, an O.K. to Book shall be obtained as soon as practical and prior to booking.

Level 5: Intermediate Weapons:

Intermediate weapons are utilized to immediately impede the threatening actions of an **aggressive** suspect. They consist of:

- ! personal body weapons such as palm heel strike, common fist, bottom fist strike, elbow strike, knee strike, front kick, side kick, roundhouse kick,
- ! impact weapons such as PR-24, expandable baton, mid-range baton, short billy, riot baton and flashlight,
- ! less lethal munitions
- ! improvised weapons
- ! and other self-defense techniques designed to protect the officer and/or innocent citizens from bodily harm.

These weapons are generally used when lethal force is not justified and lesser levels of force have been, or will likely be, ineffective in the situation.

The baton may be appropriately displayed as a show of force if verbalization techniques appear to be ineffective when used on an aggressive suspect. A decision to draw or exhibit a baton must be based on the tactical situation. For example, the drawing of a baton may be reasonable in a situation of an officer entering a bar or other location of prior disturbance calls, or exhibiting the baton in a situation where there is an escalating risk to the officer's safety. If the situation continues to escalate, the baton can provide a viable method of controlling the suspect. The baton was designed as an impact weapon and should be used for striking movements and blocks. **Caution shall be used to avoid striking those areas such as the head, throat, neck, spine or groin which may cause serious injury to the suspect.**

In situations when use of the baton is applicable, the front, side, rear, and round house kicks can be applied as alternate use of force techniques when attempting control of **an aggressive** suspect.

Another alternative to the use of the baton as an impact weapon is the flashlight. While certainly not preferred over the baton in most situations, the flashlight is usually readily available, especially at night, and may be appropriate at times when the baton is not accessible or too cumbersome. Nevertheless, should this choice be made within an intermediate use of force situation, caution shall be used to avoid striking those areas such as the **head, throat, neck**, spine or groin which may cause serious injury to the suspect.

Generally, the deployment of less lethal munitions should have the goal to restore order and/or reduce the risk of more serious injury. Incidents where deployment may be an option include, but are not limited to, the following:

- ! Restoration or maintenance of order during a jail or civil disturbance.
- ! Safely controlling violent persons.
- ! Subduing vicious animals.
- ! Situations wherein the authorizing person deems their use necessary to safely resolve the incident.

Depending on circumstances, less lethal weapons can be used to safely control violent or potentially violent suspects when the officer reasonably believes the following conditions exist:

- ! Attempts to control the incident with lesser force options have been, or will likely be ineffective in the situation, and
- ! There is a reasonable expectation that it would be tactically unwise for officers to approach or place themselves in range of the suspect.

Level 6: Lethal Force:

If the situation becomes life threatening, the officer would be compelled to escalate to the ultimate level of force. The use of lethal force is a last resort dictated by the actions of a suspect **where the officer has reasonable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others.** The weapon of choice in these situations is generally one of the various departmentally approved firearms. However, this does not preclude officers from using **any reasonable means** to protect themselves or other persons from this immediate and significant threat of **death or serious physical injury.** Furthermore, where the officer has reasonable cause to believe that the suspect poses a threat of serious physical harm, either to the officer or to others, it is reasonable to prevent escape by using lethal force. Thus, if the suspect threatens the officer with a weapon or there is reasonable cause to believe that the suspect has committed a crime involving the infliction or threatened infliction of serious physical harm, lethal force may be used if necessary to prevent escape, and if, where feasible, some warning has been given.

The use of less lethal munitions is neither encouraged nor discouraged in deadly force situations. Officers must evaluate each situation by the facts and circumstances confronting them. Less lethal force should not be considered a substitute for deadly force in lethal situations.

USE OF FIREARMS

Firearms shall be used only when an officer believes his/her life or the life of another is in imminent danger, or in danger of great bodily harm, or when all other reasonable means of apprehension have failed to prevent the escape of a felony suspect whom the officer has reason to believe presents a serious danger to others where the felonious conduct includes the use or threatened use of deadly force.

1. **Drawing Firearm:** Officers shall only draw their sidearm or shotgun when there is likelihood of danger to the officer or other persons.
2. **Discharge of Firearm:** An officer of this Department shall not discharge a firearm or use any other type of deadly force in the performance of his/her duties, except under the following circumstances:
 - a. In the necessary defense of himself/herself or any other person who is in imminent danger of death or great bodily harm.

- b. Where the officer has reasonable cause to believe that the suspect poses a threat of serious physical harm, either to the officer or to others, it is reasonable to prevent escape by using lethal force. Thus, if the suspect threatens the officer with a weapon or there is reasonable cause to believe that the suspect has committed a crime involving the infliction or threatened infliction of serious physical harm, lethal force may be used if necessary to prevent escape, and if, where feasible, some warning has been given.
- c. To kill a dangerous animal that is attacking the officer or another person or persons, or which if allowed to escape, presents a danger to the public.
- d. When humanity requires the destruction of an animal to save it from further suffering, and other disposition is not possible.
- e. For target practice at an approved range or in unrestricted areas.
- f. To give an alarm or call assistance for an important purpose when no other means are available.

3. Display and Discharge of Firearms Prohibited:

- a. Officers shall not display their firearms or draw them in any public place except for inspection or use, nor shall officers handle their weapons in a careless manner which could result in an accidental discharge of the firearm.
- b. A member of the Department shall not discharge a firearm as a warning shot.
- c. Generally, a member of the department should not discharge a firearm at or from a moving vehicle unless in the necessary defense of himself/herself or any other person who is in imminent danger of death or great bodily harm. If an officer has reasonable cause to believe the suspect poses a threat of serious physical harm, either to the officer or to others, it is reasonable to prevent escape by using lethal force. If the suspect threatens the officer with a weapon or there is reasonable cause to believe that the suspect has committed a serious crime involving the infliction or threatened infliction of serious physical harm, lethal force may be used if necessary to prevent escape, and if, where feasible, some warning has been given.

4. Juvenile Felony Suspects: An officer generally should not shoot at a fleeing felon whom he has reasonable grounds to believe is a juvenile.

This section does not limit an officer's right of self-defense or his defense of others whose lives he reasonably believes are in imminent peril, except as provided in paragraph 2 a or b above.

5. Acting as a Peace Officer While Off Duty or in Other Jurisdictions: Officers are reminded that as employees of this Department, the policies set forth here are in force whether or not officers are on duty in this City or on special or casual assignment in another legal jurisdiction or when off duty, but acting as a police officer.

F. OVERVIEW OF TECHNIQUES:

When a suspect physically attacks an officer, the officer must act in self defense using one or more of the previously mentioned control techniques within approved use of force standards. Consider a situation wherein a suspect assumes a clenched fists fighting stance some distance

from the officer. The officer counters by drawing his baton as a show of force. At this time, the suspect drops his hands, resumes a normal posture, and submits to arrest. Although an officer must proceed with extreme caution, maintaining an advantageous position and ensuring that no additional threat exists, they should de-escalate all the way back to verbalization. Therefore, since the suspect is now cooperating, the officer reacts accordingly by advising, warning, and persuading.

The increased amount of force used by a suspect requires an officer to escalate the degree of force needed to maintain control of the situation. **Note, however, that an officer is permitted by law to not only use the level of force used by the suspect but to use reasonable force to overcome the resistance.** As a suspect's use of force declines, the officer's reaction must also decline. The reasonable amount of force needed to control a suspect may vary from one officer to another.

G. SITUATION-BASED USE OF FORCE CONTINUUM:

The Department recognizes that building flexibility into an officer's determination of the appropriate use of force is advisable and acceptable - if not essential - given that the standard for evaluating an officer's use of force claims is reasonableness under the facts and circumstances known to the officer at the time. This is an affirmative stance by the Department designed to provide additional confidence and needed support to officers in making their decisions regarding use of force in the field.

A number of factors are taken into consideration when an officer selects force options, and when evaluating whether an officer has used reasonable force. The Department recognizes that officers are expected to make split-second decisions and that the amount of time available to evaluate and respond to a situation may impact the officer's decisions. By establishing a policy that includes a use of force continuum the Department hopes to provide additional guidance to officers in making those split-second decision. Examples of facts which may affect an officer's force option selection include, but are not limited to:

- ! Officer/subject factors (age, size, relative strength, skill level, injury/exhaustion, number of officers versus number of subjects)
- ! Influence of drugs or alcohol
- ! Proximity to weapons
- ! Availability of other options
- ! Seriousness of the offense in question
- ! Other exigent circumstances

Finally, it is important to note that an officer need not attempt to gain control over an individual by use of the lowest level of force on the continuum when reason dictates and the officer can articulate that a higher level of force is reasonable. Likewise, the skipping of steps may be appropriate given the resistance encountered.

Simply put, this continuum should be viewed as an elevator, not a ladder - an officer may go directly to any level of the continuum provided that the force selected is reasonable.

H. MENTAL ATTITUDE:

Officers must realize that emotional involvement is also a factor in the escalation or de-escalation of force. In order to react to every situation with the **reasonable** amount of force, an

officer must be in good physical condition, possess self defense and verbalization skills, and have a mature, professional attitude. Additionally, officers must have self confidence in their training and ability to control the situation.

I. REPORTABLE USE OF FORCE INCIDENTS:

1. A reportable use of force incident is defined as an incident in which any on-duty Department employee, or off duty employee whose occupation as a Department employee is a factor, uses a less lethal control device or any physical force to:

- ! Compel a person to comply with the employee's directions; or
- ! Overcome resistance by a suspect during an arrest or a detention; or
- ! Defend themselves or any person from an aggressive action by a suspect.

Reportable Use of Force does not include:

- ! The mere presence and identification of police officer status; or
- ! The use of a firm grip hold which does not result in an injury, complaint of injury, or complaint of pain; or
- ! That force necessary to overcome passive resistance due to physical disability or intoxication which does not result in injury, complaint of injury, or complaint of pain; or
- ! Control holds utilized in conjunction with handcuffing and searching techniques which do not result in injury, complaint of injury, or complaint of pain, and did not require any other reportable use of force; or
- ! Injuries sustained by a subject as a sole consequence of his/her actions such as, but not limited to, falling while fleeing from officer(s); or
- ! Shooting of an animal as otherwise permitted by the Riverside Police Department Policy and Procedures Manual; or
- ! Use of Departmentally approved diversion or entry devices, deployed to gain entry into a structure.

2. Employee Responsibilities:

Any member who becomes involved in a reportable use of force incident or discharges a firearm, Taser, or chemical irritant control device for any reason, other than an approved training exercise, shall:

- a. Summon medical aid, as needed;
- b. Immediately notify a supervisor that they have been involved in a use of force incident;
- c. If the force used falls within Level 6 and/or results in death or serious likelihood of death, the employee shall adhere to the provisions of Section 4.8 of the Riverside Police Department Policy and Procedures Manual.
- d. Report the full details of the use of force incident in the related Department arrest or crime report;

- e. Use a Department "memorandum" form to report the full details of the use of force incident when a crime or arrest report is not required;
- f. When off duty, notify the Watch Commander immediately.

3. Supervisor Responsibilities:

The notified or designated supervisor shall:

- a. Confirm medical aid has been summoned, as needed.
- b. Respond to the scene, independently investigate the use of force and make a report of the incident.
- c. If the force used falls within Level 6 and/or results in death or serious likelihood of death, the supervisor shall notify the Watch Commander immediately and adhere to the provisions of Section 4.8 of the Riverside Police Department Policy and Procedures Manual. The Watch Commander shall make additional notifications in accordance with Section 4.8.
- d. Photographs shall be taken in all reportable use of force incidents that result in an injury, or a complaint of injury. If practicable, photographs of the subject and the injury should be taken after the injury or wound is cleansed by medical personnel and before medical treatment, if any is necessary. Care should be taken to protect the subject's personal privacy interests. Any possible concerns should be discussed with a field supervisor prior to taking the photographs.
- e. The investigating supervisor shall report the incident as follows:
 - 1. A "Supervisor Use of Force Report" form shall be completed within twenty four (24) hours and forwarded to the Office of Internal Affairs, when the force used was within Level 3, 4, or 5 of this policy.
 - ! The "Supervisor Use of Force Report" form shall be sufficient documentation of a Use of Force incident when the force used did not result in an injury or complaint of injury. A simple complaint of pain, without evidence of underlying injury, may properly be documented on the "Supervisor Use of Force Report" form.
 - ! The supervisor shall complete a separate "Supervisor Use of Force Report" form for each subject upon whom force was used. Each report shall include the force levels used by each officer involved in the incident.
 - 2. A "Use of Force Investigation Memorandum" shall be completed within ten (10) days to supplement the "Supervisor Use of Force Report" form and forwarded to the Office of Internal Affairs when:
 - ! The force used was the direct cause of injury or complaint of injury, beyond a simple complaint of pain.
 - ! The force used involved the application of a carotid restraint, chemical irritant, electrical control device or similar control technique/device.

! The force used falls within Level 5.

- f. Internal Affairs shall have the responsibility to prepare all administrative reports of incidents wherein the force used falls within Level 6 and/or death or serious likelihood of death results. Field supervisors shall not prepare any administrative reports of such incidents unless directed by Internal Affairs.
- g. Use of force reports will be designated for inclusion into the Early Warning System (EWS) in accordance with the provisions of section 4.55 of the Riverside Police Department Policy and Procedures Manual.
- h. Alternative methods of reporting uses of force may be utilized during incidents of civil unrest. The incident commander shall make this determination and specify the reporting method to be utilized.

J. CONCLUSION:

The decision to use physical force places a tremendous responsibility on the officer. There is no one capable of advising an officer on how to react in every situation that may occur. Ideally, all situations would require only verbalization. While the control of a suspect through advice, warning, or persuasion is preferable, the use of physical force to control a suspect is sometimes unavoidable. Officers must be able to escalate or de-escalate the amount of force which reasonably appears to be necessary to control a situation as the suspect's resistance increases or decreases. Force should only be used as a **reasonable** means to secure control of a suspect.