

OFFICE OF CITIZEN COMPLAINTS

CITY AND COUNTY OF SAN FRANCISCO




Joyce M. Hicks
Executive Director

June 15, 2016

Hon. Suzy Loftus, President
Members, San Francisco Police Commission

Dear President Loftus and Commissioners:

Attached are suggested edits to the Draft Use of Force Policy (Version Two) from the community stakeholders that include our agency, the Bar Association of San Francisco, American Civil Liberties Union of Northern California, San Francisco Public Defenders Office, Coalition on Homelessness and Morgan Lewis of the Blue Ribbon Panel. We look forward to talking with you tonight about our suggested edits.

Sincerely,

Samara Marion
OCC Policy Attorney

GENERAL ORDER

Rev. 05/30/16

Version 2

Suggested Edits From Community Stakeholder Representatives including the Office of Citizen Complaints, Bar Association of San Francisco, American Civil Liberties Union of Northern California, San Francisco Public Defenders Office, Coalition on Homelessness and Morgan Lewis of Blue Ribbon Panel (06/15/16)

USE OF FORCE

The San Francisco Police Department's highest priority is safeguarding the sanctity of all human life. Officers shall demonstrate this principle in their daily interactions with the community they are sworn to serve. The Department is committed to accomplishing the police mission with respect and minimal ~~reliance~~ ~~reliance on the use of force~~ by using rapport-building, communication, crisis intervention, and de-escalation ~~tactics~~ ~~principles~~ before resorting to force, whenever feasible. This Department General Order adopts a higher standard of police conduct than Graham v. Connor (1989) 490 U.S. 386 and reflects community values of seeking alternative options to force and minimizing its use, whenever feasible. The Law Enforcement Code of Ethics requires all sworn law enforcement officers to carry out their duties with courtesy, respect, professionalism, and to never employ unnecessary force. These are key factors in maintaining legitimacy with the community and safeguarding the public's trust.

This order establishes policies and reporting procedures regarding the use of force, including firearms and lethal force ~~use of firearms and use of lethal force~~. The purpose of the policy is to guide an officer's decisions regarding the use and application of force to ensure such applications are used only to effect arrest or lawful detentions or to bring a situation under legitimate control and ~~provide guidelines that may assist the Department in achieving its highest priority.~~ No policy can predict every situation. Officers are expected to exercise sound judgment and critical decision making when using force options and shall adhere to the Department's highest priority of safeguarding the sanctity of all human life.

I. POLICY

- A. **SANCTITY OF HUMAN LIFE.** The Department is committed to the sanctity and preservation of all human life, human rights, and human dignity.
- B. **ESTABLISH COMMUNICATION.** Communication with non-compliant subjects is most effective when officers establish rapport, use the proper voice intonation, ask questions and provide advice to defuse conflict and achieve voluntary compliance before resorting to force options.
- C. **DE-ESCALATION.** Officers shall, when feasible, employ de-escalation techniques to decrease the likelihood of the need to use force during an incident and to increase the likelihood of voluntary compliance. Officers shall attempt to understand and consider the

possible reasons why a subject may be noncompliant or resisting arrest. A subject may not be capable of understanding the situation because of a medical condition; mental, physical, or hearing impairment; language barrier; drug interaction; or emotional crisis, and have no criminal intent. These situations may not make the subject any less dangerous, but understanding a subject's situation may enable officers to calm the subject and allow officers to use de-escalation techniques while maintaining public safety and officer safety. Officers who act to de-escalate an incident, which can delay taking a subject into custody, while keeping the public and officers safe, will not be found to have neglected their duty. They will be found to have fulfilled it.

D. PROPORTIONALITY. It is important that an officer's level of force be proportional to the severity of the offense committed or the threat posed to human life for which the officer is taking action. It is critical officers apply the principles of proportionality when encountering a subject who is armed with a weapon other than a firearm, such as an edged weapon, improvised weapon, baseball bat, brick, bottle, or other object. Officers may only use the degree of force that is reasonable and necessary to accomplish their lawful duties.

E. CRISIS INTERVENTION. When feasible, Crisis Intervention Team (CIT) trained officers shall respond to calls for service involving individuals in mental or behavioral health crisis. (See draft CIT DGO and Department Bulletin 14-143 "Response by Crisis Intervention Trained Officers for procedures when officers respond to behavior health crisis calls.¹).

F. DUTY TO INTERVENE. Officers shall intervene when they reasonably believe another officer is about to use, or is using, unnecessary force. Officers shall promptly report any use of unnecessary force and the efforts made to intervene to a supervisor.

G. FAIR AND UNBIASED POLICING. Members shall carry out their duties, including the use of force, in a manner that is fair and unbiased. (See Department General Order 5.17 "Policy Prohibiting Biased Policing).

II. DEFINITIONS:

A. FEASIBLE. Capable of being done or carried out to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.

¹ The CIT working group completed and provided the Department a draft CIT DGO in February 2016. Then-Chief Suhr agreed that the draft CIT DGO would be presented to the Police Commission for adoption at the same time the Department's Use of Force policy would be discussed and adopted to ensure consistency between both policies. On June 3, 2016, Chief Chaplin agreed to send the draft CIT DGO to the City Attorney for immediate review. Upon the Department's assignment of a Department General number to this proposed CIT DGO, the reference will be to the numbered DGO CIT. Department Bulletin 14-143 is currently under review by the Department.

B. **IMMEDIATE THREAT.** An immediate threat is considered to exist if a suspect has demonstrated actions that would lead one to readily believe that the suspect will continue to pose a threat of death or serious bodily injury if not apprehended without delay ~~person is an immediate threat if the officer reasonably believes the person has the present intent, means, opportunity and ability to complete the threat.~~² (Graham v. Connor — “whether the suspect posed an immediate threat to the safety of the officers or others,” (Graham, 490 U.S. at 396.) The “most important” factor under Graham is whether the suspect objectively posed an “immediate threat to the safety of the officers or others.” Smith v. City of Hemet, 394 F.3d 689, 702 (9th Cir.2005).

C. **LETHAL FORCE.** Any use of force that creates a substantial risk of ~~designed to and likely to cause death or serious physical injury, including but not limited to the discharge of a firearm, the use of an impact weapon under some circumstances, other techniques or equipment, and certain interventions to stop a subject’s vehicle (see DGO 5.05, Response and Pursuit Driving).~~

D. **LEVELS OF RESISTANCE.**

- a. Compliant. A person contacted by an officer who acknowledges direction or lawful orders given and offers no passive/active, aggressive, or aggravated aggressive resistance
- b. Passive Resistance. The subject is not complying with an officer’s commands and is uncooperative, but is taking only minimal physical action to prevent an officer from placing the subject in custody and taking control. Examples include: standing stationary and not moving upon lawful direction, holding onto a fixed object, falling limply and refusing to use their own power to move, or locking arms to another during a protest or demonstration.
- c. Active Resistance. The subject’s physical actions are intended to prevent an officer from placing the subject in custody and taking control, but are not

² Notably, the United States Supreme Court in Graham v. Connor (1989) 490 U.S. 386, 396 uses the term “immediate threat” when evaluating whether an officer’s use of force is reasonable under the Fourth Amendment. The Graham Court states, “[t]he test of reasonableness under the Fourth Amendment is not capable of precise definition or mechanical application,” [citations omitted], however, its proper application requires 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** of safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.” (Emphasis added.) The most important factor under Graham is whether the suspect objectively posed an “immediate threat to the safety of the officers or others.” Smith v. City of Hemet (9th Cir.2005) 394 F.3d 689, 702. Oakland Police Department’s Use of Force policy uses the term “immediate” throughout. (See Oakland Police Department K-3 Use of Force Policy, pages 2-3. <http://www2.oaklandnet.com/oakca1/groups/police/documents/webcontent/oak053209.pdf>.

The Los Angeles Police Commission’s -Inspector General noted that LAPD’s subtle shift in 2009 from authorizing deadly force to defend against an *immediate* threat to the authority to use deadly force to defend against an *imminent* threat “equates to a slight broadening of an officer’s authority to use deadly force.” (Office of the Inspector General’s Ten Year Overview of Categorical Use of Force Investigations, Police, and Training, March 10, 2016, page 11). http://www.lapdpolicecom.lacity.org/031516/BPC_16-0077.pdf

directed at harming the officer. Examples include: walking or running away, breaking the officer's grip.

- d. **Aggressive Resistance.** The subject displays the intent and ability to harm the officer and prevent the officer from placing the subject in custody and taking control. Examples include: a subject taking a fighting stance, punching, kicking, striking, attacks with weapons or other actions which present an immediate threat of physical harm to another or the officer.
- e. **Aggravated Aggressive Resistance.** The subject's actions are likely to result in death or serious bodily harm to another, the subject or the officer. Examples include: the subject's use of a firearm, ~~brandishing of an edged or other~~ weapon, or extreme physical force.

- E. **MINIMAL AMOUNT OF FORCE NECESSARY.** The lowest level of force within the range of objectively reasonable force that is necessary to effect an arrest or achieve a lawful objective without increasing the risk to others.
- F. **PERSONAL BODY WEAPONS.** An officer's use of his/her hand, foot, knee, elbow, shoulder, hip, arm, leg or head by means of high velocity kinetic energy transfer (impact) to gain control of a subject.
- G. **REASONABLE FORCE.** An objective standard of force viewed from the perspective of a reasonable officer, without the benefit of 20/20 hindsight, and based on the totality of the circumstances presented at the time of the incident.
- H. **REPORTABLE FORCE.** Any use of force which is required to overcome subject resistance to gain compliance that results in death, injury, complaint of injury in the presence of an officer, or complaint of pain that persists beyond the use of a physical control hold. Any use of force involving the use of personal body weapons, chemical agents, impact weapons, extended range impact weapons, vehicle interventions, ~~conducted energy devices~~, and firearms. Any intentional pointing of a conducted energy device or a firearm at a subject.
- I. **SERIOUS BODILY INJURY.** A bodily injury that creates a substantial risk of death; causes serious, permanent disfigurement; or results in a prolonged loss or impairment of the functioning of any bodily member or organ.
- J. **VITAL AREAS OF THE BODY.** The head, neck, face, throat, spine, groin and kidney.

III. CONSIDERATIONS GOVERNING ALL USES OF FORCE.

- A. **USE OF FORCE MUST BE FOR A LAWFUL PURPOSE.** Officers may use reasonable force options in the performance of their duties, in the following circumstances:
 - 1. To effect a lawful arrest, detention, or search.
 - 2. To overcome resistance or to prevent escape.

3. To prevent the commission of a public offense.
4. In defense of others or in self-defense.
5. To gain compliance with a lawful order.
6. To prevent a person from injuring himself/herself. **However, an officer is prohibited from using lethal force against a person who presents only a danger to himself/herself and does not pose an imminent-immediate threat of death or serious bodily injury to another person or officer.**

B. OFFICERS SHALL USE MINIMAL FORCE THAT IS OBJECTIVELY REASONABLE AND NECESSARY USE OF FORCE MUST BE REASONABLE.

1. Graham v. Connor (1989) 490 U.S. 386 provides a minimum standard for civil courts to evaluate an officer's use of force. The United States Supreme Court in Graham v. Connor ruled that in civil lawsuits involving an excessive force claim, an officer's force used during an arrest, investigatory stop or seizure of an individual should be analyzed under the Fourth Amendment and its reasonableness standard. The Fourth Amendment of the United States Constitution requires that a police officer only use force as is "objectively reasonable" under all of the circumstances. The standard that the court will use to examine whether a use of force is constitutional was set forth in Graham v. Connor, 490 U.S. 386 (1989), and expanded by subsequent court cases. Officer shall when feasible, employ de-escalation techniques and use only the minimal amount of force necessary as described below.
 - a. Objective reasonableness under Graham v. Connor includes:
 - 1) The severity of the crime at issue,
 - 2) Whether the suspect posed an immediate threat to the safety of the officers or others, and
 - 3) Whether the suspect is actively resisting arrest or attempting to evade arrest by flight.
 - b. The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than 20/20 hindsight, and without regard to the officer's underlying intent or motivation.

~~When balanced against the type and amount of force used, the Graham factors used to determine whether an officer's use of force is objectively reasonable are:~~

- ~~The severity of the crime at issue~~
- ~~Whether the suspect posed an immediate threat to the safety of the public or the officers~~
- ~~Whether the suspect was actively resisting arrest~~
- ~~Whether the suspect was attempting to evade arrest by flight~~

2. This Department General adopts a higher standard of police conduct than the minimum requirements of Graham v. Connor and reflects community values to minimize the use of force, use de-escalation tactics, and exhaust alternative options to force, when feasible. The reasonableness inquiry is not limited to the consideration of the above-mentioned Graham factors, its alone. The following principles are also relevant to evaluating whether an officer's use of force is -Other factors which may determine reasonable and necessary:ness in a use of force incident may include:

- a. Whether the use of force is proportional to the threat³
- b. Whether other tactics are available to the officer⁴
- c. The availability of other less intrusive force options⁵
- d. The ability of the officer to provide a meaningful warning before using force⁶
- e. The officer's tactical conduct and decisions preceding the use of force⁷
- f. Whether the officer is using force against an individual who appears to be having a behavioral or mental health crisis or is a person with a mental illness⁸Availability of other reasonable force options

³ Proportionality requires officers to consider throughout their interaction with an individual whether they are using the minimal amount of force necessary to mitigate the threat and whether there is another less injurious option to safely and effectively achieve the same objective.

⁴ The Ninth Circuit has ruled that in addition to the Graham factors, "[o]ther relevant factors include the availability of less intrusive alternatives to the force employed." Glenn v. Washington County (9th Cir. 2011) 673 F.3d 864, 872. In Bryan v. MacPherson (9th Cir.2010) 630 F.3d 805, 831, the Ninth Circuit stated that while police officers need not employ the least intrusive degree of force, "the presence of feasible alternatives is a factor to include in our analysis."

⁵ See footnote 4.

⁶ The Ninth Circuit in Bryan, Glenn and Deorle v. Rutherford (9th Cir. 2001) 272 F.3d 1272 states that in addition to the Graham factors, the reasonableness of an officer's use of force includes "whether proper warnings were given."

⁷ The California Supreme Court in Hayes v. County of San Diego (2013) 57 Cal.4th 622, the California Supreme Court noted that federal Fourth Amendment law tends to focus more narrowly on the moment when deadly force is used. The Court found that "[l]aw enforcement personnel's tactical conduct and decisions preceding the use of deadly force are relevant considerations under California law in determining whether the use of deadly force gives rise to negligence liability." In response to the Hayes decision, the Los Angeles Board of Police Commissioners amended the Los Angeles Police Department's Use of Force policy to state, "[t]he reasonableness of an Officer's use of deadly force includes consideration of the officer's tactical conduct and decisions leading up to the use of deadly force." Thus, the evaluation of force includes not only the moment that deadly force is used but the tactical conduct and decisions that lead to that use of force. See Office of the Inspector General's Ten Year Overview of Categorical Use of Force Investigations, Police, and Training, March 10, 2016, pages 9-10). http://www.lapdpolicecom.lacity.org/031516/BPC_16-0077.pdf.

⁸ In addition to the Graham factors, the Ninth Circuit has ruled that another relevant factor is "whether it should have been apparent to the officers that the person they used force against was emotionally disturbed." See e.g. Bryan, 630 F.3d at 831; Deorle, 272 F.3d at 1282-1283, and Glenn, 673 F.3d at 872.

- g. Availability of additional officers or resources to de-escalate the situation⁹
Proximity, access to and type of weapons available to the subject
- h. Time available to an officer to make a decision;
Availability of additional officers or resources to de-escalate the situation;
- i. Environmental factors and/or other exigent circumstances;
~~Whether other tactics are available to the officer;~~
The ability of the officer to provide a meaningful warning before using force;
The officer's tactical conduct and decisions preceding the use of force;
~~Whether the officer is using force against an individual who appears to be~~
having a behavioral or mental health crisis or is a person with a mental illness;
- j. Whether the subject's escape could pose a future safety risk

Not all of the above factors may be present or relevant in a particular situation, and there may be additional factors not listed.

~~California Penal Code section 835a states that "Any officer who has reasonable cause to believe that a person to be attested has committed a public offense may use reasonable force to effect an arrest, to prevent escape or to overcome resistance.~~

~~A peace officer who makes or attempts to make an arrest need not retreat or desist from his efforts by reason of the resistance or threatened resistance of the person being arrested; not shall such officer be deemed an aggressor or lose his right to self-defense by use of reasonable force to effect the arrest or to prevent escape of overcome resistance."~~

C. DE-ESCALATION. Officers will use de-escalate tactics, whenever feasible, and appropriate, to reduce the need or degree of force.

When encountering a non-compliant subject or a subject armed with a weapon other than a firearm, such as an edged weapon, improvised weapon, baseball bat, brick, bottle or other object, officers shall use the following de-escalation tactics, when safe and feasible under the totality of the circumstances known to the officer:

- 1.a. Attempt to isolate and contain the subject;
2. Create time and distance from the subject by establishing a buffer zone ("reactionary gap") and utilize cover to avoid creating an immediate threat that may require the use of force;
3. Request additional resources, such as Crisis Intervention Team (CIT) trained officers, Crisis/Hostage Negotiation Team, ~~Conducted Energy Device~~ or Extended Range Impact Weapon;
4. Designate an officer to establish rapport and engage in communication with the subject;

⁹ See footnote 4.

5. Tactically re-position as often as necessary to maintain the reactionary gap, protect the public, and preserve officer safety;
6. Continue de-escalation techniques and take as much time as reasonably necessary to resolve the incident, without having to use force, if feasible
7. When feasible, before deploying a particular force option, officers shall evaluate and the ray of objectively reasonable options to select an option that will likely anticipated to cause the least amount of injury to the subject while achieving the arrest or lawful objectives.
8. While deploying a particular force option and when feasible, officer shall continually evaluate whether the force option may be discontinued while still achieving the arrest or lawful objectives.
9. Whether a particular use of force is the minimum amount of force necessary must be objectively judged from the perspective of a reasonable officer on the scene, rather than with 20/20 hindsight. The objective determination of "minimal" must account for the fact that officers are often forced to make split-second judgements, in circumstances that are tense, uncertain and rapidly evolving.

Other options, not listed above, may be available to assist in de-escalating the situation.

Supervisors who become aware of a situation where an officer is using de-escalation techniques shall monitor the radio communications and evaluate the need to respond to the scene.

D. CRITICAL DECISION-MAKING MODEL. Using a critical decision-making model, officers shall collect information, assess the threats and risk, consider police powers and the Department's policies, identify options and determine the best course of action, and review and re-assess the situation.

Officers shall continually assess the effectiveness of their actions and consider the desired outcome for the level of force used, including, when feasible:

- 1) What efforts can the officer use to de-escalate the situation or to minimize the need for use of force?
- 2) Can the officer allow the subject time to submit to arrest before using force?
- 3) Is the officer using the minimum amount of force necessary to carry out lawful objectives?
- 4) Is the subject physically or mentally capable of complying with the officer's commands?
- 5) Does the officer have an opportunity to utilize additional resources/officers to bring the situation to a peaceful resolution?
- 6) What is the severity of the subject's actions and is the risk of injury to either the subject or officer worth achieving the officer's lawful objective?
- 7) What is the proximity or access of weapons to the subject?

- 8) What is the time available to an officer to make a decision and what efforts has the officer made to provide additional time?
- 9) What are the physical considerations for the officer, e.g. officer exhaustion or injury during a physical confrontation?
- 10) Are innocent bystanders present who could be harmed if force is or is not used?
- 11) Are there hostile bystanders present who are sympathetic to the subject?

EE. **UNLAWFUL PURPOSES.** Penal Code Section 149 provides criminal penalties for every public officer who “under color of authority, without lawful necessity, assaults or beats any person.” An assault and battery committed by officers constitute gross and unlawful misconduct and will be criminally investigated.

ED. **DUTY TO RENDER FIRST AID.** Officers shall render first aid when a subject is injured or claims injury caused by an officer’s use of force unless first aid is declined, the scene is unsafe, or emergency medical personnel are available to render first aid. Officers shall continue to render first aid and monitor the subject until relieved by emergency medical personnel.

GE. **DUTY TO PROVIDE MEDICAL ASSESSMENT.** Officers shall arrange for a medical assessment by emergency medical personnel when a subject is injured or complains of injury caused by a use of force, or complains of pain that persists beyond the use of a physical control hold, and the scene is safe. If the subject requires a medical evaluation, the subject shall be transported to a medical facility. If the emergency medical response is excessively delayed under the circumstances, officers shall contact a supervisor to coordinate and expedite the medical assessment or evaluation of the subject, e.g., transport subject to nearest medical facility by SFPD. See DGO 5.18. Prisoner Handling and Transportation.

HF. **SUBJECT ARMED WITH A WEAPON – NOTIFICATION AND COMMAND.** In situations where a subject is armed with a weapon, officers and supervisors shall comply with the following:

1. **OFFICER’S RESPONSIBILITY.** Upon being dispatched to or on-viewing a subject with a weapon, an officer shall call a supervisor as soon as feasible.
2. **SUPERVISORS’ RESPONSIBILITIES.** When notified that officers are dispatched to or on-view a subject armed with a weapon, a supervisor shall as soon as feasible:
 - a. Notify DEM, monitor radio communications, respond to the incident (e.g., “3X100, I’m monitoring the incident and responding.”);
 - b. Notify responding officers, while en-route, absent a “Code 33” or other articulable reasons why it would be unsafe to do so, to protect life, isolate and contain the subject, maintain distance, find cover, build rapport, engage in communication without time constraint, and call for appropriate resources;
 - c. Upon arrival, assume command, and ensure appropriate resources are on-scene or are responding.

IV. LEVELS OF FORCE.

When force is needed, members shall assess each incident to determine which use of force option is believed to be the minimal amount of force necessary within the available range of objectively reasonable force options to bring the situation under control in a safe manner. The level of force must be proportional to the circumstances and the level of resistance encountered by the officer.

- A. **Low Level Force.** The level of control necessary to interact with a subject who is or displaying passive or active resistance. This level of force is not intended to and has a low probability of causing injury.
- B. **Intermediate Force.** The level of force necessary to compel compliance by a subject displaying aggressive resistance. This level of force poses a foreseeable risk of significant injury or harm, but is neither likely nor intended to cause death. Case law decisions have specifically identified and established that certain force options such as OC spray, probe deployment with a conducted energy device, impact projectiles, and baton strikes are classified as intermediate force likely to result in significant injury.
- C. **Lethal Force.** Lethal force is the degree of force likely to cause death or serious bodily injury. An officer may use lethal force upon another person only when it is objectively reasonable and necessary to:
 - 1. In self-defense when the officer has reasonable cause to believe that he or she is in immediate danger of death or serious bodily injury; or
 - 2. In defense of another person when the officer has reasonable cause to believe that the person is in immediate danger of death or serious bodily injury. However, an officer may not discharge a firearm at, or use lethal force against, a person who presents a danger only to him or herself, and there is no reasonable cause to believe that the person poses an immediate danger of death or serious bodily injury to the officer or any other person;
or
 - 3. To apprehend a person when both of the following circumstances exist:
 - a. The officer has reasonable cause to believe that the person has committed or has attempted to commit a violent felony involving the use or threatened use of lethal force; AND
 - b. The officer has reasonable cause to believe that a substantial risk exists that the person will cause death or serious bodily injury to officers or others if the person's apprehension is delayed; or

~~Protect him/herself or others from what is reasonably believed to be an immediate threat of death or serious bodily injury; or~~

~~Prevent the escape of a fleeing felon when:~~

~~The officer has reasonable cause to believe that the subject has committed or has attempted to commit a violent felony involving the use of threatened use of deadly force;~~

~~The subject poses a threat of serious physical harm to the public or the officer if the subject's apprehension is delayed;~~

~~The use of lethal force is reasonably necessary to prevent escape;~~

~~When feasible, some warning should be given before the lethal force is used under these circumstances.~~

4. Lethal force shall only be exercised when all reasonable alternatives have been exhausted or are not feasible.

appear impracticable.

V. FORCE OPTIONS.

The force options authorized by the Department are physical controls, personal body weapons, chemical agents, impact weapons, extended range impact weapons, vehicle interventions, conducted energy devices, and firearms. These are the force options available to officers, but officers are not required to use these force options based on a continuum.

A. PHYSICAL CONTROLS/PERSONAL BODY WEAPONS. Physical controls, such as control holds, takedowns, strikes with personal body weapons, and other weaponless techniques are designed to incapacitate and subdue subjects. The use of physical control techniques and equipment against vulnerable populations – including children, elderly persons, pregnant women, people with physical and mental disabilities, people with limited English proficiency, and other – can undermine public trust and should be used as a last resort.

1. **PURPOSE.** When a subject offers some degree of passive or active resistance to a lawful order, in addition to de-escalation techniques and appropriate communication skills, officers may use physical controls consistent with Department training to gain compliance. A subject's level of resistance and the threat posed by the subject are important factors in determining what type of physical controls or personal body weapons should be used.
2. **USE.** Officers shall consider the relative size and possible physical capabilities of the subject compared to the size, physical capabilities, skills, and experience of the officer. When faced with a situation that may necessitate the use of physical controls, officers shall consider requesting additional resources to the scene prior to making contact with the subject, if feasible. Different physical controls involve different levels of force and risk of injury to a subject or to an officer. Some physical controls may actually involve a greater risk of injury or pain to a subject than other force options.
3. **PROHIBITED USE OF CONTROL HOLDS.** Officers are prohibited from using the following control holds:
 - a. carotid restraint

b. choke hold--choking by means of pressure to the subject's trachea or other means that prevent breathing.

4. **MANDATORY MEDICAL ASSESSMENT.** Any subject who has been injured, complains of an injury in the presence of officers, or complains of pain that persists beyond the use of the physical control hold shall be medically assessed by emergency medical personnel.
5. **REPORTING.** Use of physical controls is a reportable use of force when the subject is injured, complains of injury in the presence of officers, or complains of pain that persists beyond the use of a physical control hold. Striking a subject with a personal body weapon is a reportable use of force.

B. CHEMICAL AGENTS. Chemical agents, such as Oleoresin Capsicum (OC) Spray, are designed to cause irritation and temporarily incapacitate a subject.

1. **PURPOSE.** Chemical agents can be used to subdue an unarmed attacker or to overcome active resistance (unarmed or armed with a weapon other than a firearm) that is likely to result in injury to either the subject or the officer. In many instances, chemical agents can reduce or eliminate the necessity to use other force options to gain compliance, consistent with Department training.
2. **WARNING.** Officers shall provide a warning prior to deploying a chemical agent, if feasible:
 - a. Announce a warning to the subject and other officers of the intent to deploy the chemical agent if the subject does not comply with officer commands; and
 - b. Give the subject a reasonable opportunity to voluntarily comply unless it would pose a risk to the public or the officer, or permit the subject to undermine the deployment of the chemical agent.
3. **MANDATORY FIRST AID.** At the scene or as soon as possible, officers shall administer first aid by:
 - a. Seating the subject or other person(s) exposed to a chemical agent in an upright position, and
 - b. Flushing his/her eyes out with clean water and ventilate with fresh air.
4. **MANDATORY MEDICAL ASSESSMENT.** Any person exposed to a chemical agent shall be medically assessed by emergency medical personnel. Any exposed person shall be kept under direct visual observation until he/she has been medically assessed. If an exposed person loses consciousness or has difficulty breathing, an officer shall immediately request for emergency medical personnel, render first aid and monitor the subject until relieved by emergency medical personnel. Officers shall notify dispatch to expedite emergency medical personnel if the person loses consciousness or has difficulty breathing.
5. **TRANSPORTATION.** Subjects in custody exposed to a chemical agent must be transported in an upright position by two officers. The passenger officer shall closely monitor the subject for any signs of distress. If the subject loses consciousness or has difficulty breathing, officers shall immediately seek emergency medical attention. Hobble cords or similar types of restraints shall

only be used to secure a subject's legs together. They shall not be used to connect the subject's legs to his/her waist or hands or to a fixed object.

6. **BOOKING FORM.** Officers shall note on the booking form that the subject has been exposed to a chemical agent.
7. **REPORTING.** If an officer deploys a chemical agent on or near someone, it is a reportable use of force.

C. IMPACT WEAPON. Department issued and authorized impact weapons include the 26" straight wooden baton, the 36" straight wooden baton, the wooden or polymer Yawara stick, the 21' to 29" telescopic metal baton and the wooden bokken, and are designed to temporarily incapacitate a subject.

1. **PURPOSE.** An impact weapon may be used in accordance to Department training to administer strikes to non-vital areas of the body, which can subdue an aggressive subject. Only Department issued or authorized impact weapons shall be used. Officers may resort to the use of other objects as impact weapons, such as a flashlight or police radio, if exigent circumstances exist, and officers shall articulate in writing the reason for doing so.
2. **WARNING.** When using an impact weapon, an officer shall, if feasible:
 - a. Announce a warning to the subject of the intent to use the impact weapon if the subject does not comply with officer's commands; and
 - b. Give the subject a reasonable opportunity to voluntarily comply, except that officers need not do so where it would pose a risk to the public or the officer or permit the subject to undermine the use of the impact weapon.
3. **RESTRICTED USES.** Unless exigent circumstances exist, officers shall not:
 - a. Raise an impact weapon above the head to strike a subject, or
 - b. Intentionally strike vital areas, including the head, neck, face, throat, spine, groin or kidney. The use of an impact weapon to a vital area has a likelihood of causing serious bodily injury or death, and the intentional use of an impact weapon to these areas shall only be used in situations where lethal force is justified.
4. **PROHIBITED USES.** Officers shall not:
 - a. Use the impact weapon to intimidate a subject or person, such as slapping the palm of their hand with an impact weapon or;
 - b. Strike a handcuffed prisoner with an impact weapon. Striking a handcuffed prisoner is an inappropriate action and may result in disciplinary action and/or criminal prosecution.
5. **MANDATORY MEDICAL ASSESSMENT.** Any officer who strikes a subject with an impact weapon shall ensure the subject is medically assessed.
6. **REPORTING.** If an officer strikes a subject with an impact weapon, it is a reportable use of force.

D. EXTENDED RANGE IMPACT WEAPON (ERIW). An Extended Range Impact Weapon (ERIW), such as a beanbag shotgun, is a weapon that fires a bean bag or

other projectile designed to temporarily incapacitate a subject. An ERIW is generally not considered to be a lethal weapon when used at a range of 15 feet or more.

1. **PURPOSE.** The ERIW may be used on a subject who is armed with a weapon, other than a firearm, that could cause serious injury or death. This includes, but is not limited to, edged weapons and improvised weapons such as baseball bats, bricks, bottles, or other objects. The ERIW may also be used in accordance with Department training to subdue an aggressive, unarmed subject who poses an immediate threat of serious injury to another person or the officer.
2. **USE.** The ERIW shall be properly loaded and locked in the shotgun rack of the passenger compartment of the vehicle. Officers shall observe the following guidelines:
 - a. An officer deploying an ERIW shall always have a lethal cover officer. When more than one officer is deploying an ERIW, tactical judgment and scene management in accordance with Department training will dictate the appropriate number of ERIW and lethal cover officers. In most circumstances, there should be fewer lethal cover officers than the number of ERIWs deployed.
 - b. The ERIW officer's point of aim shall be Zone 2 (waist and below). The ERIW officer's point of aim may be Zone 1 (waist and above) if:
 - i. Zone 2 is unavailable; or
 - ii. The ERIW officer is delivering the round from 60 feet; or
 - iii. Shots to Zone 2 have been ineffective or in the officers judgment a shot to zone 2 would be ineffective.Officer shall articulate in writing the reason for intentionally aiming the ERIW at Zone 1.
 - c. The use of an ERIW to a vital area has a likelihood of causing serious bodily injury or death, and the intentional use of an ERIW to these areas shall only be used in situations where lethal force is justified.
 - d. The ERIW officer shall assess the effect of the ERIW after each shot. If subsequent ERIW rounds are needed, the officer shall aim at a different target area.
5. **LIMITED USES.** The ERIW should not be used in the following circumstances:
 - a. The subject is at the extremes of age (elderly and children) or physically frail.
 - b. The subject is in an elevated position where a fall is likely to cause serious injury or death.
 - c. The subject is known to be or appears pregnant.
 - d. At ranges of less than 15 feet.
 6. **WARNING.** When using the ERIW, an officer shall, if feasible:
 - a. Announce to other officers the intent to use the ERIW by stating "Red Light! Less Lethal! Less Lethal!"
 - b. All other officers at scene to acknowledge imminent deployment of ERIW by echoing, "Red Light! Less Lethal! Less Lethal!"

- c. Announce a warning to the subject that the ERIW will be used if the subject does not comply with officer commands;
 - d. Give the subject a reasonable opportunity to voluntarily comply unless it would pose a risk to the community or the officer, or permit the subject to undermine the deployment of the ERIW.
 5. **MANDATORY MEDICAL ASSESSMENT.** Any subject who has been struck by an ERIW round shall be medically assessed by emergency medical personnel.
 6. **BOOKING FORM.** Persons who have been struck by an ERIW round shall have that noted on the booking form.
 7. **REPORTING.** Discharge of an ERIW is a reportable use of force.
- E. **VEHICLE INTERVENTIONS.** An officer's use of a police vehicle as a "deflection" technique, creation of a roadblock by any means, or deployment of spike strips, or any other interventions resulting in the intentional contact with a noncompliant subject's vehicle for the purpose of making a detention or arrest, are considered a use of force and must be minimal under the circumstances. The Department's policies concerning such vehicle intervention tactics are set forth in DGO 5.05, Response and Pursuit Driving.
- F. **CONDUCTED ENERGY DEVICE (CED).** See Special Operations Bureau Order on use of CED.
- H. **FIREARMS AND OTHER LETHAL FORCE.** It is the policy of this Department to use lethal force ~~only~~ as a last resort only -when reasonable alternatives have been exhausted or ~~are not feasible~~ ~~appear impracticable~~ to protect the safety of the public and police officers. The use of firearms and other lethal force is the most serious decision an officer may ever make. When safe and feasible under the totality of circumstances, officers shall ~~use~~ ~~consider~~ other (minimal) force options before discharging a firearm or using other lethal force.
 1. **HANDLING, DRAWING AND POINTING FIREARMS.**
 - a. **HANDLING FIREARMS.** An officer shall handle and manipulate a firearm in accordance with Department-approved firearms training. An officer shall not manually cock the hammer of the Department-issued handgun to defeat the first shot double-action feature.
 - b. **AUTHORIZED USES.** An officer may draw, exhibit or point a firearm in the line of duty when the officer has reasonable cause to believe it may be necessary for the safety of others or for his or her own safety. When an officer determines that the threat is over, the officer shall holster his or her firearm or shoulder the weapon in the port arms position pointed or slung in a manner consistent with Department approved firearms training. If an officer points a firearm at a person, the officer shall, if feasible, advise the subject the reason why the officer(s) pointed the firearm.

- c. DRAWING OTHERWISE PROHIBITED. Except for maintenance, safekeeping, inspection by a superior officer, Department-approved training, or as otherwise authorized by this order, an officer shall not draw a Department issued firearm.
- d. POINTING A FIREARM AT A PERSON. The pointing of a firearm at a person is a seizure and requires legal justification. No officer shall point a firearm at or in the direction of a person unless there is a reasonable perception of a substantial risk that the situation will escalate to justify lethal force.
- e. REPORTING. When an officer intentionally points any firearm at a person, it shall be considered a reportable use of force. Such use of force must be reasonable under the objective facts and circumstances.

2. DISCHARGE OF FIREARMS OR OTHER USE OF LETHAL FORCE.

- a. PERMISSIBLE CIRCUMSTANCES. Except as limited by Sections H.2.d. and H.2.e., an officer may discharge a firearm or use other lethal force in any of the following circumstances:
 - i. In self-defense when the officer has reasonable cause to believe that he or she is in immediate danger of death or serious bodily injury; or
 - ii. In defense of another person when the officer has reasonable cause to believe that the person is in immediate danger of death or serious bodily injury. However, an officer may not discharge a firearm at, or use lethal force against, a person who presents a danger only to him or herself, and there is no reasonable cause to believe that the person poses an immediate danger of death or serious bodily injury to the officer or any other person; or
 - iii. To apprehend a person when both of the following circumstances exist:
 - The officer has reasonable cause to believe that the person has committed or has attempted to commit a violent felony involving the use or threatened use of lethal force; AND
 - The officer has reasonable cause to believe that a substantial risk exists that the person will cause death or serious bodily injury to officers or others if the person's apprehension is delayed; or
 - iv. To kill an animal posing an imminent threat.

The above circumstances (2.a, i-iv apply to each discharge of a firearm or application of lethal force. Officers shall constantly reassess the situation, as feasible, to determine whether the subject continues to pose an active threat.

b. Lethal force shall only be exercised when all reasonable alternatives have been exhausted or are not feasible.

cb. VERBAL WARNING. If feasible, and if doing so would not increase the danger to the officer or others, an officer shall give a verbal warning to submit to the authority of the officer before discharging a firearm or using other lethal force.

de. REASONABLE CARE FOR THE PUBLIC. To the extent feasible, an officer shall take reasonable care when discharging his or her firearm so as not to jeopardize the safety of the public or officers.

ed. PROHIBITED CIRCUMSTANCE. Officers shall not discharge their firearm:

- i. As a warning; or
- ii. At a person who presents a danger only to him or herself.

fe. MOVING VEHICLES. An officer shall not discharge a firearm at the operator or occupant of a moving vehicle unless the operator or occupant poses an imminent threat of death or serious bodily injury to the public or an officer by means other than the vehicle. Officers shall not discharge a firearm from his or her moving vehicle.

gf. REPORTING.

- i. DISCHARGE OF FIREARMS. Except for firearm discharges at an approved range or during lawful recreational activity, an officer who discharges a firearm, either on or off duty, shall report the discharge as required under DGO 8.11, Investigation of Officer Involved Shootings and Discharges. This includes an intentional or unintentional discharge, either within or outside the City and County of San Francisco.
- ii. OTHER LETHAL FORCE. An officer who applies other force that results in death shall report the force to the officer's supervisor, and it shall be investigated as required under DGO 8.12, In Custody Deaths. An officer who applies other lethal force that results in serious bodily injury shall report the force to the officer's supervisor. The supervisor shall, regardless whether possible misconduct occurred, immediately report the force to their superior officer and their commanding officer, who shall determine which unit shall be responsible for further investigation. An officer who applies other lethal force that does not result in serious bodily injury shall report the force.

VI. USE OF FORCE REPORTING

A. REPORTABLE USES OF FORCE. Officers shall report any use of force involving physical controls when the subject is injured, complains of injury in the

presence of officers, or complains of pain that persists beyond the use of a physical control hold. Officers shall also report any use of force involving the use of personal body weapons, chemical agents, impact weapons, ERIWs, vehicle interventions, CEDs, and firearms. Additionally, officers shall report the intentional pointing of CEDs and firearms at a subject.

1. NOTIFICATION OF USE OF FORCE. An officer shall notify his/her supervisor immediately or as soon as practical of any reportable use of force. A supervisor shall be notified if an officer receives an allegation of excessive force.
2. EVALUATION OF USE OF FORCE. A supervisor shall conduct a use of force evaluation in all cases involving a reportable use of force.
3. EXCESSIVE USE OF FORCE. Every allegation of excessive force shall be subject to the reporting and investigative requirements of this General Order and applicable disciplinary policies.

B. PROCEDURES

1. OFFICER'S RESPONSIBILITY. Any reportable use of force shall be documented in detail in an incident report. Descriptions shall be in clear, precise and plain language and shall be as specific as possible.
 - a. When the officer using force is preparing the incident report, the officer shall include the following information:
 - i. The subject's action necessitating the use of force, including the threat presented by the subject;
 - ii. Efforts to de-escalate prior to the use of force;
 - iii. Any warning given and if not, why not;
 - iv. The type of force used;
 - v. Injury sustained by the subject;
 - vi. Injury sustained by the officer or another person;
 - vii. Information regarding medical assessment or evaluation, including whether the subject refused;
 - viii. The supervisor's name, rank, star number and the time notified.
 - b. In the event that the officer using force is not the officer preparing the incident report, all officer using the force shall:
 - i. Ensure that he/she is clearly identified in the incident report; and
 - ii. Prepare a supplemental report or a statement form with the above information.

In the event that an officer cannot document his/her use of force due to exceptional circumstances, another officer shall document this use of force in an

incident report, supplemental incident report or statement form at the direction of a supervisor.

2. SUPERVISOR'S RESPONSIBILITY. When notified of the use of force, the supervisor shall conduct a supervisory evaluation to determine whether the force used appears reasonable and within the provisions of this order. The supervisor shall:
 - a. Immediately respond to the scene unless a response is impractical, poses a danger, or where officers' continued presence creates a risk. When more than one supervisor responds, the responsibility shall fall on the senior supervisor;
 - b. Ensure the scene is secure and observe injured subjects or officers;
 - c. Ensure that witnesses (including officers) are identified and interviewed, and that this information is included in the incident report. The number of witnesses may preclude identification and interview of all witnesses, however supervisors shall ensure identification to the best of their ability;
 - d. Ensure photographs of injuries are taken and all other evidence is booked;
 - e. Remain available to review the officer's incident report, supplemental incident report and written statement at the direction of the superior officer. A supervisor shall not approve an incident report or written statement involving a use of force that does not comply with the requirements as set forth in II.A above;
 - f. If applicable, ensure the supervisor's reason for not responding to the scene is included in the incident report.
 - g. Complete and submit the Supervisory Use of Force Evaluation form, indicating whether the force used appears reasonable, by the end of watch;
 - h. Complete an electronic Use of Force form¹⁰ the Use of Force Log (SFPD-128) and attach one copy of the incident report by the end of watch.

If a supervisor determines that a member's use of force is unnecessary or that an officer has applied force that results in serious bodily injury or death, the supervisor shall notify his/her superior officer.

3. SUPERIOR OFFICER'S RESPONSIBILITY. When a superior officer is notified of unnecessary force or force that results in serious bodily injury or death, the superior officer shall:
 - a. Respond to the scene and assume command, as practical;

¹⁰ SFPD currently uses a "Use of Force" log in which supervisors fill out by hand the officer's name and star number, the name, age, race and sex of the individual against whom their subordinate used force, whether the officer and/or the individual complained of pain, was injured, and the type of force used. Instead of a hand written Use of Force log, an electronic Use of Force form is necessary to facilitate comprehensive data collection and analysis. Thus, the reference to a "Use of Form log" should be replaced with an electronic Use of Form. With the replacement of the Use of Force log with an electronic Use of Force form, the purpose of the Use of Force log and the procedures concerning this log should be reconsidered.

- b. Notify the commanding officer and ensure all other notifications are made consistent with DGO 1.06, Duties of Superior Officers;
- c. ~~If unreasonable force, initiate a civilian complaint and Make the required notification to the Office of Citizen Complaints (See DOJ comment 21, DGO 5.01.1 ("If force is perceived to be unreasonable a complaint should be initiated regardless of whether the citizen makes a complaint.")) if a citizen complaint is made;~~
- d. Determine which unit(s) will be responsible for the on-going investigation(s);
- e. Prepare a report containing preliminary findings, conclusions and/or recommendations, if appropriate.

C. OTHER REQUIREMENTS.

1. **USE OF FORCE LOG.** The following units shall maintain a Use of Force Log:
 - a. District Stations
 - b. Airport Bureau
 - c. Department Operations Center
2. **RECORDING PROCEDURES.** Supervisors shall document a reportable use of force for all officers – including those officers assigned to specialized units – in the Use of Force Log at the District Station where the use of force occurred, except as noted below:
 - a. Any use of force occurring outside the city limits, except at the San Francisco International Airport, shall be recorded in the Department Operations Center's Use of Force Log.
 - b. Any use of force occurring at the San Francisco International Airport shall be recorded in the Airport Bureau's Use of Force Log.
3. **DOCUMENT ROUTING.**
 - a. Commanding officers shall forward the original completed Supervisor's Use of Force Evaluation Form(s) to the Commanding Officer of Risk Management and one copy to the Commanding Officer of the Training Division and another to the officer's Bureau Deputy Chief no later than the end of the watch.
 - b. ~~On a weekly basis~~¹¹ ~~On the 1st and 15th of each month,~~ commanding officers shall sign the Use of Force Log and send it, along with one copy of the incident report, to their respective Bureau Deputy Chief and one copy of the Use of Force Log with copies of the incident reports to the Commanding Officer of the Training Division.
4. **TRAINING DIVISION RESPONSIBILITIES.** The Commanding Officer of the Training Division will maintain controls that assure all electronic Use of Force forms ~~Use of Force Logs~~ and Supervisor Evaluations are received, and shall perform a non-punitive review to ascertain the number, types, proper application and effectiveness of uses of force. The information developed shall be used to identify training needs.

¹¹ The DOJ recommended once a week. (See DOJ comment 25).

The Commanding Officer of the Training Division shall report bi-monthly¹² to the Chief of Police on the use of force by Department members that includes comprehensive use of force statistics consistent with current federal, state and local laws on use of force reporting.

5. DATA COLLECTION AND ANALYSIS. The Department will collect and analyze its use of force data through the electronic Use of Force form Log to enable electronic collection of the data. The Use of Force statistics and analysis will include at a minimum:
- a. The type of force
 - b. The types and degree of injury to suspect and officer
 - c. Date and time
 - d. Location of the incident
 - e. Officer's unit
 - f. District station where the use of force occurred
 - g. Officer's assignment
 - h. Number of officers using force in the incident
 - i. Officer's activity when force was used (ex. Handcuffing, search warrant, pursuit)
 - j. Subject's activity requiring the officer to use force
 - k. Officer's demographics (age, gender, race/ethnicity, rank, number of years with SFPD, number of years as a police officer)
 - l. Suspect demographics including race/ethnicity, age, gender, gender identity, primary language and other factors such as mental illness, cognitive impairment, developmental disability, drug and alcohol use/addiction and homeless.

The Department will post on a monthly basis on its website comprehensive use of force statistics and analysis and provide a written use of force report to the Police Commission annually.

VII. OFFICER'S RESPONSIBILITY AND COMPLIANCE.

All officers are responsible for knowing and complying with this policy. As with all General Orders, any violation of this policy may subject the member to disciplinary action. Supervisors shall ensure that all personnel in their command know the content of this policy and operate in compliance with it. Any member who becomes aware of any violation to this policy shall promptly report it in accordance with established procedure.¹³

References

DGO 1.06, Duties of Superior Officers

¹² The DOJ recommended that the Chief have use of force data available in real-time and be informed on use of force trends. (See DOJ comment 28).

¹³ See DGO 5.17 (II)(C) for similar language.

DGO 2.04 Citizen Complaints Against Officers
DGO 5.05, Response and Pursuit Driving
DGO 5.17 Policy Prohibiting Biased Policing
DGO 5.18, Prisoner Handling and Transportation
DGO 8.11, Investigation of Officer Involved Shootings And Discharges
DGO 8.12, In Custody Deaths
DGO XX Responding to Behavioral Crisis Calls and The Role of the Crisis Intervention Team

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