USE OF FORCE

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USE OF FORCE

The purpose of this order is to set forth Departmental policy and procedures for the use of force by members.

I. POLICY STATEMENT

A. The Oakland Police Department values the protection and sanctity of human life. The Department is committed to accomplishing the police mission with respect and minimal reliance on the use of physical force.

B. This policy provides guidelines and procedures for using force in order to protect the safety of both themselves and the public in accomplishing the police mission.

C. Members are allowed to use a reasonable amount of force based on a totality of the circumstances. Members are required to de-escalate the force when the member reasonably believes a lesser level or no further force is appropriate. Members shall intervene and prevent or stop the use of unreasonable force by other members.

D. Members are prohibited from the use of unreasonable force and using force for interrogation or punishment.

E. Although the use of force is primarily intended for sworn officers, various non-sworn employee job classifications include Departmental training in specific force options normally reserved for sworn officers. Employees are held to the same standard as members for the application of these authorized force options. All employees shall maintain their right to self-defense by any objectively reasonable means.

F. A member or employee who uses force or directs a use of force shall be considered as “Involved Personnel.”
II. FORCE CONSIDERATIONS

A. Reasonable Force

Reasonable force is that amount of force that is objectively reasonable to affect a lawful police purpose and protect the safety of members or others based upon the totality of the circumstances.

1. Force must be analyzed under the Fourth Amendment's objective reasonableness test. The application of this test requires an analysis of the totality of circumstances, including these factors to determine if the seizure is reasonable:

   a. The severity of the crime at issue;
   b. Whether the suspect poses an immediate threat to the safety of law enforcement officers or others; and
   c. Whether the suspect is actively resisting arrest or attempting to evade arrest by flight.

   The determination of reasonableness is not based on the 20/20 vision of hindsight.

2. Factors when determining if force is reasonable include, but are not limited to:

   a. Physical differences (e.g., age, size, relative strength, skill level, injuries, exhaustion, number of members/employees verses subjects);
   b. Influence of drugs or alcohol on the subject;
   c. Proximity of weapons to the subject;
   d. Training and experience level of the member or employee; and
   e. Other exigent circumstances.

B. Immediate Threat

An Immediate Threat is considered to exist if a suspect has demonstrated actions that would lead one to reasonably believe that the suspect will continue to pose a threat of death or serious bodily injury if not apprehended without delay.

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A person is an immediate threat if the person is reasonably perceived by a member or employee to have the present intent, means, opportunity and ability to complete the threat, regardless of whether the threatened action has been initiated.

1. Intent: The subject’s apparent desire, which can be indicated by words, body language or actions.

2. Means: The instrument, mechanical or physical, that may be used to cause injury.

3. Opportunity: The time and/or place which allows the subject to use the means to cause injury.

4. Ability: The subject has the capability to carry out the action or threat.

C. Use of Force

Any physical or mechanical intervention used by a member or employee to defend, control, overpower, restrain or overcome the resistance of an individual.

D. Less-Lethal Force

Any use of force, other than lethal force, which by design and application is less likely to cause serious bodily injury or death. However, the possibility of an unintended lethal outcome, although very rare, exists.

Less-Lethal Force options include, but are not limited to; those specified in Part III, FORCE OPTIONS THAT DO NOT INCLUDE FIREARMS.

E. Lethal Force

Lethal force is any force that creates a substantial risk of causing death or serious bodily injury. A member may use lethal force to protect themselves or others when the member objectively and reasonably believes that his/her life, or the life of another, is in immediate danger of death or serious bodily injury, based upon the totality of the facts known to the member at the time.

Lethal Force includes, but is not limited to:

1. Discharge of a firearm with lethal ammunition;
   a. Lethal ammunition is ammunition that, by design and application, is intended to cause serious bodily injury or death.
2. Carotid restraint;
3. Intentional impact weapon strike to the head; and
4. Intentional use of a vehicle, at any vehicle speed, to strike a suspect.

F. Serious Bodily Injury

A serious impairment of physical condition, including but not limited to:
1. Loss of consciousness;
2. Concussion;
3. Bone fracture;
4. Protracted loss, impairment, serious disfigurement, or function of any bodily member or organ;
5. Wound requiring extensive suturing; and
6. Serious disfigurement

III. FORCE OPTIONS THAT DO NOT INCLUDE FIREARMS

A. Verbal Persuasion

Verbal commands are the minimum means of halting an offense, gaining compliance or overcoming resistance. A member, announcing his or her identity as a peace officer, presence and intentions, may result in the peaceful resolution of the situation. Verbal commands shall be courteous and clearly relay the police objective.

To the extent possible and without ever compromising safety, members are required to use verbal commands to accomplish the police objective before resorting to physical force. Members shall consider the possibility of any language barriers, noise, other distractions, or disabilities which may impair or frustrate the member’s effort to courteous and clearly communicate with the person.

B. Use of Physical Force or Defensive Tactics and Techniques

At times it may be necessary for a member to use force or defensive tactics and techniques to accomplish the police objective, such as taking a subject into custody, preventing the commission of a crime or in response to a suspect’s resistance.
The defensive tactics and techniques that may be used include, but are not limited to: hand/palm/elbow strikes, kicks, take-downs, leg sweeps, arm-bar takedown and control holds, such as escort (elbow), bent wrist, twist lock and arm-bar hammerlock.

Absent exigent circumstances, all defensive, arrest and control techniques shall be compliant with Oakland Police Department policy and training. Refer to TB III-I.1, WEAPONLESS DEFENSE.

C. Use of Patrol Canines

The use of Police Canines is considered an intermediate force level that may inflict serious injury.

1. The primary purpose of Patrol Canine deployments is to search for, locate and assist in the apprehension of criminal suspects.

2. Canine handlers may deploy their canines to search for or bite a suspected criminal suspect.

3. Additional restrictions and reporting requirements apply to the use of Patrol Canines, as specified in DGO K-9, DEPARTMENT CANINE PROGRAM and DGO K-4, REPORTING AND INVESTIGATING THE USE OF FORCE.

4. An Unintentional Bite is not a use of force however has special reporting requirement. Refer to DGO K-9 for the definition of and reporting requirement for an Unintentional Bite.

D. Batons and Impact Weapons (other than intentional strikes to the head)

The use of an impact weapon is an intermediate use of force. The following are considered impact weapons:

1. Long baton;

2. Short baton;

3. Crowd control baton;

4. Asp®;

5. Specialty impact munitions (12-gauge Drag Stabilized Flexible Baton munitions, 37/40mm foam munitions, hand deployed SIM); and

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2 Young v. LA County, 655 F.3d 1156 (9th Cir. 2011)
6. Any other object used as an impact weapon other than vehicle.

The use of an impromptu impact weapon or any weapon of necessity is justified when reasonable alternatives have been exhausted, are unavailable or are impractical.

Absent exigent circumstances, members shall only utilize Oakland Police Department authorized impact weapons and munitions.

Use shall be compliant with Oakland Police Department policies and training.

Refer to TB III-H.2, HAND-HELD IMPACT WEAPONS and TB III-H, SPECIALTY IMPACT WEAPONS

E. Electronic Control Weapon (ECW)

The ECW is an intermediate use of force. ECW’s provide a force option that may be used to control dangerous and violent subjects. The goal of every ECW deployment is a safe restraint of the subject using the minimum amount of electrical stimulation that is reasonable to obtain control. When used properly, members can stay beyond the reach and immediate striking distance of a subject who may attack them, thereby reducing the risk of injury to the member and the subject.

Using the ECW may greatly reduce the need for other types of physical force by members, which could otherwise result in serious injuries or death to the member and/or offender. Absent exigent circumstances, members shall only utilize Oakland Police Department authorized ECW’s. Use shall be compliant with Oakland Police Department policies and training. Refer to TB III-H.1, USE OF AN ELECTRONIC CONTROL WEAPON.

F. Chemical Agents and Oleoresin Capsicum (OC)

The use of OC and Chemical Agents are an intermediate use of force. Refer to TB V-F.2, CHEMICAL AGENTS and DGO C-8, OLEORESIN CAPSICUM

IV. USE OF FIREARMS AND OTHER LETHAL FORCE

A. Drawing, Exhibiting and Pointing Firearms

1. The intentional pointing of a firearm at another person is a use of force.

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3 Bryan v. MacPherson, 630 F. 3d 805 (9th Cir. 2010)
4 Young v. LA County, 655 F.3d 1156 (9th Cir. 2011)
5 Robinson v. Solano County, 278 F. 3d 1007 (9th Cir. 2002)
2. The drawing, exhibiting and intentionally pointing of a firearm at another person is threatening and intimidating and when unwarranted may cast a negative impression on members. A member may intentionally point a firearm only when the member has reasonable cause to believe it may be reasonable for his/her safety or for the safety of others.

3. The pointing of a firearm at a person is a seizure and requires legal justification. No member shall draw and point a firearm at or in the direction of a person unless there is a reasonable perception of a substantial risk that the situation may escalate to the point where lethal force would be permitted. When it is determined that the use of lethal force is not necessary, as soon as practicable, firearms shall be secured or holstered.

B. Firearms Discharge

The act of discharging a firearm loaded with lethal ammunition. Firearm discharges are classified as follows:

1. Lethal – An intentional firearm discharge at a person, regardless of injury.

2. Discharge at an Animal – A firearm discharge for the purpose of dispatching an injured or vicious animal.

3. Unintentional – A firearm discharge that occurred as a result of an unintentional trigger pull or other unexpected external cause.

The discharge of firearms as a warning is prohibited at any time on or off-duty.

C. Other Firearm Discharges

No use of force investigation is required for any of the following:

1. An intentional discharge for purposes related to training, demonstration, practice, certification or testing while at an authorized range facility, unless the discharge results in injury or death;

2. A discharge while engaged in a lawful and policy-compliant recreational activity, such as hunting or target practice;

3. A discharge by Criminalistics Division personnel for the purpose of scientific examination; and

4. A discharge at an object (e.g., street light, alarm box, door lock or vehicle tire) to accomplish a tactical police purpose that does not result in injury.
D. Discharging a Firearm at a Person

The discharge of a firearm at a person constitutes lethal force and is authorized only when there is reasonable cause to believe there is an immediate threat of death or serious bodily harm.\(^6\)

A member is authorized to discharge his or her firearm only in the following circumstances:

1. In self-defense when the member has reasonable cause to believe that he or she is in immediate danger of death or serious bodily injury.

2. In defense of another person when the member has reasonable cause to believe that the person is in immediate danger of death or serious bodily injury.

3. To apprehend or arrest a person when the following three conditions are met:
   a. The member has reasonable cause to believe that the person is involved in the commission of a violent felony that includes the use or threatened use of deadly force; and
   b. The member has reasonable cause to believe that the person poses an immediate threat of death or serious bodily injury to the member or a third person if not immediately apprehended; and
   c. Other reasonably known and available means of apprehending the person have failed, are inadequate or are immediately unavailable.

E. Moving Vehicles

The use of lethal force against the occupant of a motor vehicle is only authorized when it is reasonably necessary to:

1. Defend the member or another person against the vehicle occupant’s immediate threat of death or serious bodily injury, by means other than the vehicle; or

2. Defend the member or another person against the vehicle operator’s use of the vehicle to cause death or serious bodily injury and the member or other person has no reasonable avenue of protection or escape.

a. Members are prohibited from intentionally positioning themselves in a location vulnerable to vehicular attack;

b. Whenever possible, members shall move out of the way of the vehicle, instead of discharging his or her firearm at the operator;

c. Members shall not discharge a firearm at the operator of the vehicle when the vehicle has passed and is attempting to escape.

3. Members shall consider whether the threat to the member or other persons (including all occupants of the vehicle) is increased by incapacitating the operator with lethal force, considering that if the operator is incapacitated, the vehicle may still be a threat to anyone in the vehicle’s path. This threat shall be weighed against the threat posed by the suspect continuing in control of the vehicle.

4. Members shall also consider what risk the use of lethal force would pose to other vehicle occupants when weighed against the threat.

5. Absent exigent circumstances, the discharge of firearms from a moving vehicle is prohibited.

F. Other Lethal Force

Any force that poses a substantial risk of causing death or serious bodily injury is considered lethal force. This includes the use of the carotid restraint, an intentional strike to the head with an impact weapon or an impromptu impact weapon. Lethal force, regardless of the weapon used, is justified only in life-threatening situations where a member has reasonable cause to believe that a person poses an immediate threat of death or serious bodily harm to the member or to another person.

Lethal force is prohibited when its sole purpose is to affect an arrest, overcome resistance or prevent a subject from escaping when the subject does not present an immediate danger of death or serious bodily injury.

V. OTHER REQUIREMENTS

A. Use and Care of Equipment, Control Devices and Firearms

1. While on-duty members shall carry only firearms, safety equipment and control devices that are approved in an official Departmental Order and on which they have successfully completed training. For care of safety equipment, refer to DGO C-4, SAFETY EQUIPMENT.
2. Members shall handle and manipulate a firearm in accordance with Department approved firearms training.

B. Administrative Leave

Members involved in a lethal force incident shall be placed on paid administrative leave for not less than three days, unless otherwise directed by the Chief of Police. The Incident Commander may recommend other personnel be placed on paid administrative leave to the Chief of Police. The assignment to administrative leave shall not be interpreted to imply or indicate that a member acted improperly. While on administrative leave, members shall remain available at all times for official Departmental business, including interviews and statements regarding the incident.

C. Counseling Services

Members involved in a force incident that results in a person being seriously injured or killed shall attend employee assistance and counseling services provided by the City before his/her return to normal duties. Supervisors shall verify attendance only and document completion in a SNF entry. Command officers shall ensure involved members are advised of the services available and shall direct their attendance. As needed, members and employees who witness such incidents may also be referred to counseling services.

D. Providing First Aid or Medical Treatment

To the extent possible and without ever compromising safety, members shall ensure that they, when necessary or upon complaint of injury, provide medical first aid and/or emergency medical treatment as soon as practical congruent with their available equipment, resources and first aid training and certification.

In addition, if necessary, professional medical assistance shall be summoned as soon as practical. Refer to TB III-K, FIRST AID.

1. First Aid

First aid includes, but is not limited to, the mere cleaning of a scrape or cut, applying a bandage, flushing of the eyes with water or providing an ice pack. First aid shall be administered by OPD personnel when practical and safe to do so. First aid may be administered by a medical professional including the following: physicians, physician assistants, nurses (RN and LVN), paramedics, emergency medical technicians (EMT) and Fire Department Personnel.
2. Emergency Medical Treatment

Any treatment beyond first aid, including Cardio-Pulmonary Resuscitation (CPR) and rescue breathing, shall be administered by OPD personnel when practical and safe to do so. Emergency medical treatment may be administered by a medical professional including the following: physicians, physician assistants, nurses (RN and LVN), paramedics, emergency medical technicians (EMT) and Fire Department Personnel.

3. Hospital Admittance

Admittance to a hospital for the treatment of injuries as a result of any use of force. For the purposes of this order, evaluation or treatment by a medical professional not beyond first aid, as a result of any use of force, shall not be considered hospital admittance.

VI. USE OF SPECIALTY IMPACT MUNITIONS (SIM) DURING CROWD CONTROL

The Department places additional restrictions on the use of SIM during incidents involving Crowd Control and Crowd Management as specified in TB III-G, CROWD CONTROL AND CROWD MANAGEMENT and TB III-H, SPECIALTY IMPACT MUNITIONS.

A. Skip Fired Specialty Impact Less-Lethal Munitions (Wooden Dowels and Stinger Grenades) are prohibited.

1. Any and all less-lethal specialty impact weapons designed to be skip fired or otherwise deployed in a non-directional non-target specific manner, including but not limited to the Multiple Wood Baton Shell (264W) manufactured by Armor Holdings, Inc. shall not be used at all by OPD during demonstrations or crowd events.

2. The use of the Stinger Grenade containing rubber pellets designed to be deployed in a non-directional non-target specific manner is also prohibited for all crowd control use.

B. Uses of Direct Fired Specialty Impact Less-Lethal Munitions (SIM)

Direct Fired SIM are less-lethal specialty impact weapons that are designed to be direct fired at a specific target, including but not limited to Drag Stabilized Flexible Batons (DSFB), often referred to as "bean bags", and shall not be used for crowd management, crowd control or crowd dispersal during demonstrations or crowd events. Direct Fired SIM may never be used indiscriminately against a crowd or group of persons even if some members of the crowd or group are violent or disruptive.
Direct Fired SIM may be used against a specific individual who is engaging in conduct that poses an immediate threat of loss of life or serious bodily injury to him or herself, members or the general public, or who is engaging in substantial destruction of property which creates an immediate risk to the lives or safety of other persons.

In such instances, Direct Fired SIM shall be used only when other means of arrest are unsafe and when the individual can be targeted without endangering other crowd members or bystanders.

The use of Direct Fired SIM shall cease when the violent or destructive actions cease. These weapons shall not be used for the purpose of apprehension or to otherwise prevent escape unless escape would present a substantial risk of continued immediate threat to loss of life or serious bodily injury.

Members shall only deploy Direct Fired SIM during a demonstration or crowd event under the direction of a supervisor.

When circumstances permit, the supervisor on the incident scene shall make an attempt to accomplish the policing goal without the use of Direct Fired SIM as described above, and, if practical, an audible warning shall be given to the subject before deployment of the weapon.

Any person struck by a round shall be transported to a hospital for observation and any necessary treatment. Ambulance service, if required, shall be ordered per Department General Order I-4, AMBULANCE SERVICE. First aid, when necessary, shall be administered per Training Bulletin III-K, FIRST AID.

No member shall use Direct Fired SIM without formal training and certification.

Direct Fired SIM shall not be used against a person who is under restraint.

Members shall not discharge a Direct Fired SIM at a person's head, neck, throat, face, left armpit, spine, kidneys, or groin unless deadly force would be justified.

By Order of

[Signature]

Sean Whent
Chief of Police
REPORTING AND INVESTIGATING THE USE OF FORCE

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REVISION RECORD

The page numbering format has been revised to facilitate updating and tracking revisions to publications contained in this Handbook.

When a minor revision is made to a publication, the ‘Revision Number’ will be indicated on the Special Order and shall be accompanied by the updated page(s). The ‘Revision Date’ and ‘Reference Page Number(s) shall be recorded in the appropriate box on the same line as the indicated ‘Revision Number’. Ensure that all pages that are provided are replaced since reformatting may occur to accommodate revision(s).

When it is necessary to make major policy or content revision, the publication shall be rewritten in its entirety. The ‘Revision Number’ and ‘Revision Date’ shall be indicated on the new order. The ‘Revision Date’ shall be recorded in the appropriate box on the same line as the indicated ‘Revision Number’. The term ‘NEW’ shall be recorded in the ‘Reference Page Number(s)’ box to indicate the promulgation of a new order.

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REPORTING AND INVESTIGATING THE USE OF FORCE

The purpose of this order is to set forth Departmental policy and procedures for reporting, investigating, reviewing, and managing use of force incidents involving Departmental personnel.

I. POLICY

A. Commanders, investigators and supervisors shall complete a Department approved training course for the Departmental use of force policy (DGO K-3) and reporting and investigating use of force incidents (DGO K-4) prior to conducting any use of force investigation. The training course shall include provisions of the Public Safety Officers' Procedural Bill of Rights (POBR), Departmental General Order (DGO) M-3, RECEIVING AND PROCESSING COMPLAINTS AGAINST DEPARTMENT PERSONNEL OR PROCEDURES and DGO M-4.1, CRIMINAL INVESTIGATIONS INVOLVING ACTIVE LAW ENFORCEMENT, OR A MEMBER OR EMPLOYEE OF THE DEPARTMENT.

B. Personnel shall notify his/her supervisor immediately or as soon as practical, of any use of force, allegation of a use of force, or an allegation of unreasonable force.

1. When notified of a Level 1, 2, or 3 use of force, the supervisor or commander shall respond to the scene and conduct the appropriate force investigation.

2. When notified of an allegation of a use of force and the member/employee denies using force, the supervisor or commander shall respond to the scene and conduct a preliminary investigation into the use of force allegation.

3. When a subject who has incurred an injury requiring more than basic first-aid and the injury did not occur as a result of a member's use of force and there is no allegation of force by the subject; or
4. When there is a discharge at an object (e.g., street light, alarm box, door lock or vehicle tire) by a member to accomplish a tactical police purpose that does not result in injury.

C. If any force investigation indicates misconduct, the supervisor or commander shall conduct, at a minimum, a Level 2 force investigation and additionally initiate an internal investigation in accordance with the provisions of DGO M-3. Document the date the IAD was notified in the Use of Force Report (TF-967).

D. If any force investigation indicates criminal misconduct, the supervisor or commander shall conduct, at a minimum, a Level 2 force investigation and additionally make the proper notifications in accordance with the provisions of DGO M-4.1. Document the date the CID was notified in the Use of Force Report.

E. Personnel shall request medical service without delay when a subject has visible injuries or the subject has a complaint of injury.

F. Supervisors and commanders shall be held accountable for the timely, accurate, and thorough documentation of all use of force incidents.

G. Reports shall not contain “boilerplate” or “pat” language (e.g., “furtive movement” or “fighting stance,” etc.) without descriptive or explanatory details of the action.”

H. Supervisors and commanders have the discretion to elevate any level of force investigation in order to conduct a more thorough investigation of the incident. The Watch Commander shall approve elevating a force investigation to a Level 1.

I. A supervisor or commander involved in a use of force shall not investigate the incident or review for approval the Use of Force Report.

1. In the event personnel working a tour of duty in the Patrol Division, of the rank of sergeant or above, are involved in a Level 2 or 3 use of force incident, the Watch Commander shall assign an investigator to conduct the investigation.
2. In the event personnel working a tour of duty in any division other than Patrol, of the rank of sergeant or above is involved in a Level 2 or 3 use of force incident, the unit commander shall assign an investigator to conduct the investigation with the approval of the division commander and, if unavailable, the Watch Commander\(^1\).

3. The Watch Commander may approve a supervisor or commander to investigate, a Level 2 or 3 use of force with their own self-reported Level 4 use of force when they occur in the same incident.

J. In the event multiple members use the same level of force in a single incident, the reporting member shall prepare only one Use of Force Report listing all involved personnel.

In the event multiple members use different levels of force in a single incident, the reporting member shall prepare only one Use of Force Report listing all involved personnel. An investigation shall be conducted at the highest level when multiple force options are used.

K. Supervisors and commanders shall identify Department or individual training and tactical issues and make recommendations for corrective action, when appropriate and document the recommendations in the Use of Force Report.

L. Supervisors and commanders shall ensure the provisions of POBR are properly applied.

M. Personnel may delay compliance with the provisions of this order if the scene is unstable, there is community unrest, or other conditions make immediate compliance impracticable. The protection of Department personnel and the public, and the maintenance of public safety shall remain the priority. The approving supervisor or commander shall ensure the reason for the delay is documented in the Use of Force Report. Such compliance delays are subject to review by the appropriate review board.

N. Injured or killed animals shall be handled and/or properly disposed of in accordance with the provisions of DGO A-5, ANIMAL CONTROL PROCEDURES.

\(^1\) When a member is assigned to investigate a use of force incident involving another member of equal rank and an arrest is made requiring approval, the provisions of DGO M-18, ARREST APPROVAL shall be followed.
II. **FORCE LEVELS**

Force options enumerated in DGO K-3 are grouped in the following force levels for reporting and investigating purposes only.

A. **Level 1**

1. Any use of force resulting in death;
2. Any intentional firearm discharge at a person, regardless of injury;
3. Any force which creates a substantial risk of causing death;
4. Serious bodily injuries, to include:
   a. Any use of force resulting in the loss of consciousness; and
   b. Protracted loss, impairment, serious disfigurement, or function of any bodily member or organ (includes paralysis).
5. Any unintentional firearms discharge:
   a. If a person is injured as a result of the discharge; or
   b. As directed by the BOI Deputy Chief.
6. Any intentional impact weapon strike to the head.
7. Any use of force investigation that is elevated to a Level 1 approved by a Watch Commander.

B. **Level 2**

1. Any strike to the head (except for an intentional strike with an impact weapon);
2. Carotid restraint is applied that does not result in the loss of consciousness;
3. Use of impact weapons, including specialty impact munitions or any other object, to strike a subject and **contact is made**, regardless of injury.
4. Any unintentional firearms discharge that does not result in injury;
5. A police canine bites the clothing or the skin of a subject, or otherwise injures a subject.

6. Any use of force which results in injuries to the subject requiring emergency medical treatment (beyond first-aid) or hospital admittance.

Note: For the purposes of this order, an evaluation by a medical professional to assess a complaint of injury is not emergency medical treatment.

C. Level 3

1. Oleoresin Capsicum (OC/Pepper Spray) or other chemical agent is applied to a person;

2. The use of a Taser® involving any of the following circumstances;
   a. When one or more probes impacts or penetrates the subject’s clothing or skin;
   b. When the push stun arc touches the subject’s clothing or skin; or
   c. A Taser® is fired at a person, but misses.

3. Any impact weapon, including specialty impact munitions, or any other instrument is used in an attempt to strike another person but no contact is made; or

4. The baton is used for a non-striking purpose (e.g., prying limbs, moving or controlling a person);

5. A Weaponless Defense Technique other than control holds, excluding strikes to the head. Examples include;
   a. Hand/palm/elbow strikes;
   b. Kicks;
   c. Leg sweeps; and
   d. Takedowns.

6. An on-duty firearm discharge at an animal other than to dispatch an injured animal.
D. Level 4

1. A firearm is intentionally pointed at a person;

2. A Weaponless Defense Technique is applied to a Vulnerable Area, excluding strikes (e.g., Hair grab, pressure to mastoid or jaw line; and shoulder muscle grab).

3. An on-duty firearm discharge to dispatch an injured animal; or

4. A Weaponless Defense Technique Control Hold is applied:
   a. Escort (elbow);
   b. Twist lock;
   c. Arm-bar; or
   d. Bent-wrist.

A Weaponless Defense Technique Control Hold applied for the purpose of handcuffing or escorts that do not result in injury or a complaint of injury are NOT reportable uses of force.

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III. LEVEL 1 FORCE OR IN-CUSTODY DEATH INCIDENTS

These incidents require concurrent investigations conducted by the Homicide Section and the Internal Affairs Division.

A. Involved personnel and personnel witnessing the use of force responsibilities:

1. Notify and brief their supervisor immediately, or as soon as practical. If the immediate supervisor is unavailable, another field supervisor or commander shall be notified.

2. Every member or employee who uses or is a witness to a Level 1 use of force shall not discuss the incident with others and limit any discussion of the incident to information required:
   a. For a Public Safety Statement;
   b. To assist in the investigations; or
   c. To lead to the apprehension of the suspect.

B. Uninvolved personnel who did not witness the use of force shall perform the following, as directed by a supervisor or commander:

1. Conduct a reasonable canvas in an effort to identify and obtain statements from witnesses in the proximity of the use of force incident.

2. Witnesses to a use of force shall be identified to the extent that it is reasonable and listed in a Supplemental Report (536-937) or Victim/Witness Report (536-935). Statements shall be taken, when practical, and included in the Use of Force or In-Custody Death Report packet. The following criteria shall be used when listing witnesses:
   a. Outside Agency Personnel

   Outside agency personnel at the scene of a use of force incident, whether they witnessed the use of force or not, shall be identified as follows:

   1) Name;
   2) Rank/Title;
   3) Serial number; and
   4) Agency affiliation.
b. Private Person Witnesses

Private persons at the scene of a use of force incident, whether they witnessed the use of force or not, shall be identified, when possible, as follows:

1) Name;
2) Sex, Race, DOB;
3) Contact number(s); and
4) Home address.

3. Document, in the appropriate report, why witness information was not obtained in situations where it was unsafe or impractical to obtain, (e.g., hostile crowd, public safety concerns, insufficient police resources), when the witness refused to remain at the scene, or is uncooperative.

4. Members shall not detain or delay a witness who refuses to remain at the scene; however the witness’ physical description, license plate, comments, or other identifiers shall be obtained when available and documented in the appropriate report.

5. Members shall summon a supervisor to the scene in the event a witness refuses to give a statement or provide identification information.

6. Offense/Supplemental Reports shall be prepared independently without discussing the details of the incident with other personnel on scene. Group reporting is prohibited.

7. Personnel on scene at the time of the use of force incident, but not involved in or a witness to the use of force, shall be separately interviewed by the investigating supervisor, prior to clearing from the incident. Any relevant information revealed in the interview shall be included in the member or employee’s Supplemental Report. Group interviewing is prohibited.

C. Supervisor Responsibilities

1. Respond to the location of the incident unless community unrest or other conditions make such response impracticable. In such instances, an alternate safe location shall be arranged.
2. Scene security:
   a. Ensure a Crime Scene Security Log is maintained to record the time and identifying information of all persons entering and exiting the scene, to include:
      1) Department personnel;
      2) Medical personnel;
      3) Fire Department unit number and personnel; and
      4) Other persons.
   b. Ensure the Crime Scene Security Log is delivered to the Homicide Section investigator for inclusion in the investigative case file.

3. Manage the scene, until relieved by the Incident Commander.

4. Ensure the Watch Commander has been notified and briefed of the incident.

5. Manage the scene, until relieved by the Incident Commander.

6. Attempt to obtain and document a Public Safety Statement, to include:
   a. A verbal account from involved personnel to help determine the general circumstances of the incident;
   b. Assess the need for resources and notifications;
   c. Help set the perimeter;
   d. Locate injured persons;
   e. Determine the nature of the evidence to seek;
   f. Identify the number of suspects involved;
   g. Identify the number of suspects outstanding; and
   h. The number and direction of shots fired, if any.
The supervisor shall not ask the involved personnel to provide a step-by-step narrative of the Level 1 (lethal force) incident or to provide a motive for their actions.

7. Coordinate the apprehension of the suspect, if still outstanding.

8. Coordinate the preliminary investigation with the IAD and Homicide investigators, to include but not limited to:
   a. Identifying involved and witness personnel;
   b. Designating a reporting officer;
   c. Ensuring the preservation of evidence;
   d. Identifying other witnesses in accordance with the provisions of Part III, B; and
   e. Assisting investigators to ensure statements are taken.

9. Respond to the location of a witness who has declined to give a statement or has refused to give witness identification information when requested by a member or employee. The outcome shall be documented in the member's Supplemental Report after the supervisor has talked to the witness.

10. Separate and prohibit communication between involved personnel and witnesses.

11. Ensure involved personnel limit any discussion of the incident to information necessary:
   a. For a Public Safety Statement;
   b. Required to assist in the investigations; or
   c. Leading to the apprehension of the suspect.

12. Ensure personnel complete a Supplemental Report who were on scene at the time of the incident (not including involved or witness personnel) or were assigned to assist at the scene.

   Offense/Supplemental Reports shall be prepared independently without discussing the details of the incident with other personnel on scene. Group reporting and interviewing is prohibited.

13. Document the reason in a Supplemental Report when personnel are directed not to complete a required report.
14. Contact and provide the IAD investigator with the complaint information if notified of an allegation of unreasonable force.

D. Follow-up Investigators Responsibilities

1. Homicide Section

The Homicide Section shall conduct a follow-up investigation and prepare and forward a Follow-up Investigation Report (336-201) to the IAD for review in accordance with the provisions of Homicide Section Policy and Procedure 01, LEVEL 1/IN-CUSTODY DEATH INVESTIGATIONS within 45 calendar days, unless extended by the BOI Deputy Chief.

2. District Attorney’s (DA) Office Standby Team

   a. The DA’s Office will respond with their on-call shooting team to all fatal officer-involved shootings and other incidents as they deem necessary.

   b. In the event of an officer-involved shooting in which a person is struck, and when a conflict of interest exists, the Bureau of Investigation Deputy Chief shall confer with the DA’s Office to determine the most appropriate agency or investigative body to conduct the investigation.

3. Internal Affairs Division

The IAD shall conduct a concurrent but independent use of force investigation and prepare a Use of Force/In-Custody Death Report in accordance with the provisions of RWM Insert U-1 and IAD Policy and Procedure 05-04 within 60 calendar days, unless extended by the COP.

E. The Watch Commander or Designee Responsibilities

1. Respond to the scene and take command of the incident.

2. Monitor the incident to ensure good scene management and ensure the assigned supervisor coordinates and assists with a thorough and proper preliminary investigation.
3. Ensure the following notifications are made as soon as possible unless conditions at the scene make such notification impractical:
   
   a. The Homicide Section Commander and Homicide Call-Out Team;
   
   b. Internal Affairs Division Investigative Section Commander and IAD Call-Out Team;
   
   c. Chief of Staff (OCOP);
   
   d. Chief of Police (COP);
   
   e. Alameda County District Attorney's Office Standby Team for force incidents resulting in death or injury likely to result in death;
   
   f. Office of the City Attorney (OCA);
   
   g. Office of Inspector General (OIG);
   
   h. City Administrator;
   
   i. Bureau of Field Operations (BFO) and Bureau of Investigations (BOI) Deputy Chiefs;
   
   j. Division commander of the involved member or employee.

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IV. LEVEL 2 FORCE INCIDENTS

A use of force investigation conducted by a supervisor or commander.

Responsibilities

A. Involved or witness personnel to the use of force shall:

1. Notify and brief their supervisor immediately or as soon as practical. If the immediate supervisor is unavailable, another field supervisor or commander shall be notified.

2. Complete and submit for review the appropriate Offense/Supplemental Report prior to the end of tour of duty, unless extended by the Watch Commander. The member or employee who uses force shall include the following minimum information regarding the use of force incident in their Offense or Supplemental Report:
   a. The original reason for police presence on the scene;
   b. The circumstances that resulted in the use of force; and
   c. A detailed description of the force used.

3. Ensure the subject is transported to a medical facility for medical evaluation if a carotid restraint is applied. Document a refusal for medical treatment.

B. Uninvolved personnel who did not witness the use of force shall perform the following, when directed by a supervisor or commander:

1. Conduct a reasonable canvas in an effort to identify and obtain statements from other witnesses in the proximity of the use of force incident, commensurate with the availability of resources and the conditions of the event.

2. Witnesses to a use of force shall be identified to the extent that it is reasonable and listed in a Supplemental Report (536-937) or Victim/Witness Report (536-935). Statements shall be taken from outside agency personnel or private person witnesses, when practical. The following criteria shall be used when listing witnesses:
a. Outside Agency Personnel

Outside agency personnel at the scene of a use of force incident, whether they witnessed the use of force or not, shall be identified as follows:

1) Name;
2) Rank/Title;
3) Serial number; and
4) Department affiliation.

b. Private Person Witnesses

Private persons at the scene of a use of force incident whether they witnessed the use of force or not, shall be identified, when possible, as follows:

1) Name;
2) Sex, Race, DOB;
3) Contact number(s); and
4) Home address.

3. Document in the appropriate report why witness information was not obtained in situations where it was unsafe or impractical to obtain, (e.g., hostile crowd, insufficient police resources), the witness refused to remain at the scene, or is uncooperative.

4. Members shall not detain or delay a witness who refuses to remain at the scene; however the witness’ physical description, license plate, comments, or other identifiers shall be obtained when available and documented in the appropriate report.

5. Members shall summon a supervisor to the scene in the event a witness refuses to give a statement or provide identification information.

6. Complete a Supplemental Report without discussing the details of the incident with other personnel on scene. Group reporting is prohibited.
7. Personnel on scene at the time of the use of force incident, but not involved in or a witness to the use of force, shall be separately interviewed by the investigating supervisor, prior to clearing from the incident. Any relevant information revealed in the interview shall be included in the member or employee’s Supplemental Report.

C. Supervisor Responsibilities

1. Respond to the location of the incident unless community unrest or other conditions make such response impracticable. In such instances, an alternate safe location shall be arranged;

In the event the Watch Commander is involved in the use of force incident, he/she shall contact his/her immediate superior officer. The superior officer has the discretion to respond to the scene to conduct the investigation or assign another investigator.

2. Secure and manage the scene.

3. Coordinate the apprehension of the suspect, if still outstanding.

4. Ensure the subject is transported to a medical facility for medical evaluation when a carotid restraint is applied.

5. Contact the Communications Division before the end of tour of duty and advise the Communications Division Shift Supervisor to enter the use of force incident into the Daily IAD Incident Log.

6. When the situation has been stabilized and it can be accomplished safely:

   a. Advise the Watch Commander or commander of the operation of the incident;

   b. Ensure involved personnel and witnesses, outside agency personnel, and private person witnesses are identified in accordance with the provisions of RWM Insert U-1.

   c. Ensure involved personnel and witnesses have been separated and advised that communication regarding the incident is prohibited.
7. Conduct an investigation in a timely manner to include, but not limited to, the following:

a. A separate, personal interview with involved and witness personnel including, if necessary, a written or recorded statement.

b. Personnel on scene at the time of the use of force incident, but not involved in or a witness to the use of force, shall be separately interviewed by the investigating supervisor, prior to clearing from the incident. Any relevant information revealed in the interview shall be included in the member or employee’s Supplemental Report. Group interviewing is prohibited.

c. A personal interview with the subject(s) upon whom the use of force was used to include a written or recorded statement, when possible.

d. Contact medical personnel, when practical, who evaluated and/or provided treatment to the subject for available information on the subject’s injuries and condition.

e. Ensure photographs are taken of:

1) The physical condition of the subject and involved personnel, to record the presence or lack of injuries;

2) The location of the use of force incident; and

3) Other relevant evidence.

Document the reason why photographs were not taken.

f. Ensure digital photographs or film are submitted and processed utilizing one of the following procedures:

1) Digital – Copy digital files to a compact disk, handle and submit as evidence, and list as evidence in the Use of Force Report; or
2) Film – Submit film for processing utilizing a Photo Evidence Card (536-317). Complete the appropriate boxes on the card. Additionally, ensure the following information is on the card:

   a) **Comments** box – Indicate “Use of Force” & RD No. & “Put on CD”;
   b) **Send To** box – “To IAD Administrative Supervisor.”

8. Respond to the location of a witness who has declined to give a statement or has refused to give witness identification information when requested by a member or employee. The outcome shall be documented in the member’s Supplemental Report after the supervisor has talked to the witness.

9. Ensure personnel who were on scene at the time of the incident or were assigned to assist at the scene complete the appropriate report.

10. Offense/Supplemental Reports shall be prepared independently without discussing the details of the incident with other personnel on scene. Group reporting is prohibited.

11. When a supervisor, commander or investigator directs personnel not to complete a required report, the reason shall be documented in the Use of Force Report.

12. Conduct a thorough review of all documents to be included in the Use of Force Report packet to ensure completeness, accuracy, and quality.

13. Ensure the appropriate Offense or Supplemental Report contains the following minimum information regarding the use of force incident:

   a. The original reason for police presence on the scene;
   b. The circumstances that resulted in the use of force; and
   c. A detailed description of the force used.

14. Incomplete or inadequate reports shall be returned for additional details or clarification.
15. Prepare a Use of Force Report (TF-967) in accordance with the provisions of RWM Insert U-1, USE OF FORCE REPORT, unless otherwise directed by a commander or investigator.

16. Ensure the Use of Force Report packet contains:

   a. The original Use of Force Report to include a Chronological Activity Log and Use of Force Checklist;

   b. A copy of the appropriate report (e.g., Offense Report or field contact card); and

   c. Copies of ancillary documents, if necessary (e.g., statements (if any), Supplemental Reports, Technician Reports, Detail, CAD purge, available medical information obtained, and photographs, if available).

17. Email only the Use of Force Report face sheet (page 1) to the following, prior to the end of tour of duty:

   a. opdiad@oaklandnet.com;

   b. bfoadmin@oaklandnet.com;

   c. Involved member or employee’s Division Commander; and

   d. Involved member or employee’s Bureau Deputy Chief/Director.

18. Ensure the original Offense Report and ancillary documents are deposited in the Report Writing Receptacle in an In-Custody or Case Envelope.


20. Complete and forward the Use of Force Report packet, within seven (7) calendar days, through the appropriate chain-of-review. The due date may be extended with the approval of the reviewing Division Commander and shall be documented in the Chronological Activity Log.

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2 For the purpose of this order, the appropriate chain-of-review refers to the chain-of-command under which the involved member was working during that tour of duty when the force incident occurred.
D. Watch Commander or Commander of the Operation Incident Scene
Responsibilities

1. Respond to the scene and take Incident Command when advised the incident involves significant Department resources or is likely to generate unusual public interest.

2. Monitor and ensure the use of force investigation is conducted in a thorough, methodical, and efficient manner.
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3 FORCE INCIDENTS

Overview of a Level 3 force incident conducted by a supervisor or commander to the appropriate reporting level.

Involved or witness personnel to the use of force shall:

1. Notify and brief their supervisor immediately or as soon as practical. If the immediate supervisor is unavailable, another field supervisor or commander shall be notified.

2. Every member or employee who uses or witnesses a level of force requiring a Level 3 investigation shall independently complete the appropriate Offense or Supplemental Report;

   The member or employee who uses force shall include the following minimum information regarding the use of force incident in their Offense or Supplemental Report:

   a. The original reason for police presence on the scene;
   
   b. The circumstances that resulted in the use of force; and
   
   c. A detailed description of the force used.

3. Personnel who are assigned to assist at the scene shall complete a Supplemental Report if directed by a supervisor, commander or investigator.

B. Supervisor/Commander Responsibilities

Respond to the location of the incident unless community unrest or other conditions make such response impracticable. In such instances, an alternate safe location shall be arranged; and

1. Secure the scene, if necessary;

2. Coordinate the apprehension of the suspect, if still outstanding;

3. Discuss the general circumstances of the incident with the involved personnel and witnesses to assess the appropriate reporting level, the need for resources, and to assess whether injuries, if present, are consistent with the force applied;
4. Conduct a personal interview with the subject(s) upon whom the use of force was used to include a written or recorded statement, when possible.

5. The responding on-scene supervisor or commander may authorize a Level 3 use of force incidents to be reported as a Level 4 when there is no injury to the subject requiring emergency medical treatment (beyond first-aid) or hospital admittance, allegation of misconduct, and no indication the use of force was out of policy. Affirmative approval shall be made by signing the approval box on the Use of Force Report - Part 3a. The following Level 3 use of force incidents may be considered:

   a. A Taser® is fired at a person, but misses;

   b. Oleoresin Capsicum (OC/Pepper Spray) or other chemical agent applied to a person;

   c. Any impact weapon, including specialty impact munitions, or any other instrument is used in an attempt to strike another person but no contact is made;

   d. A baton used for a non-striking purpose (e.g., prying limbs, moving or controlling a person); or

   e. A Weaponless Defense Technique other than control holds, excluding strikes to the head, to include:

      1) Hand/palm/elbow strikes;
      2) Kicks;
      3) Leg sweeps; and
      4) Takedowns.

In the event the Watch Commander is involved in a Level 3 use of force incident enumerated above in Part V, B, 5, a-e, he/she shall contact his/her immediate superior officer to determine the appropriate level of reporting. If a Level 3 investigation is determined, the superior officer has the discretion to respond to the scene to conduct the investigation or assign another investigator.
6. Level 3 reporting shall include documentation of the following:
   a. The absence of injuries to the subject;
   b. A description of the injury not requiring emergency medical treatment or hospital admittance; or
   c. Any injury to OPD personnel and any medical care or treatment provided.

7. Assess any complaint of injury and consider it as a factor toward elevating the Level 3 force to a Level 2 force investigation.

8. Ensure photographs are taken of the subject and involved member/employee to record the presence or absence of injuries, the location of the incident, and other relevant evidence. Document the reason why photographs were not taken.

9. Ensure digital photographs or film are submitted and processed utilizing one of the following procedures:
   a. Digital – Copy digital files to a compact disk, handle and submit as evidence, and list as evidence in the Use of Force Report; or
   b. Film – Submit film for processing utilizing a Photo Evidence Card (536-317). Complete the appropriate boxes on the card. Additionally, ensure the following information is on the card:
      1) **Comments** box – Indicate “Use of Force” & RD No. & “Put on CD”;
      2) **Send To** box – “To IAD Administrative Supervisor.”

10. Interview available witnesses at the scene.

   **NOTE:** Written/recorded statements are not required for a Level 3 force incident.

11. Contact Communications Division and advise the Communications Supervisor, or in his/her absence, the on-duty Police Communications Supervisor, to enter the use of force into the Daily IAD Incident Log.
12. Ensure personnel complete a Supplemental Report who were witnesses to a Level 3 force incident or were assigned to assist at the scene.

13. When a supervisor, commander or investigator directs personnel not to complete a required report, the reason shall be documented in the Use of Force Report.

14. Conduct a thorough review of all documents to be included in the Use of Force Report packet to ensure completeness, accuracy, and quality.

15. Ensure the appropriate Offense or Supplemental Report contains the following minimum information regarding the use of force incident:
   a. The original reason for police presence on the scene;
   b. The circumstances that resulted in the use of force;
   c. A detailed description of the force used; and
   d. Document the number of bursts, duration of each burst, the approximate distance from the subject, and the location of spray contact, when OC is used.

16. Incomplete or inadequate reports shall be returned for additional details or clarification.

17. Prepare a Use of Force Report (TF-967) in accordance with the provisions of RWM Insert U-1, USE OF FORCE REPORT, unless otherwise directed by a commander or investigator.

18. Ensure the Use of Force Report packet contains:
   a. The original Use of Force Report to include a Chronological Activity Log and Use of Force Checklist;
   b. A copy of the appropriate report (e.g., Offense Report or field contact card); and
   c. Copies of ancillary documents, if necessary (e.g., statements (if any), Supplemental Reports, Technician Reports, Detail, CAD purge, available medical information obtained, and photographs, if available).
19. Email only the face sheet of the Use of Force Report to the following, prior to the end of tour of duty:
   a. opdiad@oaklandnet.com;
   b. bfoadmin@oaklandnet.com;
   c. Involved member or employee’s Division Commander; and
   d. Involved member or employee’s Bureau Deputy Chief/Director.

20. Ensure the original Offense Report and ancillary documents are deposited in the Report Writing Receptacle in an In-Custody or Case Envelope.

21. If notified of an allegation of unreasonable force, the supervisor shall conduct a preliminary investigation.
   a. If there is corroborating evidence that unreasonable use of force occurred, the supervisor shall conduct a Level 2 force investigation and initiate an internal investigation.
   b. If there is no corroborating evidence that unreasonable use of force occurred, the supervisor shall document the results of the preliminary complaint investigation in the narrative of the Use of Force Report.

22. Retain an electronic copy of the Use of Force Report until documented in the member/employee’s annual performance appraisal.

23. Complete and forward the Use of Force Report packet, within seven (7) calendar days, through the appropriate chain-of-review. The due date may be extended with the approval of the reviewing Division Commander and shall be documented in the Chronological Activity Log.

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3 For the purpose of this order, the appropriate chain-of-review refers to the chain-of-command under which the involved member was working during that tour of duty when the force incident occurred.
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VI. LEVEL 4 FORCE INCIDENTS

A self-reported use of force.

A. Involved Personnel Responsibilities

1. Notify and brief their supervisor immediately or as soon as practical. If the immediate supervisor is unavailable, another field supervisor or commander shall be notified.

2. Complete a Use of Force Report (TF-967) in accordance with the provisions of RWM Insert U-1, USE OF FORCE REPORT or when authorized by a supervisor or commander.

   A narrative shall be included in the Use of Force Report if no other required Offense or Supplemental Report is completed.

3. The member or employee who uses force shall include the following minimum information regarding the use of force incident in their Offense, Supplemental, or Use of Force Report:

   a. The original reason for police presence on the scene;
   b. The circumstances that resulted in the use of force; and
   c. A detailed description of the force used.

4. Place the original Use of Force Report and, if applicable, the appropriate Offense Report and ancillary documents in an In-Custody/Case Envelope and deliver to his/her immediate supervisor or, if unavailable, to an on-duty supervisor for review prior to the end of tour of duty.

B. Supervisor/Commander Responsibilities

1. When contacted by involved personnel, supervisors shall review the general circumstances of the incident with the involved personnel as necessary, and ensure the facts are consistent with the reporting level. Supervisors are not required to respond to the incident.
2. Prior to reducing a Level 3 use of force incident to a Level 4, the approving supervisor shall ensure there is no injury to the subject requiring emergency medical treatment (beyond first-aid) or hospital admittance, allegation of misconduct, and there is no indication the use of force was out of policy. Affirmative approval shall be made by the supervisor by signing the appropriate box on the Use of Force Report - Part 3a.

3. If notified of an allegation of unreasonable force, the supervisor shall conduct a preliminary investigation.

   a. If there is corroborating evidence that unreasonable use of force occurred, the supervisor shall conduct a Level 2 force investigation and initiate an internal investigation.

   b. If there is no corroborating evidence that unreasonable use of force occurred, the supervisor shall document the results of the preliminary complaint investigation in a Risk Management Memorandum if no Use of Force Report is completed.

4. Level 4 incidents do not require witness identification.

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VII. LEVEL 1 FORCE INCIDENTS INVOLVING AN OUTSIDE AGENCY

A. A Level 1 force incident occurring outside the City of Oakland

1. Upon notification, the Watch Commander shall:
   
a. Send an on-duty supervisor to the jurisdiction in which the incident occurred unless the distance makes it impractical. The supervisor shall remain with the member(s) during the investigation by the outside agency;

b. Notify the BOI Deputy Chief who shall determine if Homicide investigators are to be called-out; and

c. Notify the IAD Commander who shall determine if IAD investigators are to be called-out.

2. The law enforcement agency which has jurisdiction, in which the incident occurred, shall have incident command and primary criminal investigation responsibility. The Homicide Section shall only assume primary criminal investigation responsibility upon the request of the outside agency.

3. Homicide Section investigators shall request to attend the interview of OPD personnel, unless the distance involved makes this impractical.

4. IAD investigators shall request to monitor the interview of OPD personnel, unless the distance involved makes this impractical.

B. A Level 1 force incident involving outside agency personnel within the City of Oakland

1. The Homicide Section shall conduct the criminal investigation for the following incidents:
   
a. Any use of force resulting in death;

b. Any intentional firearm discharge at a person regardless of injury;

c. Any force which creates a substantial risk of causing death;
d. Any unintentional firearms discharge if a person is injured as a result of the discharge; or

e. Any use of force incident referred by a Watch Commander.

2. The outside agency may assist at the discretion of the BOI Deputy Chief.

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VIII. COMMAND REVIEW AND ENDORSEMENT

A. All reviewers shall:

1. Review the Use of Force Report packet and evaluate the Use of Force Report and ancillary documents for completeness, accuracy, and quality and ensure reports do not contain "Boilerplate" or "Pat" language without descriptive or explanatory details of the action. Return any reports that are incomplete or inadequate and ensure corrections are made;

2. Order further investigation or additional investigative resources when necessary;

3. Evaluate and document whether the use of force was in compliance with Departmental policy and comment on any training and tactical issues, when appropriate; and

4. Document extension approvals by the reviewing Division Commander on the Use of Force Chronological Activity Log. The Division Commander shall ensure the IAD and BFO Administrative Unit are notified of any approved extensions.

5. Complete, endorse, and sign a Use of Force Report Signature Page (TF-967c) and forward the Use of Force Report packet within four (4) calendar days.

B. Level 1 Force Review Responsibilities

1. The Homicide Section Commander shall:

   a. Ensure a follow-up investigation is conducted and the assigned Homicide investigator prepares a Follow-up Investigation Report (336-201) in accordance with the provisions of Homicide Section Policy and Procedure 01, LEVEL 1/IN-CUSTODY DEATH INVESTIGATIONS.

   b. Review and forward the approved Follow-up Investigation Report to the IAD within 45 calendar days of the incident, unless extended by the BOI Deputy Chief in accordance with the provisions of Homicide Section Policy and Procedure 01.
2. The IAD Commander shall:
   a. Ensure IAD investigators have conducted a concurrent use of force investigation and prepared a Use of Force or In-Custody Death Report in accordance with the provisions of RWM Insert U-1 and IAD Policy and Procedure 05-04 within **60 calendar days of the incident**, unless extended by the Chief of Police.
   b. Review and forward the approved Use of Force or In-Custody Death Report packet to the BOS Deputy Chief and Chief of Staff, **within 15 calendar days from receipt**, unless extended by the COP in accordance with the provisions of IAD Policy and Procedure 05-04.
   c. Provide an oral report to the COP within 24 hours of the incident.

3. Chief of Staff (COS)
   a. Enter data from the Use of Force/In-Custody Death Report face sheet into a log upon receipt;
   b. Track the Use of Force/In-Custody Death Report due date to ensure the timeliness of the investigation, and ensure the BOS Deputy Chief has received the Use of Force Report packet and information necessary to conduct the EFRB. Contact the IAD Commander and ascertain the delay if not received **within 76 calendar days of the incident** and notify the COP of the delay.

C. Level 2 and 3 Force Review Responsibilities
1. Reviewing Commanders shall:
   a. Review and forward all approved Use of Force Report packets through the Division Commander to BFO Administration Unit.

   **NOTE:** BFO Administration Unit shall receive and track **ALL** Use of Force Report packets, regardless of originating unit.
b. If a training issue arises from a Level 3 incident, the Division Commander shall ensure training is conducted and a Training Memorandum is completed and forwarded to the Training Division for input into the Training Management System (TMS).

AND/OR

c. Training is requested from the Training Division, through a Training Memorandum, when it cannot be accomplished at the division level. Training Division personnel shall input completed training in the TMS.

d. If a Department-related service recommendation (e.g., policy revision, equipment evaluation, new Department publication) arises from a Level 3 incident, the Division Commander shall prepare and forward a recommendation memorandum through the chain-of-command to the Chief of Police.

2. BFO Administrative Unit shall:

   a. Notify the appropriate commander if the Use of Force Report packet has not been received within 16 calendar days of the incident.

   b. Review the Use of Force Report;

   c. If the Use of Force Report is returned for additional follow-up or clarification, the due date may be extended, as needed, by the BFO Administrative Supervisor and documented in the Chronological Activity Log.

   d. Forward completed Use of Force Report packet to the IAD, within four (4) calendar days of receipt of a completed packet.

D. Level 4 Force Review Responsibilities

1. Reviewing supervisor:

   a. Conduct a thorough review of all documents to ensure completeness, accuracy, and quality.
b. Ensure the appropriate Offense, Supplemental, or Use of Force Report contains the following minimum information regarding the use of force incident:

1) The original reason for police presence on the scene;
2) The circumstances that resulted in the use of force; and
3) A detailed description of the force used.

c. Incomplete or inadequate reports shall be returned for additional details or clarification.

d. Ensure the Use of Force Report has an Incident number. Advise the Communications Division Shift Supervisor to enter the use of force into the Daily IAD Incident Log.

e. Ensure the original Offense Report and ancillary documents are deposited in the Report Writing Receptacle in an In-Custody or Case Envelope.

f. Upon approval, sign the appropriate Level 4 Reviewer box on the Use of Force Report; and

g. Ensure the Use of Force Report packet contains:

1) The original Use of Force Report (No Chronological Activity Log or Use of Force Checklist is required);
2) A copy of the appropriate report (e.g., Offense/Supplemental Report or field contact card); and
3) Copies of statements (if any).

h. Forward the original Use of Force Report packet to the first-level commander for review, prior to the end of tour of duty.

2. The first-level commander shall:

a. Review the original Use of Force Report packet. If the Use of Force Report is returned for additional follow-up or clarification, the due date may be extended, as needed, and documented in the Chronological Activity Log.
b. Upon approval, sign the appropriate Level 4 Reviewer box on the Use of Force Report; and

c. Forward approved Use of Force packet to the BFO Administrative Unit within four (4) calendar days of approval.

In the event the Watch Commander prepares a Level 4 Use of Force Report, he/she shall forward the report to the BFO Administrative Unit.

E. IAD

Upon receipt of a Level 2-4 Use of Force Report, IAD shall assign a Use of Force Tracking Number to and enter the Use of Force Report information into the appropriate database, and scan the file into electronic format. IAD shall retain a hardcopy and an electronic file of the Use of Force Report packet.

Additionally, IAD shall forward the entire electronic file of Level 2 Use of Force Report packets, via email or appropriate media, to the Training Division Commander and the Chief of Staff within four (4) calendar days of receipt.

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IX. RISK MANAGEMENT

The purpose of documenting risk management issues is to ensure a proper preliminary investigation is conducted and notification of the incident is made to the IAD (for units outside of the IAD) when any of the incidents enumerated in Part I, B, 2-4 occur.

The supervisor shall:

A. Respond to the scene;

B. Ensure the involved member documents the circumstances of the incident in the appropriate report;

C. Obtain an Incident Number from the Communications Division;

D. Conduct a preliminary investigation;

1. If the preliminary investigation reveals corroborating evidence that the use of force occurred, the supervisor or commander shall conduct a Level 2 force investigation, initiate an internal investigation in accordance with the provisions of DGO M-3, and notify the Watch Commander;

2. The Watch Commander shall contact the IAD to determine if a call-out is warranted;

3. If the preliminary investigation reveals no corroborating evidence that the alleged use of force occurred, the supervisor or commander shall document the results of the preliminary complaint investigation in the narrative of the Use of Force Narrative Report (Level 2-4) or a Risk Management Memorandum if no Use of Force Report is completed.

E. Risk management documentation shall include:

1. A summary of the incident;

2. Written or recorded statement(s) from the complainant, injured person, and witnesses, if practical;

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4 The IAD shall include risk management documentation in a Level 1/In-Custody Death Report.
3. Indicate complainant was:
   a. Advised of their right to file a complaint with CPRB;
   b. Provided with a Complaint Packet (TF-3208); and
   c. Provided with the Incident Number.

4. Photographs;

5. Documentation of evidence collected or reason why evidence was not collected.

6. Offense or Supplemental Report(s) from involved personnel; and

7. Other pertinent documents (if available).

F. Contact the Communications Division Shift Supervisor, at the conclusion of the preliminary investigation, and provide the following information:

1. Complainant’s name (for verification);

2. Time contact made with complainant;

3. Name of Watch Commander/Unit Commander notified; and

4. Disposition of complaint.

G. If a Level 2-4 Use of Force Report is being prepared, check the “Risk Management Advisement” box on the Use of Force face sheet

For Level 4 force incidents only:

1. The officer who used the force shall prepare a Use of Force Report.

2. The notified supervisor shall prepare a Use of Force Narrative Report to include the required elements enumerated in Part IX, A-F.

H. When no Use of Force Report is required, the notified supervisor shall prepare a Risk Management Memorandum to include the required elements enumerated in Part IX, A-F.

I. Forward the Use of Force Report packet or the Risk Management Memorandum with documentation, through the appropriate chain-of-review to the IAD.

By order of

Wayne G. Tucker  
Chief of Police  

Date Signed: ____________________
OFFICE OF CHIEF OF POLICE
OAKLAND POLICE DEPARTMENT

SPECIAL ORDER NO. 8970

TO: All Personnel

SUBJECT: Use of Electronic Weapons on Restrained Persons and Referrals of Electronic Weapons Incidents to the Force Review Board

EFFECTIVE DATE: 10 Dec 08

TERMINATION: Upon Revision of Departmental General Order K-3, USE OF FORCE (Rev. 1 Aug 07);
Departmental General Order K-4, REPORTING AND INVESTIGATING THE USE OF FORCE (Rev. 1 Aug 07);
Department General Order K-4.1, FORCE REVIEW BOARDS (Rev. 1 Aug 07); AND
Training Bulletin III-H.1, TASER (Rev. 26 Jul 08)

The purpose of this Special Order is to globally change all references in DGO K-3, K-4, and Training Bulletin III-H.1 from TASER© to electronic weapon and mandate a supervisor/commander investigating an electronic weapon activation on a restrained person to raise the use of force investigative level from a Level 3 to a Level 2.

Additionally, any incident involving multiple activations of an electronic weapon may be referred to the Force Review Board by the Force Review Board Chairperson or the Electronic Weapons Coordinator.

Effective immediately, DGO K-3, Part III, B, 3 shall read as follows:

3. Electronic Weapon (formerly known as TASER©);
Effective immediately, the following sections of DGO K-4 shall read as follows:

New Part II, B, 7:

7. Any electronic weapon activation on a restrained person shall be raised from a Level 3 to a Level 2 force investigation.

Part II, C, 2:

2. The use of an electronic weapon, except on restrained persons, involving any of the following circumstances:

Part V, B, 5, a:

a. An electronic weapon is fired at an unrestrained person, but misses;

Effective immediately, DGO K-4.1, Part I shall read as follows:

Force Review Boards are convened to evaluate force investigations, in-custody death, or vehicle pursuit-related death investigations, and any related administrative or criminal investigation. The Board shall determine whether the force used was in compliance with Departmental policies and procedures and will identify any policy revision, training, tactical or other issues related to the use of force. Any incident involving multiple activations of an electronic weapon may be referred to the Force Review Board by the Force Review Board Chairperson or the Electronic Weapons Coordinator. The Chief of Police may direct a Board to review any use of force incident.

By order of

Wayne G. Tucker  
Chief of Police  
Date Signed: _____________________