



Effective: 07/19/1999
Last Revised: 6/17/2020

CSU FULLERTON POLICE DEPARTMENT
GENERAL ORDER NUMBER 3-1 [CALEA 1.3.1&2, 1.3.4-8]

USE OF FORCE POLICY

SUBJECT: Use of Force Policy

PURPOSE: To establish guidelines for the use of force by officers of this Department.

POLICY: It is the policy of this Department that officers shall use reasonable force when force is used to accomplish lawful objectives given the facts and circumstances known at the time of the event. An officer may use deadly force only when the officer reasonably believes that the action is in defense of human life, including the officer's own life, or in the defense of any person in imminent danger of serious physical injury.

PROCEDURE:

California Penal Code Section 835 provides that:

Any peace officer may use objectively 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/her efforts by reason of resistance or threatened resistance on the part of the person being arrested; nor shall an officer be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest, prevent escape, or to overcome resistance. Retreat does not mean tactical repositioning or other de-escalation techniques.

Background

On August 19, 2019, Governor Newsom signed AB 392 which both redefines the circumstances under which a homicide by a peace officer is deemed justifiable and affirmatively prescribes the circumstances under which a peace officer is authorized to use deadly force to effect an arrest, to prevent escape, or to overcome resistance.

I. **DEFINITIONS:**

- A. **Reasonable Belief:** The facts or circumstances the officer knows, or should know, are such to cause an ordinary and prudent person to act or think in a similar way under similar circumstances.
- B. **Serious Physical Injury:** A bodily injury that creates a substantial risk of death; causes serious, permanent disfigurement; or results in long-term loss or impairment of the functioning of any bodily member or organ.

- C. Less Lethal Force: Less lethal force is that force which is unlikely, when properly used, to result in serious physical injury or death.
- D. Lethal Force: Lethal force is that force likely to cause serious physical injury or death, also known as deadly force.

II. Determining Appropriate Force Options

- A. Given that no policy can realistically predict every possible situation an officer might encounter in the field, it is recognized that each officer must be entrusted with well-reasoned discretion in determining the appropriate use of force in each incident. While it is the ultimate objective of every law enforcement encounter to minimize injury to everyone involved, nothing in this policy requires an officer to actually sustain physical injury before applying reasonable force.
- B. A number of factors are taken into consideration when an officer selects force options, and when evaluating whether an officer has used reasonable force. The Department recognizes that officers are expected to make split-second decisions and that the amount of time available to evaluate and respond to a situation may impact the officer's decision. Examples of factors which may affect an officer's force option selection include:
 - 1. The conduct of the individual being confronted (as reasonably perceived by the officer at the time);
 - 2. Officer/subject factors (age, size, relative strength, skill level, injury/exhaustion, number of officers vs. number of subjects);
 - 3. Influence of drugs or alcohol (mental capacity);
 - 4. Proximity of weapons;
 - 5. Availability of other options;
 - 6. Seriousness of the offense in question or reason for contact with the individual;
 - 7. Training and experience of the officer;
 - 8. Potential for injury to citizens, officers and suspects;
 - 9. Risk of escape; and
 - 10. Other exigent circumstances.

C. Duty to Intercede

Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force. An officer who observes another employee use force that exceeds the degree of force permitted by law shall promptly report these observations to a supervisor.

Background: An act to add Chapter 17.4 (commencing with Section 7286) to Division 7 of Title 1 of the Government Code, and to add Section 13519.10 to the Penal Code, relating to law enforcement. Senate Bill No. 230, Chapter 285,

Law Enforcement Use of Deadly Force: Training: Policies; signed by Governor Newsome September 12th, 2019.

- D. Officers are trained in the application and use of various force tactics. Force options depend on the nature and type of resistance encountered. Only that force necessary and reasonable to overcome resistance is authorized. Only Department personnel demonstrating proficiency in the use of Department authorized weapons will be approved to carry such weapons.
1. Professional Presence and/or Verbalization – Includes display of authority through non-verbal communication such as body language and demeanor and the use of verbal commands and directions given to the subject to gain compliance.
 2. Physical Control Techniques – Empty hand techniques such as joint locking control, constant nerve stimulation, pain compliance by joint locking and takedowns may be used when encountering resistance to verbal commands and handcuffing. The use of neck restraints (Carotid technique) is not authorized by this Department.
 3. Intermediate Force Options include the following Authorized Less Lethal Weapons:
 - a. Oleoresin Capsicum (OC) Spray – A chemical agent that is used for the temporary disabling of violent or otherwise resisting subjects. OC shall not be used when taking non-resistant persons into custody. OC is used to incapacitate those who resist or attack members of the Department or others.
 - b. Baton – A Straight Baton, PR-24 or Expandable Baton may be used whenever an officer is faced with a situation in which reasonable force becomes necessary to affect an arrest or to defend against aggression when the officer believes empty hand methods will be inadequate and the use of deadly force is not justified.
 - c. Twelve Gauge Less Lethal Launcher. The Less Lethal projectile is a 12 GA. Drag Stabilized round that is designed to be launched from a conventional 12 gauge shotgun. Less Lethal Launchers are distinctly marked, and may be utilized in circumstances involving a high-risk situation or against an assaultive suspect. Only personnel who have successfully completed the required training will be allowed to use this launcher.
 - d. Advanced Taser (touch stun and probes)-Advanced Taser is an alternative less than lethal application of force not intended to replace firearms or self-defense techniques. The use of Advanced Taser shall be in accordance with required training programs. Only personnel who have successfully completed the required training will be allowed to use them.
 - e. PepperBall Launcher – The PepperBall Launcher VKS uses a VXR less lethal projectile and a less lethal PAVA PepperBall projectile consisting of capsaicin II powder, which is an active irritant. For use in controlling violent suspects, standoffs or

- barricaded situations, suicide by cop, riot control, domestic violence, drug lab and warrant services. The use of the PepperBall Launcher shall be in accordance with required training programs. Only personnel who have successfully completed the required training will be allowed to use them.
4. Lethal Force Options include the following Authorized Lethal Weapons:
 - a. Department issued firearm – Glock, Model 22, self-loading, caliber .40 caliber pistol loaded with Department issued ammunition. Department authorized personal firearms and ammunition if requested by the individual officer.
 - b. Department issued shotgun – Remington 870, 12 gauge shotgun loaded with Department issued #00 buck or slug loads. The primary use of this weapon is for the backup (cover) of another officer in an armed or potentially armed confrontation.
 - c. Department issued rifle-- AR-15, loaded with Department issued 5.56 mm or .308 caliber rounds. This weapon is used in situations that require superior fire power against armed suspects. Only situations where it is beyond the capabilities of normal patrol weaponry (i.e. long distance, multiple suspects, suspects utilizing body armor and high powered or capacity weapons.) The use of the AR-15 shall be in accordance with required training programs. Only personnel who have successfully completed the required training and been designated as a patrol rifle officer will be allowed to use them.
 - d. Authorized secondary weapons – Approved .38, .380, .40, .44, .45 and 9mm firearms that may be carried as a backup weapon and/or off-duty. The Range Master will maintain a list of authorized secondary weapons and ammunition. Officers carrying a secondary weapon must obtain written authorization and must qualify with the weapon as specified.
- E. Four general categories of individual behavior have been identified with respect to potential citizen contacts. Each category of behavior was analyzed for the type of force response, which may be appropriately applied if force is perceived to be necessary by the officer.
1. Cooperative: “Cooperative” is the category that the majority of people fall into. They respond in a positive way to your mere presence and are easily directed with verbal requests and commands. Those that require control or searching allow this to take place with no resistance. Cooperation is often achieved by non-verbal acts such as gestures, stance and facial expressions.
 2. Resistive: Resistive behavior may entail physical or verbal resistance. If the resistance is verbal, the suspect has refused to follow orders given by the officer. However, if the resistance is physical, the suspect may display a number of actions such as running away, arms flailing, or pulling away. There are two categories of resistance: passive and active. Examples of physical resistance can include the suspect assuming an

- aggressive posture or stance, running away, physically resisting officer's efforts to secure/handcuff/control or obscene gestures to lawful presence or request. An individual's verbal/non-verbal physical actions can be interpreted to mean that he/she will not comply with orders or requests made and will resist so as to not allow control to be exerted over him/her, yet the suspect is not "attacking" the officer; does not fully intend to assault or batter the officer. Measures and options to address these behaviors include physical control techniques and intermediate force options, and are meant to obtain and secure control of the situation.
3. Assaultive/High Risk: The assaultive suspect is one who has crossed the line of resistance and is threatening an assault, attempting an assault or physically assaulting the officer or citizen. In this category, the likelihood of the officer (or citizen) to be injured is obvious because of the suspect's deliberate assaultive actions or other significant potential actions. The actions (or potential action) of a suspect are so obvious as to make a reasonable person (officer) realize that he/she must do something to defend himself/herself or others, and then employ actions to effect control of the situation or safely affect an arrest. Options available in this area include intermediate force options.
 4. Life Threatening: The life-threatening category encompasses actions that are likely to result in serious injury or possibly in the death of an officer or of another. Utilizing firearms or impact/personal weapons to vital areas of the body would be reasonable to employ at this level in self-defense, the defense of others, and in conjunction with other available options to ultimately gain control of the situation.

III. Reporting Uses of Force

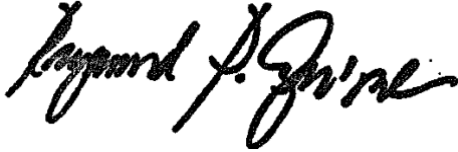
- A. Officers utilizing force to subdue a subject or discharging a firearm will immediately notify their supervisor.
- B. The supervisor will respond to the location of the incident and conduct a preliminary investigation of the incident, after ensuring that those in need of medical attention receive it. [CALEA 1.3.5]
 1. Assess the incident, conduct an investigation, collect evidence and ascertain witness information. The investigation shall include photographing any injuries.
 2. Ensure that all required reports are completed. Reviews the Use of Force report prepared by the involved officer and if necessary prepares a memorandum outlining the circumstances of the use of force investigation.
- C. A Use of Force Report will be submitted whenever an officer:
 1. Discharges a firearm for other than training purposes [CALEA 1.3.6a];
 2. Takes an action that results in, or is alleged to have resulted in, injury or death of another person [CALEA 1.3.6b];

3. Applies force through the use of lethal or less lethal weapons [CALEA 1.3.6c]; or
 4. Applies weaponless physical force to gain control of a subject. [CALEA 1.3.6d]
- D. The required report will be completed by the involved officers prior to the end of shift, and will include:
1. The type of force used;
 2. Reason for the use of force;
 3. Extent of injury to the suspect, officer or other individuals;
 4. Medical treatment required;
 5. Other pertinent facts surrounding the incident.
- E. Departmental response:
1. Deadly force incident
 - a. Any employee whose actions or use of force in an official capacity results in death or serious physical injury, will be removed from line-duty assignment, pending an administrative review. [CALEA 1.3.8]
 - b. Where an officer's use of force causes death, the officer shall be placed on administrative leave after completing all internal investigative requirements, and until it is determined by a mental health professional that the officer is ready to return to duty. [CALEA 1.3.8]
 - c. The Department shall conduct both an administrative and criminal investigation of the incident.
 - d. All officer-involved shootings will be investigated by the Orange County District Attorney's Office.
 2. Administrative review of use of force incidents [CALEA 1.3.7]:
 - a. All reported uses of force will be reviewed by the appropriate Command Officer to determine whether;
 1. Department rules, policy or procedures were violated.
 2. The relevant policy was clearly understandable and effective to cover the situation.
 3. Department training is currently adequate.
 - b. The appropriate Command Officer may convene a review board to obtain additional input as a part of the command level review process.
 - c. All findings of policy violations or training will be reported to the Chief of Police for resolution and/or discipline.
 - d. All use of force incident reports shall be retained for a period of 5 years.
 3. The appropriate Command Officer will conduct a documented annual analysis of all use of force reports to determine patterns or trends that could indicate training needs, equipment upgrades, and/or policy modifications.

REVIEWED BY:

J. Bedell

APPROVED:

A handwritten signature in black ink, appearing to read "Raymund J. Aguirre". The signature is written in a cursive style with a large initial 'R' and 'A'.

Raymund Aguirre
Chief of Police

ATTACHMENTS: Use of Force Report Form
Weapons Authorization