



## ADMINISTRATIVE MANUAL

# 9

**Chapter:** Arrest, Restraint, Search and Seizure

**Section:** Use and Continuum of Force

907

**Effective:** 12/23/20

**Authority:** Alameda County Administrative Code, Chapter 2.02; Alameda County General Administrative Rules, Section 2.02.100; Penal Code, Sections 832.7, 835a, and 13519.10; and Government Code, Sections 7286 and 12525.2.

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**Responsible for Updates:** Adult Field Services

Approved By

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Date

### I. Principle

The Alameda County Probation Department (ACPD) recognizes and respects the value of all human life and the need to ensure its staff are appropriately trained and guided on how to defuse potentially volatile situations. The powers and authority granted to peace officers by the State of California to use force, when appropriate, represents a great responsibility and such authority will be exercised with care and professionalism. ACPD's preferred method of resolving conflict and maintaining safety and security for staff, clients, or other persons is through the application of de-escalation and crisis intervention techniques.

However, in circumstances where force is the most reasonable option, it is the expectation of ACPD that the level of force used will be based directly upon the level of resistance exhibited by a subject or client, and will escalate and/or de-escalate in relation to the level of resistance. While the amount or type of reasonable force to be applied in a given situation is dependent on the circumstances, sworn staff are expected to use the guidelines contained within this policy as well as ACPD-approved training to guide their decisions in a professional, impartial, and reasonable manner.

Therefore, the ACPD will maintain policy and procedures regarding the use of force and the use of force continuum options available to staff.

## Definitions

**Carotid Hold (Prohibited):** A vascular neck restraint or any similar restraint, hold, or other defensive tactic in which pressure is applied to the sides of a person's neck that involves a substantial risk of restricting blood flow and may render the person unconscious in order to subdue or control the person.

**Choke Hold (Prohibited):** Any defensive tactic or force option in which direct pressure is applied to a person's trachea or windpipe.

**Executive Use of Force Review Committee (EUFRC):** An ACPD committee established to evaluate and review certain use of force incidents and every allegation of excessive or unnecessary use of force.

**Force:** Any physical techniques or tactics, chemical agents, or weapons used to control, restrain, or to overcome the resistance of another person. Types of force include:

**Deadly Force:** Any use of force that creates a substantial risk of causing death or serious bodily injury. Deadly force includes, but is not limited to, the discharge of a firearm.

**Excessive Force:** The use of force greater than that which is objectively reasonable to accomplish a lawful purpose.

**Less-Lethal Force:** Any use of force other than that which is considered deadly force that involved physical effort to control, restrain, or overcome the resistance of a person.

**Reasonable Force:** Force used that is necessary<sup>1</sup> to provide for the safety and security of staff, clients, or other persons, subdue an attacker, overcome resistance, effect custody, prevent escape, defend self or others, or gain compliance with a lawful order, as judged from the perspective of an objectively reasonable officer

### EXCESSIVE FORCE

The use of force greater than that which is objectively reasonable to accomplish a lawful order.

<sup>1</sup> "Necessary" means that no reasonably effective alternative to the use of force appeared to exist and that the amount of force used was reasonable based on the department's policy and training to effect the lawful purpose intended.

faced with similar facts and circumstances and with similar training and experience.

*Unnecessary Force:* The use of force when none is required or appropriate.

Note: Searching or escorting of a compliant subject who is not resisting, non-physical force options (e.g., verbal commands, officer presence, show of numbers), and the application of authorized restraint equipment without resistance, are not considered a use of force.

*Great Bodily Injury (GBI):* Physical injury which creates a reasonable risk of death, or which causes serious and permanent disfigurement, serious impairment of health, or loss or protracted impairment of the function of any bodily organ or limb. Note: GBI is considered a higher threshold than Serious Bodily Injury, in that GBI involves a reasonable risk of death.

*Hogtie (Prohibited):* The securing of a person by fastening together their hands and feet.

*Imminent Threat:* Any situation based on the totality of the circumstances, that a reasonable officer in the same situation would believe that an individual has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the officer or another person. Some examples include, but are not limited to, on-going physical harm or active physical resistance.

*Lethal Weapon:* Any weapon that when used is likely to result in death.

*Levels of Resistance:* The following outlines the types of resistance that may be encountered by sworn staff. Types of resistance include:

*Cooperative:* No resistance exhibited, the use of physical intervention techniques is prohibited.

*Non-Compliance:* Verbal and physical actions indicate the engaged person is not responding to verbal commands but also offers no form of physical resistance.

*Passive Resistance:* Engaged person responds without compliance or takes physical actions that do not prevent sworn staff's attempts to exercise control of a person or place them in custody.

*Active Resistance:* Physically evasive movements to defeat sworn staff's attempts at control including bracing, tensing, or pulling/running away. Active resistance also includes verbal responses that indicate an unwillingness to comply with sworn staff's directives and indicate a threat to the safety and security of the sworn staff or others.

*Assaultive Resistance (threat):* Physical movement which demonstrate an intent and present ability to assault the sworn staff or another person. Assaultive resistance is resistance that is not immediately life-threatening.

*Life-Threatening Resistance (threat):* Any action likely to result in death, great bodily injury, or serious bodily injury to the sworn staff or others.

*Objectively Reasonable:* The standard used to determine whether sworn staff's actions are reasonable considering the facts and circumstances confronting them, without regard to their underlying intent or motivation.

*Oleoresin Capsicum (OC):* The technical name for the chemical restraint spray utilized by the ACPD.

*Positional Asphyxia:* A situation in which an individual who may have underlying medical conditions such as asthma, obesity, respiratory, substance abuse or cardiac problems, may be at increased risk for asphyxiation or death when placed in a prone position following the application of a physical intervention.

*Serious Bodily Injury:* A serious impairment of physical condition, including, but not limited to, the following: loss of consciousness, concussion, bone fracture, protracted loss or impairment of function of any bodily member or organ, a wound requiring extensive suturing, and serious disfigurement.

*Totality of Circumstances:* Pursuant to Penal Code §835(a) means all facts known to the peace officer at the time, including the conduct of the officer and the subject leading up to the use of force.

*Use of Force Continuum:* A standard that provides law enforcement officers and civilians with guidelines as to how much force may be used against a resisting individual in each situation.

## Authority to Use Force

Penal Code, Section 835a(b)<sup>2</sup> states that, “any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use objectively reasonable force to effect the arrest, to prevent escape, or to overcome resistance.

Further, “...a peace officer is justified in using deadly force upon another person only when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary for either of the following reasons:

(A) To defend against an imminent threat of death or serious bodily injury to the officer or to another person.

(B) To apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended...

A peace officer shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the peace officer or to another person.

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

### ALTERNATIVES TO FORCE

Prior to using any force options, sworn staff must use de-escalation techniques, crisis intervention tactics, and other alternatives to the use of force when feasible and safe to do so.

<sup>2</sup> Assembly Bill 392, effective January 1, 2020, amended Penal Code section 835a(b) to its current form.

## Policy

### PLEASE NOTE

Sworn staff must use only that force which is objectively reasonable given the facts and circumstances known at the time of the event, to protect themselves or others, to overcome resistance to their lawful authority, or to effectively bring an incident under control.

### PLEASE NOTE

Situations involving the searching or escorting of a subject who is not resisting, non-physical force options (e.g., verbal commands, officer presence, show of numbers), and the application of authorized restraint equipment without resistance, are not considered a use of force.

Sworn staff must accomplish probation functions while acting in their official capacity with minimal reliance on the use of force. Prior to using any force options, sworn staff must use de-escalation techniques, crisis intervention tactics, and other alternatives to the use of force when feasible and safe to do so. Sworn staff must consider such tactics and techniques to persuade the subject to voluntarily comply or mitigate the need to use a higher level within the use of force continuum to resolve the situation safely.

Sworn staff must use only that force which is objectively reasonable given the facts and circumstances known at the time of the event, to protect themselves or others, to overcome resistance to their lawful authority, or to effectively bring an incident under control. Sworn staff may only use a level of force that is reasonably proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance and must not use unnecessary or excessive force. If any use of force is needed, it must be carried out in a manner that is fair and unbiased.

Choke and carotid holds or any other physical restraint which impairs swallowing, breathing, or blood flow is prohibited.

Sworn staff must terminate any physical use of force if they determine the situation can be resolved without the continued use of physical force.

Medical attention must be offered and/or provided to any subject who sustains any injury or loss of consciousness resulting from a sworn staff's use of force.

All physical use of force incidents must be documented and reported to the Use of Force Coordinator (UFC) and through the chain of command as outlined within this policy. The UFC will be designated by the Chief Probation Officer (CPO). ACPD staff who witness a physical use of force incident are also required to document and report the incident as indicated above. Situations involving the searching or escorting of a subject who is not resisting, non-physical force options (e.g., verbal commands, officer presence, show of numbers), and the application of authorized restraint equipment without resistance, are not considered a use of force.<sup>3</sup>

<sup>3</sup> "No resistance," as it pertains to searching, escorting, and the application of restraint equipment means responsiveness to and compliance with officer requests.

All excessive or unnecessary use of force incidents or allegations will be investigated. ACPD is responsible for conducting an internal departmental investigation, which will be a thorough investigation to determine if there were any violations of ACPD policy, procedures, or training. After conferring with legal and/or union representation (if desired), all involved ACPD staff must cooperate with the internal investigation.

ACPD will not tolerate any form of silence as it pertains to reporting unnecessary or excessive use of force, and will not tolerate any form of reprisal or retaliation against staff who report unnecessary or excessive use of force. Any staff, regardless of rank, who fails to report unnecessary or excessive use of force or who acts in a manner that fosters a code of silence, may be subject to corrective or disciplinary action, up to and including discharge from County of Alameda service.

All sworn staff at the scene of a use of force incident must be mindful that members of the public or media may be observing and recording their conduct and behavior and therefore must conduct themselves in a professional manner to the best of their ability given the circumstances of the situation.

ACPD staff are not permitted to post any information regarding a use of force incident on social media or otherwise publish the information by any other means (e.g., blogs, electronic comments sections, news reports, etc.). Additionally, staff are not permitted to speak with the media, unauthorized ACPD staff or other outside entities about the use of force incident, with the exception of individuals with whom the staff have privileged communications (e.g., private legal counsel, including legal counsel provided by a union, or licensed medical health providers) or are otherwise authorized to communicate with pursuant to federal, state or local law (e.g. regulatory or oversight bodies). Staff must refer all inquiries from the media to the CPO, the ACPD Public Information Officer, or their respective designees.

## II. Procedures

### A. Use of Force Continuum

Whenever possible and appropriate, sworn staff should use de-escalation techniques before resorting to use of force. The subject of the potential use of force, should be given time and opportunity to submit to verbal persuasion or orders prior to resorting to force if feasible and safe to do so.

If feasible and safe to do so, sworn staff may also consider, but are not required to, withdraw from the situation, either to de-escalate the situation or secure additional resources (e.g. additional staff, law enforcement, mental health professionals, etc.). Sworn staff must use their training and experience in determining the use of force option that is justified in responding to a threat or situation.

Use of force options do not have to be utilized in any sequence, but the decision on which force option(s) to use must be based on the “Objectively Reasonable” standard, as defined in *Graham vs. Connor*, 490 U.S. 368 (1989), given the circumstances presented to the staff. Staff must continuously reassess the situation to determine if the chosen force option, based on any known factors, is still reasonable and necessary and may, at any time, change force options or escalate/de-escalate the level of force used in relation to the level of resistance exhibited. Such factors may include but are not limited to those contained in the *Factors Used to Determine Reasonableness of Force* section of this policy.

The following criteria outline when force is authorized:

- To defend oneself or others from harm when sworn staff reasonably believe there is an imminent threat of death or serious bodily injury.
- To stop a fleeing subject when the sworn staff has probable cause to believe that the subject committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the sworn staff reasonably believes that there is an imminent risk of serious bodily injury or death to any other person if the subject is not immediately apprehended.
- To effect a lawful arrest, to prevent escape, prevent the destruction of evidence, to gain compliance with a lawful directive/command issued by the officer, or overcome resistance.

Note: For criteria related to the authorization of deadly force, reference page 11, section 3.



Upon considering the factors of the situation, sworn staff are authorized to use the following non-physical and physical force options.

Note: Reference the *Use of Force Continuum Diagram* (ACPD Form 253) for a visual guide on intervention options.

### **Non-Physical Force Options**

Non-physical force options are considered less restrictive than physical force options. Non-physical force options are best utilized when a subject is exhibiting behavior that is non-compliant and/or threatening but has not yet risen to the point of being an imminent threat to the safety of staff and/or another person. Non-physical force options include the following:

1. **Non-verbal** (presence, eye contact, hand gesture): This reflects sworn staff's presence as an inhibiting influence on violence or non-compliance. Eye contact and hand gestures are options that may be utilized to communicate commands to cooperative persons and may also prevent the need for the use of a physical intervention option.
2. **Verbal Command(s)**: Command(s) by sworn staff which provides a clear and understandable verbal direction aimed at the subject to obtain compliance or control or give direction. If feasible, and safe to do so, verbal commands should be issued prior to the use of a physical intervention option.
3. **Show of Numbers**: Increase the number of staff by requesting assistance. This includes calling for assistance from a supervisor, local law enforcement, and other resources, such as crisis response teams and behavioral health professionals. If feasible, and safe to do so, calling for assistance should be considered prior to the use of a physical intervention option.

#### **PERMITTED FORCE OPTIONS**

The only physical force options or specific techniques permitted are those authorized by the ACPD as established and taught through ACPD-approved training courses.

### **Physical Force Options**

Though ACPD trains for and prefers the utilization of non-physical force options, it recognizes that situations will arise where a subject may present an imminent threat to others, or all non-physical means have been exhausted or are ineffective to gain compliance with a lawful directive/command issued by the officer and related to safety and security. In such circumstances, the lowest level of force option

may require the use of physical force. The only physical force options or specific techniques permitted are those authorized by ACPD as established and taught through ACPD-approved training courses.

Once the behavior or circumstances that prompted the use of physical force ceases, and the subject no longer presents a threat to safety, sworn staff must immediately stop the use of physical force or switch to a non-physical force option.

Physical use of force options includes the following:

1. *Empty-Hand Control*: ACPD-approved physical and restraint techniques, such as physical control (e.g., maneuvering an engaged person's body), escort holds, control holds, arrest control, and defensive tactics. This includes physical contact likely to control, contain, or restrain physical activity, but unlikely to cause injury requiring medical treatment. Below is a list of Empty-Hand Control Techniques and the associated level of resistance authorized for the intervention.
  - a. *Physical Control*: A low-level physical force option used to gain control and overcome non-compliance or passive resistance. This includes physically maneuvering the engaged person's body, escorting the individual or using a firm grip. This level of force is not intended to cause injury or pain.
  - b. *Compliance Techniques*: A low-level physical force option used to overcome passive resistance and active resistance, depending on the totality of circumstances. These techniques are not intended to cause injury but use body mechanics and leverage to gain compliance and movement. These include control holds and arrest control. Compliance Techniques used on persons exhibiting passive resistance must be objectively reasonable based on the totality of circumstances.
  - c. *Defensive Tactics*: Techniques and tactics used to overcome active resistance and assaultive behavior. These include control holds, arrest control, takedowns, and personal body weapons. Defensive tactics used on persons exhibiting active resistance must be objectively reasonable based on the totality of circumstances.

**PROHIBITED  
RESTRAINT  
METHODS**

A choke hold, carotid hold, hogtie, or any other physical restraint which impairs swallowing, breathing, or blood flow must not be used.

Such techniques may lead to positional asphyxia, serious bodily injury, or death.

**Deadly Force**

Deadly force will only be used when it is reasonable to believe such force is necessary to defend the staff or another person from an imminent threat of death or serious bodily injury, and where safe to do so, some warning has been given, if feasible.

Note: A choke hold, carotid hold, hogtie, or any other physical restraint which impairs swallowing, breathing, or blood flow must not be used. Such techniques may lead to positional asphyxia, serious bodily injury, or death. Further, such techniques are prohibited by law under Government Code section 7286.5. Staff must use this policy and use of force training to assist them in identifying what tactics are prohibited.

2. *Less-Lethal Method*: Physical intervention option intended to control, contain, or restrain assaultive resistance. Less-lethal methods may cause serious bodily injury. The ACPD authorized less-lethal method is the use of Oleoresin Capsicum (OC) spray. OC spray may only be used by sworn staff who complete the required training and are authorized to use it by the CPO. OC spray is authorized for use against assaultive resistance.
3. *Deadly Force*: Any force likely to stop an attack, where there is imminent threat to life or serious bodily injury, and all other methods of restraint are unsuccessful, unavailable, inappropriate or unlikely to prevent life threatening circumstances; likely to cause serious and/or permanent bodily injury or death. Deadly force is only authorized in response to Life-Threatening Resistance, as defined in this policy.

The following factors must be considered when utilizing deadly force:

- a. Deadly force will only be used when it is reasonable to believe such force is necessary to defend the staff or another person from an imminent threat of death or serious bodily injury, and where safe to do so, some warning has been given, if feasible.
- b. Sworn staff must take extreme care when discharging a firearm so as not to endanger persons other than the intended target. Sworn staff must consider their surroundings and potential risks to bystanders, to the extent reasonable under the circumstances, before discharging a firearm.
- c. Deadly force may not be used against a fleeing subject unless that subject committed a felony and such force is necessary to prevent the subject's escape and there is probable cause to believe that the subject presents a serious threat to the sworn staff or another person.

Note: this policy is not intended to conflict with any applicable law that may relate to sworn staff's right to self-defense. Instances of self-defense will be evaluated on a case-by-case basis.

- d. A firearm must not be discharged as: a warning; from a moving vehicle; or at a moving vehicle unless there is either:
  - i. an imminent threat of death or serious bodily injury (e.g., the vehicle is speeding towards the officer); and/or
  - ii. the officer has no reasonable course of action to prevent death or serious bodily injury.

Factors that should be considered by supervisors and management when reviewing a use of force case involving an officer discharging a weapon at a moving vehicle or its occupants, should include consideration of whether the officer's life or the lives of others were in immediate peril and/or there was no reasonable or apparent means of escape.

Note: For additional information and guidance on what to do in a post deadly force situation, refer to Administrative Manual Section 911, *Officer-Involved Shootings and Incidents Resulting in Death or Great Bodily Injury*.

Staff are authorized to draw their firearm from its holster under the following conditions:

- When circumstances surrounding the incident create a reasonable belief that a potential threat of death or serious bodily harm exists to the armed staff and/or another person and the use of a firearm may be necessary to protect life;
- For storage, cleaning, maintenance, and inspection;
- For training purposes (i.e., whenever utilizing the firearm in an approved training course, practice session, or qualification with the Rangemaster/Firearms Instructor); and
- When conducting a protective sweep of a residence during a search.

The firearm must not be unholstered or otherwise displayed unless there are sufficient and compelling reasons to do so. It is not necessary for sworn staff to wait until they or another person are being assaulted or otherwise under attack before drawing the weapon. If, however, the serious and imminent threat fails to

materialize or is otherwise controlled, the firearm must be re-holstered.

### **Animal Control**

If sworn staff encounter a dangerous or threatening animal, and it is safe to do so, they must contact local Animal Services for assistance.

If, however, sworn staff encounter an animal that poses an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective in stopping the threat, they are authorized to use deadly force on the animal.

If deadly force is used against an animal, sworn staff must contact Animal Services and local law enforcement, and complete an *Incident Report* (ACPD Form 10) and submit it to the supervisor prior to the end of their workday.

### **B. Unnecessary or Excessive Use of Force**

Any sworn staff who observes another peace officer or ACPD staff use force that is clearly beyond that which is objectively reasonable under the circumstances must, if in a position to do so, attempt to stop the action. An attempt to stop such use of force may be made verbally or by application of force, provided that such application of force will not create a substantial risk of death or serious bodily injury. If necessary, sworn staff may contact local law enforcement for assistance. Sworn staff must verbally report the incident to their supervisor when safe to do so.

Any staff who witnesses, or has knowledge of, excessive or unnecessary use of force must immediately and verbally report the incident or allegation to a supervisor. The staff must follow up their verbal report to their supervisor with a written *Incident Report* (ACPD Form 10), as noted in the *Use of Force Reporting* section below, no later than the end of the workday.

Staff who witness unnecessary or excessive use of force conducted by non-ACPD peace officers must also report the incident to a supervisor verbally and in writing.

#### **DUTY TO INTERVENE**

Any sworn staff who observes another peace officer or ACPD staff use force that is clearly beyond that which is objectively reasonable under the circumstances must, if in a position to do so, attempt to stop the action.

#### **DUTY TO REPORT**

Any staff who witnesses, or has knowledge of, excessive or unnecessary use of force must immediately and verbally report the incident or allegation to a supervisor.

### C. Medical Care

Sworn staff must assess, in accordance with staff training, any individual involved in a use of force incident who may have sustained an injury and may be in need of medical attention when reasonable and safe to do so. If medical treatment is required or if there is any question whether medical treatment is necessary, sworn staff must radio the Alameda County Sheriff's Office (ACSO) dispatch or call 9-1-1 and request medical assistance.

After contacting emergency services, if able and safe to do so, offer medical assistance, within the scope of training, to any injured individuals. If the injured individual is unresponsive, provide First Aid or CPR, as required, until the paramedic first responders arrive. Consent to treatment is implied if the individual is unresponsive or unconscious.

Note: An injured individual has the right to refuse treatment. If an individual refuses treatment, the refusal must be documented as noted in the *Use of Force Reporting* section below.

Any individual exposed to a chemical agent must be afforded an opportunity to decontaminate as soon as practical in accordance with the sworn staff's training.

### D. Use of Force Reporting

Any sworn staff who uses force or observes the use of force by sworn staff, excluding compliant handcuffing, searching, using non-physical force options, or escorting of a subject who is not resisting, must, when safe to do so and absent exigent circumstances (e.g., an officer receiving medical treatment), immediately report the incident verbally to a supervisor and follow up with a written report using either an *Incident Report* (ACPD Form 10) or *Incident Report – Supplemental* (ACPD Form 11a) prior to ending the workday. If sworn staff later recalls information not covered in their initial report, they may submit additional information via an *Incident Report – Supplemental*. The supplemental report must clearly indicate the time and date of the submittal and the text of the body must identify that the report is in supplement to an original report.

Note: If available, and it is practical to do so (office setting), a supervisor should be called to the scene after a use of force incident to assist in determining what kind of documentation is required.

#### DOCUMENTATION

Sworn staff who use physical force or observe the use of physical force must document the use of force incident in an Incident Report prior to the end of their workday.

For any single use of force incident there will be a primary officer who is responsible for completing the *Incident Report* (ACPD Form 10). All other involved (sworn staff who used force or witnessed the use of force) sworn staff must complete supplemental reports.

If a single officer is involved in a use of force incident, that officer will be the primary officer. If multiple officers are present during a use of force incident, the primary officer may be determined by mutual agreement amongst the officers. If agreement cannot be established as to who the primary officer is, then the following criteria will be used in this order:

1. The first sworn staff to utilize physical force
2. If present and involved, the case carrying Deputy Probation Officer
3. The first officer to make contact with the subject of the use of force.

If there is a supervisor or manager on scene, the highest-ranking supervisory staff has discretion to determine who the primary sworn staff is. Further, the supervisory staff may also direct additional staff to complete supplemental reports should that supervisor determine there is evidentiary value in completing such a report.

### **Deadly Force and/or GBI**

Any incident resulting in deadly force or GBI requires notification to the CPO as soon as possible via the chain of command and a supervisor/manager or their designee must proceed to the scene of the incident in accordance with Administrative Manual Section 911, *Officer-Involved Shootings and Incidents Resulting in Death or Great Bodily Injury*.

*Incident Reports* must be in accordance with Administrative Manual Section 911.

### **Force Other than Deadly Force**

*Incident Reports* from sworn staff who use physical force other than deadly force must include, but are not limited to, the following information. Other staff who witness the use of force must include

the applicable information noted below, to the best of their knowledge.

- Date, time, and location of the incident;
- Witnesses to the incident and contact information (names, phone numbers, etc.);
- Witness statements;
- De-escalation attempts utilized;
- Nature and extent of the force used;
- Reason for the sworn staff's use of force;
- Type of resistance encountered;
- Type and amount of force used to overcome resistance and the results obtained;
- Subject's actions and statements prior to use of force;
- What the sworn staff was thinking and perceiving at the time and what the sworn staff did, including all verbal instructions/commands;
- A clear and factual rationale for the use of force;
- Observed injuries;
- A complete description of aid administered and if medical treatment was required or refused;
- If law enforcement and/or Emergency Medical Services was contacted;
- Evidence collected if applicable, including photos;
- Time of supervisory notification and to whom.

### **Department of Justice Reporting**

In accordance with Government Code Section 12525.2, ACPD must submit use of force incident data to the Department of Justice (DOJ) annually. Information may be submitted electronically via a web-based data collection system known as URSUS (the DOJ's Use of Force Data Reporting System). In support of this requirement, the Adult Field Services Division is responsible for submitting one entry for all ACPD Divisions (i.e., Adult Field Services, Juvenile Field Services, and Juvenile Facilities).

### **E. Administrative Review**

Each use of force incident must be evaluated by the UFC and at the supervisory and management levels to determine if the force used was both appropriate and lawful under applicable laws, regulations, policy, procedures, and training.



## **Factors Used to Determine the Reasonableness of Force**

When determining if applying force is necessary and in evaluating whether sworn staff used reasonable force, several factors should be taken into consideration. These factors include, but are not limited to:

- Whether there is a legal basis for the use of force;
- The immediacy and severity of the threat to sworn staff or others;
- The conduct of the subject being confronted, as reasonably perceived by the sworn staff member at the time;
- Sworn staff/subject factors, such as age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, and the number of sworn staff available vs. the subject);
- The effects of drugs or alcohol on the subject being confronted;
- The subject's mental state or capacity, if known;
- Proximity of weapons or dangerous improvised devices;
- The degree to which the subject has been effectively restrained and their ability to resist despite being restrained;
- The availability of other options and their possible effectiveness;
- The seriousness of the suspected offense or reason for contact with the subject;
- The conduct of the involved officer(s);
- The training and experience of the sworn staff;
- Potential for injury to sworn staff, the subject, and others;
- Whether the subject appears to be resisting, attempting to evade arrest by flight, or is attacking the sworn staff member;
- The risk and reasonably foreseeable consequences of escape;
- The apparent need for immediate control of the subject or a prompt resolution of the situation;
- Whether the conduct of the subject being confronted no longer appears to pose an imminent threat to sworn staff or others;
- Prior contacts with the subject or awareness of any propensity for violence or mental health issues;
- Whether the subject was known to be or it was apparent the subject was: pregnant; suffering from a serious medical condition (e.g., respiratory condition, asthma, or other condition that could contribute to the person sustaining serious bodily injury or death as a result of the use of a physical intervention) and/or taking psychotropic medication; has a physical, mental,

**USE OF FORCE  
INCIDENT REVIEW**

All Incident Reports regarding use of force must be reviewed by the immediate supervisor or their designee prior to the end of their workday.

- or developmental disability; is elderly or a child; and less restrictive measures were not safe and/or feasible;
- Environmental factors (e.g., weather, noise, and lighting); and/or
- Other exigent circumstances.

**Supervisors' Review of Use of Force Incidents**

All *Incident Reports* regarding use of force must be reviewed by the immediate supervisor or their designee prior to the end of their workday. The supervisor must verify that all staff involved in or observing a use of force incident submit an *Incident Report* and that each report contains enough detail related to the incident. If there are other staff involved in the incident that do not report to the same supervisor, the original supervisor must coordinate with other appropriate supervisors.

Upon initial review, if additional information or clarification surrounding an incident is required, the supervisor or their designee must maintain the original report and direct the sworn staff member to complete a supplemental report to clarify and/or expand upon the information provided.

The supervisor or their designee must provide a critique of the use of force incident by documenting the following, if applicable:

- Were staff's actions prior, during, and after the use of force incident in compliance with ACPD policy, procedures, and training?
- Was the use of force reasonable and necessary (including an analysis between the amount of force used in comparison to the amount of resistance encountered)?
- Are there any preventative or corrective actions that need to be taken?
- Should a debriefing occur with staff to utilize the incident as a training opportunity?
- Does the sworn staff member need additional training?
- Are there any policy, procedure, or training revisions recommended?
- Is there a suspicion that excessive or unnecessary force was used?

The critique must also contain a definitive statement regarding the supervisor's opinion on if policy, procedure, and training were followed as well as if the force used was reasonable and necessary

(including an analysis between the amount of force used in comparison to the amount of resistance encountered).

A recommendation for additional training, if any, must also be provided. If the supervisor or their designee suspects a case of excessive or unnecessary use of force may have occurred, the supervisor must indicate this in the critique and, if possible, immediately verbally notify the Division Director, or their designee, and the UFC, followed by an email. The subject line of the email must read, "Use of Force Incident: Urgent." The supervisor's critique must be completed by the supervisor prior to the end of their workday.

If there is no suspicion of the use of excessive or unnecessary use of force, or there are no allegations of excessive or unnecessary use of force, but where sworn staff may have violated policy, procedures, and/or training standards, the supervisor or their designee must submit a written *Incident Report(s)* and critique to the Division Director or their designee and the UFC within three (3) business days.

### **Division Director and Deputy Chief Probation Officer's Review**

The Division Director or their designee must review all Incident Reports and supervisor critiques within seven (7) business days of submission and conduct a thorough analysis of the use of force incident to determine if the force used was within the guidelines of ACPD policy, procedures, training and lawful under applicable laws and regulations. The Division Director or their designee must also verify that all staff involved in or observing a use of force incident submitted reports and that the supervisor provided a thorough critique.

In instances where staff violated policy, procedures, and/or training standards, but there are no allegations of excessive or unnecessary use of force, the Division Director or their designee must submit a memorandum to the UFC and Deputy Chief Probation Officer (DCPO) within five (5) business days of reviewing the Incident Report(s) and the supervisor critique. The memorandum must include a definitive statement regarding the Division Director's opinion on the violation of policy, procedures, or training and include the staff's training record, any known history of counseling and corrective action related to use of force and a recommendation for corrective action, if any, and/or training remediation. The Division Director or their designee may contact the Training Unit for the

sworn staff's training record and the Office of Human Resources for the history of corrective or disciplinary action.

The DCPO must decide whether to follow the Division Director's recommendation, impose an alternative resolution, or refer the incident to the Executive Use of Force Review Committee (EUFRC). The DCPO must inform the UFC of their final decision. However, the UFC maintains authority to refer the matter to the EUFRC as part of their regular duties.

Use of force incidents deemed to be within policy, where no further action is required, must be forwarded to the DCPO and UFC by the Division Director within five (5) business days.

**Division Director and Deputy Chief Probation Officer's Responsibilities: Excessive or Unnecessary Use of Force**

In any case where a supervisor or their designee contacted the Division Director or their designee with an allegation of unnecessary or excessive use of force, the Division Director or their designee must review the Incident Report(s) and supervisor critique within one (1) business day.

The Division Director or their designee must within two (2) business days of becoming aware of any allegation of excessive or unnecessary use of force, notify the UFC, Director of Professional Standards, DCPO, Assistant Chief Probation Officer (ACPO), and the CPO. This notification must be through a memorandum containing a definitive statement regarding the Division Director's opinion on if the use of force used was reasonable and necessary and include all Incident Report(s), a summary of what occurred during the use of force incident, any steps taken to immediately address the situation (i.e., medical care provided to the subject, reported to law enforcement, etc.), the sworn staff's training record, any known past history of corrective or disciplinary action related to use of force. Within the memorandum, the Division Director or their designee must make a recommendation regarding whether an investigation by the Professional Standards Unit (PSU) should be opened.

## **CPO Responsibilities**

The CPO or their designee is responsible for determining whether an investigation by PSU should be opened to investigate the allegation. If the CPO determines a PSU investigation should be opened, the Director of Professional Standards must be notified.

The CPO or their designee may convene the EUFRC to assist in the determination. Allegations of excessive or unnecessary use of force may be referred to the ACSO for investigation and/or to the District Attorney's Office for prosecution.

## **Use of Force Oversight and Review Committee**

### **1. UFC Responsibilities**

The UFC must verify staff, at all levels, adhere to the policies, procedures, and training requirements related to the use of force. The UFC reports directly to the CPO and has the authority and responsibility to review each use of force incident to provide quality assurance over ACPD's use of force review process.

The UFC must, within two (2) business days of receiving information from the supervisor of any potential case of excessive or unnecessary use of force by sworn staff, notify the Director of Professional Standards, DCPO, ACPO, and the CPO. The notification must be through a memorandum and include all Incident Reports, all critiques/analysis received, a summary of what occurred during the use of force incident, any steps taken to immediately address the situation, the sworn staff's training record, sworn staff's past known history of corrective action and/or disciplinary actions related to the use of force, and a recommendation regarding whether a PSU investigation should be opened based on their conclusion if the use of force was unnecessary or excessive. Though the UFC's reporting obligation to the CPO and PSU is independent of the DCPO's reporting requirement, the UFC and DCPO may coordinate efforts in obtaining supporting documents so work is not duplicated.

The UFC must be granted access to staff training records, personnel records, corrective action, and disciplinary records/files as part of their independent review of incidents of use of force.

In addition, the UFC must:

- Attend training and maintain certification in all required use of force trainings, including the use of chemical restraints;
- Read the contents of each *Incident Report*;
- Identify and make an independent determination regarding potential cases of excessive/unnecessary use of force and promptly report the cases to executive management (DCPO, ACPO, and CPO); Provide a monthly report to the CPO regarding the compliance with policies, procedures, and training requirements related to use of force; and
- Recommend use of force incidents for review by the EUFRC.

When conducting a review of a use of force incident, the UFC must utilize the criteria identified under the Administrative Review section of this policy to determine if the use of force was objectively reasonable, appropriate, and necessary given the circumstances and information available. The UFC must evaluate the actions of staff before, during, and after a use of force incident.

The UFC is the primary facilitator of the EUFRC. Any member of EUFRC wishing to discuss or screen an incident of use of force must refer the incident to the UFC. The UFC must forward the relevant Incident Reports and supporting documents to EUFRC members prior to any meeting.

The UFC must schedule EUFRC meetings monthly or at the CPO's discretion.

The UFC is responsible for maintaining data on all use of force incidents, including those deemed within policy. The data collected will included the following:

- Date of incident;
- Type of Incident;
- Number of subjects involved and PFN if available;
- Badge Number of sworn staff involved;
- The outcome of the use of force (within policy, outside of policy);
- Any documented injuries to staff or subjects of use of force;
- Number of days between the filing of the incident report and the outcome of the use of force'

- If the use of force involved persons with mental, physical, or developmental disabilities, or persons who are pregnant, elderly or children.

## 2. Executive Use of Force Committee (EUFRC)

The EUFRC consists of a team designated by the CPO and tasked with evaluating if staff actions were in accordance with this policy and training standards. For each use for force incident, all levels of staffing must be evaluated to verify that line staff, supervisors, and managers are adhering to this policy. The EUFRC must also make recommendations regarding training, follow up actions and revisions to policies, procedures, and practices necessary to reduce use of force incidents, ACPD liability and injuries.

The EUFRC will be comprised of the following members or their designees:

- CPO
- ACPO of Juvenile or Adult (who must serve as the Chair)
- DCPO of Juvenile Field Services or Adult Field Services
- Division Directors (as applicable)
- Director of the PSU
- Chief of Policy and Standards Compliance
- Training Manager
- UFC (who must serve as facilitator)
- External subject matter expert(s) or stakeholders, as determined by the CPO
- Any other persons deemed necessary by the CPO

The EUFRC will review use of force incidents that include, but are not limited to, the following criteria:

- Allegations of excessive or unnecessary force;
- Serious injury to subjects or staff as a result of force;
- Use of force on a subject known to have a Mental Health designation or identified disability;
- Use of force identified in the supervisor's critique as being outside of policy;
- Any other use of force incident deemed of interest by the administration, PSU, CPO, or other members of the EUFRC committee.

The EUFRC must meet monthly, or as required, depending on the number of identified referrals. The EUFRC must review Incident Reports to answer the following questions:

- Did the supervisor provide an adequate critique of the use of force incident utilizing the factors outlined within this policy?
- Did all sworn staff involved in the use of force complete an Incident Report?
- Was the use of force appropriate, reasonable, and necessary?
- Was the use of force in compliance with policy and procedures and consistent with training?
- Were sworn staff actions prior, during, and after the use of force occurrence in compliance with ACPD policy, procedures, training and were the actions lawful under applicable laws and regulations?
- Are there gaps in training that may assist in reducing future use of force incidents or in preventing injury?
- What follow up actions or training are necessary to remedy any identified deficits or problems?

The UFC must schedule, record minutes, and maintain a sign-in sheet for all EUFRC meetings as well as assign and track any action items until resolved. The UFC must submit the above documents to the CPO and all the EUFRC team members within seven (7) business days.

### **Disclosure of Public Record**

If the incident involved the discharge of a firearm towards a subject by sworn staff or the use of force resulting in death or GBI, personnel records, if requested, may be disclosed as a public record in accordance with Penal Code Section 832.7 and the Public Records Act.

Note: The subject (staff) of the PRA will be promptly notified of any such request and will be provided with a copy of the requested documents at the time of release to the requesting entity.

### **Citizen Complaints**

Citizens may submit complaints to ACPD in accordance with the Administrative Manual, Section 116, Citizen Complaint Process.



## F. Training

Sworn staff must attend all mandatory ACPD-approved Use of Force trainings and annual refresher courses. Mandatory courses for sworn staff in Adult Field Services and Juvenile Field Services include, but not limited to, Empowered Policing-Probation, the Natural Response Control Tactics (NRCT) modules, the Chemical Agent-Basic: Field Services, and their corresponding refresher courses.

Training must be ongoing, in compliance with Penal Code Section 13519.10, and include a review of this policy and guidelines regarding vulnerable populations such as children, elderly persons, people who are pregnant, and people with physical, mental, and developmental disabilities.

Trainings should be reviewed and updated periodically to include developing practices, procedures, and evolving legal standards.

## G. Review of Policy

This policy must be reviewed at least annually, or more frequently if required, for the purpose of evaluating use of force policy and updating procedures regarding the use of force.



## USE OF FORCE CONTINUUM DIAGRAM (Field Officers)

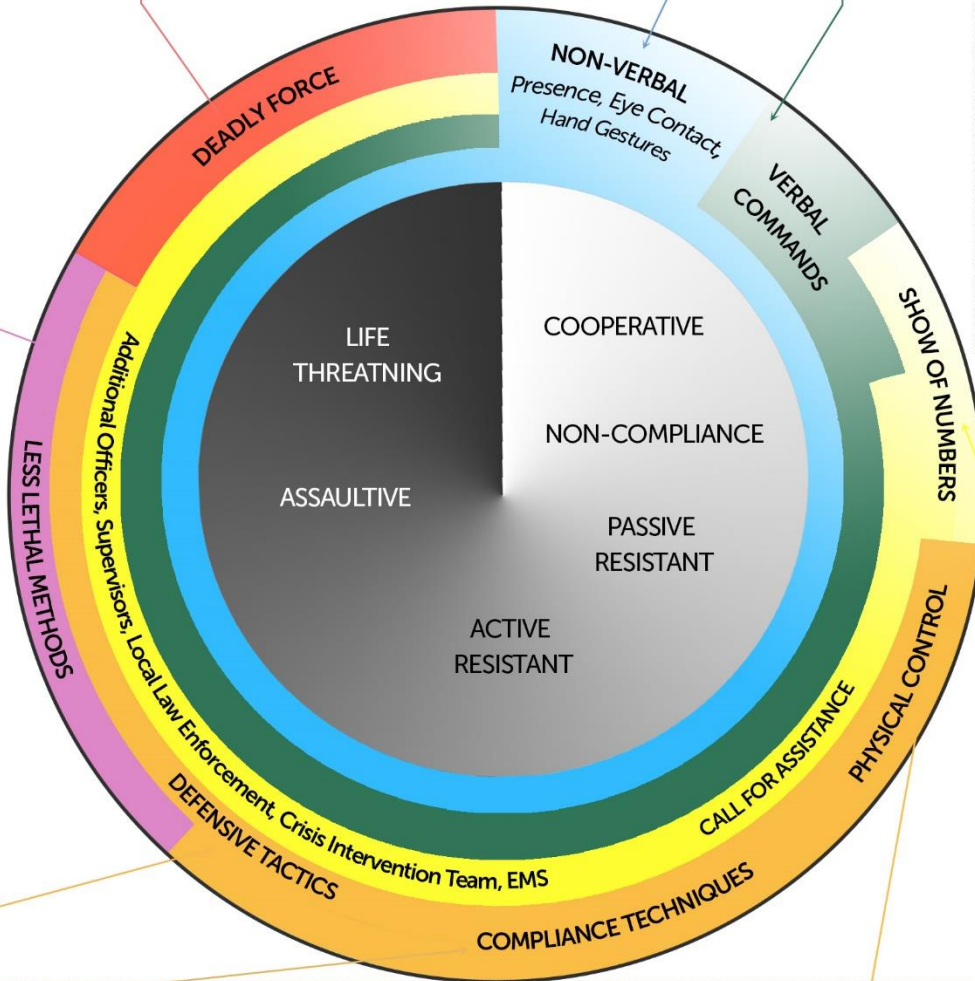
Force likely to cause great bodily injury and/or death, such as the use of a firearm. Deadly force must only be used when faced with life-threatening resistance, where imminent threat to life or serious bodily injury is present and all other methods of restraint and/or force options are unsuccessful, unavailable, inappropriate, or unlikely to prevent life threatening circumstances.

Non-physical force option which is employed to gain compliance with all levels of resistance. Verbal Commands should be clear and understandable. If feasible, and safe to do so, verbal commands should be issued prior to the use of a physical intervention option.

A non-physical force option that includes, officer presence, eye contact, and hand gestures. Officer presence is always in effect regardless of level of resistance. Eye contact and hand gestures are options that may be utilized to communicate commands to cooperative persons and may also prevent the need for the use of a physical intervention option.

**DISCLAIMER**  
Note: this Use of Force Continuum Diagram is intended as a visual guide and not a substitution for the guidelines contained within the Administrative Manual Section 907, Use of Force policy, nor does it replace the instruction and information provided in training. Officers have a responsibility to review the department's Use of Force policy and attend training to assist in understanding this guide.

Show of numbers or calling for assistance is a non-physical force option that can be used when encountering all levels of resistance. The goal of calling for assistance is to attempt to de-escalate the situation by bringing more resources to the scene. If feasible, and safe to do so, calling for assistance should be considered prior to the use of a physical intervention option.



The deployment of Oleoresin Capsicum (OC). OC may cause serious bodily injury and is only authorized for use against assaultive resistance.

A physical force option that includes, control holds, arrest control, takedowns, and personal body weapons. This level of force is used on active resistance and assaultive behavior.

A low-level physical force option that entails using control holds and arrest control. These techniques are not intended to cause injury but use body mechanics and leverage to gain compliance and movement. This level of force is used on active resistance, and passive resistance (if objectively reasonable based on the totality of circumstances).

The lowest level physical force option which entails physically maneuvering an engaged person's body. This may include physically moving a person's body and/or limbs, escorting the person or using a firm grip. This level of force is not intended to cause pain or injury and is used on non-compliance or passive resistance.