

Use of Force Policy

I. PURPOSE AND SCOPE

This policy recognizes that the use of force by law enforcement requires constant evaluation. Even at its lowest level, the use of force is a serious responsibility. The purpose of this policy is to provide Investigators of this department with guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, each Investigator is expected to use these guidelines to make such decisions in a professional, impartial and safe manner.

II. PHILOSOPHY

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

Investigators must have an understanding of, and true appreciation for, the limitations of their authority. This is especially true with respect to Investigators overcoming resistance while engaged in the performance of their duties.

The Tuolumne County District Attorney's Office recognizes and respects the value of all human life and dignity without prejudice towards anyone. It is also understood that vesting Investigators with the authority to use reasonable force and protect the public welfare requires a careful balancing of all human interests.

III. POLICY

It is the policy of the Tuolumne County District Attorney's Office that Investigators shall use only that amount of force that reasonably appears necessary, given the facts and circumstances perceived by the Investigator at the time of the event, to effectively bring an incident under control. "Reasonableness" of the force used must be judged from the perspective of a reasonable Investigator on the scene at the time of the incident. Any interpretation of "reasonableness" must allow for the fact that Investigators are often forced to make split-second decisions in circumstances that are tense, uncertain and rapidly evolving about the amount of force that is necessary in a particular situation.

A. California Penal Code Section 835(A)

Any peace officer that has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to affect the 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 of the person being arrested; or shall such officer be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.

B. Factors Used to Determine the Reasonableness of Force

When determining whether or not to apply any level of force and evaluating whether an Investigator has used reasonable force, a number of factors should be taken into consideration.

These factors include, but are not limited to:

- (a) The conduct of the individual being confronted (as reasonably perceived by the Investigator at the time).
- (b) Investigator/subject factors (age, size, relative strength, skill level, injury/exhaustion and number of Investigators vs. subjects).
- (c) Influence of drugs/alcohol/mental capacity.
- (d) Proximity of weapons.
- (e) Availability of other options (What resources are reasonably available to the Investigator under the circumstances).
- (f) Seriousness of the suspected offense or reason for contact with the individual.
- (g) Training and experience of the Investigator.
- (h) Potential for injury to citizens, Investigators and suspects.
- (i) Risk of escape.
- (j) Other exigent circumstance.

It is recognized that Investigators are expected to make split-second decisions and the amount of an Investigators time available to evaluate and respond to changing circumstances may impact his/her decision.

While various degrees of force exist, each Investigator is expected to use only that degree of force reasonable under the circumstances to successfully accomplish the legitimate law enforcement purpose in accordance with this policy.

C. Non-Deadly Force Applications

Any application of force, which is not reasonably anticipated, to result in death shall be considered non-deadly force. Each Investigator is provided with equipment, training and skills to assist in the apprehension and control of suspects as well as protection of Investigators and the public.

Given that no policy can realistically predict every possible situation an Investigator might encounter, it is recognized that each Investigator 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 Investigator to actually sustain physical injury before applying reasonable force.

D. Pain Compliance Techniques

Pain compliance techniques may be very effective in controlling a passive or actively resisting individual. Investigators may only apply those pain compliance techniques for which the Investigator has received departmentally approved training and only when the Investigator reasonably believes that the use of such a technique appears necessary to further a legitimate law enforcement purpose. Investigators utilizing any pain compliance technique should consider the totality of the circumstance including, but not limited to:

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- (a) The potential for injury to the Investigator(s) or others if the technique is not used.
- (b) The potential risk of serious injury to the individual being controlled.
- (c) The degree to which the pain compliance technique may be controlled in application according to the level of resistance.
- (d) The nature of the offense involved.
- (e) The level of resistance of the individual(s) involved.
- (f) The need for prompt resolution of the situation.
- (g) If time permits (e.g. passive demonstrators), other reasonable alternatives.

The application of any pain compliance technique shall be discontinued once the Investigator determines that full compliance has been achieved.

E. Carotid Restraint

The proper application of the carotid restraint hold by a trained Investigator may be effective in quickly restraining a violent individual. However, due to the potential for serious injury, the carotid restraint hold may only be applied under the following conditions:

- (a) The Investigator shall have received departmentally approved training in the use and application of the carotid restraint.
- (b) The carotid restraint may only be used when the Investigator reasonably believes that such a hold appears necessary to prevent serious injury or death to an Investigator or other person(s).
- (c) Any individual who has been rendered unconscious by the use of the carotid restraint shall be promptly examined by paramedics or other qualified medical personnel.
- (d) Any Investigator applying the carotid restraint shall promptly notify a supervisor of the use or attempted use of such hold.
- (e) The use or attempted use of the carotid restraint shall be thoroughly documented by the Investigator in any related reports.

IV. DEADLY FORCE APPLICATIONS

Use of deadly force is justified in the following circumstances:

- (a) An Investigator may use deadly force to protect him or herself or others from what they reasonably believe would be an immediate threat of death or serious bodily injury.
- (b) An Investigator may use deadly force to affect the arrest or prevent the escape of a suspected felon where the Investigator has probable cause to believe that the suspect poses a significant threat of death or serious bodily injury to the Investigator or others. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

V. REPORTING THE USE OF FORCE

Any use of physical force by a member of the Tuolumne County Investigations Division shall be documented promptly, completely, and accurately in an appropriate use of force report and crime report.

VI. MEDICAL ATTENTION FOR INJURIES SUSTAINED USING FORCE

Medical assistance shall be obtained for any person(s) who has sustained visible injury, expressed a complaint of pain, or who has been rendered unconscious.

VII. NOTIFICATION TO SUPERVISORS

Supervisory notification shall be made as soon as practical following the application of physical force, under any of the following circumstances:

- (a) Where the application of force appears to have caused physical injury.
- (b) The individual has expressed a complaint of pain.
- (c) Where the individual has been rendered unconscious.

VIII. SUPERVISORY RESPONSIBILITY

When a supervisor is able to respond to an incident in which there has been a reported application of force, the supervisor is expected to:

- (a) Obtain the basic facts from the involved Investigator(s).
- (b) Insure that any injured part(ies) are examined and treated.
- (c) Separately interview the subject(s) upon whom force was applied.
- (d) Insure that photographs have been taken of any areas involving visible injury or complaint of pain as well as overall photographs of uninjured areas.
- (e) Identify any witnesses not already included in related reports.
- (f) Review and approve all related reports.
- (g) Should the supervisor determine that any application of force was not within policy, a separate internal administrative investigation shall be initiated.