



<b>GENERAL ORDER:</b>	<b>1.05</b>
<b>CHAPTER:</b>	<b>Law Enforcement Role, Responsibilities, and Relationships</b>
<b>SUBJECT:</b>	<b>Use of Force</b>
<b>ISSUED DATE:</b>	March 1, 1996
<b>REVISION DATE:</b>	January 10, 2023
<b>NOTES:</b>	
<b>RELATED ORDERS:</b>	General Orders <a href="#">1.01</a> , <a href="#">1.02</a> , <a href="#">1.07</a> , <a href="#">1.13</a> , <a href="#">1.20</a> , <a href="#">1.21</a> , <a href="#">8.17</a> , <a href="#">5.34</a> D&C P&P <a href="#">21.01.01</a> Penal Code 835, 835a, 836.5(b), 843, 243(f)(4)
<b>ATTACHMENTS:</b>	1. DOJ URSUS Reporting Form

**PURPOSE:** To provide sworn Agency members with guidelines for the reasonable use of force. While there is no way to specify the exact amount of force to be applied to any given situation, every Agency member is expected to follow these guidelines in order to make such decisions in a reasonable manner.

**POLICY:** It is the policy of the Alameda County Sheriff's Office (ACSO) that Agency members hold the highest regard for the dignity and liberty of all persons. Agency members shall use only that force which is objectively necessary and reasonable, given the facts and circumstances known at the time of the event, and only in a manner that is fair and unbiased. Sworn Agency members should attempt to de-escalate conflicts when and if reasonable. In all situations where force is used, sworn Agency members shall conduct themselves in accordance with lawful constitutional standards and this Agency's written directives.

**DUTY TO INTERCEDE:** Any sworn Agency member who observes another sworn Agency member using force, which is clearly beyond what is objectively reasonable under the circumstances shall, when able, intercede to prevent the use of unreasonable force. Appropriate action may include verbal or physical intervention. These observations must immediately be reported to a supervisor. Any sworn Agency member who fails to intercede will be subject to discipline up to and including the same discipline as the Agency member who used excessive force.

Agency members are prohibited from retaliating against other Agency members that report violations of law or regulation of another Agency member to a supervisor.

**CONSTANT RE-EVALUATION:** Sworn Agency members must use the force option(s) appropriate for the situation as conditions may change rapidly. Sworn Agency members must continually reevaluate the subject's actions and the practical considerations involved in the situation and must be prepared to transition as needed to the appropriate force options (deescalate or escalate), so as to always remain within the bounds of conduct which is objectively reasonable and necessary under the circumstances.

**DEFINITIONS:**

**REPORTABLE FORCE:** The application of physical techniques or tactics, chemical agents, or weapons to another person. It shall not be considered a reportable use of force when a person allows him/herself to be searched, escorted, handcuffed, restrained, or lifted or carried while offering no resistance.

**DE-ESCALATION:** De-escalation is the process of using strategies and techniques intended to decrease the intensity of any situation and increase the likelihood of voluntary compliance. This will be accomplished when safe and without compromising law enforcement priorities.

**IMMINENT:** A threat of death or Great/Serious Bodily Injury (GBI) is “imminent” when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or another person. Imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearance, must be instantly confronted and addressed.

**TOTALITY OF CIRCUMSTANCES:** All facts known to the peace officer at the time, including the conduct of the officer and the subject leading up to any use of force.

**INTERCEDE:** Per Government Code (GC) 7286(a)(4), Intercede includes, but is not limited to, physically stopping the excessive use of force, recording the use of force, if equipped with a Body Worn Camera (BWC), and documenting efforts to intervene, efforts to deescalate the officer’s excessive use of force, and confronting the offending officer about the excessive use of force during the use of force and, if the officer continues, reporting to dispatch or the watch commander on duty, and stating the offending officer’s name, unit, location, time, and situation, in order to establish a duty for that officer to intervene.

**RETALIATION:** includes but is not limited to, demotion, failure to promote to a higher position when warranted by merit, denial of access to training and professional development opportunities, denial of access to resources necessary for an officer to properly perform their duties, or intimidation, harassment, or the threat of injury while on duty or off duty.

**ORDER:** When the use of force is objectively reasonable and necessary, Agency members shall be guided by the options set forth in this order.

**A. LEGAL AUTHORITY THAT GOVERNS THE USE OF FORCE:**

Sworn Agency members are to follow all legal authority and standards in the application of force when dealing with arrestees or detainees. Provisions in the California Penal Code (PC) and case law decisions allow for sworn Agency members to use force by employing objectively reasonable and necessary standards in accordance with federal and statutory laws.

1. California Penal Code Section 835 - Method of Arrest
2. California Penal Code Section 835a - Effecting Arrest; Resistance
3. Graham v. Connor (490 U.S. 386 [1989]) –Reasonableness
4. Forrester v. City of San Diego

## 5. Tennessee v. Garner (471 U.S. 1 [1985]) –Fleeing Felon

## B. FACTORS TO DETERMINE USE OF FORCE OPTIONS

1. The ACSO recognizes sworn Agency members are expected to make quick decisions during their duties. Several factors should be taken into consideration when determining the reasonable and necessary application of force, as time and circumstances permit. These factors include, but are not limited to:

- a. If a subject poses an imminent threat to sworn Agency members or others
- b. The conduct and behavior of the encountered subject(s), as reasonably perceived by sworn Agency members at contact
- c. If the subject displays symptoms of being under the influence of alcohol and/or drugs
- d. The subject's perceived mental state or capacity
- e. Seriousness of offense
- f. The degree to which the subject has been effectively restrained
- g. If the subject resists, attempts to evade by flight, or is attacking or fighting sworn Agency members or others
- h. If the subject's escape poses a reasonable consequence of danger or threat to sworn Agency members or others
- i. The apparent need for immediate control of the subject to resolve the ongoing and potentially volatile situation
- j. Use of de-escalation techniques
- k. Member/subject factors (age, size, relative strength, skill level, injury, exhaustion, fatigue, number of sworn staff vs. number of subjects)
- l. Training and experience of the sworn Agency members involved
- m. Potential of injury to sworn Agency members, the subject, and others
- n. The subject's proximity to weapons and dangerous items or devices
- o. Prior contacts with the subject, information provided by Sheriff's Dispatch, other Agency members, or awareness of the subject's propensity for violence
- p. Any other exigent circumstances

## C. POINTING OF A FIREARM:

1. The pointing of a firearm alone is not considered a use of force.

2. Nothing in this order shall preclude an Agency member from drawing a firearm when the Agency member reasonably believes it necessary for the safety of others or the Agency member's own safety.

D. CATEGORIES OF ACTION DISPLAYED BY THE SUBJECT:

The subject's actions and the practical considerations involved in a situation are major factors in determining the type of force the Agency member may lawfully use in order to gain or maintain control of the subject or the situation.

1. COMPLIANT:

When a subject offers no resistance, force shall not be used. Non-resistant application of handcuffs, waist restraints, leg irons, and any approved restraint device, in and of itself, is not considered force. Sworn Agency members are able to move a subject with a firm grip or use of an escort position so long as the subject DOES NOT physically resist.

2. PASSIVE NON-COMPLIANT:

A reasonable amount of force may be used when a subject does not respond to verbal commands but offers minimal resistance. Such force includes the use of control holds or grappling designed to hold a subject down utilizing ground control techniques. takedown techniques, pressure point applications, and joint manipulation are also options available to sworn Agency members dealing with a passive non-compliant individual.

It is understood that sworn Agency members may need to lift or carry a passive non-compliant subject(s) during the course of their duties (i.e. place a subject on a gurney or assist a handcuffed subject to their feet). These situations, in and of themselves, should not be considered a reportable use of force. However, these situations should be evaluated based upon the totality of the circumstances.

A subject may not be considered passive non-compliant if it is reasonable to believe, based on the totality of the circumstances, he/she is concealing himself/herself for the purpose of gaining a strategic advantage to ambush/attack others, other first responders, or sworn Agency members, and/or for the purpose of evading capture.

3. ACTIVELY RESISTANT:

A reasonable amount of force may be used when a subject displays physically evasive movement to defeat a sworn Agency member's attempt at control, including bracing, tensing, pulling away, running away, or verbally or physically signaling an intention to avoid or prevent being taken into or retained in custody. Possible force options include the use of control holds, and personal body weapons as a means of gaining compliance, control, or an advantage over a subject.

Personal body weapons shall not be used to strike a subject who is handcuffed or otherwise securely restrained unless the subject actively resists and poses a direct threat as to require such force to prevent harm to civilians, sworn Agency members or

in order to prevent escape.

Use of an Agency approved Canine (General Order (GO) 5.34), Less Lethal Weapon Systems (GO 1.21), including Chemical Agents, may be used to gain compliance from subjects, following a violation of/or suspected violation of a felony, or violent misdemeanor, when it is believed, based on the totality of the circumstances, they are concealing themselves for the purpose of gaining a strategic advantage to ambush/attack others, other first responders, or Agency members, and/or for the purpose of evading capture.

Prior to utilizing a canine or deploying a less lethal weapon system, including chemical agents, a verbal warning will be given to subjects, giving them an opportunity to submit to an arrest, unless an announcement would be tactically inappropriate or exigent circumstances exist.

Sworn Agency members will wait a reasonable amount of time based on the size and terrain of the location, the ability of the subject to safely surrender before deploying a canine and/or chemical agent(s) unless an exigency arises prior to the reasonable time elapsing. The reasonableness standard, *Graham v. Connor* (1989) 490 US 386, 396-7, shall be applied.

#### 4. ASSAULTIVE:

Intermediate Force: Force which has a significant risk of injury.

A reasonable amount of force may be used when a subject attempts to assault a sworn Agency member or another person, or verbally or physically displays an intention to assault a sworn Agency member or another person. Possible force options include but are not limited to the following:

- a. Use of personal body weapons
- b. Use of Agency Canine: Refer to GO 5.34
- c. Discharge of Conducted Electrical Weapons (CEW): Refer to GO 1.20
- d. Strikes from an agency approved impact weapon, including weapons of opportunity, shall be used in a manner as presented and demonstrated during training. An impact weapon shall not be used to strike a subject who is handcuffed or otherwise securely restrained unless the subject actively resists and poses a direct threat as to require such force to prevent harm to civilians, sworn Agency members or in order to prevent escape.
- e. Agency approved Chemical Agents and Oleoresin Capsicum (OC) Spray shall be used in accordance with agency training and GO 1.21.

The use of a CEW, Oleoresin Capsicum, or any other chemical agents/chemical weapons on a known pregnant/postpartum INMATE is prohibited by law.

Subjects exposed to chemical agents shall be removed from the contaminated area as quickly as possible and have their eyes and face thoroughly flushed with

water as soon as practical. Subjects who have been sprayed with OC Spray shall be frequently monitored during field detention, arrest, and transportation to ensure that they do not experience breathing difficulty. Jail staff will be notified when a subject exposed to Chemical Agents or OC Spray is booked into Santa Rita Jail (SRJ).

- f. The Carotid Restraint, and/or any other control hold(s) where pressure is applied to the neck of a suspect/subject when used as an intermediate level of force is prohibited by law.
- g. Agency members shall refrain from using any technique or transport method that involves a substantial risk of positional asphyxia to a suspect/subject.
  - 1. "Positional asphyxia" means situating a person in a manner that compresses their airway and reduces the ability to sustain adequate breathing. This includes, without limitation, the use of any physical restraint that causes a person's respiratory airway to be compressed or impairs the person's breathing or respiratory capacity, including any action in which pressure or body weight is UNREASONABLY applied against a restrained person's neck, torso, or back, or positioning a restrained person without reasonable monitoring for signs of asphyxia.
  - 2. Agency members shall continue to monitor the subject(s) breathing following any use of force, especially when pressure was applied to a subject's upper torso possibly limiting their ability to breathe. If the subject begins to experience breathing difficulties the Agency member(s) should minimally, and if safe to do so, reposition the subject to a position where they can breathe easier.
  - 3. Agency members shall summon medical services as soon as practical anytime a suspect/subject states they are experiencing breathing difficulties.

During active rapidly evolving incidents Agency members may need to momentarily control a subject's movement/attempts to harm others by applying pressure to the back of a subject's torso or near the head. Agency members shall, as soon as practical, remove any pressure to these areas and re-evaluate a more appropriate use of force, application of restraints, or if applicable no additional force following the successful application of physical restraints and/or gained compliance.

- h. Less Lethal Weapon Systems: Refer to GO 1.21, Less Lethal Weapon systems.

#### 5. LIFE-THREATENING:

Lethal Force: Any use of force that creates a substantial risk of causing death or GBI, including, but not limited to, the discharge of a firearm.

PC 243(f)(4) - "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.

a. USE OF LETHAL FORCE DESCRIBED:

1. Lethal force is justified upon another person only when the Agency member taking lethal action reasonably believes, based on the totality of the circumstances, such force is necessary for any of the following reasons:
  - a. As a means of defending another person from death or the imminent threat of death or GBI.
  - b. As a means of defending oneself from death or the imminent threat of death or GBI.
  - c. To apprehend a fleeing person for any felony that threatened or resulted in death or GBI, if the Agency member reasonably believes that the person will cause death or GBI to another unless immediately apprehended. When feasible, Agency members shall, prior to the use of lethal force, make reasonable efforts to identify themselves as a peace officer and warn that deadly force may be used, unless the Agency member has objectively reasonable grounds to believe the person is aware of those facts.
2. Lethal force shall not be used against a person based on the danger that person poses to themselves, if objectively reasonable officers would believe the person does not pose an imminent threat of death or serious bodily injury to another person or the sworn Agency member.
3. In determining whether lethal force is necessary, Agency members shall evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques, if reasonably safe and feasible, to an objectively reasonable officer.
4. Lethal force may be used as a means of terminating vicious/dangerous or seriously injured animals when other means of disposal are impractical or unavailable. Prior supervisor approval shall be obtained if time permits.
  - a. If an immediate reaction to the vicious/dangerous animal is necessary, and supervisor approval cannot be obtained prior to lethal force being used, the Agency member shall notify the supervisor as soon as practical following the use of lethal force.
5. When sworn Agency members are engaged in a life-threatening situation, the use of improvised techniques (including techniques that fall outside of Agency training and techniques otherwise prohibited in this order) makeshift weapons or any weapon of opportunity can be justified as lethal force when other options are deemed impractical.
6. Sworn Agency members are prohibited from firing warning shots in the course of performing their law enforcement responsibilities since they may create a substantial risk of harm to innocent bystanders.
7. Agency members shall consider their surroundings and potential risks to

bystanders and other peace officers, to the extent reasonable under the circumstances, before discharging a firearm.

8. Sworn Agency members shall not intentionally place themselves in the path of an oncoming vehicle in order to create an exigency justifying lethal force. If feasible, sworn staff should attempt to move out of the path of any oncoming vehicle attempting to evade or harm them rather than discharge a firearm at its occupants. A sworn Agency member may discharge his/her firearm at an occupant(s) within a moving vehicle who poses an imminent threat of death or GBI to others or the sworn Agency member.

E. CROWD CONTROL:

For crowd control or situations of civil unrest, sworn Agency members will refer to Agency training and direction from the assigned incident commander. Refer to GO 5.04 for special events including crowd control incidents.

1. Pursuant to PC 13652.1(a) Each law enforcement agency shall, within 60 days of each incident, publish a summary on its internet website of all instances in which a peace officer employed by that agency uses a kinetic energy projectile or chemical agent, as those terms are defined in PC 13652, for crowd control. However, an agency may extend that period for another 30 days if they demonstrate just cause, but in no case longer than 90 days from the time of the incident.

F. CRITICAL INCIDENT INVESTIGATIONS:

Critical incidents involving sworn Agency members, while on duty or acting under the color of authority while off-duty, shall be investigated pursuant to GO 1.02.

G. MEDICAL ATTENTION/FIRST AID - ALL LEVELS OF FORCE INCLUDING COMPLIANT:

1. Medical aid shall be summoned as quickly as reasonably possible to any subject who sustains an injury following any law enforcement action; even if no force was used.
2. In the event a sworn Agency member uses force on a subject, a subject sustains visible injuries during apprehension, or if the subject complains of injury:
  - a. The subject shall receive first aid in the field, either by a sworn Agency member if safe to do so, as outlined in his/her first aid training, or by medical personnel called to the scene (paramedics or fire department personnel). If deemed necessary by a sworn Agency member or medical personnel, the subject shall be transported, as soon as possible, to a medical facility for additional medical treatment.
  - b. During field detention, transportation, and custodial restraint situations, subjects shall be positioned so that they do not experience breathing difficulty. This is especially important if a subject has been sprayed with OC and/or is suspected of being under the influence of drugs or alcohol. It is critical to closely monitor subjects who are experiencing breathing difficulty and to get them medical attention as soon as possible.
  - c. If a person subjected to any level of physical force were to lose consciousness, Agency members shall immediately request emergency medical and fire



department personnel to respond and evaluate the condition of the subject.

- d. When force is used on an inmate in a jail facility, they shall be physically examined by the jail facility's medical personnel to ascertain the inmate's well-being and his/her need to receive further medical attention.

#### H. BODY WORN CAMERAS:

Sworn Agency members shall activate their Body Worn Camera (BWC) as outlined in GO 8.17.

#### I. SWORN AGENCY MEMBER REPORTING RESPONSIBILITIES:

1. Any force used by a sworn Agency member shall be reported to a supervisor and documented in a report pursuant to GO 5.50.
2. All sworn Agency members who use force during an incident shall write and submit any applicable reports or supplemental reports.
3. All involved sworn Agency members who used force, and all subjects involved in the use of force, shall be photographed to document any injuries or lack thereof. Every effort shall be taken to document these injuries, or absence of injuries.
4. Photographs and applicable BWC video shall capture as much information about the incident as possible. This includes "close-up" recordings and photographs to specific areas where force was applied, such as hands or areas of impact.
5. All involved sworn Agency members who use force are required to notify the shift supervisor. The shift supervisor is required to respond to all instances where the application of force is used, absent unusual or exigent circumstances. Sworn Agency members are required to document which supervisor was notified and which supervisor responded to the scene.
6. If for some reason sworn Agency members are unable to take particular photographs or capture BWC video of injuries, or lack thereof, reasons explaining the absence of such shall be documented in the report and Blue Team entry.
7. If no force was used by a sworn Agency member(s) but a subject alleges that force was used, an informational report (not a Use of Force report) shall be written documenting the incident. The incident, including the subject's allegations, shall be reported to a supervisor. Digital photographs shall be taken of the subject, and the Agency member, at the time of the allegation as a way of documenting his/her condition.

#### J. SUPERVISORY/MANAGEMENT RESPONSIBILITY TO REVIEW INCIDENT:

1. When a sworn supervisor becomes aware of the use of force, he/she shall:
  - a. Absent unusual or exigent circumstances, supervisors shall respond to the scene of every use of force to evaluate the condition of involved Agency member(s), suspect(s), and the community.

- b. Once on scene, supervisors are required to assess the incident and ensure all involved sworn Agency members submit a written report, as soon as practical, documenting the force that was used. All applicable forms, entries, and pertinent information (e.g., Probable Cause Declaration, electronic Consolidated Arrest Report, etc.) shall be submitted in a timely manner.
- c. The responding supervisor is responsible for initiating a Blue Team entry in a timely manner. During the evaluation process, potential policy violations, training issues, and other supervisory comments and recommendations will be documented in the supervisor's review section. Supervisory comments should assess the level of reasonableness and necessity.

While preparing the Blue Team review, supervisors shall evaluate criminal reports, witness statements, BWC footage, photographs, and any other evidence that sheds light on the use of force incident. At each level of the review process a supervisor shall document whether the use of force was within Agency directives. Blue Team entry will be reviewed through the chain of command and forwarded to the appropriate Division Commander.

#### K. DEPARTMENT OF JUSTICE REPORTING:

Every month the Planning and Research Unit is responsible for providing the Department of Justice with details regarding all incidents that meet any of the below criteria:

1. An incident involving the shooting of a civilian by a peace officer
2. An incident involving the shooting of a peace officer by a civilian
3. An incident in which the use of force by a peace officer against a civilian resulted in serious bodily injury or death.
4. An incident in which the use of force by a civilian against a peace officer results in serious bodily injury or death.

For the purpose of this reporting (Government Code 12525.2), "serious bodily injury" is defined as bodily injury that involves a substantial risk of death, unconsciousness, protracted or obvious disfigurement, or protracted loss or impairment of the function of a bodily member or organ.

Each supervisor is responsible for reporting any reports falling under the above criteria to Planning and Research as part of the use of force review process. Supervisors are to complete the attached Office of The Attorney General Department of Justice Form (DOJ URSUS Reporting Form) and email it to the Network Infrastructure Security Team at [netsecurity@acgov.org](mailto:netsecurity@acgov.org).

#### L. ADMINISTRATIVE REVIEW FOR INCIDENTS WHICH RESULT IN DEATH OR SERIOUS INJURY:

Refer to GO 1.02.

#### M. USE OF FORCE ANALYSIS/REVIEW:

1. Analytical reports shall be utilized to conduct an annual Use of Force analysis to identify the following:
  - a. Date and time of incidents
  - b. Types of encounters resulting in use of force
  - c. Trends or patterns related to race, age and gender of subjects involved.
  - d. Trends or patterns resulting in injury to any person including Agency members and;
  - e. Any impact these trends or patterns may have on Agency written directives, practices, equipment, and training.
2. The Training Committee will review the annual Use of Force analysis report.
3. A separate review of all assaults on law enforcement officers will be completed annually to determine trends or patterns with recommendations to enhance officer safety, revise written directives, or address training issues.
4. The Regional Training Center (RTC) will generate the annual Use of Force analysis report, annual Assault on Law Enforcement Officer Review, and any Training Committee reports to be forwarded to the Sheriff, via chain of command.

#### N. TRAINING:

1. Sworn members of this Agency shall receive and maintain required Commission on Police Officer Standards and Training certified training on de-escalation/conflict resolution techniques, defensive tactics, less-lethal, and lethal force.
2. The training provided to all Agency members will allow them to demonstrate their knowledge and understanding of Agency written directives related to uses of force. This training may be conducted during Agency firearms training, continued professional training, and during briefings.
3. The training will provide guidelines to all Agency members regarding vulnerable populations, including, but not limited to, children, the elderly, people who are pregnant, and people with physical, mental, and developmental disabilities.
4. If an Agency member receives a substantiated finding for an excessive use of force complaint, they shall be prohibited from serving as a training officer for a minimum of three years following the date of the substantiated finding. Training officer includes:
  - a. Working as a Field Training Officer
  - b. Working as a Jail Training Officer
  - c. Working as a Recruit Training Officer
  - d. Working in any other training capacity where other law enforcement officers are in

attendance.

O. RELEASE OF PUBLIC RECORDS:

1. The Agency will remain in compliance with the California Public Records Act and other applicable laws concerning the release of public information, (i.e. PC 832.7 and GO 1.22 – Public Records).

P. PERSONNEL COMPLAINTS FROM CITIZENS:

1. A personnel complaint is any charge against an Agency member which, if true, would adversely affect the Agency's operational efficiency or relations with the public. It may be internally or externally generated. Personnel complaints related to use of force incidents, regardless of who is making the complaint, shall be done so in accordance of GO 3.07.02 – Internal Affairs Complaints and Investigations.

Q. USE OF FORCE GENERAL ORDER REVIEW:

1. Pursuant to GC 7286(a)(23), this written directive will be reviewed regularly and, when necessary, updates will be completed to reflect developing practices and procedures.