

**CHAPTER 1**  
**USE OF FORCE**  
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## CHAPTER 1

### USE OF FORCE

1. INTRODUCTION. For this chapter, all uniformed members of the California Highway Patrol (CHP) will be referred to as officer(s). The purpose of this chapter is to provide officers with a use of force policy that is concise, easily understood, and consistent with prevailing law. The Department recognizes that use of force is a serious responsibility that shall be exercised judiciously with respect for human rights and dignity, and for the sanctity of every human life. This policy recognizes the use of force by law enforcement requires constant evaluation. Even at its lowest level, the use of force is a serious responsibility.

- a. Each officer is expected to utilize the following principles to make decisions to use force in a professional, fair, unbiased, and objectively reasonable manner, based on the facts and totality of the circumstances perceived by the officer at the time of the event.
- b. This policy shall govern and direct the application of the Department's use of force policies, procedures, and regulations. This chapter shall supersede any other departmental publication in regard to the use of force.

#### 2. DEFINITIONS.

- a. Objective Reasonableness. The legal standard used to determine the lawfulness of a use of force is the Fourth Amendment to the United States (U.S.) Constitution and *Graham v. Connor*, 490 U.S. 386 (1989). Graham states, in essence, that any use of force must be objectively reasonable under the totality of the circumstances. The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation. Therefore, the test of reasonableness is not capable of a precise definition or mechanical application. The force must be objectively reasonable under the circumstances known to the officer at the time force was used. Therefore, the Department examines all uses of force from an objective standard, rather than a subjective standard.
- b. The Graham Factors. The Graham decision specified three primary factors (the Graham Factors) to assist in determining reasonableness. While not all

inclusive, these factors assist in evaluating the reasonableness of a use of force incident when considering “the totality of the circumstances.” These factors are:

- (1) Severity of the crime at issue.
  - (2) Whether the subject poses an immediate threat to the safety of the officer(s) or others.
  - (3) Whether the subject is actively resisting arrest or attempting to evade arrest by flight.
- c. Totality of the Circumstances. Pursuant to California Penal Code Section 835a(e)(3), the totality of the circumstances means all facts known to the peace officer at the time, including the conduct of the officer and subject leading up to the use of force.
- d. Feasible. Reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.
- e. Imminent. California Penal Code Section 835a(e)(2) states: “A threat of death or serious bodily injury 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. An 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 appearances, must be instantly confronted and addressed.”
- f. Immediate. Present; at once; without delay; not deferred by any interval of time.
- g. De-Escalation. De-escalation is the process of using strategies and techniques intended to decrease the intensity of the situation.
- h. Nondeadly Force. Nondeadly force is any force likely to have minimal risk of causing injury to the subject.
- i. Intermediate Force. Intermediate force is any force likely to have significant risk of causing injury to the subject.
- j. Deadly Force. Deadly force means any use of force that creates a substantial risk of causing death or serious bodily injury, but is not limited to, the discharge of a firearm.

3. FORCE OPTIONS. Selecting the appropriate force option is the decision of the officer. It is not necessary to move progressively from one option to the next while escalating or de-escalating the degree of force utilized. While it is an objective of every law enforcement encounter to minimize injury to everyone involved, officers need not wait for injury to occur to themselves or the public before taking action to prevent it. Any officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use objectively reasonable force to affect the arrest, prevent escape, or to overcome resistance. An officer may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance.

- a. Control Holds. Force utilized to take physical control of a subject by the use of techniques designed to prevent or restrict movement or resistance.
- b. Personal Weapons. Force in which the officer utilizes parts of their body (e.g., hands, elbows, knees, and feet).
- c. Aerosol Subject Restraint. Intermediate force in which the officer utilizes aerosol subject restraint.
- d. Impact Weapons. Force in which the officer utilizes an impact weapon to strike a subject (i.e., baton). An impact weapon may also be a nondeadly force when used as a control mechanism, which is likely to have minimal risk of causing injury to a subject (i.e., baton).
- e. Electronic Control Device. Intermediate force in which the officer utilizes an electronic control device.
- f. Kinetic Energy Weapons. Intermediate force in which the officer utilizes a kinetic energy weapon to discharge kinetic energy munitions (e.g., 12-gauge shotgun with kinetic energy munitions, 37mm and 40mm launchers).

4. POLICY.

- a. Use of Force—General. It is the policy of the Department that officers may use force which is objectively reasonable to defend themselves or others, affect an arrest or detention, prevent escape, or overcome resistance. An officer may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance. An 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. An officer shall not be deemed an aggressor or lose the right to self-defense by the use of objectively reasonable force to affect the arrest, prevent escape, or overcome resistance. Officers need not wait for injury to occur to themselves or the public before taking action to prevent it. It is recognized that circumstances may arise in which officers reasonably believe it is impractical or ineffective to use any of the standard tools, weapons, or methods provided by the Department. Officers may find it more effective or practical to improvise their response to tense, uncertain, and rapidly evolving conditions by the use of any tool, method, or weapon of opportunity. While policy cannot realistically predict every possible situation, the decision regarding which force option to select should be guided by the following key principles:

- (1) Sound professional judgment and critical decision making.
- (2) Use of force that is objectively reasonable based on the totality of the circumstances perceived by the officer at the time, as provided by law and in conformance with departmental policy.

b. De-Escalation.

- (1) Officer Demeanor. An officer's demeanor, while not considered a use of force option, is usually sufficient to control most situations. Demeanor is the method by which officers conduct themselves, and includes bearing, appearance, physical condition, and overall command presence.
- (2) Policing requires that at times an officer must exercise control of a violent or resisting subject to make an arrest or to protect the officer, other officers, or members of the community from risk of harm. While not every potential violent confrontation can be de-escalated, officers do have the ability to impact the direction and the outcome of many situations they handle, based on sound decision-making and the tactics they employ.
  - (a) When reasonably safe and feasible, under the totality of the circumstances, officers should assess the risks and consider other alternatives to force and actions that may slow a situation's momentum or prevent the need to utilize a higher level of force. This may include utilizing de-escalation techniques, crisis intervention tactics, and effective communication tools (e.g., advisements, warnings, verbal persuasion, and other tactics) and/or employing additional resources (e.g., additional officers or mental health specialists).
- (3) The prospect of a favorable outcome is often enhanced when supervisors become involved in the management of an overall response to potential violent encounters by coordinating resources and officers' tactical actions.

(4) Ultimately, the decision by an officer to use force shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight, and the totality of the circumstances shall account for occasions when officers may be forced to make quick judgments about using force (California Penal Code Section 835a).

c. Nondeadly Force. An officer is justified in using nondeadly force to gain compliance or control of a subject when it is objectively reasonable under the totality of the circumstances. Nondeadly force includes, but is not limited to, control holds and personal weapons. (Departmentally approved handcuffing techniques on a compliant subject does not constitute a use of force.)

d. Intermediate Force. An officer is justified in using intermediate force when the subject presents an immediate threat of harm to the officer(s) or others and the use of such force is objectively reasonable under the totality of the circumstances. Intermediate force includes, but is not limited to, electronic control device, impact weapons, aerosol subject restraint, and kinetic energy munitions.

(1) Flight.

(a) While it is relevant, flight alone is not the only factor to be taken into consideration. In addition to flight, officers shall consider:

1 The severity of the crime.

2 Whether the subject poses an immediate threat to officers or others.

3 The officer-to-subject factors and environmental factors (lighting, footing, weather, etc.).

e. Deadly Force. An 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 in defense of human life. In determining whether deadly force reasonably appears to be necessary, officers shall evaluate each situation in light of the particular circumstances of each case. If reasonably safe and feasible to do so, officers shall use other available resources and techniques.

(1) Self-Defense and/or Defense of Others.

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

(b) In self-defense while an assault with a deadly weapon (ADW) with a vehicle is actually being committed. Officers shall not stand and/or step directly in front of or directly behind a vehicle in an attempt to impede its movement (prevent escape), intentionally creating circumstances where use of deadly force appears to be necessary. The primary tactical consideration should be for officers to move out of the path of a vehicle whenever such movement is reasonably possible. **Once an officer no longer perceives a threat, deadly force is no longer justified.**

(2) Apprehension.

(a) 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.

(b) Where feasible, a peace officer shall, prior to the use of force, make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts.

(c) Following an ADW with a vehicle, where an officer reasonably believes serious bodily injury or death has occurred, an officer may utilize deadly force when necessary to apprehend a person, if the officer reasonably believes the person will cause serious bodily injury or death to another unless immediately apprehended.

(d) Deadly force for apprehension of a person shall be used only when all other reasonable means of apprehension have been exhausted and, if under the totality of the circumstances perceived by the officer, the use of a firearm is not likely to endanger innocent persons.

(3) An 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.

(4) Warning shots shall not be fired except under the same conditions which authorize the use of deadly force against a human being and only if the firing of such shots is not likely to endanger innocent persons.

5. USE OF FIREARMS.



a. Restriction. Officers shall not discharge a firearm in the course of employment except as permitted in this chapter or for training purposes.

b. Drawing or Pointing a Firearm at a Person. An officer may draw or point a firearm at a person when objectively reasonable based on the totality of the circumstances.

c. Finger Placement. Officers should not place their finger on the trigger of any firearm during a tactical situation except under the following circumstances:

(1) When actually firing the firearm.

(2) When the firearm is pointed at an identified target and the use of deadly force is justified.

d. Discharge of Firearm. An officer may discharge their firearm when objectively reasonable, based on the totality of the circumstances, officers should consider their surroundings and potential risks to bystanders before discharging a firearm.

(1) Shooting at a Vehicle. Firearms, when discharged at a vehicle, moving or stationary, shall be done in accordance with this chapter.

(a) The discharge of a firearm at a wrong-way, high-speed, or reckless driver or vehicle solely on the assumption that other persons may be injured or killed unless the driving act is terminated is not authorized.

(2) Shooting from a Vehicle. Firearms, when discharged from a departmental vehicle, moving or stationary, shall be done in accordance with this chapter.

(3) Shooting from an Aircraft. Firearms shall not be discharged from a departmental aircraft except in accordance with this chapter, and only when the aircraft is not in flight.

## 6. USE OF FORCE MEDICAL CARE REQUIREMENTS.

a. Following a use of force incident which an officer reasonably believes has resulted in injury, and once officer safety is no longer a concern, they shall provide medical care within their scope of practice and/or arrange for further medical care by emergency medical services personnel or a medical care facility.

b. If required, subjects may be transported to a medical care facility in a patrol vehicle or ambulance for medical care or clearance.

c. Officers shall arrange for a medical examination whenever a subject appears to be in need of medical attention.

d. Officers shall be guided by sound professional judgment when a subject requests medical attention, but shows no outward symptoms of illness or injury.

## 7. NOTIFICATION AND REPORTING PROCEDURES.

a. Officer Responsibility. Officers shall notify their supervisor as soon as practical after a use of force incident.

(1) All incidents involving the use of force shall be thoroughly documented in accordance with General Order (GO) 100.39, CHP 202, Driving Under the Influence Arrest-Investigation Report, and CHP 216, Arrest-Investigation Report, and Annex A of this chapter. Documentation shall include the following:

(a) The totality of circumstances surrounding the use of force.

(b) Method(s) of force used.

(c) De-escalation strategies and techniques.

1 Any use or attempted use of de-escalation strategies and techniques; or

2 If de-escalation strategies and techniques were not used, an explanation of why it was not feasible to do so shall to do so shall be documented in the arrest report.

(d) What, if any, medical assistance was rendered.

(e) When a subject requests or is provided medical attention, the arrest reports shall include, if applicable, the following additional information:

1 Nature of illness or injury.

2 Name of attending doctor and their recommendations.

3 A copy of the subject's discharge paperwork from the medical facility.

4 A notation the detention facility was advised of the subject's alleged or apparent injury.

5 Whether jail personnel were requested to arrange for medical care.

6 When pertinent, include time elements, symptoms, requests for aid by the subject(s), and details of the transportation and treatment.

(f) All medical care provided by CHP employees shall be documented in the officer's report and in accordance with Highway Patrol Manual (HPM) 70.2, Emergency Medical Services Manual.

(2) Officers who are involved in a use of force incident, but are not the arresting officer, shall complete a supplemental report to the arresting officer's report.

b. Reporting Policy–Discharge of Firearms.

(1) In the event of a reportable firearm discharge, the discharge shall be reported to a supervisor as soon as the situation is stabilized.

(2) The following discharge of firearms incidents shall be reported:

(a) The intentional discharge of any firearm by an officer while on duty.

(b) The intentional discharge of any firearm by an officer while off duty in the direction of, or causing injury to, any person, or toward the property of another person without their specific permission.

(c) Accidental discharge of any firearm while on duty.

(d) Off-duty accidental discharges of any firearm that may be carried concealed under the authority of California peace officer status.

(e) Warning shots fired by an officer while off duty in an attempt to apprehend a person for any crime.

(f) The intentional or accidental discharge of a firearm by a nonuniformed employee while on duty.

c. Exceptions to the Above Reporting Procedures.

(1) Training, qualification, or shooting competition (other than accidental).

(2) Lawful hunting activities which do not result in injury to any person or cause damage to another person's property.

(3) Shooting of animals in accordance with policy outlined in Chapter 2, Discharge of Firearms at Animals, of this manual.

(4) The discharge of any firearm (including accidental) while performing duties directly related to service in the U.S. Armed Forces.

d. Supervisor Responsibility. Supervisors shall ensure the following:

(1) An investigation is conducted and documented.

(2) The incident is accurately and thoroughly documented in accordance with HPM 100.86, Risk Management Manual, and Annex B of this chapter.

8. INVOLVEMENT IN OR WITNESSING EXCESSIVE FORCE.

a. Officer Responsibility. When officers are involved in or witness an incident in which they believe excessive force is currently or may have been used by **any** peace officer, they shall take immediate action to stop the excessive force.

(1) The officer's actions shall be reasonable and prudent, based upon the circumstances.

(2) The officer's actions shall include verbal and/or physical intervention necessary to stop the use of excessive force.

(3) Following the incident, the officer shall immediately notify a CHP supervisor and submit a report, in accordance with GO 100.39, thoroughly documenting the events.

b. Supervisor and Manager Responsibilities. Supervisors and managers are responsible for ensuring that:

(1) A supervisor or manager shall respond to the scene of an incident of excessive use of force as soon as practical when notified.

(2) Accurate reporting shall be thoroughly documented in accordance with HPM 100.86.

(3) An investigation is conducted and documented.

(4) These guidelines are followed whether such incidents involve the CHP, an allied agency, or both.

(5) Investigation of incidents involving allied agencies shall be coordinated at the appropriate Division level.

9. QUARTERLY AND ANNUAL REVIEW REQUIREMENTS.

- a. All uniformed employees are required to review this chapter quarterly.
- b. All uniformed employees at the rank of captain and below are required to complete the Quarterly Review and Training assessment of the following chapters of this manual on a quarterly basis:
  - (1) Chapter 1, Use of Force.
  - (2) Chapter 2, Discharge of Firearms.
  - (3) Chapter 26, Aerosol Subject Restraint.
  - (4) Chapter 28, 12-Gauge Shotgun with Kinetic Energy Munitions.
  - (5) Chapter 29, Electronic Control Device.
- c. The Academy, Tactical Training Program, shall review this chapter on an annual basis to ensure the Department's policies and procedures reflect current statutory and case law.

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## ANNEX A

### USE OF FORCE REPORT WRITING GUIDE

#### GUIDE TO DOCUMENT RESPONSE TO RESISTANCE.

This guide is intended to assist officers in completing a use of force report. The report should be organized into 3 separate acts: Pre-Event, Event, and Post-Event. These headings are not to be utilized in the report, but provide the structure for a well-documented and chronological report.

#### 1. PRE-CONTACT.

##### a. Date and Time of the Incident.

- (1) Nature of call.
- (2) Call for service/flag down/on-view.
- (3) Document key elements of the case and be descriptive.

##### b. For a call-out incident, document the following:

- (1) Time the officer was notified of the incident.
- (2) Time the officer arrived at the incident.
- (3) Description of the initial call of the incident.
- (4) Officer's location at the time of the incident.
- (5) Document any updates of the original incident while in response.

##### c. Officer Uniform.

- (1) Document the officer's uniform and whether it was clearly marked.
  - (a) Was the officer wearing a rain jacket or anything which could cause confusion?

##### d. Officer Patrol Vehicle.

- (1) Document which patrol vehicle was utilized during the incident.
- (2) Document whether the patrol vehicle was marked or unmarked.

## ANNEX A

### USE OF FORCE REPORT WRITING GUIDE (*continued*)

e. Location of Incident and Scene Description.

- (1) Document any environmental factors.
  - (a) Lighting (street lights, headlights, ambient moonlight, etc.).
  - (b) Weather (raining, snowing, foggy, etc.).
  - (c) Terrain (wet, ice, loose gravel, uneven, etc.).
  - (d) Location (known gang area, busy freeway, isolated area, etc.).
  - (e) Additional threats (family members, angry public, dogs, etc.).

2. CONTACT: PRE-USE OF FORCE.

a. Document any key elements and be descriptive regarding the initial contact with the suspect(s).

- (1) Number of officers versus number of suspects.
- (2) Age, size, gender, and strength of the subject(s).
- (3) Demeanor of suspect(s).

b. Document whether there is an immediate threat to the officer(s).

- (1) Avoid using words that lack clear articulation.
  - (a) Assaultive.
  - (b) Noncompliant.
  - (c) Resistant.
  - (d) Officer safety.
  - (e) Suspicious activity.
  - (f) Furtive movements.



## ANNEX A

### USE OF FORCE REPORT WRITING GUIDE (*continued*)

c. Document the actions and/or the behavior the suspect portrayed, before force was applied.

(1) Specific verbal threats or statements the suspect used to the officer(s) or victim(s).

(2) Clenching of the fists.

(3) Blading off and taking a fighting stance.

(4) Ignoring commands from the officer(s).

(5) Suspect(s) walking away or pulling away from the officer(s).

(6) Suspect folding the arms.

(7) Suspect(s) is known to have a violent history.

(8) Suspect(s) has an unusual appearance for the area (little to no clothing in the winter or a heavy coat on in the summer).

d. Document whether there is a possible mental illness or if there is possible drug use.

e. Document whether there were any de-escalation strategies and techniques considered or attempted to decrease the intensity of the situation.

(1) Considerations/attempts to utilize time and distance to decrease the intensity of the situation.

(2) Considerations/attempts to calm the suspect.

(3) Considerations/attempts to gain voluntary compliance.

(4) Considerations/attempts to utilize:

(a) A bilingual officer, drug recognition expert, state or local health official, or any other resources which were known to the officer at the time to assist in de-escalating the intensity of the situation.

## ANNEX A

### USE OF FORCE REPORT WRITING GUIDE (*continued*)

- f. Document the results of the de-escalation strategies and techniques attempted.
  - g. Document whether there are any weapons in close proximity to the suspect(s).
  - h. Document whether the subject has any special knowledge or skills.
    - (1) Mixed martial arts, military, etc.
  - i. Document any prior contacts with the suspect(s) that were known at the time of the incident.
3. USE OF FORCE APPLICATION.
- a. Document the reason for force application.
    - (1) Officer in defense of self.
    - (2) Officer in defense of others.
    - (3) Affect an arrest.
    - (4) Prevent escape.
    - (5) Overcome resistance.
  - b. Document the force application and how it was used.
  - c. Describe what force options were used in detail.
  - d. Describe how the force option was used and the intent of the officer (i.e., to de-escalate).
4. EFFECT OF THE USE OF FORCE APPLICATION.
- a. Document the effect of the force application.

## ANNEX A

### USE OF FORCE REPORT WRITING GUIDE (*continued*)

- (1) Did the suspect(s) comply and how did they comply?
- (2) Did the force option have no effect or even escalate the incident?
- (3) Was another use of force option utilized on the suspect(s)?
  - (a) Document why another force option was utilized.

#### 5. POST-USE OF FORCE APPLICATION.

##### a. Securement of the Scene and Suspect(s).

- (1) Document how the suspect(s) was handcuffed.
  - (a) Document how many officers it took to handcuff the suspect(s).
- (2) Document how the surrounding area was secured.

##### b. Injury.

- (1) Document injuries to the officer(s).
- (2) Document injuries to the suspect(s).
- (3) Document injuries to others.

##### c. Medical Aid.

- (1) Document how medical aid was rendered to the suspect(s) and/or the officer(s) once the scene was safe and secured.
- (2) The officer(s) shall render aid until relieved by more qualified personnel.
- (3) Check vitals on the suspect(s).
- (4) If applicable, place the suspect in the recovery position.
- (5) If applicable, have the suspect(s) medically cleared.
- (6) Ensure a CHP 330, Emergency Medical Report (EMT-P, EMT-1, EMR), is completed for each suspect.

## ANNEX A

### USE OF FORCE REPORT WRITING GUIDE (*continued*)

d. Notifications.

- (1) Dispatch notification of the use of force and if there are injuries.
- (2) Supervisor notification use of force was applied.
- (3) Medical personnel notification if needed at the scene.

e. Evidence.

- (1) Obtain photographs of the officers and how they are clearly marked in their uniform.
- (2) Obtain photographs of injuries to the suspect(s) and officer(s) at the scene.
- (3) Obtain photographs of the officer's injuries a few days after the incident.
- (4) Obtain written statements from any victims and/or witnesses.
- (5) Obtain copies of recording devices from all officers and patrol vehicles.

f. All officers involved need to write their own supplemental report.

- (1) All officers need to individually document their own use of force, if applicable.
- (2) Document, in detail, what you observed and/or heard at the scene.
  - (a) Stick to the facts, do not make assumptions for another officer(s) involved in the incident. Allow them to write their own report.

6. CHARGES.

a. Do not forget to add in the most applicable charges to the suspect(s) in the report.

- (1) Penal Code 148(a)(1)—Resisting, delaying or obstructing a peace officer (misdemeanor).
- (2) Penal Code 69—Resisting, delaying or obstructing a peace officer by means of threat of violence (felony).

## ANNEX B

### SUPERVISOR USE OF FORCE REVIEW

When feasible, respond to the scene and assume incident command, in accordance with Highway Patrol Manual (HPM) 50.1, Emergency Incident Management Planning and Operations Manual, and Highway Patrol Guide 50.3, Emergency Incident Guide.

#### Documentation.

- Photographs of the officer's attire worn during the use of force event.
- Photographs of injuries to the suspect(s) at the scene.
- Photographs of the officer's injuries immediately after the use of force event and several days or weeks later.
- Statements from any victims and/or witnesses.
- Copies of recording devices from all officers and patrol vehicles.

#### Use of Force Report Review.

- All officers involved in a use of force incident shall write their own report and/or supplemental if feasible.
- All applicable information is documented, as outlined in the Use of Force Report Writing Guide located in Annex A of this manual.
  - The Use of Force Report Writing Guide should be utilized to determine the totality of the circumstances and the reasonableness of the force used.

Additional documentation shall be completed in accordance with HPM 100.86, Risk Management Manual, Chapter 3, Reports of Incidents – Use of Force.

- Supervisors and commanders shall, when available, review associated documentation and video footage of the use of force event prior to approval of these documents.

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## ANNEX C

### COMPLIANCE WITH GOVERNMENT CODE SECTION 7286

1. GOVERNMENT CODE SECTION 7286. As of January 1, 2021, Section 7286 of the Government Code (GC) requires each law enforcement agency to maintain a policy that provides guidelines on the use of force, utilizing de-escalation techniques and other alternatives to force when feasible, specific guidelines for the application of deadly force, factors for evaluating and reviewing all use-of-force incidents, and public disclosure of use-of-force policies and procedures. The following policy, as it relates to GC Sections 7286(b)(9), 7286(b)(15), 7286(b)(16), and 7286(b)(19), is addressed in this Annex.

a. A comprehensive list of approved methods and devices available for the application of force is listed below and shall be used in accordance with this chapter.

- (1) Personal Weapons.
- (2) Control Holds.
  - (a) Twist Lock.
  - (b) Bent Wrist.
    - 1 Elongated Rear Wrist Lock.
- (3) Arrest Techniques.
  - (a) Standing arrest techniques.
    - 1 Bent Wrist.
    - 2 Twist Lock.
    - 3 Modified Twist Lock.
  - (b) Kneeling Arrest Techniques.
    - 1 Kneeling Twist Lock.
  - (c) Prone Arrest Techniques.
    - 1 Prone Twist Lock.

## ANNEX C

### COMPLIANCE WITH GOVERNMENT CODE SECTION 7286 (*continued*)

2 High-Risk Prone Twist Lock.

(d) Flex-Cuffing Techniques.

1 Bent Wrist.

(4) Prisoner Securement Device.

(5) Nylon Leg Restraint.

(6) Spit Sock.

(7) Aerosol Subject Restraint.

(8) Electronic Control Device.

(9) Baton.

(a) Rapid Containment Baton.

(b) 42-Inch Straight Baton.

(10) 12-Gauge Shotgun with Kinetic Energy Munitions.

(11) 37-Millimeter Launcher.

(12) 40-Millimeter Launcher.

(13) Chemical Agents.

(a) Chlorobenzylidenemalononitrile (CS).

(b) Tactical Smoke.

(14) Departmental Firearms.

(a) Pistol.

(b) Rifle.

(c) Shotgun.



## ANNEX C

### COMPLIANCE WITH GOVERNMENT CODE SECTION 7286 (*continued*)

b. Training standards and requirements relating to demonstrating knowledge and understanding of the law enforcement agency's use of force policy by officers, investigators, and supervisors.

(1) Personnel shall demonstrate proficiency in the use of any weapon prior to issuance or carrying of such weapon. It is the responsibility of every uniformed employee to maintain proficiency in enforcement tactics, officer safety techniques, arrest and control techniques, and the proper use of safety equipment.

(2) Uniformed employees at the rank of sergeant and below shall participate annually in an 8-hour Officer Safety Training (OST) day. Lieutenants and above are encouraged to participate in the 8-hour OST day.

(3) In addition to the 8-hour OST day, uniformed employees at the rank of sergeant and below shall participate in the 4-hour arrest and control training once every 2 years as part of the Commission on Peace Officer Standards and Training (POST) Perishable Skills Program.

(4) The 8-hour OST day, Arrest and Control training, and certifications pursuant to the CHP 199, Officer Safety Certification, shall be performed by a certified OST instructor.

(5) The CHP 199 certifications will be conducted through scenarios and practical exercises, which will be incorporated into biennial arrest and control training. Sergeants and below shall demonstrate proficiency in the following areas:

- (a) Arrest and control techniques.
- (b) Searching techniques.
- (c) Transportation techniques.
- (d) Impact weapons.
- (e) Use of force aftercare.

## ANNEX C

### COMPLIANCE WITH GOVERNMENT CODE SECTION 7286 (*continued*)

(1) For certification purposes, ratings of “Acceptable” or “Unacceptable” on the CHP 199 shall be used to designate successful or unsuccessful demonstration of proficiency. An acceptable rating shall be designated by the letter A, and an unacceptable rating by the letter U. Evaluators should write a summary statement in the “Remarks” section of the CHP 199 to illustrate the technique(s) in which the employee received a rating of unacceptable.

(a) Uniformed employees unable to demonstrate an acceptable level of skill shall be provided refresher training for a period of time not to exceed 30 calendar days after annual certification is due.

(b) Uniformed employees who fail to meet the required level of certification will not be permitted to return to enforcement duties until proficiency is achieved.

(c) Uniformed employees who fail to meet the required level of certification after a maximum 30 days of refresher training shall be placed on interim reporting pursuant to the procedures contained in HPM 10.10, Performance Appraisal Manual.

c. Training and guidelines regarding vulnerable populations, including but not limited to children, elderly persons, people who are pregnant, and people with physical, mental, and developmental disabilities.

(1) Handcuffing Requirements. All persons arrested on a charge requiring incarceration shall be handcuffed. Handcuffs should be applied with the subject’s hands in position to the rear.

(a) Exceptions. At the officer’s discretion, the following persons may be exempted from handcuffing to the rear:

1 Sick, injured, or disabled. Handcuffs should be secured in a manner that would not aggravate the person’s condition.

2 Elderly.

3 Visibly pregnant.

(2) An electronic control device should not be used:

## ANNEX C

### COMPLIANCE WITH GOVERNMENT CODE SECTION 7286 (*continued*)

- (a) On handcuffed persons, unless they pose an immediate threat of injury to the uniformed employee, themselves, or others.
- (b) On a subject who is simply noncompliant or in control of a vehicle in motion (including motorcycles and bicycles).
- (c) Against a person in control of a vehicle if the uniformed employee has reason to believe the vehicle could be put into motion.
- (d) Against the following:
  - 1 Women who appear to be pregnant.
  - 2 Subjects who appear to be elderly.
  - 3 Subjects who appear to be frail.
  - 4 Subjects who appear to weigh less than 80 pounds.
  - 5 Young children.
- (e) Additional training is outlined in Highway Patrol Manual (HPM) 100.69, General Law Enforcement Policy Manual, Chapter 14, Crisis Intervention.

d. Minimum training and course titles required to meet the objective in the use of force policy.

(1) Officer Safety Training.

- (a) Uniformed employees at the rank of sergeant and below shall participate in a minimum of one 8-hour OST day annually. In addition to the 8-hour OST day, uniformed employees at the rank of sergeant and below shall adhere to the following:

(2) Commission on Peace Officer Standards and Training Perishable Skills Program, Arrest and Control.

- (a) Uniformed employees at the rank of sergeant and below shall participate in the 4-hour Arrest and Control training once every 2 years.

## ANNEX C

### COMPLIANCE WITH GOVERNMENT CODE SECTION 7286 (*continued*)

- (3) All uniformed employees shall undergo 8 hours of Academy-certified electronic control device training.
- (a) Uniformed employees at the rank of officer and sergeant shall recertify annually in the use of electronic control devices (ECD).
- (4) Officer Safety Training Trainer.
- (a) Uniformed employees may be certified Area OST instructors upon successful completion of the Academy Officer Safety Training Trainer (OSTT) course. The OSTT course includes instructor-level certification in arrest and control, officer safety techniques, ECD, and non-lethal training ammunition, which incorporates scenario set-up/safety and force-on-force weapons/ammunition. The OSTT course consists of 80 hours of training, over a 2-week period.
- (5) Officer Safety Training Conference.
- (a) After initial OSTT certification, Area OST instructors shall attend the Officer Safety Training Conference (OSTC) annually to maintain their certification.
- 1 Instructors may attend any OSTC with the approval of their Division.
- 2 An instructor who fails to attend the annual OSTC will be decertified as an instructor. They will be allowed to attend the next year's OSTC to renew their certification. If an instructor misses 2 years of OSTCs consecutively, they will need to attend the 2-week OSTT course again to obtain instructor certification.
- (6) Primary Firearm.
- (a) All uniformed employees shall train with the primary firearm on a quarterly basis, shooting a minimum of 100 rounds. Missed quarterly shoots may be satisfied by completing a make-up shoot. At least 1 shoot should be conducted during the hours of darkness and at least 1 shoot shall incorporate a component of tactically moving while firing.
- (b) All uniformed employees are required to qualify annually using the 50-round Task Oriented Qualification Course (TOQC)-Pistol course.

## ANNEX C

### COMPLIANCE WITH GOVERNMENT CODE SECTION 7286 (*continued*)

(7) Shotgun.

(a) Uniformed employees at the rank of captain and below shall train with the shotgun on a quarterly basis and complete an annual qualification. A minimum of 18 rounds, but not more than 30 rounds, shall be fired during quarterly shoots. Missed quarterly shoots may be satisfied by completing a make-up shoot. The annual qualification course will be the 8-round TOQC-Shotgun course. At least 1 shoot should be conducted during the hours of darkness and at least 1 shoot shall incorporate a component of tactically moving while firing.

(b) Uniformed employees at the rank of Assistant Chief and above are encouraged to shoot the shotgun quarterly and, at a minimum, shall shoot the shotgun at least once annually to demonstrate proficiency.

(8) Tactical Rifle.

(a) Uniformed employees at the rank of captain and below shall train with the departmental rifle on a quarterly basis and complete an annual qualification. A minimum of 40 rounds, but not more than 60 rounds, shall be fired during quarterly shoots. Missed quarterly shoots may be satisfied by completing a make-up shoot. The annual qualification course will be conducted during daylight hours using the TOQC-Rifle course. At least 1 shoot should be conducted during the hours of darkness and at least 1 shoot shall incorporate a component of tactically moving while firing.

(b) Uniformed employees at the rank of Assistant Chief and above are encouraged to shoot the rifle quarterly and, at a minimum, shall shoot the rifle at least once annually to demonstrate proficiency.

(9) 12-Gauge Shotgun with Kinetic Energy Munitions.

(a) Requirements. Employees choosing to carry the 12-gauge shotgun with kinetic energy munitions shall attend and pass the departmental 12-gauge shotgun qualification course. Only Academy-certified instructors shall conduct initial and annual certification courses. All cadets are certified by the Weapons Training Unit (WTU) to carry the 12-gauge shotgun with kinetic energy munitions upon graduation.

## ANNEX C

### COMPLIANCE WITH GOVERNMENT CODE SECTION 7286 (*continued*)

(b) Qualification. Only those employees who achieve a qualifying score will be authorized to carry the 12-gauge shotgun with kinetic energy munitions. The actual number of employees required to qualify with the 12-gauge shotgun with kinetic energy munitions will be at the discretion of the commander and based upon operational needs of the Area. Initial training and annual training should be accomplished with the use of baton training mannequins or other 3-dimensional impact targets.

(c) Annual Training. After initial qualification, employees who are assigned to carry the 12-gauge shotgun with kinetic energy munitions shall be required to shoot a minimum of 2 rounds annually. This may be accomplished during hours of darkness to facilitate training with the 12-gauge shotgun with kinetic energy munitions in low-light conditions.

#### (10) Grenadier Training (37mm Launcher/40mm Launcher/Chemical Agents/Tactical Smoke).

(a) Initial Training. All grenadiers must successfully complete the 8-hour initial Grenadier Training Course (GTC) hosted by the Academy, Advanced Officer Safety Training (AOST) Unit, in conjunction with the Special Response Team (SRT) Training Cadre, before performing the duties of a grenadier.

(b) Recertification. Grenadiers are required to complete the GTC hosted by the Academy, AOST Unit, annually in conjunction with the SRT Training Cadre.

(c) Certification. Upon successful completion of the GTC, grenadiers will be issued a certificate of completion which is good from the date of issued through the subsequent calendar year. Only grenadiers possessing a current certificate are authorized to deploy specialty munitions and chemical agents.

1 In addition to the annual certification, each Division's grenadier supervisor shall review policy regulating safe and proper deployment of specialty munitions and chemical agents with each grenadier quarterly. Each Division's grenadier supervisor shall also be responsible for ensuring Division-assigned specialty weapons are inspected quarterly and the Firearms Inspection Checklists are forwarded to the Academy, WTU.