

Humboldt County District Attorney's Office Use of Force

I Purpose and Scope

- A. This policy recognizes that the use of force by law enforcement requires constant evaluation. The purpose of this policy is to provide Peace Officers of this office 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 Peace Officer is expected to use these guidelines to make such decisions in a professional, impartial and safe manner.
- B. Investigators, Senior Investigators and the Chief Investigator at the Humboldt County District Attorney's office will be recognized as Peace Officers as defined in 830.1 of the Penal Code

II Philosophy

- A. The use of force by law enforcement personnel is a matter of critical concern both to the public and to the law enforcement community. Peace Officers are involved on a daily basis in numerous and varied human encounters and, when warranted, may use force in carrying out their duties. Peace Officers must have an understanding of, and true appreciation for, the limitations of their authority. This is especially true with respect to officers overcoming resistance while engaged in the performance of their duties. This office recognizes and respects the value of all human life and dignity without prejudice to anyone. It is also understood that vesting officers with the authority to use reasonable force and protect the public welfare requires a careful balancing of all human interests.

III Policy

- A. It is the policy of the Humboldt County District Attorney's Office that its' Peace Officers shall use only that amount of force that reasonably appears necessary, given the facts and circumstances perceived by the Peace Officer 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 officer with similar training and experience. Any interpretation of "reasonableness" must allow for the fact that Peace Officers 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.

IV Penal Code Section 835 (a)

- 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; nor 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.

V Factors Used to Determine the Reasonableness of Force

- A. When determining whether or not to apply any level of force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration. These factors include, but are not limited to:
- 1) The conduct of the individual being confronted.
 - 2) Peace Officer/subject factors.
 - age, size, relative strength, skill level, injury/exhaustion
 - number of officers vs. subjects.
 - 3) Mental Capacity due to Mental Health Issues and/or influence of drugs/alcohol
 - 4) Proximity of weapons, and type of weapons.
 - 5) Resources reasonably available to the officer under the current circumstances
 - 6) Seriousness of the suspected offense or reason for contact with the individual.
 - 7) Training and experience of the officer.
 - 8) Potential for injury to citizens, officers and suspects.
 - 9) Risk of escape.
 - 10) Other exigent circumstance.

Use of Force Options

It is recognized that Peace Officers are expected to make split second decisions and that the amount of time available to evaluate and respond to changing circumstances may impact the decision. While various degrees of force exist, each Peace Officer 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.

B. Use of Force Options include, but are not limited to:

- 1) Law Enforcement Presence
- 2) Verbal Commands
- 3) Empty hand techniques including carotid restraint
- 4) Personal body weapons
- 5) Impact weapons
- 6) Chemical agents
- 7) Taser or similar electrical control device
- 8) Less lethal munitions
- 9) Deadly force

C. Less Lethal Force Applications

- 1) Any application of force that is not reasonably anticipated and intended to create a substantial likelihood of death or serious injury shall be considered less lethal force. Each Peace Officer is provided with equipment, training, and skills to assist in the apprehension and control of suspects as well as protection of other Peace Officers and the public.
- 2) Given that no policy can realistically predict every possible situation a Peace Officer might encounter in the field, it is recognized that each Peace Officer must be entrusted with well-reasoned discretion in determining the appropriate use of force in each incident. While it is the ultimate objective of every law enforcement encounter to minimize injury to everyone involved, nothing in this policy requires a Peace Officer to actually sustain physical injury before applying reasonable force.

3) Pain compliance techniques

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

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

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

Carotid Restraint

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

- a) The officer 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 officer reasonably believes that such a hold appears necessary to prevent serious injury or death to an officer 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 personnel,

- d) Any officer 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 officer in any related reports.

D. Deadly Force Applications

- 1) While the use of a firearm is expressly considered deadly force, other force might also be considered deadly force if the Peace Officer reasonably anticipates and intends that the force applied will create a substantial likelihood of causing death or serious injury. Use of deadly force is justified in the following circumstances:
 - A Peace Officer may use deadly force for protection of self or others from what they reasonably believe would be an immediate threat of death or serious bodily injury;
 - A Peace Officer may not use deadly force to stop a fleeing suspect unless the Peace Officer has probable cause to believe that the suspect has committed or intends to commit a felony involving the infliction or threatened infliction of serious bodily injury or death. Under such circumstances, when feasible, a verbal warning shall precede the use of deadly force.

VI Notification to Supervisors

- A. Supervisory notification shall be made as soon as practical following the application of physical force which results in injury, complaint of pain and/or medical attention.

VII Reporting the Use of Force

- A. Any use of physical force by a member of this office shall be documented completely, promptly and accurately in an appropriate report depending on the nature of the incident. The use of particular weapons such as chemical agents, Taser or impact weapons may require the completion of additional report forms as specified in departmental policy and/or law.

VIII Medical Attention for Injuries Sustained Using Force

- A. 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.

IX Supervisor Responsibility

- 1) When there is a reported application of force resulting in serious bodily injury, or there is a complaint of excessive use of force, the supervisor is expected to:
- 2) Obtain the basic facts from the involved Peace Officer(s).
- 3) Insure that any injured parties are examined and treated.
- 4) Separately interview the subject(s) upon whom force was applied.
- 5) Insure that photographs have been taken of reported injuries whether visible or not.
- 6) Identify any witnesses not already included in related reports.
- 7) Review and approve all related reports.
- 8) If an application of force was not within policy, a separate internal administrative investigation shall be initiated.

SHOOTING POLICY

I Purpose and Scope

- a) The purpose of the shooting policy is to establish procedures for the use and reporting of incidents involving the discharge of firearms. This policy is for internal use only, and does not increase the Department's and/or a Peace Officer's civil or criminal liability in any way. Violations of this policy can only form the basis for departmental administrative actions.

II Policy

- a) It is the policy of this Department to resort to the use of a firearm under law, when it reasonably appears to be necessary, and generally:
 - 1) A Peace Officer may use deadly force to protect their self or others from what they reasonably believe would be an immediate threat of death or serious bodily injury.
 - 2) A Peace Officer may use deadly force to affect the arrest or prevent the escape of a suspected felon where the Peace Officer has probable cause to believe that the suspect poses a significant threat of death or serious bodily injury to the Peace Officer or others. Under such circumstances, when feasible, a verbal warning shall precede the use of deadly force.
- b) To stop a dangerous animal:
- c) A Peace Officer may dispatch an animal that is so badly injured that human compassion requires its removal from further suffering and where other dispositions are impractical. Injured animals (with the exception of dogs and cats) may only be dispatch after a reasonable search to locate the owner, Penal Code § 597(b).
- d) For target practice at an approved range.
- e) Warning Shots
 - 1) Generally, warning shots or shots fired for the purpose of summoning aid are discouraged.
- f) Moving Vehicles
 - 1) Shots fired at or from a moving vehicle are generally discouraged. This is not intended to restrict a Peace Officer's right to use deadly force directed at the operator of a vehicle when it is reasonably perceived that the vehicle is being used as a weapon against the Peace Officer or others.

III Report of Weapon Discharge

- a) Any employee who discharges their weapon accidentally or intentionally, on or off-duty, except during training or recreational use, shall make a verbal report to his/her supervisor as soon as circumstances permit and shall file a written report as directed by the supervisor.
- b) The supervisor receiving the notice of the weapon discharge shall notify the District Attorney and the Chief Investigator at the earliest possible time.

IV Officer Involved shooting Protocol

- a) It shall be the responsibility of the Chief Investigator and/or his designee(s) to initiate an independent administrative investigation involving the discharge of firearms by personnel of the District Attorney's Office. If the Chief Investigator is involved in the discharge of a firearm, then a Second Investigator and/or designee(s) shall be responsible for the investigation.
- b) The District Attorney or Chief Investigator will convene a panel to review all critical incidents involving the discharge of a firearm. The panel will prepare a supplemental report to evaluate policy compliance and training concerns. This report will be forwarded to the District Attorney and Chief Investigator as soon as practical.
 - 1) The panel should be comprised of a Senior Investigator, Rangemaster, and a Deputy District Attorney.

V Post Shooting Protocol

- a) Any employee, who discharges their firearm resulting in injury or death of any person, shall participate in psychological counseling. The services will be provided at the earliest possible time by the department.
 - 1) The employee shall participate in all subsequent recommended counseling.
 - 2) The employee will have their field duties minimized pending the administrative investigation and psychological counseling.
- b) The department will make counseling services available to other employees who were present or involved in the critical incident.

FIREARMS

I Purpose and Scope

- a) It is the purpose and scope of this policy to set a standard for the type of weapons carried by the Peace Officers of this agency; as well guidelines in the carrying, qualifying and storing of firearms.

II Policy

a) Duty Weapons

- 1) The Department issued handgun is a Glock Model 23, 40 caliber, semi-automatic pistol, Glock Model 19, 9mm, or any other weapon approved by the Chief Investigator. Peace Officers may carry a personally owned weapon after demonstrating an ability to fire a qualifying score with that weapon.
- 2) All sworn Peace Officers are required to be armed while on duty, including breaks and lunches. Armed is defined as having a duty weapon on your person with your badge and identification. It is highly encouraged that while armed and on duty you have access to handcuffs, at least one spare magazine, high profile vest, and ballistic armor.

(a) Exceptions include, but are not limited to:

- 1) Performance of duty in an undercover capacity.
- 2) Entering facilities, which prohibit firearms, such as detention facilities or mental health wards.
- 3) Physical fitness during lunch hour.
- 4) Community outreach involvement.

b) Authorized Off-Duty Weapons

The carrying of firearms by sworn personnel while off duty is permitted by the Chief Investigator but may be rescinded should circumstances dictate (i.e. administrative leave). Sworn personnel who choose to carry a firearm while off duty will be required to meet the following guidelines:

- 1) The weapons shall be 380 caliber or larger and of good quality and workmanship (i.e. Colt, Smith & Wesson, Browning, Sig-Sauer, etc);
- 2) The purchase of the weapon and ammunition shall be the responsibility of the member;

- 3) The weapon shall be carried out of sight at all times and in such a manner as to prevent accidental cocking, discharge, or loss of physical control;
- 4) It will be the responsibility of the member to submit the weapon to the Rangemaster for inspection prior to being carried off-duty. The Rangemaster shall assure that the member is proficient in handling and firing that weapon and it will be carried in a safe manner. The weapon shall be subject to inspection whenever deemed necessary. The member will successfully qualify with the weapon prior to it being carried and annually thereafter. The range qualification dates will be specified by the Rangemaster;
- 5) A complete description of the weapon(s) shall be contained on the qualification record approved by the Rangemaster;
- 6) If any member desires to own more than one weapon utilized while off duty, he/she may do so, as long as they meet all the requirements set forth in this policy for each weapon used;
- 7) Ammunition should be of good quality and manufactured commercially, and is approved by Rangemaster.

c) Firearms Qualification

- 1) All armed personnel are required to participate in quarterly firearms qualification.

d) Semi-Automatic Rifle

- 1) Department semi-automatic rifle will be issued to investigators that pass a prescribed rifle course and qualify at least once a quarter.
- 2) The only approved Humboldt County District Attorney semi-automatic rifles are those purchased or acquired by the department. Only duty issued ammunition may be loaded in the semi-automatic rifle.
- 3) Only an investigator trained by a certified instructor may be assigned a semi-automatic rifle. This does not prevent familiarization training for any Peace Officer.
- 4) Each investigator assigned a semi-automatic rifle shall have the primary responsibility for it's' security.
- 5) While not being actively used in an operation, all semi-automatic rifles shall be secured in the vehicle in the interior of a completely enclosed, locked, and alarmed department issued vehicle. Otherwise, all rifles shall be maintained in the office in a locked gun safe. No semi-automatic rifle shall be visible when secured.

- 6) When a weapon is taken to an Investigator's residence, the weapon shall remain secured in the vehicle, out of sight, and parked inside a locked garage, if possible.
- 7) Semi-automatic rifles will be unloaded at all times except during training, deployment or operations.
 - (a) Unloaded is defined as having no magazine in the weapon and no round in the chamber.
 - (b) Deployment is defined as the issued weapon locked and stored in the vehicle, at the ready. Magazine will be inserted in the weapon with no round in the chamber. Magazine will be loaded to capacity, minus 2 rounds.
 - (c) During operations, the weapon will be loaded with a round in the chamber.
- 8) The Chief Investigator or his designee will maintain a log for semi-automatic rifles assignment and magazines. No transfers will occur without a log entry.
- 9) The assignment of a semi-automatic rifle to investigators is to remain confidential information and should only be released on a need to know basis.