

POLICY LANGUAGE RECOMMENDATIONS

On Sanctity of Life

The Berkeley Police Department's highest priority is safeguarding the life, dignity, and liberty of all persons. Officers shall demonstrate this principle in their daily interactions with the community they are sworn to protect and serve. The Department is committed to accomplishing this mission with respect and minimal reliance on the use of force by using rapport-building communication, crisis intervention, and de-escalation tactics before resorting to force, whenever feasible.

On Policy Mission and Vision

A. **SAFEGUARDING HUMAN LIFE AND DIGNITY.** The authority to use force is a serious responsibility given to peace officers by the people who expect them to exercise that authority judiciously and with respect for human rights, dignity and life.

B. **ESTABLISH COMMUNICATION.** Communication with non-compliant subjects is often most effective when officers establish rapport, use the proper voice intonation, ask questions and provide advice to defuse conflict and achieve voluntary compliance before resorting to force options.

C. **DE-ESCALATION.** Officers shall, when feasible, employ de-escalation techniques to decrease the likelihood of the need to use force during an incident and to increase the likelihood of voluntary compliance. Officers shall when feasible, attempt to understand and consider the possible reasons why a subject may be noncompliant or resisting arrest. A subject may not be capable of understanding the situation because of a medical condition; mental, physical, or hearing impairment; language barrier; drug interaction; or emotional crisis, and have no criminal intent. Understanding a subject's situation may enable officers to calm the subject and allow officers to use de-escalation techniques while maintaining public and officer safety. Officers who act to de-escalate an incident, which can delay taking a subject into custody, while keeping the public and officers safe, will not be found to have neglected their duty. They will be found to have fulfilled it.

D. **PROPORTIONALITY.** When determining the appropriate level of force, officers shall, when feasible, balance the severity of the offense committed and the level of resistance based on the totality of the circumstances known to or perceived by the officer at the time. It is particularly important that officers apply proportionality and critical decision making when encountering a subject who is armed with a weapon other than a firearm.

E. **CRISIS INTERVENTION.** When feasible, Crisis Intervention Team (CIT) trained officers shall respond to calls for service involving individuals in mental or behavioral health crisis pursuant to the CIT Department General Order.

F. **DUTY TO INTERVENE.** When in a position to do so, officers shall intervene when they know or have reason to know that another officer is about to use, or is using, unnecessary force. Officers shall promptly report any use of unnecessary force and the efforts made to intervene to a supervisor.

G. **FAIR AND UNBIASED POLICING.** Members shall carry out their duties, including the use of force, in a manner that is fair and unbiased pursuant to Department General Orders

H. **VULNERABLE POPULATIONS.** The use of force against vulnerable populations – including children, elderly persons, pregnant women, people with physical and mental disabilities and people with limited English proficiency – can undermine public trust and should be used as a last resort, when all other reasonable means have

On Mission and Vision

On use of force Continuum

1. Direct the department to institute the ICAT training recommendations from the Police Forum in addition to a presentation to City Council on an Use of Force Continuum inclusive of the following six steps: All Instances of Use of Force will be reported to include all action within the incident. Inclusive of any use of force when a person allows him/herself to be searched, escorted, handcuffed, or restrained.
 - a. Officer Presence — No force is used. Considered the best way to resolve a situation. Presence must be non threatening and engaging as needed
 - i. The mere presence of a law enforcement officer works to deter crime or diffuse a situation.
 - ii. Officers' attitudes are professional and nonthreatening.
 - b. Verbalization and De-escalation — Force is not-physical. Usage of Verbal Judo and de-escalation techniques
 - i. Officers issue calm, courteous, nonthreatening commands, such as "Let me see your identification and registration."
 - ii. Officers may increase their volume and shorten commands in an attempt to gain compliance. Short commands might include "Stop," or "Don't move."
 - iii. In instances of an individual under mental health distress , CIT and a Mental Health Crisis Unit shall be utilized.
 - c. Empty-Hand Control — Officers use bodily force to gain control of a situation.
 - i. *Soft technique.* Officers use grabs, holds and joint locks to restrain an individual.

- ii. *Hard technique.* Officers use punches and kicks to restrain an individual are not authorized unless in defense of a member of the public or as a response to an imminent threat to personal safety (open for discussion).
- d. Less-Lethal Methods — Officers use less-lethal technologies to gain control of a situation.
 - i. *Blunt impact.* Officers may use a baton or projectile to immobilize a combative person. (Prohibition on over the head strikes or strikes to vulnerable body organs)
 - ii. *Chemical.* Officers may use chemical sprays (e.g., pepper spray) only under exigent circumstances.
- e. Lethal Force — Officers use lethal weapons to gain control of a situation. Should only be used under exigent circumstances and only if a suspect poses a serious deadly threat to the officer or another individual.

On Use of Force Standard

1. Incorporate Minimal Use of Force Language Standard in addition to the “Necessary Standard” per AB 392
 - a. **Under Definitions - Minimal amount of force necessary** - The lowest level of force within the range of objectively reasonable force that is necessary to effect an arrest or achieve a lawful objective without increasing the risk to others.
 - b. **Under Purpose and Scope-** Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose. Officers must strive to use the minimal amount of force necessary.

On Use of Cathorid restraints or Chokeholds

1. CAROTID CONTROL HOLD The use of the carotid restraint or any other chokeholds is strictly prohibited.
2. (EXCEPTION) OTHER CHOKEHOLDS- The only exception to this prohibition would be under exigent circumstances when deadly force is justified, NECESSARY and reasonable

On Use of Force Investigation, Documentation and Review

Upon receiving notification of a use of force, a supervisor who was not involved in the use of force incident, will determine the level of investigation and documentation. The following categories and parameters will explain levels of force and the respective reporting, investigation, documentation, and review requirements.

Incidents will be categorized as Level 1, Level 2, Level 3, or Level 4.

Level 1: Documentation in a Police Report Only Level 1 Incident Parameters:

(a) Subject allowed him/herself to be searched, escorted, and/or handcuffed. The officer did not use force to overcome resistance, nor did the officer use force in the absence of resistance.

(b) Officer used any of the following, and the circumstances of the application would lead a reasonable officer to conclude that the subject did not experience more than momentary discomfort:

1. Control holds/pressure point application
2. Leverage
3. Grab
4. Bodyweight
5. The officer lowered the subject to a seated position or to the ground while partially or completely supporting the person's bodyweight.

(c) Officer used any of the following:

1. Professional presence and/or verbalization
2. Drawn/deployed firearm, but no suspect contacted or arrested

(d) Subject has no visible injury due to interaction with the officer.

(e) Subject has no complaint of injury or continuing pain.

(f) Subject does not indicate intent to pursue litigation.

(g) Subject was not rendered unconscious due to interaction with the officer.

(h) No allegation of misconduct against the officer, regarding force.

(i) Officer body camera was activated in a timely manner, prior to the enforcement contact, per policy. Level 1 Incidents should be documented by an officer in an appropriate police report, citation, Field Interview, and/or CADS entry. Supervisors will review police report narratives for approval.

Level 2: Use of Force Level 2 Incident Parameters:

(a) No suspect injury or complaint of continuing pain due to interaction with officer.

(b) No allegation of misconduct against officer, regarding force.

(c) Officer body camera was activated in a timely manner, prior to the enforcement contact, per policy.

(d) Officer's use of force was limited to the following:

1. Any takedown, that did not appear to cause more than momentary discomfort.
2. Firearm drawn/deployed but not fired, suspect contacted
3. Control hold, pressure point, leverage, grab, and/or bodyweight, and the application would lead a reasonable officer to conclude that the individual may have experienced

more than momentary discomfort. An uninvolved supervisor will respond to the scene and conduct a Use of Force Investigation, ensuring that statements are taken from the suspect and witnesses, and that photos are taken of the involved parties. If the incident fits the parameters for a Level 2 incident, the supervisor will enter all applicable data into BlueTeam and attach a completed Use of Force Investigation Checklist (**must be generated**) with a brief summary.

Witness statements from fire and medical personnel are not required under the following circumstance: an officer assists medical personnel to restrain and/or secure a subject to a gurney for medical transport in a non-criminal detention, and all of the following conditions are met:

- (a) The officer only used force options limited to the following: grab, hold, leverage, and/ or bodyweight.
- (b) No subject injury or complaint of continuing pain due to interaction with the officer.
- (c) No allegation of misconduct against the officer, regarding force.
- (d) Officer body camera was activated in a timely manner, per policy.
- (e) The unit number for the fire and medical personnel is obtained.

Level 3: Use of Force Level 3 Incident Parameters:

(a) Would have otherwise been classified as a Level 2, except one or more of the following apply:

- 1. Suspect injury or complaint of injury or continuing pain due to interaction with the officer.
- 2. Allegation of misconduct against officer, regarding force.
- 3. Officer body worn camera was not activated in a timely manner, prior to the enforcement contact, per policy.

(b) The use of force is Level 3 if the officer used any of the following force options:

- 1. Any takedown that appears to have caused more than momentary discomfort.
- 2. Chemical Agents/Munitions
- 3. Impact Weapon Strikes
- 4. Personal Body Weapons

An uninvolved supervisor will respond to the scene and conduct a Use of Force Investigation, ensuring that statements are taken from the suspect and witnesses. If the incident fits the parameters for a Level 3 incident, the supervisor will enter all applicable data into BlueTeam and attach a completed Use of Force Investigation Checklist. The supervisor will also complete a Use of Force Investigation Report narrative for review through the Use of Force Review process. Suspect and witness statements from the crime report will be attached to the use of force investigation.

Level 4: Use of Deadly Force Level 4 Incident Parameters:

- (a) Use of firearm, officer involved shooting
- (b) Or any force likely to cause death or serious bodily injury An uninvolved supervisor will respond to the scene. The incident will be investigated, documented, and reviewed in adherence to Policy 300.

EMPLOYEES WHO USE FORCE WHILE ON A SPECIAL ASSIGNMENT When a Berkeley Police employee has a use of force as defined in this policy, the use of force must be reported to a Berkeley Police supervisor and investigated in accordance with this policy. When two or more Berkeley Police officers are temporarily assigned to assist an outside agency or multi-agency task force in the performance of law enforcement activities, a BART police supervisor should also be present.

On Use Of Force Analysis and Reporting

Annually, the Training and Standards Division Captain will generate a report on use of force incidents. The report should be submitted to the Chief of Police, City Council and the Berkeley Police Review Commission.

Monthly, on a monthly basis the department will generate an Use of Force report for review by the Berkeley Police Review Commission

The report should not contain the names of officers, suspects or case numbers, and should include:

- (a) The identification of any trends in the use of force by members.
- (b) Any statistical data and demographics related. to race, gender, age or as requested by the Berkeley Police Review Commission and in line with any and all Impartial Policing reporting standards
- (c) Training needs recommendations.
- (d) Equipment needs recommendations.
- (e) Policy revision recommendations.