

MEMORANDUM**POLICE DEPARTMENT**

DATE: September 26, 2023

TO: Justin Hess, City Manager

FROM: Michael Albanese, Chief of Police
BY: Denis Cremins, Captain – Administrative Services
Courtney Padgett, Police Administrator

SUBJECT: Response to the Office of Independent Review Group Recommendations in the 2022 Annual Report of the Independent Police Monitor

Pursuant to the Independent Police Monitor agreement with the City of Burbank, the Office of Independent Review (OIR) Group conducted an annual review and analysis of Burbank Police Department (Department) operations. Areas reviewed included internal investigations, applications of use of force, vehicle pursuits, and mental health response protocols. OIR's thorough evaluation of the Department is welcomed to ensure that the Department continues to improve and deliver quality professional public safety services to the community. The 2022 annual report provided 23 recommendations; below is the Department's response to each of the OIR Group's recommendations:

Recommendation 1:

BPD should adhere to its 60-day commitment for completing investigations, or to its approval and notification protocols for those cases that require additional time. Page 11

The Department agrees with this recommendation. In addition to producing complaint investigations that are fair, objective, and thorough, the Department has the responsibility to complete investigations in a timely manner. The Department will re-examine its systems relative to the timely submission of complaint investigations. This effort will be augmented by training for managers and supervisors to ensure timeliness. Specific emphasis will be placed on documentation of extensions that have been approved by the Chief of Police. The Department will strive to have 100% compliance concerning timeliness in all future audits of complaint investigations.

Recommendation 2:

BPD should continue to promote strategies for empathy, dispassionate explanations, and de-escalation in situations that may have a racial subtext in the perception of subjects.

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The Department agrees with this recommendation. The Department views this as a critical element in establishing and maintaining community trust. Taking the time to empathize and explain field situations goes a long way in building relationships with individuals who may have experienced adverse or traumatic past encounters with law enforcement. Respect is one of the Department's core values. As such, it will only be stewarded by Department personnel who exhibit transparency and patience. The demonstration of awareness and sensitivity to the perceptions and feelings of others will serve to increase understanding and community cooperation.

Recommendation 3:

BPD should re-evaluate its strategy for imposing consequences for preventable collisions and for incentivizing officers to comply with policies relating to driving safety, including the seat belt requirement. *Page 17*

The Department agrees with this recommendation. This recommendation was addressed during the management team meeting held on July 13, 2023. It will be a recurring topic in subsequent management team meetings, which are held bi-monthly. Training and command emphasis will also be placed on this issue through scheduled supervisor training events and daily roll call briefings.

Recommendation 4:

BPD should clarify policy to reflect that a kick to the head be considered deadly force and not to be used unless the deadly force threat levels are met. *Page 23*

The Department agrees with this recommendation. Deadly force includes any use of force that creates a substantial risk of causing death or serious bodily injury. A kick to the head would fall within this definition of deadly force. The Department Use of Force policy (no. 300) was amended on September 19, 2023, to include kicks to the head as a Type 1 use of force. The revised policy is currently in draft form and is under review by command staff. The draft policy is included at the end of this document (pages 11 through 30) for reference. The amended language clarifies that such kicks shall not be used unless deadly force threat levels are met. Deliberate kicks to the head shall be investigated under Type 1 use of force protocols. Kicks to the head shall be evaluated under the "reasonable force"

standard, which is defined as “force that is objectively reasonable and necessary in light of the facts and circumstances confronting the officer.”

Recommendation 5:

In its force review process, BPD should add a metric requiring express evaluation of the actions of on-scene supervisors to consider whether they performed their supervisory roles consistent with Departmental expectations. Page 25

The Department agrees with this recommendation. The Critical Incident Review Board (CIRB) evaluation form was modified to include the evaluation of the actions of a supervisor at the scene of a use of force. A new field titled “On Scene Supervisor Evaluation” was added to the form and will be completed by the assigned watch commander. This field will be reviewed by the members of the CIRB, which will comment on this specific area and include pertinent comments as part of the overall CIRB findings. The revised CIRB form is included at the end of this document (pages 31 through 32) for reference.

Recommendation 6:

BPD should determine why involved supervisors are completing force reviews in contravention of Department policy. Page 26

The Department agrees with this recommendation. Experience has shown that in most instances, watch commanders have assigned the completion of use of force reviews to involved supervisors due to staffing challenges. Despite the reality of this occasional operational limitation of resources, every effort shall be made to ensure that such conflicts are eliminated or mitigated. Future lapses will be investigated and documented for appropriate action. This concern was addressed at the management team meeting on July 13, 2023.

Recommendation 7:

BPD should ensure that careful attention be placed on the review of any Taser use in drive stun mode to ensure that it meets the limited exceptions set out in policy. Page 28

Recommendation 8:

The Department should evaluate its training related to use of the Taser to ensure that officers use the appropriate mode (probe or close contact) to achieve NMI, and not use drive stun mode except in the limited circumstances dictated by policy. Page 29

The Department agrees with both recommendations. The Department is in the process of evaluating the use of the drive stun mode and its overall effectiveness. The Department has also directed its training component to provide greater focus on appropriate mode usage in future TASER training sessions. This was also a topic of discussion during the July 13, 2023, management team meeting.

Recommendation 9:

BPD should ensure that Taser deployments for purposes of apprehending fleeing subjects are scrutinized to ensure that the totality of circumstances meets the Department's policy threshold for justified force, including examining whether the use was for "mere flight." *Page 30*

Recommendation 10:

BPD should reinforce the necessity set out in policy to provide a warning regarding Taser use to ensure appropriate accountability when officers deviate from expectations in this regard. *Page 31*

The Department agrees with both recommendations. Both recommendations were discussed at the management team meeting held on July 13, 2023. These recommendations will also be emphasized and discussed at roll call briefings and in future TASER training sessions.

Recommendation 11:

BPD should evaluate incidents where the leg restraint device is applied for risk of positional asphyxia and, where a risk is identified, debrief/retrain officers on the application of the device. *Page 33*

Recommendation 12:

BPD should provide refresher training on the reporting requirements for use of the front leg restraint device. *Page 33*

The Department agrees with both recommendations. The Department is keenly aware of the importance of the proper application of leg restraints and the dangers of positional asphyxia. The Department has directed the training coordinator to ensure that Department-wide training will be provided to all sworn personnel concerning the application of a leg restraint and the reporting requirements associated with its application in accordance with Department policy.

Recommendation 13:

BPD should amend policy or issue a training bulletin advising that all officers detail in writing the circumstances surrounding their use(s) of force to include any efforts to de-escalate prior to the use of force; and if no de-escalation techniques were deployed, an explanation for why none were deployed. *Page 34*

Recommendation 14:

BPD should revise its CIRB force review policy to require the Board to expressly consider and document whether de-escalation techniques were deployed prior to moving to force options and if not, whether it would have been appropriate to consider them. *Page 34*

The Department agrees with both recommendations. The Department Use of Force policy (No. 300) was amended to require documentation of de-escalation efforts made prior to a use of force, or an explanation in situations when de-escalation tactics were not deployed. The revised policy is currently in draft form and is under review by command staff. The draft policy is included at the end of this document (pages 11 through 30) for reference.

The use of de-escalation tactics was also discussed at the July 13, 2023, management team meeting. Additionally, the CIRB evaluation form was modified to include a section which addresses whether de-escalation techniques were deployed prior to moving to force options and if not, whether circumstances were appropriate to consider them. The revised CIRB form is included at the end of this document (pages 31-32) for reference.

Recommendation 15:

BPD should develop a review protocol that provides at least some level of reporting and scrutiny when officers engage in "pursuit-like" driving behaviors in circumstances that don't evolve into actual, formally scrutinized vehicle pursuits. Page 41

The Department agrees with this recommendation. The Department made recent policy changes related to pursuit driving. Specifically, the Department provided clear definitions of "Tracking Mode" for officers and the associated expectations regarding its employment. The Department has also developed a reporting log and protocols, similar to the "De Minimis Force" reporting log, for "Tracking Mode / Assessment Period Driving." The new reporting log is included at the end of this document (page 33) for reference.

Training related to this new procedure will be provided by the Patrol Division command and reinforced on a regular basis in roll call briefings and designated training sessions.

Recommendation 16:

BPD should continue to evaluate the latitude that its current policy provides officers for pursuits that enter the freeway and otherwise leave BPD jurisdiction and should consider adding standards that would ensure officer decision-making is aligned with Department preferences for these scenarios. Page 44

The Department is supportive of OIR's recommendations regarding pursuits entering freeways and other jurisdictions. Each of these incidents are dynamic and carry their own individual nuances. Availability of other agencies' resources, response times and distances, communication and information sharing across platforms, and the other agencies' willingness to assume the pursuit often vary

considerably. The concept of quickly “handing off” a pursuit when it enters a freeway or another jurisdiction is generally not achievable.

Current policy (314.3.2) includes consideration of familiarity with the area, quality of radio communications, and availability of resources as part of the “Balance Test” for determining whether to engage in, or continue, a pursuit. The Department will reinforce these standards, with particular regard to pursuits entering freeways and other jurisdictions, in roll call training, supervisor training, and Department pursuit training settings.

Recommendation 17:

BPD should reconsider the practice of regularly transporting compliant subjects of “5150 holds” handcuffed and in the rear of a caged police vehicle. Page 59

The Department is supportive of evaluating existing processes and will conduct a review of the current Mental Illness Commitments policy (No. 418) and Restraint Devices policy (No. 306).

Of the ten cases reviewed by OIR, seven involved violence, threats of violence, and/or weapons. The Department trains officers to provide compassionate care to those experiencing a mental health crisis while preserving their dignity. The transportation of individuals, in any circumstance, by law enforcement can be unpredictable and potentially dangerous due to the evolving uncontrolled environmental and situational factors. Although an individual under an involuntary commitment may be compliant at the onset of transport, the situation could change quickly due to the often dynamic nature of mental health calls.

This same unpredictability of subject behavior can continue after the patient has arrived at a health care facility. The intake process at mental health facilities frequently takes an extended period of time. The Department has investigated several uses of force in which a patient has experienced a combative episode while waiting to be evaluated for admission or while being medically treated. In summary, police officers must provide care for individuals while simultaneously balancing patient, officer, and community safety. This includes all stages of contact with patients including initial custody, during transport and final transfer to a mental health facility.

Recommendation 18:

BPD should consider the possibility of transporting subjects of “5150 holds” via ambulance to the appropriate medical facility for evaluation. Page 59

The Department agrees with this recommendation. In addition to providing transportation in a more comfortable and dignified manner, transportation via

ambulance also reduces the amount of time police officers would otherwise be unavailable for service calls while transporting a patient themselves. Since the implementation of the MHET program in 2012, the Department has explored options through the Los Angeles County Department of Mental Health (DMH) to provide alternate transportation methods for individuals placed on a mental health commitment, to include ambulatory transport. Although there have been instances where an ambulance has been utilized for transportation, the availability of this resource has been mostly unavailable as an option throughout the 11-year history of the program. Additionally, the resource has been reserved for specific circumstances, such as those involving a younger child or an elderly subject and has not been readily available for the vast majority of individuals in need of behavioral health care. When available, response times for County provided ambulance transportation are often lengthy, which is not optimal or possible in many situations when an individual is experiencing a crisis and needs immediate medical assistance.

It is not a viable option to utilize ambulance resources through the Burbank Fire Department. When placing an individual on an involuntary commitment, MHET goes to great lengths to locate the most appropriate health care facility based on a variety of factors, such as the individual's age, military service history, form of insurance, facility available bed space, and proximity to their residence or loved ones. As there is not an LPS¹ designated facility in Burbank, unless there is an immediate physical medical issue that must be treated at the local emergency room, individuals placed on a mental health commitment must be transported out of the City limits to an LPS health care facility. In addition to the travel time out of and back to the City, there is also often significant wait and processing times at health care facilities for an individual's intake and admission. It is impractical for the Fire Department, with already strained resources, to allocate emergency response vehicles and personnel out of the City and therefore otherwise out of service for these extended periods of time.

The Department will evaluate options for the utilization of private ambulance services for mental health commitment transports. This type of service may be available as an on-call transportation method, most likely at a significant cost to the City per transport. The Department will include in its research the feasibility for any potentially incurred costs to the City to be offset through an individual's private insurance when available. It is important to note that an on-call service will likely not be exclusively available to Burbank, and therefore there may be situations

¹ Lanterman-Petris-Short (LPS) Act provides the statutory framework for the commitment of individuals experiencing mental health disorders and provides protection for the legal rights of such individuals.

where immediate availability is an issue resulting in a delayed response and access to medical care for individuals in need.

The Department recently acquired a designated vehicle for MHET to support the transport of individuals experiencing a mental health crisis. The vehicle is currently being outfitted with a specialized passenger compartment consisting of a secure, clear design within the rear passenger seat. This type of compartment model provides a more suitable environment for mental health interventions than use of a traditional patrol vehicle. As a long-term strategy, the Department is continuing to solicit assistance from Los Angeles County for properly equipped vehicles to transport individuals to mental health facilities.

Recommendation 19:

Even when the decision is made to transport a “5150” subject in a radio car, officers should carefully consider the necessity of handcuffing detainees during transport or at the hospital. Page 59

This recommendation is similar to Recommendation 18. In addition to the response to Recommendation 18, the Department has procured an unmarked with a specialized transportation compartment to transport individuals placed on an involuntary commitment in a more appropriate manner. The Department has examined numerous options and barrier solutions to avoid handcuffing individuals being transported under a 5150 Welfare and Institutions Code (WIC) commitment. To date, none of these proposals offer the same degree of protection to subjects and officers as utilizing handcuffs during transport.

Individuals under a 5150 WIC commitment are in crisis, and they can potentially pose a threat to themselves or others. Their safety and well-being are paramount concerns to the transporting officers. As a matter of routine, the Department notifies the concerned mental health facility that officers are enroute so that the individual can be placed in a wheelchair upon arrival. It is worth noting that of all the 5150 WIC subjects having been transported by Department personnel, there was only one individual who voiced a complaint about being handcuffed. The Department will continue to use handcuffing as a means to ensure safe transportation and intake at the appropriate facility and will continue to evaluate industry standards and alternate methods to ensure the safety of all involved parties.

Recommendation 20:

BPD should consider creating a protocol to release officers from a call when their service is no longer required, especially when the MHET responds to take over the time-consuming administrative components of these calls. Page 60

The Department agrees with this recommendation. Whenever practicable, MHET will assume responsibility over an investigation involving a mental health crisis and/or involuntary commitment. MHET will release patrol officers when those officers are no longer needed. The Department is currently in the recruitment process to staff a second MHET officer position. Additionally, the Department anticipates adding a second licensed clinician to MHET. Increased MHET staffing will reduce the need for patrol resources and expedite the completion of administrative components related to mental health investigations. The addition of a second MHET officer and clinician will also allow for the expansion of MHET availability and coverage to additional hours per day and days per week.

In addition to the anticipated expansion of MHET, the importance of uniformed field supervisors diligently managing patrol resources will be emphasized with the Patrol Division managers, especially in relation to mental health situations that no longer require the presence of patrol personnel.

Recommendation 21:

BPD should provide refresher training on the advisements required when placing a subject on a 5150 hold, especially for patrol officers, so that subjects know what is happening and where they are being taken. Page 61

The Department agrees with this recommendation. MHET personnel will provide refresher training to patrol managers, supervisors, and officers concerning the Department's Mental Health Commitments policy (No. 418), with specific attention to "Advisements" (No. 418.3.4) to ensure compliance with Department policy and state law. Furthermore, training will include a reminder that advisements shall be captured on the officer's body worn camera.

Recommendation 22:

BPD should clarify the policy regarding advisements to more clearly define when in the incident the advisements should occur (e.g., if practicable, before applying handcuffs). Page 61

The Department agrees with this recommendation. It is the Department's position that this advisement should be made as soon as practicable, and before transport. Whether or not the advisement is made prior to a subject being handcuffed will be based on each unique situation, while taking into consideration the safety of the involved person, community members, and police officers. The Department will review the Mental Health Commitments policy (No. 418) and consider adding language to clarify when advisements should occur. This issue was discussed at the management team meeting held on July 13, 2023.

Recommendation 23:

BPD should create a table of contents and/or index to its on-line policy manual. Page 63

The Department agrees with this recommendation. Despite agreement with the recommendation, the Department believes that it has already implemented a more effective and efficient system than a standard table of contents or index. The Department's policy manual, as posted on its website, contains a word search capability. This is a convenience not found in a standard table of contents.

An individual wishing to look up a particular topic needs only to type in a word or phrase in the search box. The online policy manual will immediately display every occurrence of that word or phrase that appears throughout the entire manual. The Department has taken the position that this feature is quicker and more efficient than a standard table of contents that must be viewed in a serial fashion to locate the desired topic. The Department believes that the "word search" feature is quicker and a more "user friendly" system, thus making it a better overall tool for anyone seeking information.



Burbank Police Department

Michael Albanese, Chief of Police

**Policy
300**

Approved
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Effective Date: February 12, 2014

CHAPTER 3 – GENERAL OPERATIONS

Use of Force

300.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that any force used by members of the Burbank Police Department is reasonable force and is used in a professional and impartial manner, in accordance with the rights secured or protected by the Constitution and laws of the United States and that any unreasonable force is identified and addressed appropriately (Government Code § 7286).

In addition to those methods, techniques, and tools set forth below, the guidelines for the reasonable application of force contained in this policy shall apply to all policies addressing the potential use of force, including but not limited to the Control Devices – Impact Weapons and Oleoresin Capsicum (Policy 308) and Conducted Electrical Weapon (Policy 309) policies.

Retaliation prohibitions for reporting suspected violations are addressed in the Anti-Retaliation Policy.

300.1.1 PHILOSOPHY

The use of force by law enforcement personnel is a matter of critical concern both to the public and to the law enforcement community. Officers are involved in numerous and varied human encounters on a daily basis and when warranted, officers may use force to carry out their lawful duties. Officers must have a clear understanding of their legal authority and its limitations.

The Department recognizes and respects the value of all human life and dignity without prejudice. It is also understood that vesting officers with the authority to use reasonable force and protect the public welfare requires a careful balancing of human interests. Officers may only use the 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 (Government Code § 7286(b)).

300.1.2 GENERAL PRINCIPLES

Officers shall evaluate each situation requiring the use of force in light of the circumstances known to the officers. In determining the necessity for force and the appropriate level of force, the evaluation must include the severity of the crime at issue, whether the suspect poses an imminent threat to the safety of the officer or others, and whether the suspect is actively resisting. Officers maintain the right to self-defense and have a duty to protect the lives of others.

The following general principles are to assist officers in reaching appropriate decisions:

- (a) When appropriate and as safety permits, officers should use de-escalation techniques in order to reduce the need for force and should de-escalate the use of force as resistance decreases, while staying in control.
- (b) The number of officers on scene may increase the available force options, may reduce the overall force used, or may eliminate the need to use force. Officers should be trained that a kick to the head or a hard strike to the head with any impact weapon, including a baton, could result in death, and any strikes to the head should be consistent with policy and training.
- (c) Officers should not use force against handcuffed or otherwise restrained subjects unless reasonable under the circumstances to stop an assault, escape, or as reasonable to fulfill other legitimate law enforcement objectives (such as transporting a suspect to the Jail for booking).
- (d) Officers should not use force against individuals who only verbally confront them and do not impede a legitimate law enforcement function.

300.1.3 DEFINITIONS

Definitions related to this policy include:

BlueTeam – A web-based application that allows supervisors to enter Critical Incident Reports (CIR) into the IA Pro Case Management System.

CEW – Conductive Electrical Weapon (i.e., TASER).

De Minimis Force – Physical interaction meant to separate, guide, and/or control that does not cause injury, but may cause temporary transient pain (e.g., wristlock). These very brief and inconsequential encounters require notification to a supervisor, documentation in police reports and on the Watch Commander Log. They do not require *BlueTeam* entries.

Force – The application of physical force, control techniques or tactics, chemical agents or weapons to overcome the force or resistance of another person. It is not a use of force when a person allows himself or herself to be searched, escorted, handcuffed, or restrained.

Serious Bodily Injury – Serious impairment of physical condition, including, but not limited to, the following: loss of consciousness; concussion; bone fracture; protracted loss of impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement (Penal Code § 243(f)(4)).

Hospitalization – Admitted to a hospital for treatment beyond that provided in an emergency room (see Medical Treatment below).

Injury – Bodily harm resulting in visible injury or complaint of pain.

Less Lethal Force – A level of force such that the outcome is not expected or intended to cause death or Serious Bodily Injury (see the Restraint Devices, Control Devices, and Conducted Energy Device Policies for authorized less lethal devices).

Deadly Force – Any use of force that creates a substantial risk of causing death or serious bodily injury, including but not limited to the discharge of a firearm (Penal Code § 835a(e)(1)).

Medical Treatment (MT) – Any on-scene or emergency room treatment or evaluation of an injury by professional medical staff or medical condition that does not require hospitalization (see above). Includes “Okay to Book” evaluations.

Pain Compliance – The use of painful, manual stimulus to control a resistive person. The use of pain compliance techniques should not result in bodily harm beyond temporary transient pain or redness.

Reasonable Force – Force that is objectively reasonable and necessary in light of the facts and circumstances confronting the officer without regard to the officer’s underlying intent or motivation. Such force that complies with the Fourth Amendment’s requirement of objective reasonableness under *Graham v. Connor*, 490 U.S. 386 (1989). “Reasonableness” of the force used must be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any interpretation of reasonableness must allow for the fact that police officers are often forced to make split-second decisions in circumstances that are tense, uncertain and rapidly evolving when determining the amount of force that is necessary in a particular situation.

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 (Government Code § 7286(a)).

Totality of the circumstances – All facts known to the officer at the time, including the conduct of the officer and the subject leading up to the use of force (Penal Code § 835a).

Reportable Use of Force – Any force used to overcome active resistance that is greater than mere physical interaction or De Minimis Force between an officer and a member of the public.

Supervisor – A sworn Burbank Police Department employee at the rank of sergeant or above.

Subject or Suspect – Any person who has been subjected to force.

Type 1 Use of Force – Classified as a use of force that has the likelihood of causing significant injuries to a subject including: any use of “Deadly Force;” any use of force that results in or could reasonably be expected to result in “Serious Bodily Injury” (see § 300.7.2 – Supervisor’s Responsibilities). Examples of Type 1 force include:

(a) Any use of a firearm.

~~(a)~~(b) Kicks to the head.

~~(b)~~(c) Strikes to the head, neck or throat (if the force results in or is reasonably expected to result in Serious Bodily Injury).

~~(e)~~(d) _____ Force resulting in broken bones.

~~(d)~~(e) _____ Force resulting in loss of consciousness.

~~(e)~~(f) _____ Force resulting in hospitalization.

Type 2 Use of Force – Classified as a use of force that does not rise to the level of a Type 1 use of force, but results in a complaint of an injury, causes an injury, or could reasonably be expected to cause an injury. Examples of Type 2 force include:

- (a) Use of a CEW device.
- (b) Use of an impact weapon (e.g., baton and flashlight).
- (c) Deployment of Canine that results in injury or complaint of injury (with no hospitalization).

Type 3 Use of Force – Classified as a use of force that does not rise to the level of a Type 1 or Type 2 use of force, but results in a complaint of an injury, causes an injury, or could reasonably be expected to cause an injury. Examples of Type 3 force include:

- (a) Strike using hands.
- (b) Kick.
- (c) Take down.
- (d) Deployment of OC (Oleoresin Capsicum) (Spray, Aerosol, Pepper Projectiles).
- (e) Use of weaponless pain compliance techniques with sufficient force to cause an injury.
- (f) Exercising more than De Minimis force when placing a subject in a restraint (e.g., using handcuffs and/or front leg restraints).

Note: The force used to apply any restraints shall be the deciding factor, not the application of the restraint itself. Application of restraints is not in itself a reportable use of force, but shall be documented in the officer's report.

300.2 POLICY

It is the policy of this Department that officers shall use only that amount of force that reasonably appears necessary, given the facts and totality of the circumstances known to or perceived by the officer at the time of the event, to accomplish a legitimate law enforcement purpose (Penal Code § 835a). No policy can predict every situation an officer may encounter. The Department recognizes that each 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 an officer to sustain physical injury before applying reasonable force.

While officers are trained and authorized to utilize a wide variety of force options, each officer is expected to comply with this policy and use only that degree of force that is objectively reasonable under the circumstances to successfully accomplish the law enforcement mission.

Penal Code § 830.1 gives peace officers legal authority to carry and use weapons in the performance of their duties. Before being authorized to carry lethal and less lethal weapons, officers shall receive copies of and be instructed on the following policies:

- (a) Use of Force
- (b) Control Devices
- (c) Conducted Electrical Weapon (CEW)

Nothing in this policy is intended to supersede any provisions of the *Peace Officers' Bill of Rights*.

300.2.1 DUTY TO INTERCEDE

Any member of this department who is present and observing another law enforcement officer, an employee, or public safety associate using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the totality of the circumstances, **shall**, when in a position to do so, intercede (as defined by Government Code § 7286 / CA AB 26) to stop and/or prevent the use of unreasonable force.

When observing force used by a law enforcement officer, each officer should take into account the totality of the circumstances and the possibility that other law enforcement officers may have additional information regarding the threat posed by the subject (Government Code § 7286(b)).

300.2.2 DUTY TO REPORT EXCESSIVE FORCE

Any officer who observes a law enforcement officer or an employee use force that potentially exceeds what the officer reasonably believes to be necessary, shall immediately report these observations to a supervisor (Government Code § 7286(b)).

As used in this subsection, "immediately" means as soon as it is safe and feasible to do so.

300.2.2.1 FAILURE TO INTERCEDE

An officer who has received the required training on the duty to intercede and then fails to act to intercede when required by law, may be disciplined in the same manner as the officer who used force beyond that which is necessary (Government Code § 7286(b) / CA AB 26).

300.2.3 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit (Government Code § 7286(b)).

These factors include, but are not limited to:

- (a) The apparent immediacy and severity of the threat to officers or others (Penal Code § 835a).
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time (Penal Code § 835a).
- (c) Officer or subject factors (age, size, relative strength, skill level, injury/exhaustion, and number of officers vs. subjects and associates).
- (d) The conduct of the involved officer leading up to the use of force (Penal Code § 835a).
- (e) The effects of suspected drugs or alcohol.

- (f) The individual's apparent mental state or capacity (Penal Code § 835a).
- (g) The individual's apparent ability to understand and comply with officer commands (Penal Code § 835a).
- (h) Environmental factors, including obstacles, terrain, lighting, weather, etc.
- (i) Mental state of the subject and associates (drugs/alcohol, other mental impairments).
- (j) Proximity of weapons or dangerous improvised devices.
- (k) Time and circumstances permitting, the availability of other reasonable and feasible options and their possible effectiveness (Penal Code § 835a).
- (l) Seriousness of the suspected offense or reason for contact with the individual prior to and at the time force is used.
- (m) Training and experience of the officer.
- (n) Potential for injury to officers, suspects, bystanders, and others.
- (o) Risk of escape.
- (p) Whether the person appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.
- (q) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officers or others.
- (r) Other potentially relevant circumstances (e.g., known criminal history of the individual).

This policy recognizes that the time available for an officer to evaluate and respond to changing circumstances may impact his or her decision.

300.3 USE OF FORCE TO AFFECT AN ARREST OR MENTAL HEALTH DETENTION

Any peace 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, to prevent escape, or to overcome resistance. A peace officer who makes or attempts to make an arrest may, but is not required to, retreat or desist from his or her efforts by reason of resistance or threatened resistance on the part of the person being arrested; nor shall an officer be deemed the aggressor or lose his/her right to self-defense by the use of objectively reasonable force to safely effect the arrest, prevent escape, or to overcome resistance. It should be noted that the term "retreat" does not mean tactical repositioning or other de-escalation techniques (Penal Code § 835a).

Officers also have the right and public safety obligation to detain any person who is mentally impaired and is a danger to themselves or others or who may be violent. Officers may use objectively reasonable force necessary to detain a mentally impaired person.

300.3.1 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a passively or actively resisting individual. Officers may only apply those pain compliance techniques for which the officer has received Department approved training and only when the officer reasonably believes that the use of such a technique appears reasonable to further a legitimate law enforcement purpose.

Officers utilizing any pain compliance technique should consider the totality of the circumstances, including but not limited to:

- (a) The potential for injury to the officers or others if the technique is not used.
- (b) The potential risk of serious injury to the individual being controlled.
- (c) The degree to which the application of the pain compliance technique may be controlled given the level of resistance.
- (d) The seriousness of the offense.
- (e) The level of resistance of the involved individuals.
- (f) The need for prompt resolution of the situation.
- (g) The availability of other reasonable alternatives if time permits (e.g., passive/resistive demonstrators).
- (h) Whether the person has been given sufficient opportunity to comply.
- (i) Whether the person can comply with the direction or orders of the officer.

The application of any pain compliance technique should be discontinued once the officer determines that compliance has been achieved. Officers may continue the use of control holds when reasonable to do so. Pain compliance shall not be used as punishment.

300.3.2 RESTRICTIONS ON THE USE OF CAROTID CONTROL HOLD AND A CHOKE HOLD

Officers of this department are not authorized to use a carotid restraint hold. A carotid restraint means a vascular neck restraint or any similar restraint, hold, or other defensive tactic in which pressure is applied to the sides of a person's neck that involves a substantial risk of restricting blood flow and may render the person unconscious in order to subdue or control the person (Government Code § 7286.5).

Officers of this department are not authorized to use a choke hold. A choke hold means any defensive tactic or force option in which direct pressure is applied to a person's trachea or windpipe (Government Code § 7286.5).

300.3.2.1 ADDITIONAL RESTRICTIONS

Terms such as "positional asphyxia", "restrained asphyxia", and "excited delirium" continue to remain the subject of debate among experts and medical professionals, are not universally recognized medical conditions, and frequently involve other collateral or controlling factors such as narcotics or alcohol influence, or pre-existing medical conditions. While it is impractical to restrict an officer's use of reasonable control methods when attempting to restrain a combative individual, officers are not authorized to use any restraint or transportation method which might unreasonably impair an individual's breathing or respiratory capacity for a period beyond the point when the individual has been adequately and safely controlled. Once controlled, the individual should be placed into a recovery position e.g., supine or seated) and monitored for signs of medical distress (Government Code § 7286.5 / CA AB 490).

300.3.3 USE OF FORCE TO SEIZE EVIDENCE

In general, officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence (e.g., blood draw). However, officers are prohibited from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, officers shall not intentionally use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted.

300.3.4 FAIR AND UNBIASED USE OF FORCE

Officers are expected to carry out their duties, including the use of force, in a manner that is fair and unbiased (Government Code § 7286(b)).

300.3.5 ALTERNATIVE TACTICS – DE-ESCALATION

As time and circumstances reasonably permit, and when community and officer safety would not be compromised, officers should consider actions that may increase officer safety and may decrease the need for using force. These actions may include the following:

- (a) Summoning additional resources that are able to respond in a reasonably timely manner.
- (b) Formulating a plan with responding officers before entering an unstable situation that does not reasonably appear to require immediate intervention.
- (c) Employing other Department approved tactics, such as the utilization of a Crisis Negotiator Team or Mental Health Evaluation Team member.

In addition, when reasonable, officers should evaluate the totality of the circumstances presented at the time in each situation and, when feasible, consider and utilize reasonably available alternative tactics and techniques that may persuade an individual to voluntarily comply or may mitigate the need to use a higher level of force to resolve the situation before applying force (Government Code § 7286(b)). Such alternatives may include but are not limited to:

- (a) Attempts to de-escalate a situation.
- (b) If reasonably available, the use of crisis intervention techniques by properly trained personnel.
- (c) Document any efforts to de-escalate prior to the use of force; and if no de-escalation techniques were deployed, an explanation for why none were deployed.

300.3.6 DISPLAYING FIREARMS

Given that individuals might perceive the display of a firearm as a potential application of force, officers should carefully evaluate each tactical situation and use sound discretion when drawing a firearm in public by considering the following guidelines (Government Code § 7286(b)):

- (a) If the officer does not initially perceive a threat but reasonably believes that the potential for such threat exists, firearms should generally be kept in the low-ready or other position not directed toward an individual.

- (b) If the officer reasonably believes that a threat exists based on the totality of the circumstances presented at the time (e.g., high-risk stop, tactical entry, armed encounter), firearms may be directed toward such threat until the officer no longer perceives such threat.

Once it is reasonably safe to do so, officers should carefully secure all firearms.

Except as outlined in 300.6, pointing a firearm at any individual shall be reported to a supervisor. The supervisor shall document the incident on the *Taser/Firearm Display Log* and should be documented on the *Watch Commander Log*. It should be noted that the simple removal of a firearm from its holster or from a police vehicle does not need to be reported, unless the weapon is pointed at an individual.

300.4 DEADLY FORCE APPLICATIONS

Officers may use deadly force in self-defense or in the defense of others only when the officer has an objectively reasonable belief that death or serious bodily injury is about to be inflicted upon themselves or others. If an objectively reasonable officer would consider it safe and feasible to do so under the totality of the circumstances, officers shall evaluate and use other reasonably available resources and techniques when determining whether to use deadly force. While the use of a firearm is considered deadly force, other force options may also be considered deadly force if the officer reasonably anticipates that the force applied will create a substantial likelihood of death or serious injury. Use of deadly force is justified when the officer reasonably believes it is necessary only in the following circumstances (Penal Code § 835a):

- (a) An officer may use deadly force to protect himself/herself or others from what he/she reasonably believes is an imminent threat of death or serious bodily injury to the officer or another person.
- (b) An officer may use deadly force 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. The risk of serious bodily injury or death to another person must not be speculative; that is, the mere fact that a suspect is fleeing in a neighborhood or near a school is not by itself sufficient to constitute an imminent risk.

Where feasible, the 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 (Penal Code § 835a).

Officers shall not use deadly force against a person based on the danger that person poses to himself/herself, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer or to another person (Penal Code § 835a).

An "imminent" threat of death or serious bodily injury exists 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 officer or another person. An officer's subjective fear of future harm alone is insufficient as an imminent threat. An imminent threat is one that from appearances is reasonably believed to require instant attention (Penal Code § 835a).

To the extent that is reasonably practical, officers should consider their surroundings and any potential risks to bystanders prior to discharging a firearm (Government Code § 7286(b)).

While this policy endeavors to cover most circumstances in which deadly force may be authorized, police work is inherently unpredictable; consequently, there are circumstances where it may be necessary for an officer to utilize improvised techniques, tools, or objects in order to prevent death or serious bodily injury. Any use of force shall be evaluated based on its objective reasonableness under the circumstances under *Graham v. Connor* 490 U.S. 386 (1989).

300.4.1 SHOOTING AT OR FROM MOVING VEHICLES

Generally, shooting at moving vehicles is prohibited. Any officer threatened by an oncoming vehicle shall not be presumptively justified to use deadly force. When feasible, officers shall first attempt to move out of the path of a moving vehicle before discharging their weapon. When practicable, officers should not position themselves or remain in the path of a moving motor vehicle. Additionally, they should not tactically position themselves directly in front of or behind a driver-occupied, stationary motor vehicle.

Officers shall not discharge a firearm at a motor vehicle or its occupants in response to a threat posed solely by the vehicle unless the officer reasonably believes the moving vehicle is an imminent threat, that deadly force is justified by § 300.4 and the officer has no reasonable alternative course of action to prevent death or serious bodily injury (Government Code § 7286(b)).

In the extraordinary instance that an officer feels compelled to fire at a motor vehicle or its occupants, the conduct of all involved personnel shall be evaluated in accordance with sound tactical principles and critical decision-making.

300.5 MEDICAL EVALUATION AND CARE

Employees must evaluate all subjects for injuries as soon as practicable after any use of force action or any law enforcement action in which injuries are sustained to a subject. Once it is reasonably safe to do so, properly trained officers should promptly provide or procure medical assistance for any person injured or claiming to have been injured in a use of force incident (Government Code § 7286(b)). Additionally, depending on the level of injury, officers shall either immediately request for paramedics to respond to the scene or the subject shall be promptly transported to a medical facility for examination or treatment by qualified medical personnel whenever the subject:

- (a) Strikes his or her head on a hard object or sustains a kick or blow to the head or face because of the application of force by an officer, regardless of how minor any injury to the head or face may appear. The officer transporting the subject shall inform appropriate medical personnel that the subject was struck on the head or face, or struck his head or face.
- (b) The subject becomes unconscious (an unresponsive state) at any point during the contact.
- (c) Is struck by a specialized weapon projectile (40mm projectile, TASER dart, etc.).
- (d) Has a visible injury or injury that appears to require medical treatment.
- (e) Alleges any injury or requests medical treatment, whether or not he or she has any apparent injuries.

- (f) Alleges that force was used against him or her, whether or not he or she has any apparent injuries.

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics, unusually high tolerance to pain or who engage in a protracted physical encounter with multiple officers may be at an increased risk of sudden death and should not be positioned face down on the ground any longer than is reasonably necessary to apply restraint devices. As soon as practicable after the application of the restraint devices, the subject shall be re-positioned from prone to a seated position. The subject should be examined by qualified medical personnel as soon as practicable. Depending on the circumstances, officers should either request for paramedics to respond to the scene or the subject should be transported to a hospital. Any individual exhibiting signs of distress after such an encounter shall be medically cleared prior to booking.

See the Medical Aid and Response Policy for additional guidelines.

300.5.1 REFUSAL OF MEDICAL CARE

If the person subjected to force refuses medical treatment in any of the cases previously described, he or she shall be transported to a medical facility and required to personally inform the medical staff of his or her refusal to receive medical treatment. The transporting officer shall make an effort to have the medical staff indicate the subject's refusal on a medical admissions report. The officer shall include in the appropriate report or memorandum the name of the medical personnel to whom the suspect indicated his or her refusal and the name of the medical staff member authorizing booking at the Jail. If the medical staff indicates that the subject should be treated despite his or her refusal, arrangements shall be made to transport the suspect to the County-USC Medical Center Jail Ward.

Any doubt regarding the need for medical treatment shall be resolved by transporting the suspect to an appropriate medical facility.

300.5.2 TRANSPORTATION OF SUSPECTS

Whenever practicable, the subject upon whom force was used should be transported by officers other than those who used the force. In the event no other officers are available to transport the subject to a medical facility or the jail, the transporting officers shall notify a supervisor and document the reasons in the crime report.

300.6 NOTIFICATION AND REPORTING REQUIREMENTS

It is the policy of this Department to conduct an administrative inquiry on every use of force or alleged use of force by an officer. Generally, a sergeant will be responsible for conducting the inquiry and completing the Use of Force Report under the direction of a lieutenant. The purpose of the inquiry is to evaluate the circumstances confronted by the officers and the reasonableness of the force or level of force used. Policy, training, tactics, and equipment issues shall be considered in the evaluation and included in the Use of Force Report. This administrative inquiry shall be independent of any criminal investigation conducted by the Investigation Division.

Additionally, (1) pointing a firearm at a person during an in-progress or tactical field incident where the circumstances surrounding the incident create a reasonable belief that the use of the firearm may be necessary, or (2) unholstering or displaying a firearm without intentionally pointing it at a

person is not a reportable use of force. Nonetheless, pointing a firearm at a person in non-tactical situations shall be reported to a supervisor and documented by the officer in a crime report or supplemental report or by the supervisor in the Watch Commander's Log when a crime was not committed. An example of a situation requiring the reporting of the pointing of a firearm is if the firearm is pointed at a motorist stopped for a traffic violation (not a felony stop) and the motorist is cited or advised and released.

Any use of force by any employee shall be considered reportable use of force and shall be reported immediately to a supervisor (Penal Code § 832.13 / CA SB 16), documented promptly, completely, and accurately in a crime or supplemental report.

Absent a tactical/investigative necessity or medical emergency, officers shall immediately report their involvement or observations to a supervisor without delay prior to clearing the scene involving a use of force. Officers that are required to leave the scene prior to the arrival of a supervisor shall report their involvement or observations involving a use of force to a supervisor as soon as practical and before the end of watch.

As used in this subsection, "immediately" means as soon as it is safe and feasible to do so.

300.7 TYPE 1, 2,3 AND DE MINIMIS USE OF FORCE REPORTING REQUIREMENTS

For Type 1, 2, and 3 Use of Force incidents, all involved officers shall document their actions and observations in a crime or supplemental report. The documentation shall include:

- (a) The reason for the initial police presence.
- (b) A detailed description of the incident circumstances, including the words, actions, and/or threat posed by the subject and the factors described in § 300.2.2 to determine the reasonableness of the force.
- (b)(c) A detailed description of any efforts to de-escalate prior to the use of force; and if no de-escalation techniques were deployed, an explanation for why none were deployed.
- (e)(d) A detailed description of the force used by the officer completing the report.
- (e)(e) A detailed description of the force used by other officers, if clearly observed.
- (e)(f) A detailed description of force witnessed by each officer on scene.
- (f)(g) A detailed description of any apparent injury to the suspect, any complaint of injury, or the lack of injury, including information regarding any medical aid or medical evaluation provided.
- (g)(h) Ensure body worn camera (BWC) footage, in-car camera (ICC) footage, digital photographs, and audio files are uploaded into the appropriate digital file management system (Evidence.com, Foray, and Puma).

When De Minimis force is used, officers shall notify a supervisor and one of the involved officers shall accurately document the De Minimis force in a police report. Supervisors are responsible to carefully evaluate the De Minimis force to ensure the incident fits within its definition or to otherwise initiate a use of force investigation.

Supervisors shall note De Minimis force incidents on the Watch Commander Log.

300.7.1 INTERNAL AFFAIRS BUREAU INVESTIGATION OF TYPE 1 USE OF FORCE INCIDENTS

The Internal Affairs Bureau (IAB) should investigate all Type 1 Use of Force incidents, force incidents that may potentially involve misconduct or criminal conduct on the part of any involved officer, or those force investigations referred to IAB by a Division Commander, Deputy Chief, or the Chief of Police. As soon as practicable, the IAB Lieutenant shall notify the Deputy Chief of any force incident that may potentially involve misconduct or criminal conduct by involved officers.

The IAB Lieutenant will determine who will administratively interview the suspect regarding the use of force and when, with the concurrence of the Investigation Division Commander. Generally, criminal investigations will take precedence over the internal investigation unless otherwise determined by the Chief or his or her designee.

300.7.2 SUPERVISOR'S RESPONSIBILITIES INVOLVING TYPE 1 USE OF FORCE INCIDENTS

Upon notification of a Type 1 Use of Force incidents, a supervisor shall respond to the scene and initiate an on-scene investigation of the incident (per § 300.7.3) (Government Code § 7286(b)). As soon as practicable, the supervisor shall determine if the use of force should be classified as a Type 1 incident and make the appropriate notifications as soon as possible. If the supervisor is unable to make that determination, the supervisor will consult with his or her direct supervisor to assist in the determination.

Until relieved by IAB, the on-scene supervisor shall request additional resources from the Watch Commander (as necessary) to ensure evidence is preserved and any and all civilian witnesses are contacted and their statements are obtained.

The supervisor shall be responsible for entering the incident into *BlueTeam* (refer to the *BlueTeam Reports Policy - 303*) and uploading any BWC footage, ICC footage, digital photos, and audio files recorded by the supervisor into the appropriate digital file management system (Evidence.com, Foray, and Puma).

300.7.3 SUPERVISOR'S INVESTIGATION OF TYPE 2 AND TYPE 3 USE OF FORCE INCIDENTS

Upon notification of a Type 2 and Type 3 Use of Force incident, a supervisor shall respond to the scene and thoroughly investigate all Type 2 and 3 incidents (Government Code § 7286(b)). Whenever possible, a supervisor who participated in or ordered the force should not conduct the force inquiry. In the event an involved supervisor is required to conduct the force inquiry, the reasons shall be documented in the Use of Force Report. When investigating a Type 2 or Type 3 incident, the handling supervisor shall, whenever possible:

- (a) Respond to the scene, examine the subject of the force for injury, interview the subject for any complaint of injury and where necessary, summon medical aid.
- (b) Ensure that any other injured parties are examined and treated.
- (c) Interview the subject of the force and the involved officers.
- (d) Locate and interview all potential witnesses, including Department personnel. Audio/Video record all civilian witness statements including those who claim to have seen nothing. If significant canvassing is required, the Watch Commander should be contacted for additional supervisory personnel, including IAB staff.

- (e) When possible, assess the subject's injuries and determine whether they are consistent with the force reported by the officers.
- (f) Interview the treating physician or other qualified medical personnel to determine the extent of injuries and if they are consistent with the degree of force reported.
- (g) Ensure collection of evidence sufficient to establish material facts related to the use of force, including physical evidence, audio and video recordings, photographs, and other documentation of injuries or the absence of injuries.
- (h) Canvass the area for privately owned video that may have captured the contact and attempt to obtain copies voluntarily. If owner refuses, document the location and owner of the video. If no privately owned video is discovered, document that none was found.
- (i) Ensure the subject is photographed for identification purposes and to document any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.
- (j) Consider all relevant evidence to make credibility determinations and resolve material inconsistencies in statements, if feasible.
- (k) If the information indicates possible misconduct, the supervisor shall consult with the Watch Commander or supervising lieutenant and shall notify IAB.
- (l) Unless directed otherwise by IAB, require each officer at the scene to complete a crime or supplemental report. Each officer will describe what he or she did and saw with specificity, identifying all other officers involved in the incident when possible.

300.7.4 SUPERVISOR'S FORCE INVESTIGATION REPORT FOR TYPE 2 AND TYPE 3 USES OF FORCE

For Type 2 incidents, the supervisor shall document the incident as follows:

- (a) Enter the incident into *BlueTeam* per the *BlueTeam Reports Policy*.
- (b) Upload associated BWC, ICC, digital photos, and audio files in the appropriate digital file management system (Evidence.com, Foray and Puma). Other electronic files may be attached to the *BlueTeam* report.
- (c) Complete a Supervisor's Use of Force Report (memorandum to the Division Commander) and forward to supervisor's lieutenant within 14 calendar days of learning of the use of force, unless an extension is approved by the supervisor's Division Commander. The report shall include the following:
 1. The supervisor's narrative description of the incident, summarizing the force used by the officers, injuries sustained by the subject and the officers, and the sequence of events. The summary should provide the reviewer a complete understanding of the incident, including, when each officer used force, why the force was necessary at each point in time, and how each injury, if any, occurred. The summaries of the statements should be brief and highlight only the relevant facts. A transcription of recorded civilian witness statements or duplication of officer report narratives should be avoided. Additionally, it will document the supervisor's actions in reviewing or screening the incident.
 2. In situations in which there are no known witnesses, the report will specifically state this fact. In situations in which witnesses were present but the supervisor

did not determine the identification, phone number, or address of those witnesses, the report will state the reasons why.

3. The charges filed against the suspect, whenever possible. When a prosecutorial agency declines to file criminal charges, the reasons for such declination shall be included in the report, if applicable.
4. The supervisor's evaluation of the evidence involving the use of force, including any material inconsistencies in the evidence or statements.

The supervisor's Type 2 Use of Force Report file shall contain the following:

- (a) Supervisor's report.
- (b) Copy of *BlueTeam* report.
- (c) Copies of relevant crime or incident reports.
- (d) Photographs.
- (e) Any other documentation referenced in the supervisor's report.

For Type 3 incidents, the supervisor shall document the incident as follows:

- (a) Enter the incident into *BlueTeam* per the *BlueTeam Reports Policy*.
- (b) Upload associated BWC, ICC, digital photos, and audio files in the appropriate digital file management system (Evidence.com, Foray and Puma). Other electronic files may be attached to the *BlueTeam* report.
- (c) Any witness statements taken by the field supervisor shall be memorialized in a follow-up report under the incident DR.

NOTE:

A Supervisor's Use of Force Report (memorandum to the Division Commander) is not necessary for Type 3 Use of Force investigations. Forward to supervising lieutenant the items listed below within 14 calendar days of learning of the use of force, unless an extension is approved by the supervisor's Division Commander.

The supervisor's Type 3 Use of Force Report file shall contain the following:

- (a) Cover Memo Sheet
- (b) *BlueTeam* report (completed as thoroughly as possible)
- (c) Watch Commander Insight
- (d) Attachments (refer to *Watch Commander Use of Force Checklist*)
 1. Police Reports
 2. Photos
 3. Booking Forms
 4. BPD In-House history
 5. Criminal History
 6. Watch Commander Log entry
 7. Shift Report

8. Daily Field Activity Report(s)
9. CAD for incident
10. Dispatch audio/phone call(s)
11. BWC/ICC footage
12. PUMA recordings
13. Video (surveillance / cellphone, etc.)
14. Any other documentation deemed necessary.

300.8 ADMINISTRATIVE INTERVIEW OF SUSPECTS

The criminal investigation and the administrative inquiry shall remain bifurcated. At no time will the suspect be interviewed in the criminal matter and the administrative matter by the same person. Administrative interviews of suspects in Type 1 use of force cases shall be conducted by IAB personnel with the concurrence of the Investigation Division Captain, unless otherwise decided by the Deputy Chief or Chief.

The Watch Commander should conduct the interview of the subject of the use of force unless it is not practical for the watch commander to interview the suspect. If the field supervisor conducts the interview, the circumstances will be appropriately documented in the Use of Force Report.

Supervisors conducting a Use of Force investigation interview of a suspect in-custody should ensure that the suspect has been admonished of their Miranda rights before conducting the Use of Force interview. If a Miranda admonition was not previously given to the suspect by the arresting officer(s) or detective(s), the supervisor investigating the Use of Force should provide the admonishment before the interview.

Any statements made by the suspect of a case involving a use of force should be documented in the appropriate police report(s) and Use of Force report. If the suspect invokes his/her rights and refuses to provide a statement, then the specifics of the invocation (i.e., request for an attorney, or choosing to remain silent, etc.) should be documented in the police report(s) and Use of Force report. Also, see Policy 317 on Compliance with Constitutional Requirements.

Watch Commanders shall advise a suspect that he or she is being administratively interviewed as a witness for a Use of Force report and that the interview is being recorded (advisement should be recorded).

The administrative interview by a Watch Commander of a suspect involved in a Type 2 use of force (or Type 1 if applicable) should precede any custodial interrogation of the suspect by officers or investigators. If the suspect is in custody for a serious or violent crime, the Investigation Division Commander should be consulted before an administrative use of force interview of the suspect is conducted. If the Watch Commander believes that the significance of the criminal offense outweighs the minor nature of the force used, he or she may authorize officers to Mirandize and question the suspect on the criminal charges before the Watch Commander conducts the administrative interview. The Watch Commander shall fully articulate the justification in the Use of Force Report for review by the Critical Incident Review Board for authorizing the criminal interrogation to precede the administrative interview.

The supervisor approving the crime report shall ensure that "USE OF FORCE" is distinctly placed at the top of the narrative page of the original crime report (the template is available in ARS with

the template code of “UOF”). This is in an effort to inform the City Attorney’s Office and the District Attorney’s Office that an Administrative Use of Force report exists.

300.9 WATCH COMMANDER / SUPERVISING LIEUTENANT RESPONSIBILITIES

Whenever possible, the Watch Commander or supervising lieutenant shall immediately examine and interview any person on whom Type 2 or Type 3 force was used. The interview shall be audio or video recorded. The Watch Commander or supervising lieutenant shall ask the person if he or she has any injuries, the nature of the injuries, and if he or she is in need of medical treatment. These questions shall be asked, whether or not the subject has any apparent injuries. If the subject is transported to a medical facility, the Watch Commander or supervising lieutenant shall direct a supervisor to interview the physician or qualified medical personnel to determine the extent of injuries (or lack thereof) and if they are consistent with the degree of force reported.

Watch Commanders shall interview suspects privately and out of the presence of others. Any deviation from this policy shall be documented in the Watch Commander’s report.

Additionally, when the suspect is uncooperative, belligerent, or intoxicated, the supervisor or Watch Commander should attempt to obtain and record an initial statement. The Watch Commander should ensure that the suspect is interviewed again at a later time in the booking or detention process. If a second interview is not conducted or attempted, the reason shall be documented in the report.

For all force incidents, the Watch Commander or supervising lieutenant shall conduct a tactical review with the involved officers to discuss their tactical conduct and decision making associated with the use of force. The interviews of the involved officers, the involved subject, and the results of the Watch Commander’s review of the incident shall be detailed in the Watch Commander’s addendum to the Use of Force report (i.e., “Watch Commander’s Insight”). The Watch Commander or supervising lieutenant shall make his or her recommendations as to whether further action or investigation is warranted, focusing specifically on training and policy issues. The Watch Commander or supervising lieutenant will ensure that the investigation and documentation completed by the supervisor is appropriate for the type of force used and is thorough and complete.

For all Type 1 use of force incidents, the Watch Commander or supervising lieutenant will be responsible for notifying IAB and the appropriate Division Captain as soon as possible.

300.9.1 WATCH COMMANDER / SUPERVISING LIEUTENANT ASSESSMENT (“INSIGHT”)

The Watch Commander or supervising lieutenant must conduct a critical assessment of use of force incidents by their personnel. The assessment report must contain the header “Watch Commander Insight.” The assessment should take into consideration all relevant facts, legal aspects, de-escalation techniques, tactical decisions made leading up to the use of force, Department training standards, and policy requirements.

The assessment should include a reconciliation of the use of force incident against relevant policies. For example, if officers unsuccessfully attempt a physical takedown, deploy a Conducted Energy Device and then apply a Front Leg Restraint device, the assessment should minimally reconcile the officers’ actions against the Use of Force Policy, the Conducted Energy Device Policy, and the Restraint Device Policy. Incidental policy issues, such as failure to comply with using a digital audio recorder (Use of Audio Recorders Policy) or BWC/ICC (Use of Body Worn and In-Car Camera Policy) should also be addressed.

300.10 DEATH INVOLVING THE USE OF FORCE

It is the policy of the Burbank Police Department to request the Los Angeles County District Attorney's Office to conduct independent investigations of deaths of persons in the custody or control of the Burbank Police Department where the use of force by a peace officer may have been the proximate cause of the death. In the event of a death involving the use of force, the Investigation Division Captain will be notified. IAB staff shall respond to conduct an administrative investigation.

At the discretion of the Investigation Division Captain, the Los Angeles County Sheriff's Department may be requested to conduct the investigation.

300.11 FORCE REVIEW INQUIRY

The entire Use of Force Report file shall be forwarded to the appropriate Division Captain for review within 21 calendar days of the incident. It shall then be forwarded to the Deputy Chief who shall convene a Critical Incident Review Board (CIRB) within 60 calendar days. The CIRB should consist of the Deputy Chief or designee and two captains to review the incident to assess tactics policy compliance and training concerns. Subject matter experts from within the Department may be utilized as resources by the CIRB to effectively evaluate the incident (refer to the Critical Incident Review Board Policy - 302).

300.11.1 ADMINISTRATIVE LEAVE PROCEDURES

Any employee whose actions or use of force in an official capacity results in death or serious physical injury to another person will be placed on paid administrative leave for a minimum of three workdays. Additional paid administrative leave may be authorized by the Chief of Police.

Any employee placed on paid administrative leave in accordance with this policy shall not return to duty without a written authorization from the Chief of Police. The Chief of Police may authorize the employee to return to a temporary administrative assignment as may be appropriate based on the circumstances.

While on paid administrative leave, the employee may be required to meet with a Department provided psychologist to address post critical incident trauma reactions and stress management. The employee's Division Captain will facilitate the employee's attendance at the initial and any follow up sessions.

300.11.2 NOTIFICATION TO PROSECUTION

When necessary, the Investigation Division Commander shall be responsible for informing prosecutors (City Attorney's Office and LA County District Attorney's Office) about the reporting requirements of the Department's Use of Force Policy. The prosecutors may request a copy of a Use of Force Report or administrative information not included in crime reports if determined by the prosecuting attorney to be relevant to the case. The investigator filing a criminal complaint must make a reasonable effort to advise the prosecuting attorney of the use of force in a case.

300.12 TRAINING

The Training Coordinator shall ensure the following:

- (a) That all sworn members receive **annual** training on the Department's Use of Force Policy (Government Code § 7286(b)).
- (b) That all training is properly documented in the employees' records.
- (c) That all employees authorized to carry lethal or less than lethal weapons are issued copies of the applicable policies.
- (d) That all newly hired sworn members are instructed on the Department's Use of Force Policy.
- (e) Subject to available resources, the Training Coordinator shall ensure that officers receive periodic training on de-escalation tactics, including alternatives to force. The training shall include guidelines regarding vulnerable populations, including but not limited to children, elderly persons, pregnant individuals, and individuals with physical, mental, and developmental disabilities (Government Code § 7286(b)).
- (f) All training courses required by and consistent with POST and guidelines set forth in Penal Code § 13519.10 are met.

The Watch Commanders and bureau lieutenants shall be responsible for ensuring their personnel receive recurrent training on this policy. This recurrent training may be conducted in roll call or other similar meetings. The recurrent training shall be documented on employee Comment Cards.

See the Training Policy for restrictions relating to officers who are the subject of a sustained use of force complaint.

300.13 ANNUAL ANALYSIS OF USE OF FORCE

The Professional Standards Bureau (Audits and Inspections) will conduct an annual analysis that will report on all Use of Force incident reports to identify patterns or trends. The analysis report will be forwarded to the Chief of Police for final assessment for policy changes, training needs, or equipment needs.

The analysis report should not contain the names of officers, suspects, or case numbers.

300.14 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

The Records Manager or authorized designee shall ensure that data required by the Department of Justice (DOJ) regarding all officer-involved shootings and incidents involving use of force resulting in serious bodily injury is collected and forwarded to the DOJ as required by Government Code § 12525.2.

300.15 USE OF FORCE COMPLAINTS

The receipt, processing, and investigation of civilian complaints involving use of force incidents shall be handled in accordance with the Personnel Complaints Policy (Government Code § 7286(b)).

300.16 POLICY REVIEW

The Professional Standards Bureau shall regularly review and update this policy to reflect developing practices and procedures (Government Code § 7286(b)).

300.17 POLICY AVAILABILITY

The Chief of Police shall ensure this policy is accessible to the public (Government Code § 7286(c)).

300.18 PUBLIC RECORDS REQUESTS

Requests for public records involving an officer's personnel records shall be processed in accordance with Penal Code § 832.7 and the Personnel Records (Policy 1026), and Records Maintenance and Release (Policy 810) policies (Government Code § 7286(b)).

BURBANK POLICE DEPARTMENT**CRITICAL INCIDENT REVIEW BOARD – WORKSHEET**

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INCIDENT DETAILS		
Incident Date Select Date	Incident Time	UOF/Incident Number
Incident Type Use of Force	Involved Officers	DR#
Watch Commander	Field Supervisor	Incident Report Completed by:
Documentation <input type="checkbox"/> Complete <input type="checkbox"/> Video of Incident Available <input type="checkbox"/> Incomplete		
Injuries or Property Damage <input type="checkbox"/> Officer Injured <input type="checkbox"/> Suspect Injured <input type="checkbox"/> Citizen Injured <input type="checkbox"/> Property Damaged		
CIRB REVIEW		
Date Select Date	CIRB Members Present <input type="checkbox"/> Chief Albanese <input type="checkbox"/> Captain Cremins <input type="checkbox"/> Captain Puglisi <input type="checkbox"/> Captain Cornils <input type="checkbox"/> Captain Ruiz	Subject Matter Experts Present <input type="checkbox"/> COPS Bureau Lieutenant <input type="checkbox"/> Rangemaster <input type="checkbox"/> Training Coordinator <input type="checkbox"/> _____
Others Present:		
CIRB FINDINGS		
	Tactics Prior to Incident	Tactics During the Incident
No Policy Violations	<input type="checkbox"/>	<input type="checkbox"/>
No Policy Violations – Training/Counseling Opportunity Noted	<input type="checkbox"/>	<input type="checkbox"/>
Application of De-Escalation Tactics – Appropriate w/ No Recommendations Noted	<input type="checkbox"/>	<input type="checkbox"/>
Application of De-Escalation Tactics – Training/Counseling Opportunity Noted	<input type="checkbox"/>	<input type="checkbox"/>
On-Scene Supervisor Evaluation – Appropriate w/ No Recommendations Noted	<input type="checkbox"/>	<input type="checkbox"/>
On-Scene Supervisor Evaluation – Training/Counseling Opportunity Noted		
Policy Violation – Remedial Training Required	<input type="checkbox"/>	<input type="checkbox"/>
Policy Violation – Referred to IAB (IA#)	<input type="checkbox"/>	<input type="checkbox"/>
Commendation/Comment Card Recommended	<input type="checkbox"/>	<input type="checkbox"/>

Updated 8/30/2023

BURBANK POLICE DEPARTMENT

CRITICAL INCIDENT REVIEW BOARD – WORKSHEET

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Copy Attached <input type="checkbox"/>		
CIRB RECOMMENDATIONS		
ADMINISTRATIVE ACTIONS		
Involved Officers notified of CIRB findings: <input type="checkbox"/>		
Date: <small>Select Date</small>	By:	
Training Instructions For: COPS Bureau <input type="checkbox"/> Line Level <input type="checkbox"/>		
Policy Review Requested by:	Policy No:	
Policy Revision Requested by:	Policy No:	
Revised Policy Publication Date: <small>Select Date</small>		
Division Commander Comments:		

Updated 8/30/2023

BURBANK POLICE DEPARTMENT
Tracking Mode / Assessment Period Log
2023

Watch Commanders are responsible for the completion of this log whenever an employee(s) assigned to their watch is involved in an incident where they engage in an assessment period or tracking mode of a vehicle which attempts to evade them, but does not amount to a Vehicle Pursuit.

An entry summarizing the incident shall be made on the respective shift Watch Commander's Log. The supervisor(s) with direct oversight should reference the incident and Watch Commander Log entry on their Sergeant's Log.

Date of Incident	Involved Employee(s)	Evaluating Supervisor	Incident / DR Number	WC Log Entry By