

<b>ALAMEDA COUNTY</b> <b>SHERIFF'S OFFICE</b> <b>GENERAL ORDER</b>	<b>NUMBER:</b> 1.05 <hr/> <b>RELATED ORDERS:</b> CALEA 1.3.1 Thru 1.3.8 General Orders 1.01, 1.02, 1.07 Penal Code 149, 835, 835a, 836.5(b), 843
	<b>ISSUE DATE:</b> March 1, 1996 <hr/> <b>REVISION DATE:</b> <i>July 14, 2015</i>
<b>CHAPTER:</b> Law Enforcement Role, Responsibilities, and Relationships	<b>SUBJECT:</b> Use of Force

- I. **PURPOSE:** The purpose of this order is to provide officers with guidelines on the authorized use of force, without creating any hesitation once a decision is made to use force. Even at its lowest level, the use of force is a serious responsibility and the Alameda County Sheriff's Office recognizes the need for constant evaluation.
- II. **POLICY:** The Agency recognizes and respects the value of human life and dignity. Vesting members with authority to use force to protect the public welfare requires a careful balancing of all human interests. Deputies must have an understanding of, and true appreciation for, the limitations on their authority, particularly with respect to overcoming resistance from those with whom they come in official contact. It is the policy of this Agency that deputies shall use only that force which is reasonable, given the facts and circumstances known at the time of the event to effectively bring an incident under control. "Reasonableness" of the use of force will be determined from the perspective of a reasonable officer on the scene at the time of the incident.

### III. **DEFINITIONS:**

- A. **FELONY OF A VIOLENT VARIETY:** a forcible and atrocious one which threatens death or serious bodily harm to you or another.
- B. **LESS LETHAL FORCE:** Less lethal force is that force which is unlikely, when properly used, to result in serious physical injury or death.
- C. **LETHAL FORCE:** Lethal force is that force likely to cause serious physical injury or death.
- D. **USE OF FORCE-CONTINUUM MATRIX:** The Use of Force-Continuum Matrix is a fluid instrument which attempts to embody the dynamics of a confrontation. It is also designed to facilitate an understanding of appropriate levels of force to be used by deputies. The "Alameda County Use of Force-Continuum Matrix" (attachment 1) provides an overview and visual representation of the force options available to deputies in the Alameda County Sheriff's Office.
- E. **REPORTABLE FORCE:** Reportable force is any force employed by a deputy above the "Restraint/Detain", "No Force Level," or results in an injury or complaint of injury by a subject.

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

A. LEGAL AUTHORITY FOR USE OF FORCE:

1. California Penal Code Section 835 - Method of Arrest: "An arrest is made by an actual restraint of the person, or by submission to the custody of an officer. The person arrested may be subject to such restraint as is reasonable for his/her arrest and detention."
2. California Penal Code Section 835a - Effecting Arrest; Resistance: "Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, prevent escape or to overcome resistance."

"A peace officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance of the person being arrested; nor shall such officer be deemed an aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest to prevent escape or to overcome resistance."
3. California Penal Code Section 836.5 (b) - Arrest By Public Officer or Employee Without Warrant: ". . . No such officer or employee shall be deemed an aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest, prevent escape, or overcome resistance."
4. California Penal Code Section 843 - What Force May Be Used: When the arrest is being made by an officer under the authority of a warrant, after information of the intention to make the arrest, if the person to be arrested either flees or forcibly resists, the officer may use all necessary means to effect the arrest."
5. California Penal Code Section 149 - Assault By Public Officer: "Every public officer who, under color of authority, without lawful necessity, assaults or beats any person, is punishable by . . . imprisonment in the state prison, or in county jail . . ."
6. Tennessee v. Garner (471 U.S. 1 [1985]): This United States Supreme Court case requires that for the use of lethal force against a fleeing felon to be legal, the felony must be of a violent variety, i.e., a forcible and atrocious one which threatens death or serious bodily harm to you or another.
7. Interpretation of Use of Force Laws: The previously cited statutory provisions regarding the use of force refer to the standard of what is reasonable (Graham v. Connor 490 U.S. 386 [1989]). This standard does not mean what is subjectively reasonable to the deputy, but rather what is objectively reasonable to the average reasonable deputy in the same or similar circumstances. To allow for review of any deputy's use of force, that deputy must be able to articulate the relevant factual circumstances that he/she confronted and to which a forcible response was given.
8. Simple conclusionary descriptions by deputies are frequently inadequate. Deputies are cautioned against relying upon the simplistic description provided by the relevant

statutes. Accordingly, the remainder of this General Order deals with a methodology used to instruct on what is reasonable force.

**B. FACTORS WHICH AFFECT THE SELECTION OF FORCE OPTIONS:**

1. A number of factors are taken into consideration when a deputy selects force options and when evaluating whether a deputy has used reasonable force. The Agency recognizes that deputies are expected to make split-second decisions and that the amount of time available to evaluate and respond to a situation may impact the deputy's decision. The Use of Force-Continuum Matrix is intended to provide additional guidance to deputies in making those split-second decisions.
2. The following are examples of factors which may affect a deputy's force option selection:
  - a. Deputy/subject factors (age, size, relative strength, skill level, injury/exhaustion, number of deputies versus number of subjects)
  - b. Influence of drugs or alcohol
  - c. Proximity to weapons
  - d. Availability of other options
  - e. Seriousness of the offense in question
  - f. Other exigent circumstances
3. A deputy need not attempt to gain control over an individual by use of the lowest, or least intrusive, level of force on the continuum when reason dictates and the deputy can articulate that a higher level of force is reasonable. Likewise, the skipping of steps may be appropriate given the resistance encountered. The continuum should be viewed as an elevator and not a ladder or stair steps. A deputy may go directly to any level of the continuum provided that the force selected is reasonable.

**C. USE OF FORCE-CONTINUUM MATRIX - CATEGORIES OF ACTION DISPLAYED BY THE SUBJECT:**

The action of the subject is that which is reasonably perceived and/or observed by the deputy. For the purpose of presenting the continuum matrix, the actions of the subject have been categorized into four levels that are described as follows (Also See Use of Force-Continuum Matrix):

1. Cooperative: Subject is cooperative and complies with verbal commands or other directions.
2. Passive or Low Level Resistance: Subject is passive or defensively resists a deputy's authority and direction. This includes verbal and physical cues of non-compliance.

3. Active Resistance or Assaultive Behavior: Subject assumes a fighting stance, charges a deputy or verbally or physically indicates intent to commit an assault. Subject is attempting to interfere with the deputy's actions by inflicting pain or physical injury to the deputy without the use of a weapon or object.
4. Life Threatening Assault or Assault Likely to Cause Great Bodily Harm: Subject commits an attack using an object, a weapon or an empty hand assault, wherein the deputy reasonably believes that the assault will result in serious physical injury and/or death.

**D. DEPUTY'S OPTIONS IN RESPONSE TO SUBJECT'S ACTIONS:**

The deputy's options in response to the subject's actions require that reasonable force be applied in accordance to the appropriate levels described as follows:

1. No Force: Includes professional presence, verbalization and non-resistant application of handcuffs, waist restraints and/or leg irons. The deputy displays authority as a peace officer and uses non-verbal means of communication such as body language, demeanor and manner of approach. Verbalization involves the directions and commands given to the subject. The deputy is able to restrain and/or detain the subject without resorting to levels of force. Restraining and/or detaining allows a deputy to be able to escort a subject with a firm arm grip, as long as the subject does not resist. If the subject resists, a use of force report will be required under the "compliance techniques" level listed below. The supervisor shall make the final determination as to whether or not a report shall be written.
2. Compliance Techniques: Includes a deputy laying hands on a subject using restraining and detaining techniques with the intention of gaining control of the subject. Examples include the use of a firm grip, escort position or grappling designed to hold a subject down by using the weight of a deputy's body (ground control techniques). Also included in this level would be the application of joint manipulations, pressure point applications and unarmed striking and take-down type techniques.
3. Intermediate Force: Includes the discharge of electric stunning devices, the application of the carotid restraint (bi-lateral vascular neck restraint), use of K-9's, the baton/expandable baton, billie (in a striking or jabbing motion), and spraying chemical agents (oleoresin capsicum (OC) based products).
4. Lethal Force: Includes the use of a firearm or any force which has a reasonable likelihood of causing death or serious physical harm.

**E. USE OF COMPLIANCE TECHNIQUES DESCRIBED:**

Compliance techniques include those physical maneuvers described in the previous section of this order and in the "Use of Force-Continuum Matrix." They can be used if the subject displays passive, low level or higher resistance. Compliance techniques shall be used in the manner presented and demonstrated during the Basic Academy and Continued Professional Training and published in the applicable Agency training bulletins and shown in approved videos.

**F. USE OF INTERMEDIATE FORCE DESCRIBED:**

Intermediate force weapons can be used if the subject actively resists or displays assaultive behavior.

1. Use of Agency Canine (K-9): The use of a canine shall be considered an intermediate level use of force. The use of a canine shall be subject to the following:
  - a. The police service canine handler will issue a verbal warning, giving the subject an opportunity to submit to arrest, prior to deploying the police service canine, unless an announcement would be tactically inappropriate or exigent circumstances exist.
  - b. The handler must immediately call off the canine when the deputy is able to control the suspect or the suspect surrenders.
  - c. Any time a person is knocked down, bitten, shoved, pawed, or otherwise physically contacted in a firm manner by the canine and complains of pain or has obvious signs of injury, the person shall be taken to a hospital to be examined by a physician.
  - d. Photographs shall be taken of all injuries and placed into evidence storage.
  - e. A Use of Force report will be completed anytime a canine engages a subject and physical contact is made.
2. Discharge of Electric Stunning Devices: Refer to General Order 1.20, Electro-Muscular Disruption devices.
3. Application of the Carotid Restraint (Bi-Lateral Vascular Neck Restraint): Shall be used in the manner as presented and demonstrated during the Basic Academy and Continued Professional Training and as published in the applicable Agency training bulletins and shown in approved videos.
  - a. Correct application and caution are required to ensure that the subject is not injured. No pressure is to be applied to the trachea (frontal area of the throat or neck).
  - b. The carotid restraint shall not be applied for intervals longer than thirty (30) seconds. The carotid restraint shall only be applied once on a subject during any twenty-four hour period.
  - c. Immediate medical attention shall be provided as soon as possible to any subject who has been the recipient of the carotid restraint.
4. Blows/strikes from a Baton/Expandable Baton or Billie shall be used in a manner as presented and demonstrated during the Basic Academy and Continued Professional Training and as published in the applicable Agency training bulletins and shown in approved videos. Division and Unit level policies and procedures shall be followed accordingly, with special attention to the following:

a. Only Batons/Expandable Baton or a Billie authorized and/or issued by the Agency may be used. Members shall refer to the Agency Rules & Regulations manual for a description of the proper equipment.

b. Deputies shall not intentionally deliver blows/strikes from a Baton/Expandable baton, or Billie to a person's head, neck, throat, groin, kidney, xiphoid process areas or directly into the heart.

Exception: When a deputy's life is in peril and the use of lethal force is justifiable (see lethal force).

c. A Baton/Expandable Baton or Billie may be used to strike a subject who is handcuffed or otherwise securely restrained only when the subject is using such force with his body, legs or feet as to require such force to prevent harm to the deputy(s), civilians, or in order to prevent escape. The Billie, but not the Baton/Expandable Baton, may be used to apply pressure point control techniques on a handcuffed or restrained subject.

d. Flashlights: A flashlight is primarily used as an illumination device and not usually thought of as a defensive impact device. Circumstances may occur when a deputy is justified in using a flashlight as a defensive device. If such a circumstance occurs, a deputy may use it as an intermediate or lethal force level weapon, if used in similar fashion to the Baton/Expandable Baton, or Billie.

e. If blows/strikes from a Baton/Expandable Baton, Billie or any other appropriate weapon of opportunity are used on a person first aid shall be provided as outlined in Section H.

5. Chemical Agents and OC Spray shall be used in accordance with manufacturer's specifications. They should be used only in the manner presented and demonstrated during the Basic Academy and Continued Professional Training, or as published in the applicable Agency training bulletins or shown in approved videos. Division and Unit level policies and procedures shall be followed, with special attention to the following:

a. Only chemical agents authorized and/or issued by the Agency may be used. Deputies should refer to the Agency Rules & Regulations manual for a description of the proper equipment.

b. Subjects exposed to chemical agents shall be removed from the contaminated area as quickly as possible.

c. Avoid spraying a subject directly in the eyes with OC within a distance of three (3) feet or less.

d. OC sprayed subjects shall be monitored visually as frequently as physically possible during field detention, arrest and transportation to ensure that they do not experience breathing difficulty (see section on first aid).

- e. Subjects in custody who have been sprayed with OC shall have their eyes and face thoroughly washed with clear water as soon as possible.
6. Less Lethal Weapon Systems: Refer to General Order 1.21, Less Lethal Weapon Systems.

G. USE OF LETHAL FORCE:

1. Lethal force is the highest level on the "Use of Force Continuum Matrix." Lethal force may be used in those situations where all other appropriate means of defense have failed or are deemed inadequate and the deputy taking action believes such force is necessary under the circumstances.
  - a. As a means of defending oneself from death or the imminent threat of serious physical/bodily injury.
  - b. To defend another person from death or the imminent threat of serious physical/bodily injury.
  - c. To apprehend a suspect when there exists a reasonable belief that the person has committed a felony of a violent variety and represents an imminent threat of death or serious physical/bodily injury to another person if not immediately apprehended.
  - d. As a means of terminating dangerous or seriously injured animals when other means of disposal are impractical.
2. When deputies are engaged in a life threatening situation, the use of makeshift weapons or any weapon of opportunity can be justified as lethal force when reasonable alternatives have been exhausted or appear impractical.
3. Vehicles shall not be used as a means of creating a roadblock or to forcibly stop another vehicle. Members are not trained in these techniques and they are not to be used.
4. Terms Defined: For the purpose of interpreting the appropriate use of lethal force, the following definitions clarify specific points:
  - a. Reasonable Belief: A strong suspicion based on facts that can be articulated.
  - b. Serious Physical / Bodily Injury: A physical injury that creates a substantial risk of death, causes serious permanent disfigurement, or may result in long-term loss or impairment of the functioning of any body member or organ.
  - c. Warning Shots: The discharge of a firearm by a peace officer without the intent of striking the suspect or inflicting bodily harm.
5. Deputies are prohibited from firing warning shots in the course of performing their law enforcement responsibilities since they may create a substantial risk of harm to innocent bystanders.

**H. POST INCIDENT ADMINISTRATION OF FIRST AID - ALL LEVELS OF FORCE:**

In the event a deputy uses force on a subject and there is a visible injury or complaint of pain, the subject:

1. Shall be administered first aid in the field, either:
  - a. By the deputy, as outlined in his/her first aid training, or
  - b. By emergency personnel called to the scene (ambulance or fire department).
2. If deemed necessary by the deputy or emergency personnel, the subject shall be transported, as soon as possible, via appropriate ambulance or Sheriff's vehicle, to a medical facility for additional medical treatment.
3. Deputies are prohibited from securing a subject by binding his/her hands and feet together behind the back in a "hog tying" fashion and/or transporting them on their stomach in a vehicle.
4. During field detention, transportation and custodial restraint situations, subjects shall be positioned so that they do not experience breathing difficulty. This is especially important if a subject has been sprayed with OC and/or is suspected of being under the influence of drugs or alcohol. It is critical to closely monitor subjects who are experiencing breathing difficulty and to get them immediate medical attention as soon as possible.

**I. DEPUTY'S REPORTING RESPONSIBILITY WHEN FORCE IS USED:**

1. When force as outlined above is used, the following steps will be followed:
  - a. Promptly notify a supervisor unless exigent circumstances delay the notification.
  - b. An oral report, followed up by a written report, shall be made available to the immediate supervisor as soon as possible following the incident. Document the use of force in an arrest/crime report.
  - c. Route reports pursuant to standard operational procedures.
  - d. Provide the supervisor with an extra copy of the report to include a completed "Use of Force Review Form" (attachment 2) which is to be placed on top of the report packet.
2. *All involved deputies who used force, and all suspects involved in the use of force, shall be photographed to document any injuries or lack thereof. Every effort shall be taken to document these injuries, or absence of injuries.*

- a. *Photographs shall capture as much information about the incident as possible. This includes close up photographs specific to the use of force, such as hands or areas of impact. Additionally, barring exigent circumstances, full body photographs shall be taken as well.*
    - b. *If for some reason deputies are unable to take particular photographs or document injuries, or lack thereof, a reason or reasons explaining the lack of photographs and/or documentation shall be included in the report.*
  3. Sheriff's Office "Rules and Regulations" Sections 2.1.15 & 2.2.15 require that members knowing of other members who have violated this order shall report the violation immediately to his/her supervisor. Refer to the following related Agency Rules & Regulations:
    - a. 2.1.15 Reporting Violations of Laws, Ordinances, Rules, or Orders
    - b. 2.1.64 Arrests
    - c. 2.1.65 Custody of Prisoners
    - d. 2.1.66 Transportation of Prisoners
    - e. 2.1.67 Use of Physical Force - Members are reminded that incidents requiring the use of physical force or restraint as defined in this order shall be reported to a supervisor without delay.
- J. ADMINISTRATIVE REVIEW FOR INCIDENTS WHICH RESULT IN DEATH OR SERIOUS INJURY:
1. If, while performing in an official capacity, a member is involved in an incident which results in the death of another, with the exception of an officer involved shooting (see General Order 1.02), the member will be removed from his/her line duty assignment and placed into an administrative or support position until a review of the member's report and Use of Force Review (if applicable) has been completed.
  2. Serious Injuries are defined as those which are life threatening. If, while performing in an official capacity, a member is involved in an incident which results in the serious injury of another, the member will be removed from his/her line duty assignment and placed into an administrative or support position until a review of the member's report and Use of Force Review (if applicable) has been completed.
  3. The Sheriff or his designee may place the member on Administrative Leave pending the outcome of the investigation.
  4. Placement on Administrative Leave or into an administrative or support position shall not be considered disciplinary action taken against the member. It is for the purpose of relieving the member from further duties while undergoing the emotional stress of the incident.

5. Members involved in such incidents who are placed on Administrative Leave will be contacted by a member of the Sheriff's Office Command Staff on a daily basis.
6. All members involved in the previously described incidents shall receive a Management Referral to a designated licensed mental health professional. The member's Commanding Officer or designee shall advise the involved member that attendance is mandatory and encourage the member to participate.

**K. SUPERVISORY/MANAGEMENT RESPONSIBILITY TO REVIEW INCIDENT:**

1. When a supervisor becomes aware of the use of reportable force, he/she shall do the following:
  - a. Assess the incident and if necessary conduct an investigation, collect evidence, and ascertain witness information.
  - b. Promptly complete a "Use of Force Review Form" (attachment 2) outlining the circumstances of the incident and send it via the chain of command (with a copy of the incident/crime report) to the Division Commander. The original incident report and appropriate number of copies should be routed through normal channels, e.g., Warrants, Records and Crime Analysis Unit & District Attorney. Do not include the "Use of Force Review Form" as part of the normal routing.
2. The Use of Force Review Form information shall be entered into the Use of Force Database program.
  - a. Entry shall be completed at the duty station. The paper copy of the Use of Force Review Form shall be placed on top of the arrest/crime report and provided to the supervisor.
  - b. The supervisor shall assess the incident as outlined in part II of the Use of Force Review Form.
  - c. The Use of Force Review Form, copy of the incident/crime report and any investigative reports shall be forwarded, via the chain of command, to the Division Commander.
  - d. The Division Commander secretary shall be responsible for updating PARTS II and III of the information in the data base.
  - e. Monthly reports of pending and unresolved Use of Force Review Forms shall be generated for the Division Commander's review.
  - f. Analytical reports shall be utilized to conduct an annual Use of Force analysis to identify possible patterns or trends that could indicate individual training needs or Agency policy modifications. The Training Committee will review the annual Use of Force analysis report. The annual Use of Force analysis report and any Training Committee reports will be forwarded to the Sheriff.

**L. RECORDS RETENTION - USE OF FORCE REPORTS:**

1. Electronic and hard copies of Use of Force Reports shall be maintained on file at the Division Commander level for a period of five(5) years, at which time such reports shall be destroyed according to applicable laws and orders.
2. Automated records containing Use of Force Reports shall be maintained in the master data base which will contain the current year and two prior years. At the beginning of a new year the oldest information shall be purged from the data base.

Attachments:

1. Alameda County Sheriff's Office Use of Force Continuum Matrix
2. Use of Force Review Form