

Butte County DA's Office Bureau of Investigation

Use of Force

300 PURPOSE AND SCOPE

This policy recognizes the use of force by law enforcement requires constant evaluation. Even at its lowest level, the use of force is a serious responsibility. The purpose of this policy is to provide investigators of the Butte County District Attorney's Bureau of Investigation with guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, each investigator is expected to use these guidelines to make such decisions in a professional, impartial and safe manner. Additionally, each investigator is required and expected to obey all laws and show due regard to public safety.

300.1 DEFINITIONS

Deadly Force- Force reasonably anticipated and intended to create a substantial likelihood of causing death or very serious injury.

Force- The application of physical techniques or tactics, chemical agents or weapons to another person that is not reasonably anticipated to cause great bodily injury or death.

300.11 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. Investigators are involved on a daily basis in numerous and varied human encounters and when warranted, may use force in carrying out their duties.

The Butte County District Attorney's Office recognizes and respects the value of all human life and dignity without prejudice to anyone. It is also understood that vesting investigators with the authority to use reasonable force and protect the public welfare requires a careful balancing of all human interests.

300.2 POLICY

It is the policy of the Butte County District Attorney's Bureau of Investigation that investigators shall use only that amount of force that reasonably appears necessary, given the facts and circumstances, perceived by the investigator at the time of the event, to effectively bring an incident under control. "Reasonableness" of the force used must be judged from the perspective of a reasonable law enforcement officer on the scene at the time of the incident. Any interpretation of reasonableness must allow for the fact that law enforcement officers are often forced to make split-second decisions in circumstances that are tense, uncertain and rapidly evolving about the amount of force that is necessary in a particular situation.

300.21 USE OF FORCE TO EFFECT AN ARREST

Any peace officer that has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape, or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance of the person being arrested; nor shall such officer be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance (Penal Code § 835(a)).

300.22 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether or not to apply any level of force and evaluating whether an investigator has used reasonable force, a number of factors should be taken into consideration. These factors include, but are not limited to:

(a) The conduct of the individual being confronted (as reasonably perceived by the investigator at the time)

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(b) Investigator/subject factors (age, size, relative strength, skill level, injury/exhaustion and number of investigators vs. subjects)

(c) Influence of drugs/alcohol (mental capacity)

(d) Proximity of weapons

(e) Time and circumstances permitting, the availability of other options (what resources are reasonably available to the investigator under the circumstances)

(f) Seriousness of the suspected offense or reason for contact with the individual;

(g) Training and experience of the investigator

(h) Potential for injury to citizens, investigators and suspects

(i) Risk of escape

(j) Other exigent circumstances

It is recognized that investigators are expected to make split-second decisions and that the amount of an investigator's time available to evaluate and respond to changing circumstances may impact his/her decision.

While various degrees of force exist, each investigator is expected to use only that degree of force reasonable under the circumstances to successfully accomplish the legitimate law enforcement purpose in accordance with this policy.

300.23 NON-DEADLY FORCE APPLICATIONS

Any application of force that is not reasonably anticipated and intended to create a substantial likelihood of death or very serious injury shall be considered non-deadly force. Each investigator is provided with equipment, training and skills to assist in the apprehension and control of suspects as well as protection of investigators and the public. Non-deadly force applications may include but are not limited to leg restraints, control devices and techniques described in this policy or § 308.

Given that no policy can realistically predict every possible situation an investigator might encounter in the field, it is recognized that each investigator 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 investigator to actually sustain physical injury before applying reasonable force.

300.24 PAIN COMPLIANCE TECHNIQUES

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

(a) The potential for injury to the investigator(s) 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 pain compliance technique may be controlled in application according to the level of resistance

(d) The nature of the offense involved

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(e) The level of resistance of the individual(s) involved

(f) The need for prompt resolution of the situation

(g) If time permits (e.g., passive demonstrators), other reasonable alternatives

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

300.25 CAROTID RESTRAINT

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

(a) The investigator shall have received training in the use and application of the carotid restraint

(b) The carotid restraint may only be used when the investigator reasonably believes such a hold appears necessary to prevent serious injury or death to an investigator or other person

(c) Any individual who has been rendered unconscious by the use of the carotid restraint shall be promptly examined by paramedics or other qualified medical personnel

(d) Any investigator applying the carotid restraint shall promptly notify a supervisor of the use or attempted use of such hold

(e) The use or attempted use of the carotid restraint shall be thoroughly documented by the investigator in any related reports

300.3 DEADLY FORCE APPLICATIONS

While the use of a firearm is expressly considered deadly force, other force might also be considered deadly force if the investigator reasonably anticipates and intends that the force applied will create a substantial likelihood of causing death or very serious injury. Use of deadly force is justified in the following circumstances:

(a) An investigator may use deadly force to protect himself/herself or others from what he/she reasonably believe would be an immediate threat of death or serious bodily injury;

(b) An investigator may not use deadly force to stop a fleeing suspect unless the investigator has probable cause to believe that the suspect intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

300.31

Generally, whenever an employee's actions or use of force in an official capacity, or while using department equipment, results in death or very serious injury to another, that employee will be placed in a temporary administrative assignment pending an administrative review. The Chief Investigator may exercise discretion and choose not to place an employee in an administrative assignment in any case.

300.32

Prior to an employee returning to full duty after a deadly force incident, the employee will be required to undergo a fitness for duty exam under the guidance of a qualified mental health professional. The employee will be encouraged to attend additional services under the Employee Assistance Program (EAP). Only the fitness for duty evaluation will be deemed a requirement for return to work. Any additional services through EAP are for the benefit of the employee and should be strongly encouraged, though not a requirement for their return to work.

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300.4 REPORTING THE USE OF FORCE

Any use of physical force by an investigator shall be documented promptly, completely, and accurately in an appropriate report depending on the nature of the incident.

300.41 NOTIFICATION TO SUPERVISORS

Supervisory notification shall be made as soon as practical following the application of physical force, under any of the following circumstances:

- (a) The application of force appears to have caused physical injury
- (b) The individual has expressed a complaint of pain
- (c) Any application of a control device
- (d) The individual has been rendered unconscious

300.42 MEDICAL ATTENTION FOR INJURIES SUSTAINED USING FORCE

Medical assistance shall be obtained for any person(s) who has sustained visible injury, expressed a complaint of pain, or who has been rendered unconscious.

300.5 SUPERVISOR RESPONSIBILITY

When a supervisor is able to respond to an incident in which there has been a reported application of force, the supervisor is expected to:

- (a) Obtain the basic facts from the involved investigator(s)
- (b) Ensure that any injured parties are examined and treated
- (c) Interview the subject(s) upon whom force was applied
- (d) Ensure that photographs have been taken of any areas involving visible injury or complaint of pain as well as overall photographs of uninjured areas
- (e) Identify any witnesses not already included in related reports
- (f) Review and approve all related reports. Should the supervisor determine that any application of force was not within policy, a separate internal administrative investigation shall be initiated. In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.