

STOCKTON POLICE DEPARTMENT

GENERAL ORDER

USE OF FORCE  
SUBJECT

DATE: July 15, 2015

NO: Q-1

FROM: CHIEF ERIC JONES

TO: ALL PERSONNEL

INDEX    **USE OF FORCE**  
          **REPORTING USE OF FORCE**

**I.     Policy**

- A.     At times, Department members are confronted with situations where control is required to make an arrest or protect public safety. Attempts will be made to achieve control through advice, warnings and persuasion. However, in situations where resistance or a threat to life is encountered and advice, warnings or persuasion are or would be ineffective, force may have to be used.
- B.     Force is defined as the exertion of power by any means, including physical or mechanical devices (to include deployments of the Spit Net or Wrap), to overcome or restrain an individual where such force causes him/her to act, move, or comply against his/her resistance. In cases where Department members are required to use force on-duty or in an off-duty enforcement action, it shall be reported in a memorandum, or appropriate police report. (This does not include routine handcuffing of arrested persons or basic control holds where no resistance occurs.)
- C.     Department members shall abide by all penal and constitutional guidelines when force is used.

**II.    Law**

- A.     Department members shall become familiar with the following Penal Code Sections regarding the use of force:

Penal Code

- 1.     Section 69 P.C. - Resisting executive officers by force of violence.
- 2.     Section 147 P.C. - Inhumanity to prisoners.
- 3.     Section 148 P.C. - Resisting arrest.
- 4.     Section 149 P.C. - Assault by officers under color of authority.
- 5.     Section 196 P.C. - Justifiable homicide by public officers.
- 6.     Section 673 P.C. - Cruel and unusual punishment.
- 7.     Section 692 - 694 P.C. - Lawful arrest.
- 8.     Section 835 P.C. - How an arrest is made and what restraint is allowed.
- 9.     Section 835 (a) P.C. - The right of the arresting officer to use reasonable force.
- 10.    Section 4550 P.C. - Rescue of prisoners.

**III.   Procedure**

- A.     General responsibility when force is used:
  - 1.     Department members may use that force which is reasonable and necessary to make an arrest, prevent an escape, overcome resistance, or in self-defense or the defense of another. The type and degree of force used must be reasonable, based upon the facts

and circumstances of the situation which were known by the officer at the time the decision to use force is made.

The reasonableness of force used is determined by consideration of three main factors: 1) the seriousness of the crime at issue; 2) whether the suspect poses an immediate threat to the officer or others; and, 3) whether the suspect is actively engaged in resisting arrest or attempting to flee.

2. Department members need not retreat or desist in the reasonable use of force in order to avoid confrontation. Deadly force or force likely to produce a mortal injury will not be used if the incident prompting the use of force is a misdemeanor and there is no imminent threat by the suspect to use deadly force or force likely to produce great bodily injury.
3. A Department member's on-duty supervisor will personally respond for an evaluation where a Department member has used force on duty. The Department member who used force must therefore insure their supervisor is advised of the incident. The responding supervisor's name will be listed in the report detailing the use of force. The supervisor may also forward a memorandum through channels to the Chief of Police when additional comments are appropriate.
4. An arrestee with any complaint of pain or visible injury shall receive medical attention.
5. Department members shall report any use of force while on-duty in the appropriate police report and any off-duty use of force in the course of enforcement activity in a memorandum.

The reporting requirements due not apply in officer involved shooting incidents as covered in General Order Q-6 "Officer Involved Shootings" and the San Joaquin County Officer-Involved Critical Incident Protocol Manual.

6. Responding supervisors will insure that photographs are taken of any alleged or visible injuries received by a department member or arrestee.

#### **IV. Supervisors Responsibilities**

##### **A. Response to scene in on-duty use of force incidents:**

1. The department member's supervisor shall personally respond, with extreme priority, for an on-scene evaluation of each case where a department member has used force while on-duty.
2. The supervisor shall personally obtain or direct another department member to take photographs of any alleged or visible injuries and shall not assign the department member who used force to take the photographs.
3. The supervisor shall enter each use of force incident they evaluate into the Use of Force Database during the shift the force was used. This includes use of force levels from physical force, all the way to deadly force. They shall insure that all required information is entered, including their determination regarding whether the force used was appropriate (based on preliminary information obtained) except in protocol cases as noted below. To aid supervisors in gathering all required information for later entry into the Use of Force Database, the attached data form can be used. Once the data is transferred into the Database, the form is no longer needed and can be appropriately destroyed.
  - a. In use of force incidents resulting in a protocol investigation, the responding supervisor shall not make a determination as to whether or not the force used was appropriate. The supervisor shall instead check the option "Protocol" under the "Force Consistent with Policy" tab in the database.
4. The supervisor shall notify the on-duty Watch or Section Commander of a use of force incident the supervisor has entered into the Database.

**V. Section/Watch Commander Responsibilities**

- A. Upon being advised of an incident involving a use of force, the Section/Watch Commander shall take the following steps:
1. The Section/Watch Commander shall review the use of force entry in the database to ensure completeness and appropriateness of the force that was used. If properly completed, he/she shall then approve the entry. If corrections are needed he/she, in consultation with the supervisor, shall make the needed changes before the Section/Watch Commander makes the final approval.
  2. If in the Section/Watch Commander's opinion there are questions regarding the appropriateness of the force used, additional follow-up (review of police reports, discussion with sergeant who responded, discussion with Division Commander, etc.) should occur.
  3. If the use of force incident involves a Section/Division other than Field Operations, the Commander approving the entry will insure that details surrounding the incident are passed along to the on-duty Watch Commander.
  4. The on-duty Watch Commander will ensure that the use of force incident is carried on the Watch Commander Daily, including the name of the supervisor who responded and assessed the incident.

**V1. Use of Force While Off-Duty**

- A. If a department member is required to use substantial force during enforcement activity while off-duty, the involved member shall immediately notify his/her Division Commander or the on-duty Watch Commander. Substantial force includes displaying a firearm, an impact weapon, and/or physically subduing a suspect, etc.
- B. The Division or Watch Commander shall initiate an investigation as follows:
1. If the occurrence is serious in nature, the Division/Watch Commander or a patrol supervisor shall investigate the incident and complete the necessary reports, i.e., crime/arrest report, SIR, and memorandum. Off-duty use of force incidents are not entered into the use of force database.
  2. Normally, the Division/Watch Commander will require the off-duty department member to submit a written memorandum explaining details of the incident upon their return to work.
- C. In every case, the Division/Watch Commander shall submit a memorandum to their Commander. The memorandum shall explain details of the incident and any action taken.

**VII. Reporting Use of Force Other Than Deadly Force**

- A. On-duty Department members who use low lethality weapons, chemical agents, batons, carotid restraint, WRAP System or any other force in those instances that threaten the safety of a Department member or other persons, or subdue and arrest combative or resisting individuals, shall report the details of such use of force in the appropriate ARS report. Detail will include the following:
1. Type of force used.
  2. The reason and detailed circumstances of how the force was used.
  3. Detailed description of alleged or visible injuries to the arrestee and/or Department member.
  4. Photographs will be taken and the approximate number of photographs taken shall be documented.
  5. The supervisor's or commander's name who the Department member advised of the specific details when force was used on a person. This advisement will occur as soon as practical, but no longer than one hour after the force was used.
  6. Other pertinent information the Department member wishes to include.

7. The Department member who personally used force is required to make the appropriate ARS report.
8. If the Department member is unable, the investigating officer shall submit the required report.
9. If several Department members are involved in one incident, each officer shall report their use of force on a separate appropriate ARS report.

**VIII. Review of Use of Force incidents by the Professional Standards Section**

- A. The Professional Standards Section shall conduct a quarterly review of use of force incidents. The review shall include the following information:
  1. Total number of use of force incidents that occurred.
  2. Breakdown of various types of force used.
  3. Statistical review of injuries, race, gender, age of suspects, etc.
  4. Insuring that all use of force incidents were appropriately logged in the Use of Force Database.
  5. Random case review for policy compliance.