



General Order: 2.6
USE OF PHYSICAL AND LESS-LETHAL FORCE

Effective: January 1, 1988
Last Revised: February 16, 2016

PURPOSE

The purpose of this General Order is to establish department policy and procedures for the use of physical force and to govern the use of less-lethal department-authorized weapons.

PHYSICAL FORCE DEFINED

PHYSICAL FORCE IS THAT FORCE NECESSARY TO OVERCOME RESISTANCE, ACHIEVE COMPLIANCE, OR ANY USE OF DEPARTMENT ISSUED AND/OR APPROVED LETHAL OR LESS-LETHAL WEAPONS.

AUTHORITY FOR THE USE OF FORCE

Section 835a of the California Penal Code states:

"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, 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 efforts by reason of the resistance or threatened resistance of the person being arrested; nor shall such officer be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest, prevent escape, or to overcome resistance."

POLICY

It is the policy of this department that each incident involving the application of any degree of physical or less-lethal force upon the person of another must be evaluated upon the facts of the particular incident.

Whenever any officer of this department, while in the performance of his official law enforcement duties, deems it necessary to utilize any degree of physical or less lethal force upon the person of another, the degree of physical force shall only be that which the officer believes reasonable and necessary to effect the arrest, prevent escape or overcome resistance.

An officer of this department will use only the force necessary to accomplish lawful objectives.

A punch is not a recommended substitute for a control hold or a pain compliance technique, when dealing with non-combative resistance. Non-combative resistance is defined as:

1. An individual does not respond to an officer's requests or commands and may be argumentative, or
2. An individual's verbal or non-verbal actions indicate he is not complying with the officer's requests or demands, or
3. An individual is actively resisting handcuffing techniques, but is reasonably under control by the officer(s).

USE OF LESS-LETHAL WEAPONS

Officers are authorized to carry only the following less-lethal weapons:

1. Approved baton/ASP
2. Approved Chemical Agent
3. Approved "Less Lethal" Shotgun
4. Conducted Electrical Weapon (CEW)
5. PepperBall Delivery System
6. Approved 40mm "Less Lethal" single and multi-launchers and munitions
7. Approved 12 gauge "gas rounds" (SWAT Team only)
8. Approved 40 mm "gas rounds" (SWAT Team only)

Community Service Officers assigned as Field Report Writers are authorized to carry only the following less-lethal weapon:

1. Approved Chemical Agent

Officers will be trained in and will demonstrate proficiency in the use of these weapons at a POST certified recruit academy, upon employment and through an in-house retraining program. A certified Department instructor will train the Community Service Officers in the use of the approved chemical agent who must demonstrate proficiency in its use.

Any employee who doesn't demonstrate proficiency will be provided remedial training until they are able to do so. In-service training in the use of less-lethal weapons will occur at least biennially, except for the conducted electrical weapon (CEW) and carotid control hold, which will be done annually.

As with any use of force, the force must be reasonable to the situation applied. Taking into consideration the facts confronting the officer, approved less-lethal weapons may be used in a variety of situations, including but not limited to the following:

1. To de-escalate a dangerous or potentially dangerous situation.

2. When there is a potential threat of public or officer safety, including situations in which self-inflicted injury by a suspect may occur.
3. When immediate control is needed due to tactical considerations, such as safety and/or the potential for harm.

Less-lethal weapons are not intended to replace firearms or self-defense techniques. They may be used to control a dangerous or violent subject when deadly physical force does not appear to be justified and/or necessary; or attempts to subdue the subject by other conventional tactics have been, or will likely be, ineffective in the situation. Less-lethal weapons may also be used in situations where there is a reasonable expectation that it will be unsafe for officers to approach a person and take him or her into custody without the probability of injury to the officers or suspect.

Officers should be aware of the suspect's location and surroundings prior to discharging a conducted electrical weapon (CEW) to reduce the chance of collateral injury to the suspect from falling. The CEW should not be used in situations where the suspect is in proximity to, known to be in possession of or is contaminated with flammable liquids, gases, blasting or explosive materials, or any other highly combustible material that may be ignited by the device. The CEW shall only be used in accordance with the proper guidelines and instructions identified in the Department's training program. Nothing in this policy shall prohibit or discourage the use of other less-lethal weapons in conjunction with or prior to the deployment of the CEW.

There are several factors to consider prior to the deployment of less-lethal weapons. The following should be considered if the subject/suspect is:

1. at risk for arrest-related death (i.e. *known* long-term drug use, mental illness, drug influence.).
2. in a "high-risk" population such as pregnant, infirm, elderly, small child, or low body mass.
3. known to have seizure disorders.
4. less able to catch or protect him/herself (i.e. restrained, handcuffed, incapacitated, immobilized)
5. is running, in motion, or moving under momentum.
6. is operating or riding in a mode of transportation (i.e. vehicle, bus, skateboard, bike, escalator).
7. positioned so the optimum target area is not available or there is a high likelihood the intended target area will be missed.
8. not in a location where he/she can be immediately taken into custody by the officers available, or there are insufficient backup officers present to effect the arrest.

These factors should be considered; however, they are not necessarily an all-inclusive list.

CARE SHOULD ALWAYS BE EXERCISED DURING THEIR USE. THE USE OF A LESS-LETHAL WEAPON(S) MUST BE DOCUMENTED IN THE FORMAT DESCRIBED BELOW.

ORIENTATION AND QUALIFICATION FOR NEW EMPLOYEES

All new sworn employees will complete an orientation and qualification with their authorized less-lethal weapons during their orientation program. The orientation program will include the issuance and instruction in all general orders related to the use of force. Should there develop an exception, the employee(s) can continue with their field training program, provided the employee(s) successfully passed an Academy's Firearms Training course (California POST approved). The minimum passing qualification score will be 80% of the highest possible score.

REPORTING THE USE OF FORCE

Whenever an officer applies any degree of physical or less-lethal force upon a person while in the performance of his official duties, the officer will articulate the use of force in his arrest report.

The report will detail:

1. Justification for the use of physical force
2. The type of force applied (specify less-lethal weapon, if applicable)
3. The effect of the force upon the person
4. The subsequent actions taken by the officer

NOTE: If the District Attorney's Office is requested to investigate the matter, the involved officer(s) interview with the District Attorney's Investigator will suffice for the official report. Any necessary arrest and crime incident face page reports will be completed by the officer(s) involved. If the officer(s) elects not to give a voluntary statement to the District Attorney's Investigator, and the suspects remain outstanding or are subject to prosecution for related offenses, the Department shall retain the authority to require involved officers to provide sufficient information in related criminal reports to facilitate the apprehension and prosecution of those individuals.

The officer will notify a field supervisor as soon as possible if the application of physical or less-lethal force results in one of the following injuries:

1. Unconsciousness
2. Temporary vision impairment caused by a chemical agent
3. Any other injury requiring medical treatment

In the case where a baton, less-lethal shotgun, Pepper Ball, CEW, 40mm impact round or other instrument/object is used, a field supervisor will be notified as soon as possible. The field supervisor should also respond to the scene.

In the case of a dog bite, the canine handler will complete a Garden Grove Police Department K-9 Incident Report in addition to the above notification.

The on duty division sergeant will review arrest reports that involve the use of physical force.

DEADLY FORCE OR SERIOUS INJURY

When an incident involving the discharge of deadly force occurs, the reporting and investigative procedures established in General Order 2.8 - Discharge of Deadly Force will be followed.

Any other use of force that results in a death or serious injury shall also follow the reporting and investigative procedures established in General Order 2.8 - Discharge of Deadly Force.

MEDICAL TREATMENT

When an arrestee requires medical treatment as a result of physical force being applied, the procedures established in General Order 10.9 - Arrestee Transportation are to be followed.

Once the subject is in custody, the arresting officer shall notify an on-duty supervisor as soon as possible of the CEW deployment and summon paramedics to the scene and advise paramedics and the Emergency Room staff that the person has been subjected to the CEW. If the probes penetrate the skin, the puncture sites shall be brought to the attention of the on-duty supervisor, Paramedics and Emergency Room Staff. Only Emergency Room Staff should remove CEW probes that are embedded in the skin of the suspect. All subjects exposed to a CEW deployment must be cleared by emergency room personnel as soon as possible and prior to release from police custody. After examining the affected person, the Paramedics shall arrange for transportation of the suspect to the hospital via an ambulance.

Photographs shall be taken of CEW and less-lethal weapon related injuries. CEW probes that came into contact with only the suspect's clothing and did not yield a puncture to the skin below shall be booked as evidence. Photographs shall be taken of the clothing and uninjured skin underneath the clothing. CEW probes that have penetrated the body should be treated as Biohazard "Sharps" and photographs of all injuries caused by the probes shall be taken as evidence. Proper handling of the CEW probes is essential to avoid exposure to injury or the transmission of blood borne pathogens. The expended CEW probes shall be booked as evidence unless circumstances dictate that booking of such probes is not feasible.

In the event a subject is exposed to a "direct impact" of a Pepper Ball projectile, the arresting officer shall examine the effected person to determine if they are in need of medical attention. The exception would be if an individual flees and he or she cannot be located. Photographs of the impact sight shall be taken to document any impact related injuries. As soon as practical, the subject should be taken into fresh air and the officer should flush the suspect(s) eyes with water if needed.

In instances where a person is struck by 12 gauge or 40mm less lethal munitions, the subject shall be taken to a medical facility for examination as soon as practical. The exception would be if an individual flees and he or she cannot be located. Photographs of the impact site shall be taken to document any impact related injuries. The 12 gauge and/or 40 mm munitions casing, as well as the impact munitions shall be booked into property and evidence. An exception to this procedure would be in the event of a riot type situation where officer safety prohibits the collection of evidence and/or if the evidence cannot be located.

REVIEW OF THE USE OF FORCE

A field supervisor must submit a Use of Force Review memorandum, directed to the Chief of Police, when the use of force is applied by use of a baton, less-lethal shotgun, conducted electrical weapon (CEW), a direct impact from a Pepper Ball projectile, or other less-lethal instrument/object; or any other use of force that results in death or serious injury. A field supervisor shall also prepare a Use of Force Review memorandum for any application, or attempted application, of the carotid restraint control hold, regardless of whether the use of the carotid restraint control hold resulted in loss of consciousness. Also, a field supervisor may submit a Use of Force memorandum after any use of physical force incident in which the supervisor feels it is necessary to report the incident in writing up the chain of command.

The memorandum will accompany all relevant reports and documents that pertain to the incident. The employee's Division Commander and Bureau Commander will review the package. The Bureau Commander may request that the Use of Deadly Force Review Board convene to review the circumstances of the incident. If a Use of Force incident is referred to the Use of Force Review Board, the employee(s), involved in the incident will be interviewed by the Internal Affairs Sergeant prior to the Board's review of the incident if the available reports or prior interviews are insufficient. The completed internal investigation, along with all reports, and any other necessary information requested by the board, will be provided to them. Refer to General Order 2.9 - Use of Deadly Force Review Board.

If a formal investigation is initiated, it will be conducted in compliance with the procedures established in General Order 1.2 - Disciplinary Procedures.

If the use of force and/or any other actions by the employee involves death or traumatic/serious injury to a person, the involved employee(s) will be placed on administrative leave with pay pending a mandatory interview with a department-recognized psychologist. If the psychologist is not called out or is unavailable at the time of the incident, the involved employee(s) Unit or Division Commander will request that the Training Manager arrange an appointment with the psychologist. The employee(s) Unit or Division Commander will insure that a City of Garden Grove Personnel Action Form is completed to document the administrative leave with pay. After consultation with the department psychologist, and a preliminary review of the incident, the employee(s) may be returned to full duty or modified duty based on what is in the best interest of the employee(s) and the department.

CRIMINAL AND CIVIL LIABILITY

The following state and federal code sections are relevant to the use of force and treatment of arrestees. All employees should be familiar with them.

147 PC - Inhumanity to Prisoners

148 PC - Resisting Public or Peace Officers

149 PC - Assault by Officers Under the Color of Authority

673 PC - Cruel and Unusual Punishments

692 PC - Lawful Resistance

694 PC - Lawful Resistance

835 PC - Method of Effecting Arrests/Resistance

843 PC - Force that May Be Used to Arrest Under a Warrant

43 Civil Code - Personal Rights

820a Government Code - Peace Officer Liability Same As a Citizen

Title 18, Section 241, 245 of the U.S. Code - Civil Rights Act

**GARDEN GROVE POLICE DEPARTMENT
INTRA-DEPARTMENT MEMORANDUM**

To:

From:

Date:

Subject: USE OF FORCE REVIEW

This review is to be completed by an on-duty or on-scene supervisor when the use of force is applied by use of a baton, less-lethal shotgun, M-26 Advanced Taser, or other less-lethal instrument/object; or any other use of force that results in death or serious injury. Or when an employee discharges a firearm, on or off duty, intentionally or accidentally.

DR # _____

DATE OF INCIDENT _____

TIME OF INCIDENT _____

LOCATION OF THE INCIDENT _____

OFFICER(S) INVOLVED _____

NATURE OF THE CALL OR INCIDENT _____

TYPE OF FORCE USED PHYSICAL LESS-LETHAL WEAPON FIREARM

NATURE OF THE INJURIES AND MEDICAL TREATMENT REQUIRED _____

SUMMARY OF THE ACTIONS OF THE OFFICER(S) INVOLVED _____

WAS AN OFFICER, POLICE EMPLOYEE, OR CITIZEN INJURED? YES NO

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IF YES, NATURE OF THE INJURIES AND MEDICAL TREATMENT REQUIRED

WAS AN ACCIDENT REPORTING FORM COMPLETED? YES NO

IF YES, ATTACH A COPY

INVESTIGATOR(S) AND IDENTIFICATION TECHNICIAN(S) WHO RESPONDED, IF CALLED

SUPERVISOR'S COMMENTS

SUPERVISOR'S SIGNATURE
