

Use of Force

300.1 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques involve the use of force and may be effective in controlling a physically or actively resisting individual. Officers may only apply those pain compliance techniques for which they have successfully completed Division-approved training. Officers utilizing any pain compliance technique should consider:

- (a) The degree to which the application of the technique may be controlled given the level of resistance.
- (b) Whether the individual can comply with the direction or orders of the officer.
- (c) Whether the individual has been given sufficient opportunity to comply.

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

300.2 DISCHARGING A FIREARM

- (a) Do not fire warning shots.
 1. When feasible and consistent with personal safety, give some warning, other than a warning shot, before using deadly physical force against another person.
 2. The standard police warning is "POLICE, DON'T MOVE!"
- (b) Do not discharge a firearm from or at a moving vehicle or its occupants unless the following exceptions are occurring:
 1. The occupants of the other vehicle are using deadly physical force against the member or another person by means other than the vehicle; or
 2. The vehicle is being driven in a manner, which causes the member to reasonably believe the operator is intentionally using the vehicle to cause death or serious physical injury to the member or other persons and the member has made every reasonable effort to move him/herself or others from the path of the vehicle or the threat caused by the vehicle.

300.3 MEDICAL CONSIDERATIONS

Prior to booking or release, medical assistance shall be obtained for any person who exhibits signs of physical distress, has sustained visible physical injury, expresses a complaint of injury or continuing pain, or was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed.

Based upon the officer's initial assessment of the nature and extent of the individual's injuries, medical assistance may consist of examination by an emergency medical services provider or medical personnel at a hospital or jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be

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witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording if possible.

The on-scene supervisor, or if not available, the primary officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Individuals who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called "excited delirium"), or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away from the scene.

300.4 REPORTING USE OF FORCE INCIDENTS

Any use of force incident by an officer of this Division shall be documented promptly, completely and accurately in the narrative section of the appropriate report and in the Use of Force Report in the PARKS Module. The officer should articulate the facts and why he/she believed the use of force was reasonable under the circumstances. To collect data for the purposes of training, resource allocation, analysis and related purposes, the Division may require the completion of additional report forms, as specified in Division policy, procedure, law, or regulation.

300.4.1 NARRATIVE REPORTS

Officers shall document their use of force, ensuring the following information is documented in the narrative of the incident or arrest report:

- Justification of force
- Who used force
- What force was used
- How force was used
- Type of equipment used (e.g., baton, OC spray, handcuffs)
- Effectiveness of force used
- List other officers at scene
- Witnesses, if not already listed on the incident or arrest report
- Physical condition prior to the use of force
- Physical condition after force was used
- How person was transported to hospital

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- Name of hospital
- Doctor's name
- If treatment was refused
- Witness to treatment refusal
- Arrest charges

300.5 SUPERVISORY RESPONSIBILITIES

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 officers. Absent an allegation of misconduct or excessive use of force, this will be considered a routine contact in the normal course of duties.
- (b) Ensure that any injured parties are examined and treated.
- (c) At the discretion of the supervisor, interview the individual upon whom force was applied and attempt to obtain a statement. If this interview is conducted without the individual having voluntarily waived his/her Miranda rights, the following shall apply:
 1. The content of the interview or statement should not be summarized or included in any related criminal charges.
 2. The fact that an interview was conducted, or a statement obtained should be documented in a property or other report.
 3. Any recording of the interview, statements, or notes taken should be distinctly marked for retention until all potential for civil litigation has expired.
- (d) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas.
 1. These photographs should be retained until all potential for civil litigation has expired.
- (e) Identify any witnesses not already included in related reports including any officers present at the incident.
- (f) Review and approve all related reports.
 1. Supervisors should require that officers who engage in the use of force submit the appropriate reports.
- (g) Presume the individual may pursue civil litigation.
 1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the chain of command to Internal Affairs.

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- (h) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy noncompliance or if any reason further investigation may be appropriate.
 - 1. Disciplinary actions will be consistent with any applicable disciplinary guidelines and collective bargaining agreements.

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.

Supervisors shall review each use of force by any personnel within his/her command to ensure compliance with the policy and this procedure and to address any training issues. The reviewing supervisor, if he/she was not the supervisor on scene, should coordinate with the supervisor who responded, if appropriate.

Each District Commanding Officer shall assign a supervisor who shall also ensure that use of force incidents are reported, collected, compiled, and submitted to DCJS within 30 days of an incident in accordance with Executive Law § 837-t(1)(2)).

The IAB Commander shall compile all use of force data and provide the information to the Director of Law Enforcement monthly.