

USE OF FORCE – FIELD SERVICES

- AUTHORITY:** Administrative Directive
 Government Code Section 7286, 12525.2
 California Penal Code (CPC) 196, 830.5, 832.7, 832.8, 835, 835a, 836.5(b),
 6035, and 6036
 Government Code Section 7286.5
 Title 15 Section 173 California Code of Regulations
- RESCINDS:** Procedure Manual Item 1-4-105, dated 08/11/2020
- FORMS:** Special Incident Report (Adult Field Services) F097-9162.1(A)(AF) (2008)
 Special Incident Report (Juvenile Field Services) F057-9162.1(JF) (2016)
- PURPOSE:** To provide guidelines on the objectively reasonable use of force and justification for the use of deadly force by Deputy Probation Officers (DPOs), Senior Deputy Probation Officers (SDPOs), Supervising Probation Officers (SPOs), and sworn administrators. For the purposes of this Procedural Manual Item (PMI), the acronym DPO applies to all of the above noted classifications.

I. GENERAL INFORMATION

A. Scope and Philosophy

1. Deputy Probation Officers (DPO) are peace officers as defined by Penal Code § 830.5 and have limited peace officer authority. Through the normal course and scope of their duties, they may be called upon to perform law enforcement activities that may necessitate the use of objectively reasonable force.
2. The authority to use physical force is a serious responsibility that shall be exercised judiciously and with respect for human rights, dignity, and the sanctity of every human life.
3. A DPO, who has reasonable cause to believe that the person to be arrested has committed a public offense, may use objectively reasonable force to effect the arrest, to prevent escape, or to overcome resistance.
4. A DPO who makes or attempts to make an arrest need not retreat or desist from their efforts by reason of the resistance or threatened resistance of the person being arrested.
5. DPOs shall only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance.
6. DPOs shall carry out their duties, including use of force, in a manner that is fair and unbiased.

7. Every person has the right to be free from excessive use of force by officers acting under color of law. In no circumstances, shall force be used in a punitive manner, nor upon an individual that appears to be under control. The department will not tolerate excessive force.
8. Pursuant to Government Code section 12525.2, the department is required to report specific use of force incidents through the California Department of Justice application URSUS. The following use of force events are required to be reported:
 - a. An incident that involves the shooting of a civilian by a peace officer.
 - b. An incident that involves the shooting of a peace officer by a civilian.
 - c. An incident in which the use of force by a peace officer against a civilian resulted in serious bodily injury or death.
 - (1) "Serious bodily injury" means a bodily injury that involves a substantial risk of death, unconsciousness, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member or organ.
 - d. An incident in which use of force by a civilian against a peace officer results in serious bodily injury or death.
9. DPOs shall intercede when present and observing another officer using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, taking into account the possibility that other officers may have additional information regarding the threat posed by a subject.
10. Employees shall comply with Policy Number C-16 Employee Conduct – On Duty which requires any employee who observes or is aware of an employee violating the law and/or departmental policy and procedure must report this to a supervisor at the earliest possible opportunity. Further, all employees are responsible for reporting any situation that poses a threat to the health and safety of staff and clients under the Probation Department's jurisdiction. Specific to the use of force, DPOS are required to report potential excessive force when present and observing another officer using force that the DPO believes to be beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances based upon the totality of information actually known to the officer.
11. The activities listed below are not considered use of force events. However, in the event the activity results in injury, the appearance of injury, or complaint of pain, the incident should be reported to the officer's supervisor.
 - a. Using a firm grip to control while performing routine functions such as searching, handcuffing, or escorting.
 - b. Using a firm grip/hand hold to assist or escort a restrained person.

- c. Performing reasonable interventions necessitated by the physical incapacity of the individual (e.g., steadying or lifting an intoxicated or disabled person).

12. Consistent with Policy Manual Item (PMI) 1-1-A Probation Department Procedure Manual, this PMI will be reviewed and updated at a minimum of every two years, or when directives change based on legislation, court decisions, county directives, or practice.

B. De-escalating and Obtaining Voluntary Compliance

1. Voluntary compliance is the preferred means of achieving resolution to potential use of force encounters. When reasonable to do so, DPOs should ask for and allow reasonable time for compliance
2. When feasible, DPOs shall utilize de-escalation techniques, crisis intervention tactics, and other alternatives to force. "Feasible" means reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objectives without increasing risk to the officer or another person.

C. Reasonable Use of Force Equipment

Only departmentally issued or approved equipment with which the DPO has successfully completed training and been authorized to use shall be employed. All issued or approved equipment shall be carried and used in a manner consistent with the manufacturer's recommended use and departmental training. All equipment shall be maintained in good working order. In the event an item is not in good working order, the equipment issue shall be reported to the respective supervisor immediately.

II. Training

- A. A DPO must complete the following departmentally authorized training before being authorized to utilize any use of force option:

1. Probation Officer Core Course approved by the Board of State and Community Corrections and the Standards and Training for Corrections Program authorized by Title 15, Section 173 California Code of Regulations. The Probation Officer Core Course includes multiple training modules addressing the use of force.
 - a. Legal liability
 - b. Principles of Use of Force
 - c. Evasive Blocking Techniques
 - d. Arrest and Control Techniques
 - e. Principles of Use of Restraints
 - f. Use of Chemical Agents (departmentally required)

- g. Handcuffing
- 2. Information for working with vulnerable populations (e.g. children, elderly, people who are pregnant, and people with physical, mental and developmental disabilities) is woven throughout the above listed modules. The Probation Officer Core Course also includes modules addressing specific populations:
 - a. Substance Abuse
 - b. Psychological Problems
 - c. Crisis Intervention and Counseling
- B. Prior to a DPO being authorized to carry a firearm, the DPO must complete the following departmentally authorized training:
 - 1. Penal Code 832 Firearms
 - 2. Firearms Training Course
 - 3. Defense and Control Techniques for Armed Officers
 - 4. Expandable Baton Certification Course for Armed Officers
 - 5. First Aid, CPR, and Blood Borne Pathogens
 - 6. Tactical Lifesaver Course

III. Force Options

- A. As noted in I. A. 3, the DPO is permitted to use objectively reasonable force to effect arrest, to prevent escape, or to overcome resistance. Before utilizing a use of force option, the DPO shall have completed departmentally approved training and be authorized to use the tactic.
- B. Given that no policy can realistically predict every possible situation a DPO may encounter, it is recognized that each DPO must be entrusted with well-reasoned discretion in determining the appropriate use of force and tactics used. However, according to Government Code Section 7286.5(a), the department cannot authorize the use of a carotid restraint or choke hold.**
- C. Deadly force means any use of force that creates a substantial risk of causing death or serious bodily injury. Deadly force includes, but is not limited to, the discharge of a firearm.
- D. The following are common force options but are not to be construed as a use of force continuum that requires an escalating series of actions an officer must take to resolve a situation.
 - 1. Physical Force

- a. Refers to the use of techniques by a trained DPO to use bodily force to gain control of an individual.
- b. DPOs must believe that the use of any technique appears to be necessary to further a legitimate law enforcement purpose.
- c. The application of any physical force technique shall be discontinued once the DPO determines that compliance has been achieved.
- d. DPOs using physical force should consider the following:
 - (1) Whether the individual has been given sufficient opportunity to comply.
 - (2) The possibility of unintended or increased injury to special populations including juveniles, elderly, visibly frail, pregnant or recovering from delivery, and individuals with pre-existing medical conditions.
- e. These techniques include, but are not limited to, the following:
 - (1) Arrest and control techniques that utilize a DPO's personal body weapons to strike, hold, pull, push, throw, kick, or otherwise exert strength against another person to gain compliance.
 - (2) Pain compliance techniques apply to control holds that involve manipulating a person's joints or activating certain pressure points to create sufficient pain to achieve compliance. The application of "pain" in a pain compliance technique should be discontinued once the DPO determines that compliance has been achieved or there is no further need for its application.

2. Chemical Agent

Refers to the use of a departmentally issued oleoresin capsicum (OC) spray. Please refer to PMI 1-4-106 for specifics on the training, certification, authorization, discharge, and decontamination requirements for the use of OC spray.

3. Impact Weapon

- a. Refers to the use of a departmentally issued expandable baton by an authorized and trained DPO. Baton strikes should be delivered to target areas consisting of hands, arms, feet, legs, shoulder, or center mass regions of the body. Strikes to non-target areas involving the head, neck, throat, spine, heart, sternum/xiphoid process, kidneys, spleen and groin pose an increased risk of causing serious physical injury or death and should be avoided.

- b. Refer to PMI 1-4-121 Expandable Baton – Field Service for specifics on the training and authorization to possess and use an expandable baton in the course and scope of employment.
4. Taser/Conducted Energy Weapon (CEW)
 - a. The use of a CEW is considered a less than lethal weapon.
 - b. Refer to PMI 1-4-126 Taser/Conducted Energy Weapon (CEW) for guidelines on the issuance, training, use, and storage of the CEW.
5. Firearm
 - a. Discharge of a firearm is considered deadly force.
 - b. Refer to PMI 1-4-107 Authorization to Carry Firearms for guidelines on the issuance, training, use, and storage of a firearm.
 - c. Prior to discharging a firearm, and when feasible, the DPO shall make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used. This is not required when the officer has objectively reasonable grounds to believe the person is aware of these facts.
 - d. A DPO is authorized to draw their weapon from its holster or point a firearm at a person when immediate circumstances create a reasonable belief that a serious threat exists and the use of the firearm may be necessary to protect life or when the DPO is providing appropriate back-up to a law enforcement agency in a potentially life-threatening situation.
 - e. DPOs must consider their surroundings and potential risks to bystanders, to the extent reasonable under the circumstances, before discharging a firearm.
 - f. A DPO is justified in using deadly force when he/she believes, based on the totality of circumstances, that such force is necessary for either of the following reasons:
 - (1) To defend against an imminent threat of death or serious bodily injury to the officer or to another person. A threat of death or serious bodily injury is “imminent” when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the DPO or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed.
 - (2) To apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the DPO

believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

g. A DPO shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the DPO or to another person.

h. Moving Vehicles

(1) DPOs shall actively attempt to move out of the path of an approaching vehicle instead of discharging his/her firearm at the vehicle or any of its occupants.

(2) Firing at or from a moving vehicle is prohibited except when necessary because of an imminent threat of death or serious bodily injury to the DPO or another person.

i. Warning Shots

The firing of warning shots present a danger to both the DPO and innocent persons and is therefore prohibited.

j. Post Shooting Procedures Involving Injured Persons

Refer to PMI 1-4-107 Authorization to Carry Firearms.

IV. Use of Force on Vulnerable Populations

Individuals with physical, mental health, developmental, or intellectual disabilities are significantly more likely to experience greater levels of physical force during law enforcement interactions, as their disability may affect their ability to understand or comply with commands. Training specific to working with vulnerable populations is listed in Section II Training of this PMI.

V. Use of Force on Animals

A. Deadly force may be used to stop a dangerous animal in circumstances where the animal reasonably appears to pose an imminent threat to humans safely and alternative methods to neutralize the threat are not reasonable available or would likely be ineffective.

B. In the event an animal is injured as a result of a use of force, the DPO shall call animal control for assistance when safe and practical to do so.

VI. Medical Considerations

A. The DPO shall consider the nature and severity of the individual's injury and take appropriate and timely action in obtaining medical assistance.

- B. DPO should promptly provide, if properly trained, or promptly procure, medical assistance for persons injured in a use of force incident when it is reasonable and safe to do so.
- C. Any individual exhibiting signs of physical distress (e.g. obvious or complaint of shortness of breath, chest pain, or dizziness) after an encounter should be continuously monitored until he/she can be medically assessed. The individual should be evaluated by medical personnel (e.g. on-scene paramedics, hospital personnel) as soon as it is reasonably possible.
- D. Any subject who has been subjected to a use of force, must be medically cleared through the medical unit during the booking process or by medical personnel before being released to the field. The DPO shall ensure that any person providing medical care or receiving custody of a person subjected to force be notified of the description of force used and any other known details that could pose a safety risk to the individual (e.g. prolonged struggle, impaired respiration).
- E. Individuals exposed to chemical agents (OC Spray) shall be decontaminated as soon as practically possible. Refer to PMI 1-4-106 regarding the specifics for decontamination.
- F. When releasing an individual to the custody of another, the primary DPO involved shall notify the transporting probation or law enforcement personnel, medical personnel or custody staff that the individual was subjected to force and to monitor him/her as needed. The DPO should relay the type of force used, describe any visible or perceived injuries, convey injuries as reported by the individual, and advise of any concerns involving the individual's medical circumstances or safety.
- G. If an individual refuses medical attention by medical personnel, the DPO shall fully document the refusal and any visible injury in a Special Incident Report (SIR).

VII. DPO Notifications and Documentation

- A. Any officer involved shooting or use of force resulting in serious bodily injury or death is considered a critical incident. The DPO (s) shall notify their respective Critical Incident Manager (CIM) as soon as reasonably possible.
- B. Any DPO involved in a use of force as described in Section II, shall notify his/her SPO as soon as reasonably possible.
- C. Any DPO who witnesses a use of force by a DPO as described in Section II, shall notify his/her immediate SPO as soon as reasonably possible.
- D. Any DPO who negligently discharges a departmentally issued firearm, shall notify their supervisor as soon as reasonably possible. A negligent discharge is considered a discharge of a firearm unintentionally, unexpectedly, or outside the scope of employment. A negligent discharge can occur at any time (on-duty or off-duty). A DPO may use the assistance of their union representative when notifying their supervisor. Additional notification responsibilities are outlined in PMI 1-4-107 Authorization to Carry Firearms.
- E. Any DPO involved in a use of force incident, excluding an officer involved shooting, shall write and submit an S.I.R. including all relevant facts related to the

circumstances leading up to the incident, the DPO's perceptions at the time of the incident, level of resistance, tactics attempted prior to the use of force, and why force appeared necessary. Refer to PMI 1-4-107 regarding the reporting of an officer involved shooting.

1. A DPO may consult with their union representative when writing/submitting the S.I.R.
2. Except as specified in E.4. below, any DPO involved in a use of force shall have the opportunity to review available audio/video recordings prior to submitting an S.I.R.
3. A DPO involved in a use of force incident shall submit his/her SIR to their assigned SPO or CIM promptly.
4. If circumstances delay the submission of the S.I.R. past 48 hours, approval must be granted from the assigned SPO or CIM. The assigned SPO or CIM will consider the circumstances of the incident, injuries sustained (e.g. serious bodily injury or death), ability to review audio/video recordings, etc. when granting an extension for the submission of the report.

VIII. Supervisor's Responsibility

- A. Upon notification of a use of force, the supervisor shall ensure all emergency services have been deployed.
- B. If the incident involved an officer involved shooting (OIS) or a use of force resulting in serious bodily injury or death, confirm the Critical Incident Manager (CIM) has been notified. As noted in PMI 1-4-128, the CIM will notify the Association of Orange County Deputy Sheriff's (AOCDS) by calling 714-285-2800 as soon as practical and/or possible.
- C. Specific protocol for follow-up to an OIS is covered in PMI 1-4-107 (Authorization to Carry Firearms).
- D. Collect S.I.R.s from each involved DPO. Upon approval, the SPO shall forward all use of force S.I.R.s up their respective chain of command.
- E. In the event the involved officer(s) suffered an injury, initiate Worker's Compensation paperwork. Human Resources Return-to-Work staff will notify AOCDS upon receipt of the Worker's Compensation paperwork.

IX. Management Responsibility and Review

- A. The assigned Assistant Division Director (ADD) and Division Director (DD) shall review all use of force reports within their division.
- B. A decision for a DPO to use force shall be evaluated carefully and thoroughly, in a manner that reflects the gravity of that authority and the serious consequences of the use of force.
 1. The use of force should be consistent with law and departmental policies.

2. The decision should be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight. The “totality of the circumstances” shall account for occasions when officers may be forced to make quick judgments about using force. “Totality of the circumstances” means all facts known to the DPO at the time, including the conduct of the officer and the subject leading up to the use of deadly force.

C. All use of force incidents involving the use of a chemical agent, impact weapon, Taser, or firearm, will be referred to the Use of Force Review Board. The primary function of the Use of Force Review Board is to determine if the force was consistent with training and within departmental policy and procedure. Refer to PMI 1-4-108 Use of Force Review Board for the purpose, function, and parameters of the Use of Force Review Board.

D. The CDPO shall notify the involved DPO (s) through the chain of command that the use of force event has been referred to the Use of Force Review Board.

E. In the event there is a concern or complaint alleging the amount of force used was not objectively reasonable or otherwise outside of departmental policy, the matter will be referred to the Professional Standards Division for further review.

F. The Use of Force Review Board will submit their findings to the Chief Probation Officer. The Chief Probation Officer has the right to accept or reject the findings of the board.

X. Disclosing Public Records

Pursuant to PC 832.7, peace officer records related to the report, investigation, or findings of the following use of force incidents shall be made available for public inspection:

A. An incident involving the discharge of a firearm at a person by a peace officer.

B. An incident in which the use of force by a peace officer against a person resulted in death, or in great bodily injury. Pursuant to Penal Code 12022.7(f), great bodily injury means a significant or substantial physical injury.

1. Records may be redacted pursuant to CPC 832.7(b) (5) and (6).

2. Release of the records may be delayed pursuant to CPC 832.7(b) (7).

XI. Complaints Against Personnel (CAP)

The investigation process for CAPs is outlined in PMI 1-3-404 Complaints Against Personnel.

REFERENCES:

Procedures:	1-1-A	Probation Department Procedure Manual
	1-3-404	Complaints Against Personnel
	1-4-106	Oleoresin Capsicum (OC) Spray-Field Services

1-4-107	Authorization to Carry Firearms
1-4-108	Use of Force Review Board
1-4-110	Threats, Harm or Danger to Employees and Others
1-4-121	Expandable Baton-Field Services
1-4-122	Leg Restraint Devices
1-4-126	Taser/Conducted Electrical Weapon (CEW)
3-1-015	Use of Force – Physical, Mechanical, & Chemical
3-1-303	Special Incident Reports

Policies:

A-9	Requests for Information and Assistance
A-10	Contact with News Media
C-14	Citizen Complaints, Compliments and Complaints against Peace Officers
C-16	Employee Conduct - On Duty
D-1	Threats, Harm, Danger to Employees and Others
D-2	Use of Physical Restraint/Corporal Punishment
D-4	Handcuffs
D-5	Arrests/Temporary Detentions
D-8	Firearms
D-9	Tear Gas

Statutes:

Government Code § 846
42 U.S. Code 247d-6d (10)

C. Stiver

APPROVED BY: