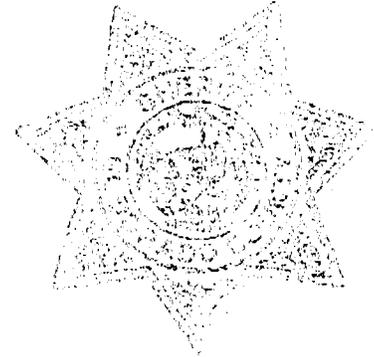


EL DORADO COUNTY SHERIFF'S DEPARTMENT
SHERIFF HAL BARKER**MEMORANDUM**

TO: Jail and Sworn Staff
FROM: Sheriff Barker
SUBJECT: Use of force investigations
DATE: January 31, 2000



The supervisor responsible for supervision of a lawful use of force incident is to ensure that the report concerning the incident is thorough and complete. A copy of the completed report will be forwarded to the division commander for review. If a supervisor from another shift needs to approve the report, due to an incustody situation, a copy of the report should be forwarded to the responsible supervisor prior to going to the division commander.

The officer's duty is to provide the completed report of the incident. This will include all witness and suspect statements (audio recorded whenever possible), photographs of the suspect (whether visible injuries are present or not), documentation of medical treatment provided if it was necessary, and a complete description of the situation that led up to the use of force. The entire incident will then be contained in the crime report.

For incidents arising from the jail, the documentation will be kept in the inmates file. If a jail incident involves a criminal act where force was used by jail personnel then a sworn officer will respond to take a crime report. A copy of the jail video tape should be requested to help document the facts of the case.

The supervisor will also conduct investigations into citizen's complaints of wrongdoing. As a department we will conduct internal investigations into allegations of excessive force or inappropriate behavior. Complaints will be forwarded up to IA for either further investigation or for logging into the complaint book. No separate files will be kept on investigations without a complainant filing accusations. A new General Order will be coming out soon pertaining to the use of force investigations.

EL DORADO COUNTY SHERIFF'S DEPARTMENT
INTER-OFFICE MEMO

TO: All Personnel

FROM: Undersheriff Jim Roth 

DATE: March 22, 1996

SUBJECT: Use of Force Policy Update: GO 040793

The Use of Force Policy is updated to reflect some clarifications to the responsibility of the Supervisors and Division Commanders when investigating the use of force.

1. The Supervisor will do an independent investigation with the only intent of gathering all the facts regarding the use of force. If an officer or citizen causes the Supervisor to investigate a reported use of force, an investigation will be done as a reportable case.
2. The Supervisor will not be party in any way to the use of force. If the supervisor is a party in any way he/she will contact his/her immediate supervisor, or another supervisor if necessary, to conduct the investigation.
3. The Supervisor investigating will obtain full tape recorded statements of all individuals except for the officer(s) involved. This includes all witnesses or potential witnesses even if they say they did not see anything.
4. Photographs will be taken of the incident as we would in any investigation. This would include the surrounding area as well as any potential injuries to any person involved. The photographs will be developed as soon as possible for review by the Division Commander.
5. The Division Commander will review all investigations as soon as possible including all statements, reports and photographs. In the absence of the Division Commander the investigation will be sent through the Chain of Command. Supervisors will assure the investigation is not submitted to a person who is away from the office for a long period which would delay the review. The Division Commander will determine if additional investigation is needed and will document opinion and conclusions and attach it to the investigation.



Don McDonald

SHERIFF - CORONER - PUBLIC ADMINISTRATOR
COUNTY OF EL DORADO
STATE OF CALIFORNIA

REPLY TO:

HEADQUARTERS
300 F AIR LANE
PLACERVILLE
CA 95667
916-621-5555
FAX 626-9156

JAIL DIVISION
300 FERN ROAD
PLACERVILLE
CA 95667
916-621-6000
FAX 626-9472

TO: All Personnel

FROM: Sheriff Don McDonald General Order #GO040793

DATE: September 22, 1993 Effective Date: June 1, 1993

REvised: October 18, 1993

SUBJECT: Use of Force policy

TAHOE DIVISION
P.O. BOX 15000
SOUTH LAKE TAHOE
CA 96151
916-579-9000
FAX 844-8805

This policy recognizes the use of force as a continuum which needs constant evaluation. Even at its lowest level, the use of force is a serious responsibility. The purpose of this policy is to provide officers with guidelines on the authorized use of force without creating any hesitation once a decision is made to use force.

Philosophy - Ethics and the Use of Force

The use of force by law enforcement personnel is a matter of critical concern both to the public and the law enforcement community. Officers are involved on a daily basis in numerous and varied human encounters and, when warranted to do so, may use force in carrying out their duties.

Officers must have an understanding of, and true appreciation for, the limitations on their authority -- particularly with respect to overcoming resistance from those with whom they come in official contact.

This department recognizes and respects the value of human life and dignity. Vesting officers with authority to use force to protect the public welfare requires a careful balancing of all human interests.

Policy

It is the policy of this department that officers shall use only that force which is reasonable, given the facts and circumstances known at the time of the event, to effectively bring an incident under control. "Reasonableness" of the use of force must be judged

from the perspective of a reasonable officer on the scene at the time of the incident.

California Penal Code Sections 831.5a, 831.5f and 835a provide that:

831.5a: As used in this section, a custodial officer is a public officer, not a peace officer, employed by a law enforcement agency

831.5f: A custodial officer may use reasonable force in establishing and maintaining custody of persons delivered to him or her by a law enforcement officer

835a: 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 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 or to prevent escape or to overcome resistance.

Definitions

Less than Lethal Force: Less than lethal force is that force which is unlikely, when properly used, to result in serious physical injury or death.

Lethal Force: Lethal force is that force likely to cause serious physical injury or death.

Use of Force Continuum: A Use of Force Continuum is a visual representation of force options designed to facilitate an understanding of appropriate levels of force by officers. This is accomplished by establishing parameters which exhibit the actions of both the subject and the officer on a comparative scale. A force continuum by design should be consistent with the approved written use of force policy of the department, and should be easily understood and readily recalled by officers under the stress of a confrontation. It is also valuable as a training aid in preparing for situations which may require the use of force.

Situation-Based Use of Force Continuum

The attached use of force continuum is designed to provide an overview and visual representation of the force options available to officers in this department. It is a fluid instrument which attempts to embody the dynamics of a confrontation.

The department recognizes that building flexibility into an officer's determination of the appropriate use of force is advisable and acceptable, if not essential, given that the standard of evaluating an officer's use of force claim is reasonableness under the facts and circumstances known to the officer at the time. This is an affirmative stance by the department designed to provide additional confidence and needed support to officers in making their decisions regarding use of force.

A number of factors are taken into consideration when an officer selects force option and when evaluating whether an officer has used reasonable force. The department recognizes that officers are expected to make split-second decisions and that the amount of time available to evaluate and respond to a situation may impact the officer's decision. By establishing a policy that includes a use of force continuum the department hopes to provide additional guidance to officers in making those split-second decisions. Examples of factors which may affect an officer's force option selection include, but are not limited to:

- Officer/subject factors (age, size, relative strength, skill level, injury/exhaustion, number of officers versus number of subjects)
- Influence of drugs or alcohol
- Proximity to weapons
- Availability of other options
- Seriousness of the offense in question
- Other exigent circumstances

Finally, it is important to note that an officer need not attempt to gain control over an individual by use of the lowest level of force on the continuum when reason dictates and the officer can articulate that a higher level of force is reasonable. Likewise the skipping of steps may be appropriate given the resistance encountered.

Simply put, this continuum should be viewed as an elevator, not a ladder, where an officer may go directly to any level of the continuum provided that the force selected is reasonable. Note that the category descriptions below are non-exclusive and are intended to serve as illustrations of actions which fall within the various levels.

Actions of Subject (as reasonably perceived by the officer or based on the officer's reasonable perception).

Cooperative: Subject is cooperative and complies with verbal commands or other directions.

Cooperative, Non-Responsive or Uncooperative: Subject is uncooperative when taken into custody or fails to respond to verbal commands or other directions.

PRESENCE,
RESTRAINING
COMPLIANCE

Passive or Low Level Resistance: Subject is passively or defensively resisting an officer's authority and direction. Includes verbal or physical cues of non-compliance.

INTERMEDIATE
FORCE

Active Resistance or Aggression: Subject is attempting to interfere with the officer's actions by inflicting pain or physical injury to the officer without the use of a weapon or object.

Assault or Threat of Assault: Subject assumes a fighting stance, charges an officer or verbally or physically indicates an intent to commit an assault.

Life Threatening Assault or Assault Likely to Cause Great Bodily Harm: Subject commits an attack using an object, a weapon or an empty hand assault wherein the officer reasonably believes that the assault will result in serious physical injury and/or death.

Officer Response Options

Professional Presence, Verbalization and Restraining and Detaining: Includes display of authority as a peace officer or public officer and such non-verbal means of communication as body language, demeanor and manner of approaching. Verbalization involves the directions and commands given to the subject.

Restraining and detaining includes an officer laying hands on a subject with the intention of gaining control of the subject. Examples include the use of a firm grip, escort position or grappling types of techniques designed to hold a subject down by using the weight of an officer's body. Also included in this level would be the application of temporary restraining devices such as handcuffs and leg restraints.

Compliance Techniques: Includes joint manipulations, pressure point applications, take-down type techniques and the use of intermediate weapons in control type configurations.

Intermediate Force: Includes chemical agents such as mace and oleoresin capsicum based products, electrical stunning devices, use of upper body control holds such as the lateral vascular neck restraint, the use of impact weapons in an impact mode, and the use of personal weapons such as hands, feet, elbows and knees to strike a subject.

Lethal Force: Includes the use of a firearm or any force which has a reasonable likelihood of causing death or serious physical harm.

REPORTING AND REVIEWING INDIVIDUAL USE OF FORCE INCIDENTS

Reportable Force Defined

An on or off-duty incident wherein officers pursuant to their official capacity use a level of force above the "restrain/detain" level of force or any incident in which an injury or complaint of injury occurs during the course of contact with a subject.

Officer Responsibilities

Officers using reportable force shall:

- Obtain medical assistance for subjects who have sustained injuries or complain of injury, or who have been rendered unconscious.
- Promptly notify their supervisor unless exigent circumstances delay the notification.
- Document the use of force in an arrest/crime report.

Officers observing a use of reportable force who do not believe the spirit and intent of the reporting requirements are being met shall advise their supervisor.

Supervisor Responsibilities

When a supervisor becomes aware of the use of reportable force the supervisor shall:

- Assess the incident and conduct an investigation as to if reportable force was used.

If the supervisor believes reportable force was used the supervisor shall:

- Collect evidence.
- Ascertain witness information.

The supervisor shall prepare a "Supervisor's Report, Use of Force" (see attached).

The supervisor shall, in all instances involving the use of reportable force, personally examine the person/prisoner on whom force was used and tape-record the interview regarding the incident. In complying with this direction, the supervisor should bear in mind that the fresher the information obtained, the more valuable it will be in evaluating the use of force. The supervisor's interview and observations will be included in the narrative section of the "Supervisor's Report, Use of Force".

Department Responsibility

In every case where a "Supervisor's Report, Use of Force" is initiated the department shall:

- Forward report to the next higher person in the supervisor's chain of command eventually to the Division Commander.
- The Division Commander will review the report and determine if additional investigation is needed.
- Retain the "Supervisor's Report, Use of Force" and review in a retrievable format in a file separate from personnel files. They shall be on a five-year retention schedule.
- The officer shall have the opportunity to read and sign the final report. If the officer refuses to sign the document, such fact will be noted and signed by the reviewing supervisor (authority 3305 Government Code).



DON McDONALD
Sheriff - Coroner
Public Administrator

Situation-Based Use of Force Continuum

