



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Anthony Mata

SUBJECT: OFFICER-INVOLVED INCIDENT
TRAINING REVIEW PANEL

DATE: February 13, 2024

Approved

Date

2/13/24

INFORMATION

The purpose of this information memorandum is to present to the Mayor and City Council the Officer-Involved Incident Training Review Panel's recommendations and measures taken during calendar years (CY) 2021 and 2022. It also summarizes officer-involved incidents from CYs 2019 and 2020.

BACKGROUND

For two decades, the Department has formally assessed lethal police incidents with an eye toward better managing those encounters and ultimately reducing harm to the public, offenders, and officers. This type of after-action review has evolved over time in pursuit of best practices in policing.

- In 1999, the Department established the Officer-Involved Shooting Incident Training Review Panel. The panel reviewed all officer-involved shootings that caused an injury or death, with the objective of minimizing the risk of injury.
- In 2004, the Department adopted the Independent Police Auditor's recommendation that the Department prepare an annual report to the City Council outlining policies, procedures, training, or other measures generated by the deliberations of the Officer-Involved Shooting Incident Training Review Panel.
- In 2008, the Department established the In-Custody Death Training Review Panel (for non-shooting deaths). This panel mirrored the Officer-Involved Shooting Training Review Panel's practices and objectives.
- In 2015, the Department combined the two existing panels into one Officer-Involved Incident Training Review Panel (Panel). The membership and procedures of the new Panel are the same as the panels it replaced.

The Panel consists of the following:

- Chief of Police;
- A representative of the City Attorney's Office; and,
- The Independent Police Auditor.
- Selected members of the Chief's Command Staff, usually including:
 - Assistant Chief of Police;
 - Deputy Chief of the Bureau of Field Operations;
 - Deputy Chief of the involved Department member's bureau;
 - Training Unit Commander;
 - Internal Affairs Commander;
 - Homicide Unit Commander; and,
 - Research and Development Unit Commander.

During the Panel review, the Homicide Unit Commander presents a factual synopsis of the incident to members of the Panel. The Panel members are free to ask questions and discuss the circumstances surrounding the incident. If the Panel determines that remedial or precautionary measures can be taken, the Panel will make a referral to the Department to develop appropriate training or changes in Department policies and procedures.

The analysis and deliberations of the Panel, when coming to these recommendations, are subject to the attorney-client privilege and therefore are confidential. The recommendations and the Department's efforts to implement them are the subject of this Officer-Involved Incident report.

ANALYSIS

This Officer-Involved Incident report covers the Panel's recommendations, and measures taken, for the CYs 2021 and 2022. It will also summarize officer-involved incidents from CYs 2019 and 2020.

2021 Officer-Involved Incident Training Review Panel Report

Summary

From January 1 to December 31, 2021, there were a total of two officer-involved shootings. There were no in-custody (non-shooting) deaths. These incidents were reviewed by the County of Santa Clara Office of the District Attorney who determined that each incident was legally justified.

Recommendations

The Panel's four recommendations for 2021 were to continue (1) use of force training with an emphasis on tactical conduct and de-escalation, (2) Crisis Intervention Team training, (3)

establishment of the Department's Mobile Crisis Assessment Team, and (4) supply and train sworn personnel with new tasers, implement strategies to bolster the Department's less-lethal program, and update Department policy regarding:

- Red dot sight optics;
- Executive Force Review Committee;
- Taser usage;
- Substantial risks of positional asphyxia;
- Reporting potential excessive force and duty to intercede; and,
- Limiting the use of chemical agents or projectile impact weapons at First Amendment activities.

Each of the four recommendations are described in greater detail below.

1. Use of Force/Tactical Conduct/De-Escalation Training

De-escalation techniques are tactics officers use that seek to reduce the level of force needed to resolve a violent confrontation while increasing the likelihood of voluntary compliance.

Tactical conduct techniques build on the principles of de-escalation and often involve team tactics using time, distance, and shielding in an effort to slow the situation down so that more options and resources are available for incident resolution. The overall goal is to resolve the situation while avoiding harm to all persons involved.

Starting in 2016, the Department has incorporated tactical conduct and de-escalation concepts into its yearly training cycle in multiple ways. In-service personnel received 14 hours of active shooter/firearms, defensive tactics, techniques and understanding of racial profiling, and driving simulator training that included tactical conduct and de-escalation concepts and exercises. In addition, a six-hour high risk vehicle contacts class was presented. The class was designed to teach officers the skills, concepts, and techniques of how to respond safely when contacting an occupied vehicle that poses a high risk or potential high risk of danger. Officers had the opportunity to participate in controlled demonstrations where they were shown escape maneuvers as an alternative to shooting at moving vehicles, absent extreme circumstances. Finally, all San José Police Academy recruits were provided 16 hours of use of force/de-escalation training incorporating tactical conduct and de-escalation techniques.

2. Ongoing Crisis Intervention Team Training

The Crisis Intervention Team (CIT) was created with the intent of training personnel who are first responders (dispatchers and officers) to more effectively handle calls for service in which a subject may be mentally ill, in psychological or emotional crisis, or the subject of a hostage/barricade situation.

To become CIT members, patrol officers and public safety dispatchers attend a 40-hour course under the instructional supervision of mental health professionals, family advocates, and mental

health consumer groups. The training enables the officers and dispatchers to understand that mental illness is a disease, not a crime. Nearly all (96%) of the Department's sworn and communications personnel have received the training with ongoing training held biannually.

Instructors were chosen from a variety of sources, including the following:

- Palo Alto University;
- San José State University;
- Menlo Park Veteran's Hospital;
- County of Santa Clara Behavioral Health Services;
- National Alliance for the Mentally Ill;
- Kaiser Permanente;
- Former and current law enforcement with specialized knowledge of mental illness and crisis intervention;
- San Andreas Regional Center;
- Community advocates; and,
- Mental health professionals dedicated to the assessment and treatment of the mentally ill.

CIT topics of instruction included de-escalation, suicide prevention, and recognition of individuals who are dealing with one or perhaps a dual diagnosis of schizophrenia, major depression, bipolar disorder, developmental disabilities, traumatic brain injuries, and other illnesses. Training also included practical exercises where officers continue to build upon the role-playing exercises and non-violent interventions addressed during the San José Police Academy and professional development training of in-service personnel.

3. Mobile Crisis Assessment Team

In 2021, the Department began a pilot program called Mobile Crisis Assessment Team (MCAT). The program is a collaboration with the County of Santa Clara Behavioral Health Services to develop and implement new programs for individuals in the community dealing with mental illness. The unit's mission is to move affected individuals away from the criminal justice system and connect them to the appropriate levels of care and services.

The unit consists of specially trained law enforcement officers and mental health professionals from the County of Santa Clara Behavioral Health Services. They provide rapid response seven days a week to behavioral health crisis events in the community while providing the least restrictive and most effective response to community members who are experiencing a mental health episode.

MCAT has provided the Department the opportunity to work in noninvasive ways with community members who are suffering from mental illness. This approach results in fewer injuries to officers and fewer injuries to individuals in crisis.

4. *Transition to Improved Tasers*

In 2021, the Department transitioned from the Taser X26P to the Taser 7. The taser is the only tool that officers have at their disposal, other than their firearm, that can involuntarily incapacitate a violent suspect. The Taser 7 represents a major improvement over the previous model used by the Department. The Taser 7 offers a “de-escalation warning arc” option that was not available on the previous model. This feature allows an officer to deliver an audible and visible warning arc of the taser with a single push of a button without removing the dart cartridges. This can be helpful in de-escalating mildly resistive subjects. Additionally, the Taser 7 has increased accuracy at an increased range over the previous model. This allows officers to utilize distance and cover to de-escalate violent confrontations. Lastly, the previous taser model had a 50% failure rate whereas the Taser 7 appears, thus far, to have a 30% failure rate.

Since the implementation of Taser 7, the Department has seen a greater level of effectiveness in violent encounters resulting in a quicker resolution with a single force iteration. This has led to reduced taser usage:

- 2018: 95 deployments;
- 2019: 93 deployments;
- 2020: 96 deployments; and,
- 2021: 58 deployments.

In 13% of taser-related use of force incidents, the suspect was armed with a weapon. In 76% of taser-related use of force incidents, the suspect was actively resisting with physical force.

All in-service personnel were required to attend an eight-hour transition course before they were issued new tasers. Additionally, the use of Taser 7 has been integrated into the de-escalation/use of force training curriculum already in place at the Department. All San José Police Academy recruits were provided eight hours of taser training while incorporating tactical conduct and de-escalation techniques.

Less-Lethal Program/Red Dot Sight Optics

In 2021, the Department implemented several strategies to bolster its Less-Lethal Program. This was done to help officers de-escalate confrontational situations, thereby reducing the number of officer-involved incidents. Yearly training and qualifications were implemented for all less-lethal weapons. The training curriculum included lessons on use of force laws, de-escalation concepts, and tactical conduct. The training was conducted by Peace Officer Standards and Training-certified instructors. In addition, the Department received a grant which allowed for the purchase of more less-lethal munitions. This created more training opportunities for officers.

In 2021, the Department authorized miniaturized red dot sight (MRDS) optics for duty pistols. MRDS optics allow for quicker visual identification of the target, ability to focus more on the threat (which may be constantly changing), and provide an opportunity to address the threat from less traditional positions for greater cover/concealment. Additionally, MRDS allows officers to

keep both eyes open during deployment, enabling them to gather more information during stressful situations. This allows for quicker decision-making during use of force situations. Ultimately, MRDS optics have been proven in studies to raise accuracy levels.

Currently, officers wishing to transition to MRDS must do so at their own expense. Despite the costly investment, many officers have transitioned. As a result, the range staff has seen an increase in accuracy during training and qualifications.

Policy Updates

Additions and modifications were made to the Department's Duty Manual relating to MRDS for duty pistols, command-level review of use of force incidents, taser usage and reporting requirements, prohibition of techniques or transport methods that involve a substantial risk of positional asphyxia, officers' requirement to report excessive force as well as a duty to intercede when present and observing another officer using force that is clearly beyond that which is necessary, and limiting the use of chemical agents and impact weapons at First Amendment activities. These policies brought the Department into compliance with new laws and industry best standards.

Memoranda reflecting these policy changes are attached to this memorandum, as follows:

- **Attachment A:** SJPD Memorandum 2021-022: Miniaturized Red Dot Sight Optics for Duty Pistols
- **Attachment B:** SJPD Memorandum 2021-044: Executive Force Review Committee
- **Attachment C:** SJPD Memorandum 2021-045: Electronic Control Weapons Policy Revisions
- **Attachment D:** SJPD Memorandum 2021-046: Substantial Risks of Positional Asphyxia
- **Attachment E:** SJPD Memorandum 2021-047: DM Revision C 1402 General Responsibilities
- **Attachment F:** SJPD Memorandum 2021-049: Chemical Agents and PIWs at First Amendment Activities.

2022 Officer-Involved Incident Training Review Panel Report

Summary

From January 1 to December 31, 2022, there were a total of three officer-involved shootings. There were no in-custody (non-shooting) deaths. These incidents were reviewed by the County of Santa Clara Office of the District Attorney who determined that each incident was legally justified.

Recommendations

The Panel's recommendations for 2022 were to continue the Department's earlier focus on use of force/de-escalation training, continue CIT training, permanently fund the Department's MCAT unit, and update policy regarding:

- Prohibition of carotid restraint and choke hold;
- Less lethal inventory;
- Recording the use of military equipment;
- Render assistance to the victims;
- Use of force; and,
- Initiating and engaging in a foot pursuit.

Use of Force/Tactical Conduct/De-Escalation Training

In 2022, the Department continued to incorporate tactical conduct and de-escalation concepts into its yearly training cycle. In-service personnel received four hours of strategic communications and domestic violence training. Strategic communications training equipped officers with the tools to gain voluntary compliance utilizing verbal persuasion, clear instructions, techniques to calm agitated subjects, avoidance of language that could potentially escalate the situation, and advisements and warnings before administering force. Domestic violence training focused on de-escalating potentially dangerous situations.

In-service personnel also received eight hours of first aid training that emphasized the preservation of human life and the duty to provide medical aid as soon as practical. This training included hands-on scenarios where officers utilized tourniquets, trauma kits, and other life-saving instruments including Naloxone, also known as Narcan.

Additionally, in-service personnel received four hours of use of force/de-escalation training during 2022. The training reiterated the Department's value of the sanctity of human life and the responsibility of officers to perform their duties lawfully and ethically. This training is renewed every 24 months to maintain Peace Officer Standards and Training certification.

All San José Police Academy recruits continued to receive 16 hours of use of force/de-escalation training incorporating tactical conduct and de-escalation techniques.

Ongoing CIT Training

In 2022, the Department continued working toward its goal of having every member of the Department attend the 40-hour CIT course. The training curriculum remained the same as described earlier in this memorandum. Notably, in 2022, the Department hired a licensed marriage and family therapist to organize and coordinate the CIT training. The therapist has a background specializing in crisis intervention and the law enforcement co-responder model.

MCAT

Since its inception, MCAT has responded to over 2,500 calls for service. Of those calls for service, 98% resulted in no arrests. Instead, resources were provided to the vulnerable individual. Only one contact resulted in a use of force situation.

In June 2022, then Mayor Sam Liccardo and the City Council voted to include permanent funding in the Department's budget for the MCAT, thus establishing it as a full-time unit within the Department. The unit consists of two sergeants and four officers whose combined schedules cover an entire week. The objectives and mission of the MCAT remained the same as described earlier in this memorandum.

Also in 2022, the Department initiated a one-year pilot program to partner with the County of Santa Clara Behavioral Health Services to provide mobile mental health services for teens at risk for suicide. The partnership, called Psychiatric Emergency Response Team and supervised by the MCAT, employs a behavioral health clinician to respond, in real time, to patrol events with a law enforcement officer. The collaboration between the Department and the County of Santa Clara Behavior Health Services strives to increase public safety and provide rapid interventions and positive outcomes to those individuals in a mental health crisis by de-escalating the situation and stabilizing the person using the least restrictive means possible.

Policy Updates

Additions and modifications were made to the Department's Duty Manual relating to the prohibition of carotid restraint and choke hold, inventory and usage tracking of less lethal munitions and militarized weapons, use of force, and initiating and engaging in a foot pursuit. These policies brought the Department into compliance with new laws and industry best standards.

Memoranda reflecting these policy changes are attached to this memorandum.

- **Attachment G:** SJPD Memorandum 2022-001: DM Revisions – Carotid Restraint and Choke Hold;
- **Attachment H:** SJPD Memorandum 2022-002: Less Lethal Inventory
- **Attachment I:** SJPD Memorandum 2022-029: Recording the Use of Military Equipment
- **Attachment J:** SJPD Memorandum 2022-034: DM Revision – L 4304 Render Assistance to the Victims
- **Attachment K:** SJPD Memorandum 2022-040: DM Revisions – Use of Force
- **Attachment L:** SJPD Memorandum 2022-062: DM Addition – L 9023 Initiating and Engaging in a Foot Pursuit

2019 Officer-Involved Incident Summary

From January 1 to December 31, 2019, there were a total of four officer-involved shootings. There were no in-custody (non-shooting) deaths. These incidents were reviewed by the County

of Santa Clara Office of the District Attorney who determined that each incident was legally justified.

2020 Officer-Involved Incident Summary

From January 1 to December 31, 2020, there were a total of five officer-involved shootings. There were no in-custody (non-shooting) deaths. These incidents were reviewed by the County of Santa Clara Office of the District Attorney who determined that each incident was legally justified.

CONCLUSION

The Panel remains a valuable tool that provides an additional level of evaluation and review of lethal police encounters. Tools and trainings have been designed and implemented because of the Panel's analysis and recommendation process. The Panel's work represents the Department's commitment to the community to review all officer involved shootings and in-custody deaths with the goal of reducing the number of these incidents going forward.



ANTHONY MATA
Chief of Police
San José Police Department

For questions, please contact Lieutenant Jessica Welker, Training Unit Commander, at (408) 501-0960.

Attachments:

- Attachment A: SJPD Memorandum 2021-022: Miniaturized Red Dot Sight Optics for Duty Pistols
- Attachment B: SJPD Memorandum 2021-044: Executive Force Review Committee
- Attachment C: SJPD Memorandum 2021-045: Electronic Control Weapons Policy Revisions

- Attachment D: SJPD Memorandum 2021-046: Substantial Risks of Positional Asphyxia
- Attachment E: SJPD Memorandum 2021-047: DM Revision C 1402 General Responsibilities
- Attachment F: SJPD Memorandum 2021-049: Chemical Agents and PIWs at First Amendment Activities.
- Attachment G: SJPD Memorandum 2022-001: DM Revisions – Carotid Restraint and Choke Hold;
- Attachment H: SJPD Memorandum 2022-002: Less Lethal Inventory
- Attachment I: SJPD Memorandum 2022-029: Recording the Use of Military Equipment
- Attachment J: SJPD Memorandum 2022-034: DM Revision – L 4304 Render Assistance to the Victims
- Attachment K: SJPD Memorandum 2022-040: DM Revisions – Use of Force
- Attachment L: SJPD Memorandum 2022-062: DM Addition – L 9023 Initiating and Engaging in a Foot Pursuit



Memorandum

BACKGROUND

The Department has been using "red dot optics" for many years. These sights have been successfully used on MERGE carbines, patrol 40mm multi-launchers and Patrol Specialist/Rifle Operator carbines (both Department and personally owned). For pistols, this type of optic is known as a miniaturized red dot sight (MRDS). MRDS optics have not previously been authorized for widespread use on duty pistols at the Department.

MRDS optics are authorized for use by the MERGE Unit for daily carry. As expected, MERGE personnel reported increased accuracy and target acquisition when using MRDS optics.

ANALYSIS

MRDS optics have many advantages over traditional "iron sights." The MRDS optics allow quicker visual identification of the target, ability to focus more on the threat (which may be constantly changing) and provide opportunity to address the threat from less traditional positions for greater cover/concealment. All these advantages lead to increased officer safety.

The disadvantage of MRDS optics is that they are electronic devices which are generally powered by batteries. They have proven to be very reliable, but they can fail if battery power is lost or if the electronics are damaged. As a remedy, the Department has required that all firearm-mounted red dot optics be backed up by iron sights. On pistols, mounting MRDS optics will interfere with traditional iron sights. The installation of taller or "suppressor height" iron sights will be required.

A secondary issue of MRDS optics mounted on pistols is that the pistol will not fit in currently issued holsters. A holster manufactured to fit a pistol with MRDS optics installed shall be used.

Pistols currently issued by the Department are not able to be equipped with MRDS optics. Department members using a Department-issued pistol shall not modify the firearm to mount MRDS optics. To carry an MRDS-equipped pistol, Department members must purchase a new approved firearm or modify an existing approved, personally owned firearm.

Department members who wish to use MRDS optics on personally owned firearms must meet the following requirements:

- Optics must be from a quality manufacturer such as Holosun, Leupold, Trijicon, Vortex or other manufacturer approved by the Range.

Attachment A: SJPD Memorandum 2021-022: Miniaturized Red Dot Sight Optics for Duty Pistols

- The optic must be affixed to the pistol with a quality mount that is manufactured specifically for the make/model of optic to be used.
- The pistol must have iron sights affixed to the weapon. These iron sights must be able to acquire a target with the optic in place.
- The pistol must be carried in a safe manner in an approved holster.
- Department members must attend a Range Unit approved MRDS transition course.
- No MRDS optic shall be used on a pistol unless the Range Unit has approved the optic and the Department member has successfully qualified with the optic on that pistol.

ORDER

Effective immediately, all sworn personnel wishing to carry an authorized, personally owned pistol with MRDS optics must meet the above listed requirements.



Anthony Mata
Chief of Police

AM:SD:MB



Memorandum

BACKGROUND

In June 2020, the Department's Use of Force Committee convened to review national best practices for force review. During their research, the Committee discovered varying levels of force investigation and oversight. Approaches to force review ranged from a simple supervisory in-field response to in-depth post-incident analysis. Additionally, the personnel scrutinizing the officers' actions may or may not have been trained in force analysis, decision making, or human factors.

Currently, Use of Force Command Reviews are evaluated by lieutenants. There is no prescribed requisite training or experience necessary to complete a Command Review. As a result, the Use of Force Committee recommended to the Chief of Police the establishment of a specially-trained cadre of command officers to review and analyze the Department's use of force, the Executive Force Review Committee (EFRC). The EFRC will be comprised of personnel selected by the Office of the Chief.

A typical workflow with the EFRC is included as Attachment A.

The EFRC Analysis Memorandum is included as Attachment B.

ANALYSIS

The Duty Manual has been revised to reflect changes described below. Additions are shown in *italics and underlined*. Deletions are shown in ~~strike-through~~ form.

L 2605.5 **COMMAND OFFICER'S RESPONSIBILITY BY USE OF FORCE**

CATEGORY:

Revised 12-22-21

In order to provide a standardized and comprehensive force review process, the Department has categorized its use of force. A Department member's use of force falls into one of four categories. Each category of force requires a different level of review based on the level of force utilized or the seriousness of the injuries sustained as a result of the force. The process of Command Review may be utilized for Category (II) uses of force and shall be utilized for the Category (III) uses of force.

For the purposes of Command Review, the Department's Use of Force categorization is as follows:

Attachment B: SJPD Memorandum 2021-044: Executive Force Review Committee

CATEGORY (I) USE OF FORCE
1. Any use of force not listed in Categories II, III, or IV, that causes a minor injury or a complaint of pain
CATEGORY (II) USE OF FORCE
1. Electronic Control Weapons deployments (probe & drive stun) 2. Impact weapons (not to the head) 3. OC Spray 4. Projectile impact weapons (where up to 4 rounds strike the suspect)
CATEGORY (III) USE OF FORCE
1. Impact weapon or Projectile Impact Weapon strikes to the head (intentional and accidental) 2. Projectile impact weapon (where more than 4 rounds strike the suspect) 3. Kicks to the head 4. Two or more officers deploy less-than-lethal force (O.C., Projectile Impact Weapons, or Electronic Control Weapons) on one suspect 5. Four or more officers use reportable force on one suspect 6. Force resulting in bone fracture 7. Canine apprehension (dog bite) 8. Carotid restraint applied 9. Force resulting in suspect's loss of consciousness 10. Hospital admission as a direct result of the force.
CATEGORY (IV) USE OF FORCE
1. Deadly force – That force which the user knows would pose a substantial risk of death or serious bodily injury

Category (I) Use of Force

Supervisors shall investigate a Department member's Category (I) use of force in accordance with Duty Manual Section L 2605 – Supervisor's Responsibility. Command officers are not required to respond to Category (I) uses of force unless their response is required in accordance with Duty Manual Section L 2605 – Supervisor's Responsibility (e.g., a sergeant uses reportable force and the supervising command officer is required to conduct the force investigation).

Category (II) Use of Force

Upon being notified of a Category (II) use of force, the command officer shall respond to the scene and ensure the use of force investigation is handled in accordance with Duty Manual Section L 2605 – Supervisor's Responsibility. The command officer shall then document his/her observations and any actions taken in a supplemental report (Form 200-3A-AFR). The command officer may direct the responding supervisor to submit documentation of the incident (to include the General Offense Report, the CAD printout, photos, and any other pertinent documentation), ~~along with a Transmittal Form (Form 216-1) up the chain of command to the BFO Administrative Unit for review by the Executive Force Review Committee Command Review, by the Chief of Police or Assistant Chief of Police; if directed to do so, the responding supervisor shall submit the documentation up the chain of command within 7 calendar days, or as otherwise directed by the Office of the Chief. Upon receiving the supervisor's Transmittal and documentation, the command officer shall complete and submit a Command Review memorandum (available on the intranet) up the chain of command; this Command Review memorandum shall document his/her findings as to whether the~~

Attachment B: SJPD Memorandum 2021-044: Executive Force Review Committee

force was within Department policy and shall be submitted within 14 calendar days, or as otherwise directed by the Office of the Chief.

Category (III) Use of Force

Upon being notified of a Category (III) use of force, the command officer shall respond to the scene and ensure that the use of force is handled in accordance with Duty Manual Section L 2605 – Supervisor’s Responsibility. The command officer shall document his/her observations and any actions taken in a supplemental report (Form 200-3A-AFR). The command officer **shall** direct the responding supervisor to submit documentation of the incident (to include the General Offense Report, the CAD printout, photos, and any other pertinent documentation), along with a Transmittal Form (Form 216-1) up the chain of command to the BFO Administrative Unit for review by the Executive Force Review Committee Command Review, by the Chief of Police or Assistant Chief of Police; the responding supervisor shall submit the documentation up the chain of command within 7 calendar days, or as otherwise directed by the Office of the Chief. Upon receiving the supervisor’s Transmittal and documentation, the command officer shall complete and submit a Command Review memorandum (available on the intranet) up the chain of command; this Command Review memorandum shall document his/her findings as to whether the force was within Department policy and shall be submitted within 14 calendar days, or as otherwise directed by the Office of the Chief.

NOTE: Canine officers involved in a canine apprehension (dog bite) shall submit all materials and documentation for review to the Executive Force Review Committee utilize their canine chain of command for Command Review.

Category (IV) Use of Force

Upon being notified of a Category (IV) use of force, the command officer shall ensure the incident is handled in accordance with the Santa Clara County Police Chiefs’ Association Officer-Involved Incident Guidelines. Command Review of Category (IV) uses of force shall be conducted in accordance with Duty Manual Section L 2646 – Post Incident Review Procedure for Officer-Involved Incidents.

Disposition of Command Review Documents

Once a command review has been completed, the memorandums and supporting documentation shall be routed to the Internal Affairs Unit for logging and retention. The documents shall be logged as official Department correspondence and shall not be placed into a Department member’s Internal Affairs file or Personnel file, absent a Department-Initiated Investigation or a formal citizen complaint.

L 2605.6

EXECUTIVE FORCE REVIEW COMMITTEE

Added 12-22-21

The Executive Force Review Committee (EFRC) is comprised of Department command officers at the rank of lieutenant, designated by the Office of the Chief, specially trained in force analysis and decision-making under stress, and responsible for evaluation of all use of force “Command Reviews” as outlined in Duty Manual section L 2605.5 – Command Officer’s Responsibility by Use of Force Category.

Attachment B: SJPD Memorandum 2021-044: Executive Force Review Committee

The EFRC convenes to review use of force and provide analysis as outlined below.

Responsibilities:

The EFRC will have the following responsibilities:

- Analyze and evaluate the force applied during the event.
- Identify any observed misconduct.
- Identify any training opportunities for the personnel involved.
- Document the analysis for review by the Chain of Command.

All Command Reviews, whether from a Category-II or a Category-III use of force, will be referred to the EFRC. The Office of the Chief may also refer any use of force case to the EFRC (during any phase of the investigation), including cases that are initiated by Internal Affairs.

Staffing:

The EFRC shall maintain a minimum of twelve (12) force experts, as identified by the Office of the Chief.

Management:

The EFRC will be collaterally managed by a Division Captain in the Bureau of Field Operations, designated by the Office of the Chief, who will act as the Program Manager (PM). The PM will work directly with the BFO Administrative Unit Lieutenant, who will be tasked with maintaining a record of all applicable Category-II and Category-III use of force incidents, organizing case referrals to the EFRC (including all documentation), and ensuring the EFRC completes its analysis within 45 days of the date of the EFRC review.

The EFRC will meet, at minimum, monthly. Each meeting will be comprised of three (3) command officers. The BFO Administrative Unit Lieutenant will be responsible for scheduling the monthly meetings. Seven (7) days prior to the meeting, each convening member of the EFRC will receive the entire Command Review packet from the BFO Administrative Unit. The packets will contain all material outlined in Duty Manual Section L 2605.5 – Command Officer's Responsibility by Use of Force Category, as well as any additional material requested by the EFRC. Officers will not be asked to appear or be interviewed as part of the EFRC process.

For each meeting, the PM will identify one (1) of the three (3) EFRC members to act as the Chairperson, to lead the EFRC meeting. The Chairperson will be responsible for completing the EFRC Analysis Memorandum or directing its completion by one of the convened committee members. The Analysis Memorandum must be completed, reviewed by the committee members, and submitted to the PM within 45 days from the date of review. The PM will then review and submit the memorandum to the BFO Administrative Unit lieutenant, who will record its receipt and route it through the appropriate officer's chain of command.

Attachment B: SJPD Memorandum 2021-044: Executive Force Review Committee

Notification:

Any commander requesting a Command Review by the EFRC shall complete a Use of Force Command Review entry in the Watch Commander's Log System before going off duty. The commander of the BFO Administrative Unit is responsible for tracking these entries.

Documentation:

The findings of the EFRC will be documented on the EFRC Analysis Memorandum (template available from the BFO Administrative Unit). Documentation from the EFRC shall be forwarded, through the Chain of Command, to the Internal Affairs Unit where it will be maintained consistent with Category-III Use of Force Reports.

Findings:

In each of the following categories, the EFRC may determine the category to be "within policy."

INVESTIGATION: In any event the EFRC may request additional information or materials be provided to better analyze and evaluate the incident. For any incidents in which the EFRC determines the investigation is insufficient, the EFRC shall recommend the case be returned to the involved officer's chain of command for additional information and material.

FORCE: The EFRC shall analyze and evaluate each incident and determine if the force used during the incident was objectively reasonable. For any incident in which the force was deemed to not be objectively reasonable, the EFRC shall recommend the case be forwarded to the Office of the Chief, requesting a Department-Initiated Investigation. In addition, in the event the EFRC is unable to make a determination of the reasonableness of the force due to a lack of available information, the EFRC shall recommend the case be forwarded to the Office of the Chief, requesting a Department-Initiated Investigation.

OTHER MISCONDUCT: The EFRC shall identify and report any observed misconduct. For any incidents in which misconduct is noted, the EFRC shall recommend the case be forwarded to the Office of the Chief, requesting a Department-Initiated Investigation. The EFRC will not conduct independent investigations into potential policy violations not involving the use of force, but will report the matter to the Office of the Chief with a request for a Department-Initiated Investigation.

TRAINING: The EFRC shall identify any training opportunities based on the involved officer's actions, behaviors, or decisions. For any incidents in which individual training opportunities would benefit the officer and the Department, the EFRC shall recommend a review by the involved officer's Chain of Command.

For any incident in which the EFRC fails to reach a unanimous decision among the convened command officers, the PM will review the case. The PM will be responsible for making the final decision and completing the EFRC Analysis

Attachment B: SJPD Memorandum 2021-044: Executive Force Review Committee

Memorandum. The memorandum shall also note the dissenting opinions of the EFRC.

Training:

The PM and members of the EFRC shall attend advanced training identified by the PM, in consultation with the Commander of the Training Unit. Training shall be consistent with best practices in force analysis, defensive tactics, legal updates, and decision-making under stress.

The PM is responsible for ensuring on-going best practices training is completed. Training certificates shall be forwarded and maintained at the Training Unit in the commanders' respective training files.

ORDER

Effective immediately, all Department personnel shall adhere to the above Duty Manual sections.



Anthony Mata
Chief of Police



Memorandum

SUBJECT

DUTY MANUAL REVISION: L 2614 USE OF ELECTRONIC CONTROL WEAPONS AND REPORTING REQUIREMENTS

BACKGROUND

After reviewing the Department's Duty Manual policy related to Electronic Control Weapons (ECW), applicable case law, the manufacturer's recommended use guidelines, industry best standards, and the current ECW and de-escalation training provided by the Training Unit, it was apparent a revision was needed.

Duty Manual section L 2614 is no longer consistent with the Taser manufacturer's recommended use guidelines. Although Duty Manual Section L 2614 specifies ECWs shall not be used against persons in control of a vehicle in motion, it does not specifically include bicycles or other forms of non-motorized transportation. Every officer who attends a Taser 7 Transition Course or Bi-annual Taser Update Training receives a document provided by AXON entitled, "TASER Handheld CEW Warnings, Instructions, and Information: Law Enforcement." The document recommends that, whenever practicable, officers should avoid using an ECW on persons operating any mode of transportation, conveyance, or machinery. The document also recommends officers avoid using the ECW on persons located in water.

Additionally, the multiple changes and updates to Duty Manual section L 2614 have resulted in text that could cause confusion regarding the application of the procedures. The entire section has been rewritten to ease comprehension, update procedures consistent with industry standards, and update manufacturer use recommendations.

ANALYSIS

The Duty Manual has been revised to reflect changes described below. Additions are shown in *italics and underlined*. Deletions are shown in ~~strike-through~~ form.

L 2614 USE OF ELECTRONIC CONTROL WEAPONS AND REPORTING REQUIREMENTS:
Revised 12-22-21

Attachment C: *SJPD Memorandum 2021-045: Electronic Control Weapons Policy Revisions*

~~Only officers who have completed approved training by the Department can carry an Electronic Control Weapon.~~

~~An Electronic Control Weapon can be used by either activating it while pressing the device against a person's clothes or skin, which is referred to below as a Drive Stun Deployment, or by firing the device's Probes at a person, which is referred to below as a Probe Deployment. Some of the policies and considerations relevant to use of an Electronic Control Weapon, described below, apply to both methods of deployment, while others apply to only one method or the other.~~

~~1. Policies and considerations relevant to all Electronic Control Weapon deployments:~~

~~In general, the Electronic Control Weapon is to be used for the shortest period of time reasonably necessary to take a subject safely into custody. Ordinarily, officers should activate the Electronic Control Weapon by pressing and releasing the trigger, producing a five-second cycle. In circumstances where a shorter cycle is desired, officers may use the safety to shorten the cycle or, in the case of a Drive Stun Deployment, may discontinue Drive Stun with the subject. With each cycle, an officer should evaluate whether it is reasonable to activate the Electronic Control Weapon again, considering the level of threat that still exists and considering the pain and other potential risks to the subject, if any, associated with its use.~~

~~Unless objectively reasonable based on the totality of the circumstances known to the officers at the time, officers should avoid activating more than one Electronic Control Weapon against a single subject at the same time.~~

~~If circumstances permit, officers should avoid aiming the Electronic Control Weapon at a subject's head, neck, genitalia, or chest.~~

~~The Electronic Control Weapon shall not be used against a subject in physical control of a vehicle in motion unless the circumstances are such that a reasonable officer would conclude that the risk of serious bodily injury or death resulting from subsequent movement of the vehicle is outweighed by the need to capture the subject.~~

~~Generally, use of the Electronic Control Weapon should be avoided when feasible against women who are known to be pregnant, very old or very young persons, physically frail persons and persons with known heart conditions. An example of a circumstance in which it would be reasonable to use the Electronic Control Weapon would be a situation in which an obviously pregnant woman was in the process of harming herself or another person, and more intrusive force would be necessary if not for the use of an Electronic Control Weapon.~~

~~The immediate supervisor of an officer that has deployed an Electronic Control Weapon will personally respond to evaluate and actively participate in the investigation of the Electronic Control Weapon discharge.~~

~~The Electronic Control Weapon has been shown to be an effective tool against aggressive animals. The Electronic Control Weapon may be used against animals if the animal poses a threat to officers or other persons or other animals.~~

2. Policies and considerations relevant to a Probe Deployment:

Electronic Control Weapons play an important role in effective law enforcement. As a tool that can defuse dangerous situations from a distance, the use of an Electronic Control Weapon can obviate the need for more severe force and can help protect officers, suspects, and bystanders. However, a Probe Deployment of an Electronic Control Weapon also has the ability to immobilize or override a person's central nervous system, inflicts considerable pain and, in rare instances, may cause or contribute to death or serious injury. As a result, Probe Deployment of an Electronic Control Weapon should be limited to situations where:

- The subject poses an immediate threat to the safety of officers or others, and
- After assessing as much of the facts relevant to the situation as circumstances permit, a reasonable officer would conclude that the threat presented by the subject outweighs the pain and risks associated with use of the Electronic Control Weapon.

Officers should attempt to secure the subject as soon as practical while affected by Electronic Control Weapon power or immediately thereafter.

In general, the Electronic Control Weapon should not be used on subjects exhibiting only passive noncompliance.

An officer shall not use an Electronic Control Weapon against a handcuffed or secured person, absent overtly assaultive, self-destructive or violently resistive behavior that cannot reasonably be controlled by other readily available means.

An officer shall not use an Electronic Control Weapon in circumstances where a suspect's fall is likely to cause serious bodily injury or death, unless the circumstances are such that a reasonable officer would conclude that force likely to cause substantial injury or death is warranted.

An officer shall not use an Electronic Control Weapon where an officer reasonably believes that a flammable, volatile or explosive material is on the subject or may be affected by the use of the device.

Officers sometimes encounter highly agitated individuals whose condition may put those individuals at heightened risk of serious injury or death. (See Training Bulletin, March 19, 2007, Management of Subjects in Excited Delirium) Scientific research and law enforcement experience suggest that vigorous physical exertion may increase the risk of injury or death in these individuals. Such exertion may result from an individual's active resistance and the effort of officers to restrain or subdue the individual, which efforts may include the use of an Electronic Control Weapon. There are times, however, when despite such risks, a person's actions make it necessary to take the individual into custody. Use of the Electronic Control Weapon may, in some instances, be the preferred method of quickly subduing an agitated and aggressive individual and minimize the subject's physical exertion. However, an Electronic Control Weapon should only be used with such individuals when the person poses an immediate threat of

Attachment C: *SJPD Memorandum 2021-045: Electronic Control Weapons Policy Revisions*

~~harm that warrants use of the Electronic Control Weapon despite the increased risk to the individual.~~

~~Officers shall refrain from using the Electronic Control Weapon for more than a total of three (3) five-second cycles, unless the circumstances are such that a reasonable officer would conclude that each subsequent application of the device, analyzed separately, is warranted by the continuing and substantial threat of harm despite the pain and risks associated with its use. In this assessment, an officer may also consider whether backup officers are present to assist in controlling a dangerous suspect.~~

~~If the subject does not respond to the Electronic Control Weapon deployment in the anticipated manner based on training and experience, officers should consider transitioning to alternative force options.~~

~~Whenever a person has been subjected to an Electronic Control Weapon discharge, an official hospital clearance is obtained prior to the suspect's booking. If the suspect exhibits the need for medical attention at the scene of the arrest, emergency medical assistance is summoned immediately. See DM Section L 2616 (Providing First Aid).~~

~~3. Policies and considerations relevant to a Drive Stun Deployment:~~

~~When a Drive Stun Deployment occurs, the Electronic Control Weapon delivers a charge that causes localized pain rather than a disruption of a subject's central nervous system. Prolonged Drive Stun may cause burns and/or permanent scarring and should be avoided. Officers using the Electronic Control Weapon in this mode should regard this application of force as a pain-compliance technique and apply the Electronic Control Weapon for the minimum number of cycles and amount of time reasonably necessary to achieve compliance.~~

~~4. Electronic Control Weapon usage reporting requirements:~~

~~The use of the Electronic Control Weapon shall be described as follows and will require documentation in a General Offense Report (Form 200-2-AFR) and/or on a Narrative/Supplemental Report (Form 200-3A-AFR):~~

- ~~• The Electronic Control Weapon probes are discharged at a subject,~~
- ~~• The Electronic Control Weapon is used in a "drive stun" manner and makes contact with the subject's body or clothing.~~

~~Officers using an Electronic Control Weapon as described above will complete an "Automated Use of Force Template" and will submit a copy of the Electronic Control Weapon download information for the event with the case number noted in the upper-right hand corner. These additional reports shall be submitted with all other required reports. Only authorized supervisors will download information from the Electronic Control Weapon.~~

~~Officers that display the Electronic Control Weapon in an attempt to gain compliance from a subject will ensure there is a note in the CAD event indicating the "Electronic Control Weapon (or TASER) was displayed." If the incident would require the officer to write a General Offense Report (Form 200-2-AFR) and/or a Narrative/Supplemental Report (Form 200-3A-AFR), the display of the Electronic~~

Attachment C: *SJPD Memorandum 2021-045: Electronic Control Weapons Policy Revisions*

~~Control Weapon shall be documented in the report. The display of the Electronic Control Weapon shall be described as follows:~~

- ~~• The Electronic Control Weapon is withdrawn from the holster and displayed to the subject,~~
- ~~• The Electronic Control Weapon is withdrawn from the holster, cartridge removed from the Electronic Control Weapon and the electrical arcing is demonstrated to the subject.~~

~~Officers that only display the Electronic Control Weapon are not required to complete an "Automated Use of Force Template".~~

~~Electronic Control Weapons and holsters authorized for use by the Chief of Police are listed in DM Section S 1147 (Electronic Control Weapons).~~

Electronic Control Weapons (ECW) have an important role in effective law enforcement as a de-escalation tool that can defuse dangerous situations from a distance, prevent the need for a higher level of force, and help protect officers, suspects, and bystanders.

Officers may use ECW in the following circumstances:

- When the subject presents an immediate threat of harm to the officer or any other person and the threat presented by the subject outweighs the pain and risks associated with the use of the ECW.*

Or

- When necessary to take a subject into custody and the level of resistance presented by the subject is:*
 - Likely to cause injury to the officer or subject;*
 - and*
 - Hands-on control tactics or other force options would likely cause greater injury to the subject than the use of the ECW.*

1. Policies and procedures for ECW deployments:

- When feasible, officers should give the subject a warning prior to the use of an ECW and wait a reasonable amount of time to discern if compliance has been gained.*
- The ECW is to be used for the shortest period reasonably necessary to take a subject safely into custody, generally a 5 second cycle.*
- Officers should attempt to secure the subject as soon as practical while affected by ECW power or immediately thereafter.*
- Officers shall refrain from using the ECW for more than a total of three (3) five-second cycles, unless the circumstances are such that a reasonable officer would conclude that each subsequent application of the device, analyzed separately, is warranted.*
- As with the initial discharge, each subsequent ECW activation must be individually justified based on the specific articulable facts reasonably known to the officer at the time. In this assessment, an officer may also consider whether backup officers are present to assist in controlling a dangerous suspect.*

Attachment C: SJPD Memorandum 2021-045: Electronic Control Weapons Policy Revisions

- If the subject does not respond to the ECW deployment in the anticipated manner, officers should, based upon training and experience, consider transitioning to alternative force options.
 - If circumstances permit, officers should avoid aiming the ECW at a subject's head, neck, genitalia, or chest.
 - The ECW may be used against animals if the animal poses a threat to officers, other persons, or other animals
 - ECW and holsters authorized for use by the Chief of Police are listed in DM Section S 1147 (Electronic Control Weapons).
2. The ECW shall not be used under the following circumstances:
- On subjects exhibiting only passive non-compliance absent any other specific articulable threat that would outweigh the subject's passive resistance.
 - Against a handcuffed or secured person, absent overtly assaultive, self-destructive, or violently resistive behavior that cannot reasonably be controlled by other readily available means.
 - In circumstances where a suspect's fall is likely to cause serious bodily injury or death, unless the circumstances are such that a reasonable officer would conclude that force likely to cause substantial injury or death is warranted.
 - In circumstances where a suspect is located in close proximity to a body of water, unless the circumstances are such that a reasonable officer would conclude that force likely to cause substantial injury or death is warranted.
 - Where an officer reasonably believes that a flammable, volatile, or explosive material is on the subject or may be affected by the use of the device.
 - On highly agitated individuals whose condition may put those individuals at heightened risk of serious injury or death. There are times, however, when despite such risks, a person's actions make it necessary to take the individual into custody. Use of the ECW may, in some instances, be the preferred method of quickly subduing an agitated and aggressive individual and minimize the subject's physical exertion that may increase the risk of injury or death.
 - Against a subject operating or riding any mode of transportation (e.g., vehicle, bus, bicycle, motorcycle, etc.), conveyance (e.g., escalator, skateboard, scooter, rollerblades, etc.), or machinery capable of causing injury unless the circumstances are such that a reasonable officer would conclude that the risk of serious bodily injury or death resulting from subsequent movement of the mode of transportation, conveyance, or machinery is outweighed by the need to capture the subject.
 - Against women who are known to be pregnant, very old or very young persons, physically frail persons, and persons with known heart conditions unless reasonable based on the threat the subject

Attachment C: SJPD Memorandum 2021-045: Electronic Control Weapons Policy Revisions

possesses to themselves or others. An example of a circumstance in which it would be reasonable to use the ECW would be a situation in which an obviously pregnant woman was in the process of harming herself or another person, and more intrusive force would be necessary if not for the use of an ECW.

3. Discharge reporting requirements:

- A discharge of an ECW occurs when probes are deployed at a subject or used in a drive stun manner. If the probes or drive stun do not contact a subject the usage still requires reporting.
- All ECW usage will be reported to the officer's immediate supervisor or next higher rank in the chain of command as soon as safe and reasonable. If the officer's immediate supervisor is unavailable, the officer will report the usage to any other available supervisor or next higher rank in the chain of command.
- The supervisor of an officer who has deployed an ECW will personally respond to evaluate and actively participate in the investigation of the ECW discharge.
- The supervisor will review the ECW download information.
- The discharge of an ECW will require documentation in a General Offense Report (Form 200-2-AFR) and/or on a Narrative/Supplemental Report (Form 200-3A-AFR) and an Automated Use of Force Template.
- Officers will obtain and submit a copy of the ECW download information for the event with a Case Number noted in the upper right-hand corner.
- An officer who only displays a de-escalation warning arc is not required to notify his/her supervisor or complete an Automated Use of Force Template. An arc display should be documented in a General Offense Report or Supplemental. If a General Offense report is not required, the officer will note the display in the CAD event.
- Any accidental discharge, not at a subject, shall be reported to the officer's immediate supervisor. See DM section L2617 (Accidental Discharge of an Electronic Control Weapon)

4. Medical Care

- Whenever a person has been subjected to an ECW discharge, an official hospital clearance is obtained prior to the suspect's booking.
- Once a subject is under control, officers will place the subject in an appropriate recovery position.
- Officers shall monitor subjects who have sustained an ECW application while they are in custody.
- If the suspect exhibits the need for medical attention at the scene of the arrest, the officer shall summon emergency medical assistance immediately. See DM section L 2616 (Providing First Aid).

Attachment C: *SJPD Memorandum 2021-045: Electronic Control Weapons Policy Revisions*

ORDER

Effective immediately, all Department personnel shall adhere to the above Duty Manual section.



Anthony Mata
Chief of Police

AM:SD:CS



Memorandum

BACKGROUND

On September 30, 2021, California Governor Newsom signed [California Assembly Bill 490 \(link\)](#), which resulted in the expansion of Government Code Section 7286.5. This amended law prohibits a law enforcement agency from authorizing techniques or transport methods that involve a substantial risk of positional asphyxia. This law will be effective January 1, 2022.

ANALYSIS

The Duty Manual has been revised to reflect changes described below. Additions are shown in *italics and underlined*. Deletions are shown in ~~strike through~~ form.

L 2902 PROCEDURES IMMEDIATELY FOLLOWING ARREST:

Revised 12-22-21

When an arrest has been made, the officer making the arrest will immediately, if possible and practical, perform the following tasks:

- Inform the arrestee of the charge.
- Conduct a cursory search to ensure the officer's and others' safety. See *Duty Manual* Section L 5100 ~~–~~ (Cursory Searches).
- Handcuff the ~~arrestee offender~~ behind the back if there is a danger of escape or if the ~~arrestee prisoner~~ poses a danger to the officer's or others' safety. Handcuffs are used as a restraint in any situation where such action is considered warranted. The handcuffs are only to be tightened to the point that the hands do not slip through. And in all cases when the ~~arrestee prisoner~~ is to be transported in the vehicle or seated in a chair, the handcuffs are double locked so as to prevent the handcuffs tightening on the ~~arrestee's prisoners'~~ wrists.
- Search the area within the arrestee's immediate reach. For procedures on search incident to arrest, see *Duty Manual* Section L 4800 ~~–~~ (Search and Seizure).
- Officers shall make reasonable efforts to secure any residence and/or vehicle of the arrestee, if they are the sole occupant.
- *Transport the arrestee using techniques and methods that do not involve a substantial risk of positional asphyxia. See Duty Manual Section L 2628.3 –*

Attachment D: SJPD Memorandum 2021-046: Substantial Risks of Positional Asphyxia

TECHNIQUES OR TRANSPORT METHODS INVOLVING A SUBSTANTIAL RISK OF POSITIONAL ASPHYXIA – PROHIBITION.

- Transport the arrestee without delay to ~~Pre-processing~~. Officers are not to become involved in enforcement situations unless an immediate emergency exists and no other officers are available to respond. If an officer does have to stop with ~~an arrestee prisoner~~, the situation is turned over to another officer as soon as possible. Officers will not become involved in pursuits when transporting ~~arrestees prisoners~~.
- After transporting an arrestee, thoroughly search the police vehicle in the event evidence or weapons have been discarded during transportation.

L 2628.3 **TECHNIQUES OR TRANSPORT METHODS INVOLVING A SUBSTANTIAL RISK OF POSITIONAL ASPHYXIA – PROHIBITION**

Added 12-22-21

Department members shall not use techniques or transport methods that involve a substantial risk of “positional asphyxia.” Positional Asphyxia is defined as, “Situating a person in a manner that compresses their airway and reduces the ability to sustain adequate breathing.”

This includes, without limitation, the use of any physical restraint that causes a person’s respiratory airway to be compressed or impairs the person’s breathing or respiratory capacity, including any action in which pressure or body weight is unreasonably applied against a restrained person’s neck, torso, or back, or positioning a restrained person without reasonable monitoring for signs of asphyxia.

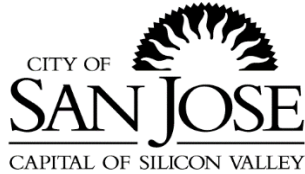
ORDER

Effective immediately, all Department personnel shall adhere to the above Duty Manual sections.



Anthony Mata
Chief of Police

AM:SD:DK



Memorandum

BACKGROUND

On September 30, 2021, [California Assembly Bill 26 \(link\)](#) was approved by Governor Gavin Newsom. This bill amended Government Code section 7286 relating to a peace officer's use of force.

The current law requires each law enforcement agency maintain a policy that provides a minimum standard on the use of force. Among other things, the policy must require officers to report potential excessive force to a superior officer when present and observing another officer using force the officer believes to be unnecessary. It also requires officers intercede when present and observing another officer using force that is clearly beyond that which is necessary.

The amended Government Code section requires officers *immediately* report potential excessive force. It also provides a definition of what "intercede" means. The following Duty Manual changes comport with this law.

ANALYSIS

The Duty Manual has been revised to reflect changes described below. Additions are shown in *italics and underlined*. Deletions are shown in ~~strike-through~~ form.

C 1402 GENERAL RESPONSIBILITIES:

Revised 12-23-21

All ~~D~~department members will become thoroughly familiar with these rules and regulations and will abide by them. They will observe and obey all:

- Federal, state, and local laws.
- General, Special and Members Orders of the Department and of the Bureau to which they are assigned.
- Provisions of the San Jose Police Department Duty Manual.
- Other lawful orders of their superiors.

Upon observing or otherwise becoming aware of a violation of the rules, procedures or policies as set forth in this manual, each department member is obligated to *immediately* report such violation to a superior officer.

Attachment E: SJPD Memorandum 2021-047: DM Revision C 1402 General Responsibilities

Additionally, sworn personnel shall:

- Immediately Report potential excessive force to a superior officer when present and observing another officer using force that the officer 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.
- 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.

Government Code section 7286 provides the following definitions:

- “Excessive force” means a level of force that is found to have violated Section 835a of the Penal Code, the requirements on the use of force required by this section, or any other law or statute.
- “Intercede” includes, but is not limited to, physically stopping the excessive use of force, recording the excessive force, if equipped with a body-worn camera, and documenting efforts to intervene, efforts to deescalate the offending officer’s excessive use of force, and confronting the offending officer about the excessive force during the use of force and, if the officer continues, reporting to dispatch or the watch commander on duty and stating the offending officer’s name, unit, location, time, and situation, in order to establish a duty for that officer to intervene.

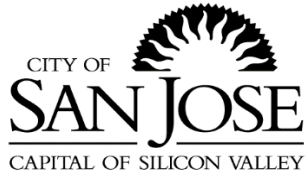
ORDER

Effective immediately, all Department personnel shall adhere to the above Duty Manual section.



Anthony Mata
Chief of Police

AM:SD:GB



Memorandum

SUBJECT: USE OF CHEMICAL AGENTS OR PROJECTILE IMPACT WEAPONS AT FIRST AMENDMENT ACTIVITIES OR UNLAWFUL CIVIL DISTURBANCES

BACKGROUND

On September 30, 2021, California Governor Newsom approved [Assembly Bill 48 \(link\)](#). This bill amended one law and created two laws prohibiting the use of kinetic energy projectiles (projectile impact weapons) or chemical agents by law enforcement at First Amendment Activities, including assemblies, protests, and demonstrations unless certain specified criteria are met.

The purpose of this Memorandum is to bring SJPD policy and procedures regarding chemical agents and projectile impact weapons in line with best practice and the new legislation.

ANALYSIS

The Duty Manual has been revised to reflect changes described below. Additions are shown in *italics and underlined*. Deletions are shown in ~~strike-through~~ form.

L 2305.1 AUTHORIZATION FOR USE OF CHEMICAL AGENTS OR PROJECTILE IMPACT WEAPONS AT FIRST AMENDMENT ACTIVITIES OR UNLAWFUL CIVIL DISTURBANCES

Added 12-31-21

Chemical agents and projectile impact weapons shall not be used to disperse any First Amendment activity or unlawful civil disturbance prior to authorization from any on-scene commanding officer or higher.

Chemical agents and projectile impact weapons shall only be deployed by a peace officer who has received training on their proper use by the Commission on Peace Officer Standards and Training for crowd control if the use is objectively reasonable to defend against a threat to life or serious bodily injury to any individual, including any peace officer, or to bring an objectively dangerous and unlawful situation safely and effectively under control, and then only in compliance with the requirements set out in the following section L 2305.2.

L 2305.2 USE OF CHEMICAL AGENTS OR PROJECTILE IMPACT WEAPONS AT FIRST AMENDMENT ACTIVITIES OR UNLAWFUL CIVIL DISTURBANCES

Added 12-31-21

Chemical agents and projectile impact weapons shall not be used to disperse any First Amendment activity except under the following circumstances:

- De-escalation techniques or other alternatives to force have been attempted, when objectively reasonable, and have failed; and
- Repeated audible announcements have been made announcing the intent to use chemical agents and/or projectile impact weapons and the type to be used, when objectively reasonable to do so. Announcements shall be made from various locations, if necessary, in order for the announcement to be heard by all of the intended audience, and delivered in multiple languages as appropriate; and
- Persons are given an objectively reasonable opportunity to disperse and leave the scene; and
- An objectively reasonable effort has been made to identify persons engaged in violent acts and those who are not, and the chemical agents and projectile impact weapons are targeted at those persons engaged in violent acts; and
- Projectiles shall not be aimed indiscriminately into a crowd or group of persons; and
- Chemical agents and projectile impact weapons are used only with the frequency, intensity, and in a manner that is proportional to the threat and objectively reasonable; and
- Department members shall minimize the possible incidental impact of their use of chemical agents or projectile impact weapons on bystanders, medical personnel, journalists, or other unintended targets; and
- An objectively reasonable effort has been made to extract individuals in distress; and
- Medical assistance is promptly provided for injured persons, if properly trained personnel are present, or procured, when it is reasonable and safe to do so; and
- Projectile impact weapons shall not be aimed at the head, neck, or any other vital organs; and

The chemical agents and projectile impact weapons shall not be used solely due to any of the following:

- A violation of an imposed curfew,

Attachment F: SJPD Memorandum 2021-049: Chemical Agents and PIWs at First Amendment Activities

- A verbal threat, or
- Noncompliance with a law enforcement directive.

**L 2305.3 CHEMICAL AGENT AND PROJECTILE IMPACT WEAPON REPORTING
AT
FIRST AMENDMENT ACTIVITIES OR UNLAWFUL CIVIL
DISTURBANCES**

Added 12-31-21

Within thirty (30) days of each First Amendment activity during which a chemical agent or projectile impact weapon was used by any Department member, the on-duty watch commander responsible for the incident shall complete a memorandum to be submitted through the chain of command detailing the incident and the use of the chemical agent or projectile impact weapon. The memorandum shall include, at minimum, the requirements set forth in Penal Code section 13652.1(b).

Within sixty (60) days of each First Amendment activity during which a chemical agent or projectile impact weapon was used by any Department member, a memorandum describing the incident and the use of the chemical agent or projectile impact weapon shall be posted to the Department's website by the Media Relations Unit.

L 2609 USE OF CHEMICAL AGENTS:

Revised 12-31-21

Chemical aAgents are substances designed to irritate the eyes and mucous membranes. Chemical aAgents are classified as a Category II use of force for the purpose of assessment under Duty Manual section L 2605.5 – COMMAND OFFICER'S RESPONSIBILITY BY USE OF FORCE CATEGORY. When properly used, chemical agents are a valuable de-escalation tool. In many instances, chemical agents can reduce or eliminate the necessity to use other force options to gain compliance.

The use of chemical agents must be justified by a suspect's active resistance and/or a credible threat of physical harm—not aimed indiscriminately into a crowd or group of persons. Chemical agents can be used by officers in self-defense, on suspects resisting a lawful detention or arrest, ~~to prevent individuals from gathering in a specific area during an unlawful assembly, directly on violent crowds,~~ or to encourage a suspect to exit an enclosed structure, vehicle, or open space. Refer to Duty Manual section L 2305.2 – USE OF CHEMICAL AGENTS OR PROJECTILE IMPACT WEAPONS AT FIRST AMENDMENT ACTIVITIES OR UNLAWFUL CIVIL DISTURBANCES for times in which chemical agents may be used at First Amendment activities or unlawful civil disturbances.

Only Chemical Agents authorized by the Chief of Police will be used. Department personnel shall not use chemical agents (including delivery munitions or devices) without first receiving training from a Department approved Chemical Agents Instructor and/or Less Lethal Impact Munitions instructor.

Attachment F: SJPD Memorandum 2021-049: Chemical Agents and PIWs at First Amendment Activities

Currently Authorized Chemical Agents include but are not limited to Oleoresin Capsicum (OC) spray, OC powder, Chlorobenzylidene Malononitrile (CS) gas, CS powder and CS liquid.

OC Spray Cannisters: All sworn Officers and Community Service Officers are authorized to use Department issued OC spray canisters containing up to 1.33% Capsaicinoid.

The following chemical agent devices may only be deployed by specialized personnel and units that have been authorized to do so by their respective Bureau Chiefs:

Aerosolized Chemical Agent Dispersal Device: Aerosolized dispersal devices containing OC, similar “pepper” irritants, or malodorants may be used with approval from a supervisor or an incident commander.

Less Lethal Impact Munitions (LLIM): LLIMs containing OC Powder, similar “pepper” irritants, or malodorants may be used with approval from a supervisor or an incident commander. When an LLIM is directed at an individual such use shall also comply with Duty Manual section DM L 2629 – USE OF PROJECTILE IMPACT WEAPONS.

NOTE ON CROWD CONTROL:

When the criteria outlined in Duty Manual section L 2305.2 – USE OF CHEMICAL AGENTS OR PROJECTILE IMPACT WEAPONS AT FIRST AMENDMENT ACTIVITIES OR UNLAWFUL CIVIL DISTURBANCES has been met, LLIMs may be used against inanimate objects (e.g., a wall above or behind the crowd) to deploy a chemical agent for the purpose of dispersing an assembly that has been declared unlawful or to prevent individuals from gathering in a specific area.

- ~~• LLIMs may be used against inanimate objects (e.g., a wall above or behind the crowd) to deploy a chemical agent for the purpose of dispersing an assembly that has been declared unlawful or to prevent individuals from gathering in a specific area.~~
- ~~• The use of LLIMs against persons for the purpose of crowd control and crowd dispersal is controlled by Duty Manual section L 2629.5 – PROHIBITION ON THE USE OF PROJECTILE IMPACT WEAPONS FOR CROWD CONTROL.~~

The following chemical agents and chemical agent devices may only be deployed by members of the MERGE Unit.

Kinetic Energy Impact Munitions (KEIM): KEIMs (e.g., ferret rounds) containing OC Powder, similar “pepper” irritants, CS powder, CS liquid or malodorants may be used with approval from a MERGE supervisor or an incident commander. The high kinetic energy of KEIMs makes them

Attachment F: SJPD Memorandum 2021-049: Chemical Agents and PIWs at First Amendment Activities

inappropriate to direct at individual persons except in deadly force encounters (as defined in Duty Manual Section L 2602.1 – DEADLY FORCE).

NOTE ON CROWD CONTROL:

When the criteria outlined in Duty Manual section L 2305.2 – USE OF CHEMICAL AGENTS OR PROJECTILE IMPACT WEAPONS AT FIRST AMENDMENT ACTIVITIES OR UNLAWFUL CIVIL DISTURBANCES has been met, KEIMS may be used against inanimate objects (e.g., a wall above or behind the crowd) to deploy a chemical agent for the purpose of dispersing an assembly that has been declared unlawful or to prevent individuals from gathering in a specific area. KEIMs will not be directed at specific persons for crowd control purposes.

- ~~• KEIMS may be used against inanimate objects (e.g., a wall above or behind the crowd) to deploy a chemical agent for the purpose of dispersing an assembly that has been declared unlawful or to prevent individuals from gathering in a specific area.~~
- ~~• KEIMs will not be directed at specific persons for crowd control purposes.~~

CS Gas: The deployment of CS gas and delivery devices must be in compliance with the following:

- Absent exigent circumstances (e.g., officer or citizen rescue) CS munitions will not be used without prior approval from the MERGE commander or his/her designee.
- The pre-planned deployment of CS gas on a barricaded subject(s) utilizing multiple delivery methods shall be documented as a single use of force.
- Absent exigent circumstances, emergency medical personnel will be staged on-scene prior to the deployment of CS gas.
- The use of CS gas for crowd control purposes shall be approved by the Chief of Police, the Assistant Chief of Police, or their designee.

L 2629

USE OF PROJECTILE IMPACT WEAPONS:

Revised 12-31-21

Only officers who have completed an approved training course taught by a qualified Department member or a representative of the manufacturer supplying the ammunition are authorized to use this type of equipment. Because projectile impact weapons have the potential to cause serious injury or death, this type of weapon will only be used in the following circumstances:

- To be used when objectively reasonable to incapacitate a suspect armed with a weapon likely to cause serious bodily injury or death until the suspect can be controlled and safely taken into custody.

Attachment F: *SJPD Memorandum 2021-049: Chemical Agents and PIWs at First Amendment Activities*

- To be used when objectively reasonable in situations where its use is likely to prevent any person from being seriously injured.

NOTE: Less lethal projectiles containing chemical agents are available for use by authorized personnel. The use of less lethal chemical agent projectiles shall comply with this Duty Manual section and with sections DM L 2609 – USE OF CHEMICAL AGENTS and DM L 2610 – PROVIDING FIRST AID.

All patrol officers, who have completed an approved training course, shall be required to carry a projectile impact weapon (either a stun-bag shotgun or a 40mm Projectile Impact Weapon) while on-duty; officers not permanently assigned a 40mm Projectile Impact Weapon shall check out a projectile impact weapon (stun-bag shotgun or 40mm Projectile Impact Weapon) from Central Supply at the beginning of each assigned shift.

The intentional discharge of a Projectile Impact Weapon at a suspect shall be documented as a use of force. When an intentional discharge of a Projectile Impact Weapon is used for the purpose of breaking glass, and the discharge does not result in any person being struck by a projectile, the discharge shall be documented in a General Offense report.

Refer to Duty Manual section L 2305.2 - USE OF CHEMICAL AGENTS OR PROJECTILE IMPACT WEAPONS AT FIRST AMENDMENT ACTIVITIES OR UNLAWFUL CIVIL DISTURBANCES for additional information.

L 2629.5 PROHIBITION ON THE USE OF PROJECTILE IMPACT WEAPONS FOR CROWD CONTROL:

Deleted 12-31-21

~~The use of Projectile Impact Weapons (PIW) against persons for the purposes of crowd control and crowd dispersals is prohibited.~~

~~Nothing in this section is intended to prohibit officers from using a PIW against a person in crowd control situations, who is actively attacking an officer or another person or when an armed person poses a threat to officers or other persons. Such use shall be in compliance with DM section L 2629 – USE OF PROJECTILE IMPACT WEAPONS.~~

~~When aiming a PIW at a violent individual during crowd control situations, officers are reminded of their responsibility for accurate round placement and their duty to avoid striking unintended subjects. In such circumstances, officers shall consider alternate solutions if the crowd density creates an unnecessary risk of striking individuals against whom the use of an PIW is not intended.~~

Attachment F: *SJPD Memorandum 2021-049: Chemical Agents and PIWs at First Amendment Activities*

ORDER

Effective immediately, all Department personnel shall adhere to the above Duty Manual sections.



Anthony Mata
Chief of Police

AM:SD:DK



Memorandum

BACKGROUND

On September 30, 2020, the Governor signed [Assembly Bill 1196 \(link\)](#) into law, adding Government Code section 7286.5. The Government Code now states that no law enforcement agency in California may authorize the use of a carotid restraint or choke hold. A review of the Duty Manual discovered changes were necessary to comport with the addition.

ANALYSIS

The Duty Manual has been revised to reflect changes described below. Additions are shown in *italics and underlined*. Deletions are shown in ~~strike-through~~ form.

L 2603 FORCE OPTIONS POLICY:

Revised 01-24-22

All officers have a number of force options available for use in those situations where force is reasonably necessary. Those situations can include but are not limited to:

- Subduing or arresting a physically threatening or assaultive person.
- Instances that threaten the safety of an officer or other person.
- Stopping a person who is attempting to flee or escape a lawful detention/arrest.
- When directing, controlling, or escorting resistive or physically uncooperative persons.

There is no requirement that the person actually has to strike or attempt to strike an officer to be considered physically threatening or assaultive, so long as an objectively reasonable officer has sufficient information (verbal threats, verbal defiance, physical stance, etc.) to believe that a person is physically threatening and has the present ability to harm the officer.

The degree of force used by an officer is directly related to the facts and circumstances encountered by that officer. Force options currently available to officers include, but are not limited to:

Attachment G: SJPD Memorandum 2022-001: DM Revisions – Carotid Restraint and Choke Hold

Voice Commands	Chemical Agents
Physical Contact / Control Holds / Takedowns	Impact Weapons (Refer to Section S 1124 and S 1143)
Electronic Control Weapons or Electronic Restraint Transportation Belt (ERTB)	Police Service Dogs (canines)
Carotid restraint	Police Vehicles
Projectile Impact Weapons (if available)	Deadly force

L 2605.5 COMMAND OFFICER’S RESPONSIBILITY BY USE OF FORCE CATEGORY:

Revised 01-24-22

In order to provide a standardized and comprehensive force review process, the Department has categorized its use of force. A Department member’s use of force falls into one of four categories. Each category of force requires a different level of review based on the level of force utilized or the seriousness of the injuries sustained as a result of the force. The process of Command Review may be utilized for Category (II) uses of force and shall be utilized for the Category (III) uses of force.

For the purposes of Command Review, the Department’s Use of Force categorization is as follows:

CATEGORY (I) USE OF FORCE
2. Any use of force not listed in Categories II, III, or IV, that causes a minor injury or a complaint of pain
CATEGORY (II) USE OF FORCE
5. Electronic Control Weapons deployments (probe & drive stun)
6. Impact weapons (not to the head)
7. OC Spray
8. Projectile impact weapons (where up to 4 rounds strike the suspect)
CATEGORY (III) USE OF FORCE
11. Impact weapon or Projectile Impact Weapon strikes to the head (intentional and accidental)
12. Projectile impact weapon (where more than 4 rounds strike the suspect)
13. Kicks to the head
14. Two or more officers deploy less-than-lethal force (O.C., Projectile Impact Weapons, or Electronic Control Weapons) on one suspect
15. Four or more officers use reportable force on one suspect
16. Force resulting in bone fracture
17. Canine apprehension (dog bite)
18. Carotid restraint applied
8. Force resulting in suspect’s loss of consciousness
9. Hospital admission as a direct result of the force.
CATEGORY (IV) USE OF FORCE
2. Deadly force – That force which the user knows would pose a substantial risk of death or serious bodily injury

Attachment G: *SJPD Memorandum 2022-001: DM Revisions – Carotid Restraint and Choke Hold*

Category (I) Use of Force

Supervisors shall investigate a Department member's Category (I) use of force in accordance with Duty Manual Section L 2605 – Supervisor's Responsibility. Command officers are not required to respond to Category (I) uses of force unless their response is required in accordance with Duty Manual Section L 2605 – Supervisor's Responsibility (e.g., a sergeant uses reportable force and the supervising command officer is required to conduct the force investigation).

Category (II) Use of Force

Upon being notified of a Category (II) use of force, the command officer shall respond to the scene and ensure the use of force investigation is handled in accordance with Duty Manual Section L 2605 – Supervisor's Responsibility. The command officer shall then document his/her observations and any actions taken in a supplemental report (Form 200-3A-AFR). The command officer may direct the responding supervisor to submit documentation of the incident (to include the General Offense Report, the CAD printout, photos, and any other pertinent documentation), along with a Transmittal Form (Form 216-1) up the chain of command for Command Review by the Chief of Police or Assistant Chief of Police; if directed to do so, the responding supervisor shall submit the documentation up the chain of command within 7 calendar days, or as otherwise directed by the Office of the Chief. Upon receiving the supervisor's Transmittal and documentation, the command officer shall complete and submit a Command Review memorandum (available on the intranet) up the chain of command; this Command Review memorandum shall document his/her findings as to whether the force was within Department policy and shall be submitted within 14 calendar days, or as otherwise directed by the Office of the Chief.

Category (III) Use of Force

Upon being notified of a Category (III) use of force, the command officer shall respond to the scene and ensure that the use of force is handled in accordance with Duty Manual Section L 2605 – Supervisor's Responsibility. The command officer shall document his/her observations and any actions taken in a supplemental report (Form 200-3A-AFR). The command officer shall direct the responding supervisor to submit documentation of the incident (to include the General Offense Report, the CAD printout, photos, and any other pertinent documentation), along with a Transmittal Form (Form 216-1) up the chain of command for Command Review by the Chief of Police or Assistant Chief of Police; the responding supervisor shall submit the documentation up the chain of command within 7 calendar days, or as otherwise directed by the Office of the Chief. Upon receiving the supervisor's Transmittal and documentation, the command officer shall complete and submit a Command Review memorandum (available on the intranet) up the chain of command; this Command Review memorandum shall document his/her findings as to whether the force was within Department policy and shall be submitted within 14 calendar days, or as otherwise directed by the Office of the Chief.

Attachment G: SJPD Memorandum 2022-001: DM Revisions – Carotid Restraint and Choke Hold

NOTE: Canine officers involved in a canine apprehension (dog bite) shall utilize their canine chain of command for Command Review.

Category (IV) Use of Force

Upon being notified of a Category (IV) use of force, the command officer shall ensure the incident is handled in accordance with the Santa Clara County Police Chiefs' Association Officer-Involved Incident Guidelines. Command Review of Category (IV) uses of force shall be conducted in accordance with Duty Manual Section L 2646 – Post Incident Review Procedure for Officer-Involved Incidents.

Disposition of Command Review Documents

Once a command review has been completed, the memorandums and supporting documentation shall be routed to the Internal Affairs Unit for logging and retention. The documents shall be logged as official Department correspondence and shall not be placed into a Department member's Internal Affairs file or Personnel file, absent a Department- Initiated Investigation or a formal citizen complaint.

L 2608.6 PROVIDING FIRST AID:

Revised 01-24-22

When the use of hands or another body weapon causes injury which would reasonably require medical attention, the officer using force shall ensure the injured individual receives proper medical attention as soon as practicable.

Officers shall obtain a medical clearance from Valley Medical Center (VMC) for an arrestee who has been struck in the head with an elbow, a knee, or a kick. Another hospital emergency room may be used if, based on the available information, it appears to be necessary to provide immediate emergency medical treatment for the arrestee or if VMC is closed for admissions.

In situations where a person is experiencing any of the following as a result of the use of hands, body weapons, or any other weapon that constrains a person's neck, back, or torso in a way that causes any of the following, officers shall immediately summon medical attention and seek medical clearance from Valley Medical Center (VMC):

- *Restricted breathing*
- *Restricted blood flow through the neck*
- *Difficulty breathing or respiratory distress*
- *Symptoms of a heart attack or cardiac arrest*
- *Asthma attack*
- *Loss of consciousness*
- *Other medical emergency involving breathing or blood flow through the neck*

Attachment G: SJPD Memorandum 2022-001: DM Revisions – Carotid Restraint and Choke Hold

Another hospital emergency room may be used if, based on the available information, it appears to be necessary to provide immediate emergency medical treatment for the arrestee or if VMC is closed for admissions.

L 2627 CAROTID RESTRAINT NOT AUTHORIZED USE PROHIBITION:
Revised 01-24-22

The "Carotid Restraint" is not authorized. "Carotid Restraint" means a vascular neck restraint or any similar restraint, hold, or other defensive tactic in which pressure is applied to the sides of a person's neck that involves a substantial risk of restricting blood flow and may render the person unconscious in order to subdue or control the person.

~~The "Carotid Restraint," in which pressure is applied to the sides of a suspect's neck compressing the carotid arteries, is prohibited as an authorized control technique to overcome resistance and shall not be used for this purpose.~~

~~DEADLY ENCOUNTER EXEMPTION: The "Carotid Restraint" may only be used by an officer as a deadly force option (i.e. when the force being responded to is likely to cause death or serious bodily injury) when the use meets the requirements of Duty Manual Section L 2602.1 – DEADLY FORCE.~~

~~The Carotid Restraint is not the same as a chokehold. It does not compress the trachea and therefore does not restrict the person's ability to breathe. Instead, the Carotid Restraint technique applies pressure to the sides of the neck in order to restrict blood flow in the carotid arteries and jugular veins but does not compromise the airway by placing pressure on the trachea.~~

~~After resistance is overcome with the "Carotid Restraint," the suspect will be handcuffed to minimize the potential of further violence. The suspect should then be placed in the recovery position, if possible.~~

L 2628 PROVIDING FIRST AID AFTER USE OF CAROTID RESTRAINT:
Deleted 01-24-22

L 2628.1 CHOKE HOLD NOT AUTHORIZED USE PROHIBITION:
Revised 01-24-22

The "Choke Hold" is not authorized. "Choke Hold" means any defensive tactic or force option in which direct pressure is applied to a person's trachea or windpipe.

~~The chokehold, in which pressure is applied to the neck to restrict the ability to breathe, is prohibited as an authorized control technique to overcome resistance and shall not be used for this purpose. Chokeholds are prohibited regardless of whether they are applied using an officer's body part (e.g. hand, arm, knee, or foot) or with an inanimate object (e.g. flashlight or baton).~~

~~DEADLY ENCOUNTER EXEMPTION: A chokehold may only be used by an officer as a deadly force option (i.e. when the force being responded to is likely to~~

Attachment G: SJPD Memorandum 2022-001: DM Revisions – Carotid Restraint and Choke Hold

~~cause death or serious bodily injury) when the use meets the requirements of Duty Manual Section L 2602.1 – DEADLY FORCE.~~

~~A chokehold is not the same as a Carotid Restraint. By definition, a chokehold applies pressure to the neck and restricts a person's airway by compressing the trachea which restricts the person's ability to breathe.~~

~~After resistance is overcome with the chokehold, the suspect will be handcuffed to minimize the potential of further violence. The suspect should then be placed in the recovery position if possible.~~

L 2628.2 PROVIDING FIRST AID AFTER USE OF CHOKEHOLD:
Deleted 01-24-22

ORDER

Effective immediately, all Department personnel shall adhere to the above Duty Manual sections.



Anthony Mata
Chief of Police

AM:SD:DK



Memorandum

BACKGROUND

In June 2020, the City Council contracted with the OIR Group to complete an independent after action report in response to the events of May 29-June 7, 2020. The OIR Group made 32 policy and training recommendations, including a recommendation that SJPD should create a Department-wide inventory system for less-lethal munitions. In January 2022, California State AB-481 went into effect, requiring all police departments to create a policy addressing the inventory, purpose, and training associated with “military equipment.” Military equipment includes less-lethal projectile equipment utilized by our Department, including 40mm launchers and rounds, 37mm launchers and rounds, and stunbag shotguns.

ANALYSIS

In an effort to obtain a current inventory of less lethal projectile weapons and ammunition, all sworn personnel are required to complete the online inventory form.

Instructions:

Go to the following link: <https://forms.office.com/g/5LBiLZEZPG>

1. Enter your name and badge

Less Lethal Projectile Impact Weapons Inventory

* Required

1. Last Name *

Enter your answer

2. First name *

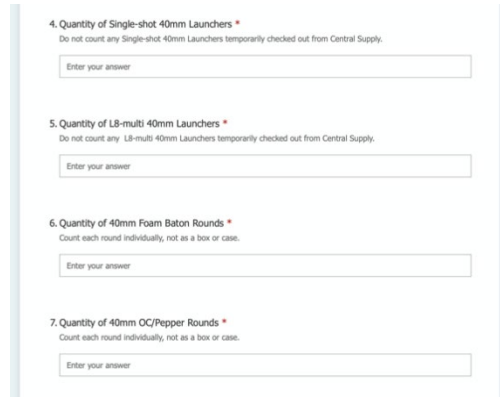
Enter your answer

3. Department Badge *

Enter your answer

Attachment H: SJPD Memorandum 2022-002: Less Lethal Inventory

2. Complete the inventory form



4. Quantity of Single-shot 40mm Launchers *
Do not count any Single-shot 40mm Launchers temporarily checked out from Central Supply.
Enter your answer

5. Quantity of LB-multi 40mm Launchers *
Do not count any LB-multi 40mm Launchers temporarily checked out from Central Supply.
Enter your answer

6. Quantity of 40mm Foam Baton Rounds *
Count each round individually, not as a box or case.
Enter your answer

7. Quantity of 40mm OC/Pepper Rounds *
Count each round individually, not as a box or case.
Enter your answer

3. Click Submit

This may be completed from any computer or cell phone.

ORDER

All sworn Department personnel shall complete the online inventory form by **Friday, April 1, 2022 at 1700 hours.** This inventory must be completed on-duty. No overtime is authorized for this inventory.



Anthony Mata
Chief of Police

AM:SD:GL



Memorandum

BACKGROUND

California [Assembly Bill 481 \(link\)](#) was approved by the Governor on September 30, 2021. This Bill created [Government Code chapter 12.8 \(link\)](#) regulating the funding, acquisition, and use of military equipment. Among other provisions, this chapter required the Department to obtain permission from the City Council to use or acquire military equipment. This permission was granted at the City Council meeting on June 21, 2022¹. Part of that authorization required the development of a Military Equipment Use Policy that included the following:

- A description of each type of military equipment, the quantity, its capabilities, expected lifespan, and product descriptions from the manufacturer.
- The purposes and authorized uses for which the Department proposes to use each type of military equipment.
- The fiscal impact of each type of military equipment, including the initial costs of obtaining the equipment and estimated annual costs of maintaining the equipment.
- The legal and procedural rules that govern each authorized use.
- The training, including any course required by POST, that must be completed before any Department member is allowed to use each specific type of military equipment to ensure the full protection of the public's welfare, safety, civil rights, and civil liberties and full adherence to the military equipment use policy.
- The mechanisms to ensure compliance with the military equipment use policy, including which independent persons or entities have oversight authority, and what legally enforceable sanctions are put in place for violations of the policy.
- For a law enforcement agency, the procedures by which members of the public may register complaints or concerns or submit questions about the use of each specific type of military equipment, and how the Department will ensure that each complaint, concern, or question receives a response in a timely manner.

[Government Code section 7070 \(link\)](#) defines the following items as “military equipment”:

- Remotely Piloted UAVs and Ground Vehicles (e.g., drones and the Bomb Unit robots)
- MRAPs or Armored Personnel Carriers

¹ Details from this meeting may be found here:

<https://sanjose.legistar.com/MeetingDetail.aspx?ID=980797&GUID=15E52BAD-B60D-4CDC-8522-CF23FA24E5FC>

Attachment I: *SJPD Memorandum 2022-029: Recording the Use of Military Equipment*

- HMMWVs and BearCats
- Tracked Armored Vehicles (the Department does not have any)
- Command and Control Vehicles (e.g., the Command Van, TEU Van, Bomb Unit Van, etc.)
- Weaponized Aircraft or Vehicles (the Department does not have any)
- Explosive Rams or Breaching Tools
- .50 cal or Greater Firearms (the Department does not have any)
- .50 cal or Greater Ammunition (the Department does not have any)
- Specialized Firearms or Assault Weapons (e.g., all rifles and Benelli shotguns)
- Explosive Projectile Launchers
- Flashbangs, Tear Gas, and Pepper Balls
- LRAD, Taser Shockwave, and Microwave Weapons
- 40mm Launchers, Stunbag Shotguns, and SIM Weapons
- Any Other Equipment Determined by the Governing Body

[Government Code section 7072 \(link\)](#) requires the Department to report back to City Council annually on the following:

- A summary of how the military equipment was used and the purpose of its use.
- A summary of any complaints or concerns received concerning the military equipment.
- The results of any internal audits, any information about violations of the military equipment use policy, and any actions taken in response.
- The total annual cost for each type of military equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade, and other ongoing costs, and from what source funds will be provided for the military equipment in the calendar year following submission of the annual military equipment report.
- The quantity possessed for each type of military equipment.
- If the Department intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment.

ANALYSIS

Several units throughout the Department use military equipment including Patrol, all of Special Operations, the Covert Response Unit, Burglary Prevention Unit, Internet Crimes Against Children, and the Police Academy. To facilitate the annual report to City Council on the use of military equipment, the Department has developed an online form called the **Military Equipment Reporting Log (MERL)**. This form will collect the following data:

- When it was used (date and time)

Attachment I: *SJPD Memorandum 2022-029: Recording the Use of Military Equipment*

- Supervisor badge number
- Any associated event numbers
- What it was used for (e.g., training, police activity, protest/demonstration, community event)
- Type of equipment used
- Quantity used (for certain items)

Every Department member using any type of military equipment will be responsible for reporting that use to their supervisor. The notification will be either during or at the conclusion of the event during which the military equipment was used. The notification will either be to the Department member's assigned supervisor (if they are working together that day) or to the supervisor under which the Department member is assigned that day.

That supervisor, in turn, will be responsible for logging all military equipment used into the MERL. The MERL must be completed the same day as the use of the equipment or at the conclusion of the event.

For security reasons, the link to the MERL is not included in this memorandum but will be sent via email to every Department member at the rank of Sergeant and above. The link may then be bookmarked or added to the home screen of their Department-issued phones.

The Special Operations Division Captain will use the logged data for the annual report to City Council. Any questions regarding data collection should be referred to the Special Operations Division Captain.

In addition to the above, the Bureau of Administration will be conducting inventories on a regular basis to account for military equipment and ammunition. All Department members in the possession of military equipment or ammunition are required to participate in these inventories.

“Use”

The statute and resulting Government Code do not clarify the term “use.” For standardization, the Department is defining it as follows:

- For Remotely Piloted UAVs and Ground Vehicles, “use” means to deploy them in the field
- For MRAPs, Armored Personnel Carriers, HMMWVs, BearCats, and Command and Control Vehicles, “use” means to drive it into the field for deployment at an event (i.e., not for fueling or maintenance)
- For Explosive Rams, Breaching Tools, Specialized Firearms, Assault Weapons, Explosive Projectile Launchers, Flashbangs, Tear Gas, Pepper Balls, 40mm Launchers, Stunbag Shotguns, and SIM Weapons, “use” means to both deploy and operate the item (e.g., firing a 40mm launcher or rifle, using an explosive breach to make entry to a residence, or employing a flashbang as distraction device.)

Attachment I: *SJPD Memorandum 2022-029: Recording the Use of Military Equipment*

- For LRAD, Taser Shockwave, and Microwave Weapons, “use” means to both deploy and operate the item (e.g., to provide dispersal orders at a civil disturbance or to contact a barricaded suspect.)

ORDER

All Department members using any type of military equipment shall report the use of that equipment to their supervisor under the guidelines outlined above. Any supervisor whose subordinate uses military equipment shall log that use in the Military Equipment Reporting Log (MERL) under the guidelines outlined above. This order shall remain effect until rescinded or modified by Department memorandum, pursuant to Duty Manual section A 2304 TEMPORARY ORDERS.



Anthony Mata
Chief of Police

AM:SD:SL:MB



Memorandum

BACKGROUND

A review of the Duty Manual section L 4304 RENDER ASSISTANCE TO THE VICTIM(S) discovered revisions were necessary to bring it into alignment with best practices.

ANALYSIS

The Duty Manual has been revised to reflect changes described below. Additions are shown in *italics and underlined*. Deletions are shown in ~~strike-through~~ form.

L 4304 RENDER ASSISTANCE TO THE VICTIM(S): *Revised 07-28-22*

The *fundamental* ~~first~~ responsibility is to the victim. The injured must receive the highest priority even if this permits the suspect to escape. *To do so, Department members are expected to secure the scene and render safe any potential ongoing or imminent threat as soon as practicable.* ~~Therefore, †~~The first arriving officer will ensure that the victim receives emergency first aid and further medical care as necessary, *when safe to do so.* This task may be delegated to other competent persons or officers but the responsibility to ensure that this task is accomplished remains with the first arriving unit.

ORDER

Effective immediately, all Department personnel shall adhere to the above Duty Manual section.

A handwritten signature in black ink, appearing to read "A. Mata".

Anthony Mata
Chief of Police

AM:SD:JH



Memorandum

BACKGROUND

On March 1, 2022, the CNA Corporation presented a report to the City Council entitled, [Use of Force Assessment of the San José Police Department \(link\)](#). This report contains numerous recommendations including the following:

Recommendation #6.1 reads: “The SJPD should elevate and emphasize affirmative duty to attempt de-escalation during encounters when time and circumstances permit.” (This will be addressed in section L 2602.6 below.)

Recommendation #6.2 reads: “The SJPD should better define the concept of de-escalation.” Additional information for this recommendation is provided in the California Peace Officer Standards and Training publication [De-Escalation: Strategies & Techniques for California Law Enforcement \(link\)](#). (This will be addressed in section L 2602.6 below.)

Recommendation #8 reads: “The SJPD should revise the Duty Manual to require that each application of force be evaluated under the totality of the circumstances independent of other force applications.” (This will be addressed in section L 2601 below.)

Recommendation #11 reads: “The SJPD should categorize all force tools and options in the categories identified in the SJPD Duty Manual.” (This will be addressed in section L 2603 below.)

Recommendation #16 reads: “The SJPD should revise the Duty Manual to require force warnings for all uses of force unless time and circumstances do not allow for a warning.” (This will be addressed in section L 2601.1 below.)

Recommendation #18 reads: “After using lethal force, the involved officer should communicate the force to the communications unit, which would assume responsibility for making notifications.” (This will be addressed in sections L 2633 and L 8512 below.)

ANALYSIS

The Duty Manual has been revised to reflect changes described below. Additions are shown in *italics and underlined*. Deletions are shown in ~~strike-through~~ form.

L 2601 **GENERAL PROVISIONS:**
Revised 08-16-22

Attachment K: *SJPD Memorandum 2022-040: DM Revisions – Use of Force*

Officers may use force to affect a detention, arrest, prevent an escape or overcome resistance, in self-defense or defense of others. The type and degree of force used will be objectively reasonable and based upon the totality of the facts and circumstances known by the officer at the time. Each application of force must be justified and within policy independent of other force used of the situation. In any event, the following specific procedures will be adhered to.

L 2601.1 **IDENTIFICATION AND VERBAL WARNING:**

Added 08-16-22

When time and circumstances permit, prior to the use of any force, officers shall verbally identify themselves as a peace officer and verbally warn that force may be used, unless any of the following would apply:

- A warning that force may be used would create a clear and immediate danger to the officer, another officer, or to community members; or
- A warning that force may be used would significantly hinder the officer's ability to make an arrest; or
- The officer has objectively reasonable grounds to believe the individual is aware of those facts.

L 2602.1 **DEADLY FORCE:**

Revised 08-16-22

NECESSITY: Officers will use deadly force only when necessary in defense of human life. In determining whether deadly force is necessary, officers shall evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer. Before discharging a firearm, officers shall consider their surroundings and potential risks to bystanders to the extent reasonable under the circumstances.

WHEN DEADLY FORCE IS JUSTIFIED: An officer is justified in using deadly force upon another person only when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary for either of the following reasons:

- To defend against an imminent threat of death or serious bodily injury to the officer or to another person.
- To apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

~~WARNINGS: When feasible, officers shall, prior to the use of deadly force, make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts.~~

Attachment K: *SJPD Memorandum 2022-040: DM Revisions – Use of Force*

DEFINITIONS: For purposes of this section, the following definitions shall apply:

- “Deadly force” means any use of force that creates a substantial risk of causing death or serious bodily injury, including, but not limited to, the discharge of a firearm.
- 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 peace officer 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.
- “Totality of the circumstances” means all facts known to the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force.

L 2602.6 **DE-ESCALATION**

Added 08-16-22

De-escalation is the process of using strategies, methods, techniques, and tactics intended to decrease the intensity of the situation.

There is no all-inclusive list identifying all the strategies, methods, techniques, and tactics officers might employ to de-escalate an incident. Duty Manual section L 2602.5 TACTICAL CONDUCT provides some options. In addition, the effectiveness of de-escalation strategies, methods, techniques, and tactics vary between officers, subjects, and situations. When time and circumstances permit, officers shall, prior to the use of any force, make reasonable efforts to de-escalate the situation.

The application of force is not, by definition, a failure to properly de-escalate a situation.

L 2603 **FORCE OPTIONS POLICY:**

Revised 08-16-22

All officers have a number of force options available for use in those situations where force is reasonably necessary. Those situations can include but are not limited to:

- Subduing or arresting a physically threatening or assaultive person.
- Instances that threaten the safety of an officer or other person.
- Stopping a person who is attempting to flee or escape a lawful detention/arrest.
- When directing, controlling, or escorting resistive or physically uncooperative persons.

There is no requirement that the person actually has to strike or attempt to strike an officer to be considered physically threatening or assaultive, so long as an objectively reasonable officer has sufficient information (verbal threats, verbal

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defiance, physical stance, etc.) to believe that a person is physically threatening and has the present ability to harm the officer.

The degree of force used by an officer is directly related to the facts and circumstances encountered by that officer. Force options currently available to officers include, but are not limited to:

Voice Commands	Chemical Agents
Physical Contact / Control Holds / Takedowns	Impact Weapons (Refer to Section S 1124 and S 1143)
Electronic Control Weapons or Electronic Restraint Transportation Belt (ERTB)	Police Service Dogs (canines)
	Police Vehicles
Projectile Impact Weapons (if available)	Deadly force

- Chemical Agents
- Deadly Force
- Electronic Control Weapons (ECWs)
- Impact Weapons
- Improvised Weapons (e.g. Flashlights, Radios, etc.)
- Physical Contact / Control Holds / Takedowns
- Police Service Dogs (Canines)
- Police Vehicles
- Projectile Impact Weapons
- Voice Commands

NOTE: The above list of force options is displayed in alphabetical order and not as a force continuum.

L 2614

USE OF ELECTRONIC CONTROL WEAPONS AND REPORTING REQUIREMENTS:

Revised 08-16-22

Electronic Control Weapons (ECW) have an important role in effective law enforcement as a de-escalation tool that can defuse dangerous situations from a distance, prevent the need for a higher level of force, and help protect officers, suspects, and bystanders.

Officers may use ECW in the following circumstances:

- When the subject presents an immediate threat of harm to the officer or any other person and the threat presented by the subject outweighs the pain and risks associated with the use of the ECW.
or
- When necessary to take a subject into custody and the level of resistance presented by the subject is:
 - Likely to cause injury to the officer or subject; and
 - Hands-on control tactics or other force options would likely cause greater injury to the subject than the use of the ECW.

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1. Policies and procedures for ECW deployments:

- In addition to the identification and verbal warning requirements of Duty Manual section L 2601.1, an officer shall wait a reasonable period of time after each application of the ECW to discern if compliance has been gained. ~~When feasible, officers should give the subject a warning prior to the use of an ECW and wait a reasonable amount of time to discern if compliance has been gained.~~
- The ECW is to be used for the shortest period reasonably necessary to take a subject safely into custody, generally a 5 second cycle.
- Officers should attempt to secure the subject as soon as practical while affected by ECW power or immediately thereafter.
- Officers shall refrain from using the ECW for more than a total of three (3) five-second cycles, unless the circumstances are such that a reasonable officer would conclude that each subsequent application of the device, analyzed separately, is warranted.
- As with the initial discharge, each subsequent ECW activation must be individually justified based on the specific articulable facts reasonably known to the officer at the time. In this assessment, an officer may also consider whether backup officers are present to assist in controlling a dangerous suspect.
- If the subject does not respond to the ECW deployment in the anticipated manner, officers should, based upon training and experience, consider transitioning to alternative force options.
- If circumstances permit, officers should avoid aiming the ECW at a subject's head, neck, genitalia, or chest.
- The ECW may be used against animals if the animal poses a threat to officers, other persons, or other animals
- ECW and holsters authorized for use by the Chief of Police are listed in DM Section S 1147 (Electronic Control Weapons).

2. The ECW shall not be used under the following circumstances:

- On subjects exhibiting only passive non-compliance absent any other specific articulable threat that would outweigh the subject's passive resistance.
- Against a handcuffed or secured person, absent overtly assaultive, self-destructive, or violently resistive behavior that cannot reasonably be controlled by other readily available means.
- In circumstances where a suspect's fall is likely to cause serious bodily injury or death, unless the circumstances are such that a reasonable officer would conclude that force likely to cause substantial injury or death is warranted.
- In circumstances where a suspect is located in close proximity to a body of water, unless the circumstances are such that a reasonable officer would conclude that force likely to cause substantial injury or death is warranted.
- Where an officer reasonably believes that a flammable, volatile, or explosive material is on the subject or may be affected by the use of the device.
- On highly agitated individuals whose condition may put those individuals at heightened risk of serious injury or death. There are times, however, when despite such risks, a person's actions make it necessary to take the

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individual into custody. Use of the ECW may, in some instances, be the preferred method of quickly subduing an agitated and aggressive individual and minimize the subject's physical exertion that may increase the risk of injury or death.

- Against a subject operating or riding any mode of transportation (e.g., vehicle, bus, bicycle, motorcycle, etc.), conveyance (e.g., escalator, skateboard, scooter, rollerblades, etc.), or machinery capable of causing injury unless the circumstances are such that a reasonable officer would conclude that the risk of serious bodily injury or death resulting from subsequent movement of the mode of transportation, conveyance, or machinery is outweighed by the need to capture the subject.
- Against women who are known to be pregnant, very old or very young persons, physically frail persons, and persons with known heart conditions unless reasonable based on the threat the subject possesses to themselves or others. An example of a circumstance in which it would be reasonable to use the ECW would be a situation in which an obviously pregnant woman was in the process of harming herself or another person, and more intrusive force would be necessary if not for the use of an ECW.

3. Discharge reporting requirements:

- A discharge of an ECW occurs when probes are deployed at a subject or used in a drive stun manner. If the probes or drive stun do not contact a subject the usage still requires reporting.
- All ECW usage will be reported to the officer's immediate supervisor or next higher rank in the chain of command as soon as safe and reasonable. If the officer's immediate supervisor is unavailable, the officer will report the usage to any other available supervisor or next higher rank in the chain of command.
- The supervisor of an officer who has deployed an ECW will personally respond to evaluate and actively participate in the investigation of the ECW discharge.
- The supervisor will review the ECW download information.
- The discharge of an ECW will require documentation in a General Offense Report (Form 200-2-AFR) and/or on a Narrative/Supplemental Report (Form 200-3A-AFR) and an Automated Use of Force Template.
- Officers will obtain and submit a copy of the ECW download information for the event with a Case Number noted in the upper right-hand corner.
- An officer who only displays a de-escalation warning arc is not required to notify his/her supervisor or complete an Automated Use of Force Template. An arc display should be documented in a General Offense Report or Supplemental. If a General Offense report is not required, the officer will note the display in the CAD event.
- Any accidental discharge, not at a subject, shall be reported to the officer's immediate supervisor. See DM section L2617 (Accidental Discharge of an Electronic Control Weapon)

4. Medical Care

- Whenever a person has been subjected to an ECW discharge, an official hospital clearance is obtained prior to the suspect's booking.
- Once a subject is under control, officers will place the subject in an appropriate recovery position.

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- Officers shall monitor subjects who have sustained an ECW application while they are in custody.
- If the suspect exhibits the need for medical attention at the scene of the arrest, the officer shall summon emergency medical assistance immediately. See DM section L 2616 (Providing First Aid).

L 2633 RESPONSIBILITY WHEN A FIREARM IS DISCHARGED:

Revised 08-16-22

An officer who discharges a firearm either accidentally or in the performance of a police duty, except at an approved range, will protect the scene consistent with the safety of officers and members of the public and evidence and will ensure that an on-duty officer of the officer's subdivision with the rank of lieutenant or higher is notified as soon as time and circumstances permit. When on duty, this may be accomplished by notifying Communications. If an officer of the required rank is not on duty in the officer's subdivision at the time of discharge, the officer will ensure that the watch commander on duty, or any on-duty officer with the rank of lieutenant or higher, is notified.

EXCEPTION: When it is necessary to discharge a firearm for the humane destruction (euthanasia) of a seriously injured animal, and no person was injured or killed and no property was damaged, the officer who discharges the firearm will ensure that the on-duty sergeant responsible for that area is notified and responds to the scene.

L 8512 SAN JOSE UNIFIED POLICE OFFICER FIREARMS DISCHARGE:

Revised 08-16-22

~~When a San Jose Unified police officer discharges a firearm, either accidentally or in the performance of a police duty, except at an approved range, the officer will protect the scene and evidence and will ensure that an on-duty command officer of the San Jose Police Department with the rank of lieutenant or higher is notified immediately—incident is handled in accordance with DM section L 2633 (Responsibility When a Firearm Is Discharged).~~ The San Jose Police Department is in charge of the investigation, assisted as necessary by officers from the San Jose Unified Police Department

- Not Resulting in Injury or Death: When a firearm is discharged but does not result in injury or death, the incident is handled according to DM section L 2601 (Use of Force, General Provisions).
- Resulting in Injury or Death: When a firearm is discharged resulting in injury or death to any person, the incident is handled according to DM section L 4700 (Officer Involved Shootings).

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ORDER

Effective immediately, all Department personnel shall adhere to the above Duty Manual sections.

A handwritten signature in black ink, appearing to read 'A. Mata', is positioned above the printed name and title.

Anthony Mata
Chief of Police

AM:SD:CM



Memorandum

BACKGROUND

Foot pursuits are inherently dangerous. When making the decision to initiate or engage in a foot pursuit, Department members are expected to act upon reasonable suspicion or probable cause. While engaged, Department members should weigh the totality of the circumstances, including assessing the seriousness of the crime for which the subject is wanted. Refer to Training Bulletin #2022-040 regarding Foot Pursuit Guidance for further information.

On September 13, 2022, the Independent Police Auditor presented the [2021 Year End Report \(link\)](#) to City Council. This report contains numerous recommendations including the following:

Recommendation #7 reads: “The Duty Manual should provide guidance on when officers engage in foot pursuits.”

ANALYSIS

The Duty Manual has been revised to reflect changes described below. Additions are shown in *italics and underlined*.

L 9023 **INITIATING AND ENGAGING IN A FOOT PURSUIT** *Added 12-17-22*

Department members may initiate and engage in a foot pursuit to aid in the detention or arrest of a subject when supported by reasonable suspicion or probable cause. During foot pursuits, Department members should assess the seriousness of the crime for which the subject is wanted with the danger to officers, the subject, and the public.

ORDER

Effective immediately, all Department personnel shall adhere to the above Duty Manual sections.

Anthony Mata
Chief of Police

AM:SD:JJ