

Use of Force - Patients

300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force during incidents involving a patient who has been committed to the Department of State Hospitals (DSH). While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, all Office of Protective Services (OPS) employees are expected to use these guidelines to make such decisions in a professional, impartial and reasonable manner.

For policy guidelines on the use of force during incidents not involving a patient who has been committed to DSH, please see the Use of Force - Non-Patients Policy.

300.1.1 DEFINITIONS

Definitions related to this policy include:

Calculated interventions – Instances where time and circumstances permit a planned response to a pending or current conflict scenario involving a patient, prior to implementation of that response. The response, unless otherwise preempted by intervening events, shall include consultation with clinical staff and police supervision to assess any contraindicative concerns, as well as consider viable alternative strategies.

Deadly force - 1) 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. 2) 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.

3) “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.

(Pen. Code § 835a).

Emergent interventions – A spontaneous occurrence with a patient in which officers must take direct and immediate action to prevent bodily injury to themselves or another, or to prevent an escape or imminent breach in facility security. Emergent interventions do not allow for a planned response.

Excessive Force - Use of more force than is objectively reasonable to accomplish a lawful purpose.

Force - The application of physical techniques or tactics, chemical agents or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed or restrained.

Use of Force - Patients

Imminent Threat – Any situation or circumstance that jeopardizes the safety of persons or compromises the security of the institution, requiring immediate action to stop the threat. Imminent does not mean immediate or instantaneous. An imminent threat may exist even if harm has not yet occurred.

Imminent Threat of Death- Serious harm through the actions or words of another person.

Law Enforcement Intervention – Instances where the force options, techniques or equipment utilized by officers exceed the parameters of Therapeutic Strategies and Intervention.

Reasonable Force - The degree of force which a similarly trained and experienced Officer, on scene with similar facts and circumstances, without the benefit of hindsight, would deem reasonably necessary to effect an arrest, prevent escape or overcome resistance in order to protect themselves, a patient, DSH employees, visitors, or the public.

Serious Bodily Injury - Serious bodily injury means a serious impairment of physical condition, including, but not limited to loss of consciousness, concussion, bone fracture, protracted loss or impairment of function of any bodily member or organ, a wound requiring suturing, or disfigurement.

Therapeutic Strategies and Interventions (TSI) – The practice of strategies and interventions that, when used for patients, promote a therapeutic milieu, help DSH employees to recognize, prevent and appropriately intervene in dangerous behavioral situations, and protect the patient's health and safety, while preserving his or her dignity, rights, and well-being.

Totality of Circumstances- 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.

300.1.2 GENERAL CONSIDERATIONS

- (a) Law enforcement intervention can only be used by officers and is not to be considered as the first-response, but rather an assistive option available to treatment program and DSH staff. Whenever circumstances permit, the exhaustion of other appropriate remedies will be utilized.
- (b) Treatment program and department DSH staff are primarily responsible for incidents involving behavioral restraint, medication of resistant patients, suicide attempts and threats, barricaded and uncooperative patients.
- (c) Officers should refrain from direct physical contact with patients during therapeutic interventions by treatment staff, unless the situation warrants their intervention to protect patients and staff.
- (d) Officers shall assume primary responsibility for all crimes, hostage situations, escapes, riots, routes, and armed patients.
- (e) Nothing in this directive is intended to circumvent mutual assistance by and between treatment program and DSH staff and officers deemed necessary on a case-by-case basis. Treatment program staff shall retain clinical responsibility during a law

Use of Force - Patients

enforcement response and shall participate in a mutually beneficial and coordinated effort to remedy the situation.

300.2 POLICY

It is the policy of DSH, to accomplish its law enforcement duties with reasonable reliance on the use of force. The use of force by officers is a matter of critical concern, both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

Officers must have an understanding of, and true appreciation for, their authority, responsibilities and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties.

Officers must also be aware that the patients in the state hospitals have been committed to DSH for treatment, not punishment. Accordingly, it is essential that they understand the importance of TSI strategies and interventions in de-escalating any situation involving a patient. Absent an imminent threat that requires immediate use of force, TSI strategies and interventions must be utilized in such situations before force is applied.

DSH recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests.

Nothing in this policy is intended to discourage officers from taking direct and immediate action involving the use of force in order to prevent bodily injury to themselves or another, or to prevent an escape or an imminent breach in facility security.

300.2.1 DUTY TO INTERCEDE

Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force. An officer who observes another employee use force that exceeds the degree of force permitted by law shall promptly report these observations to a supervisor.

300.2.2 RESPONSIBILITY

It is the responsibility of all OPS employees to understand and comply with the Use of Force policy, related procedures, ongoing training, and applicable law.

It is the responsibility of the Executive Director/Chief of Police:

- (a) To ensure that all OPS employees receive appropriate training annually and understand the Use of Force policy and procedures, including both the application of force and subsequent reporting and documentation requirements.
- (b) To record and track all training, corrective action and discipline related to the use of force.

Use of Force - Patients

300.3 USE OF FORCE

Officers shall use only that amount of force that reasonably appears necessary given the facts and totality of the circumstances known to or perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose (Penal Code § 835a).

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain, and rapidly evolving.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons, or methods provided by the OPS. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be objectively reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

300.3.1 USE OF FORCE TO EFFECT AN ARREST

Any peace officer who has reasonable cause to believe that the person being arrested has committed a public offense may use objectively reasonable force to effect an arrest, to prevent escape, or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance on the part of the person being arrested; nor shall an officer be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest, prevent escape, or to overcome resistance. Retreat does not mean tactical repositioning or other de-escalation techniques (Pen. Code § 835a).

300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include but are not limited to:

- (a) The apparent immediacy and severity of the threat to officers or others (Pen. Code § 835a).
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.

Use of Force - Patients

- (c) Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The conduct of the involved officer (Pen. Code § 835a).
- (e) The effects of drugs or alcohol.
- (f) The individual's apparent mental state or capacity (Pen. Code § 835a).
- (g) The individual's apparent ability to understand and comply with officer commands (Pen. Code § 835a).
- (h) Proximity of weapons or dangerous improvised devices.
- (i) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (j) The availability of other reasonable and feasible options and their possible effectiveness (Pen. Code § 835a).
- (k) Seriousness of the suspected offense or reason for contact with the individual.
- (l) Training and experience of the officer.
- (m) Potential for injury to officers, suspects, and others.
- (n) Whether the person appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.
- (o) The risk and reasonably foreseeable consequences of escape.
- (p) The apparent need for immediate control of the subject or a prompt resolution of the situation.
- (q) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (r) Prior contacts with the subject or awareness of any propensity for violence.
- (s) Any other exigent circumstances.

300.3.3 FORCE OPTIONS

Officers are deployed with safety equipment including, but not limited to Oleoresin Capsicum (OC) spray, a baton, and handcuffs. Officers shall receive initial and ongoing instruction by a certified instructor in the use of this equipment. Prior to deployment, all officers shall receive the standardized in-service training module, on "Law Enforcement Intervention." Included in the curriculum shall be a copy of this policy, which shall be covered in detail during the course of instruction. Each hospital shall provide instruction to non-officers regarding the effects of OC spray and the decontamination process for individuals and areas.

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

- (a) Subduing or arresting a physically threatening or assaultive person.
- (b) Instances that threaten the safety of an officer or other person.

Use of Force - Patients

- (c) Stopping a person who is attempting to flee or escape a lawful detention or arrest.
- (d) When directing, controlling or escorting resistive or physically uncooperative persons.

Force options are strictly limited to officers. Force options include, but are not limited to:

- (a) Voice Commands
- (b) Chemical Agents/OC spray authorized by the Chief of Police
- (c) Physical Contact/Control Holds/Takedowns
- (d) Impact Weapons authorized by the Chief of Police
- (e) Firearms authorized within the Firearms Policy

300.3.4 PAIN COMPLIANCE TECHNIQUES

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

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

The officer shall also consider to the extent possible under the circumstances:

- (a) Whether and to what extent TSI strategies have been utilized;
- (b) The individual's current medical health;
- (c) The individual's current and prior mental health issues;
- (d) The individual's ability to understand orders or difficulty complying with orders due to developmental and/or mental health issues;
- (e) Developmental/intellectual disabilities.

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

300.3.5 USE OF FORCE TO SEIZE EVIDENCE

In general, officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, officers are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, officers shall not use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted. Officers are encouraged to use techniques and methods taught by the DSH for this specific purpose.

300.3.6 OTHER NECK RESTRAINTS

The use of any neck restraint hold that restricts a patient's airway is prohibited.

Use of Force - Patients

300.3.7 OC SPRAY AND BATON USAGE

OC spray and/or the baton may only be used in a situation that presents imminent physical harm to staff or patients where TSI or containment measures cannot be attempted without a high risk of injury.

300.4 DEADLY FORCE APPLICATIONS

If an objectively reasonable officer would consider it safe and feasible to do so under the totality of the circumstances, officers should evaluate the use of other reasonably available resources and techniques when determining whether to use deadly force. The use of deadly force is only justified in the following circumstances (Penal Code § 835a):

- (a) An officer may use deadly force to protect him/herself or others from what he/she reasonably believes is an imminent threat of death or serious bodily injury to the officer or another person.
- (b) An officer may use deadly force 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. Where feasible, the officer shall, prior to the use of 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.

Officers shall not use deadly force against a person based on the danger that person poses to him/herself, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer or to another person (Penal Code § 835a).

An “imminent” threat of death or serious bodily injury exists 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 officer or another person. An officer’s subjective fear of future harm alone is insufficient as an imminent threat. An imminent threat is one that from appearances is reasonably believed to require instant attention (Pen. Code § 835a).

300.4.1 SHOOTING AT OR FROM MOVING VEHICLES

Shots fired at or from a moving vehicle are rarely effective. Officers shall move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. An officer shall only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others.

An officer shall not shoot at any part of a vehicle in an attempt to disable the vehicle.

300.5 MEDICAL CONSIDERATION

Following a use or allegation of misuse of force, medical assistance shall be obtained for any patient who exhibits signs of physical distress, who has sustained visible injury, expresses a complaint of injury or continuing pain, or who was rendered unconscious.

Use of Force - Patients

Based upon the officer's initial assessment of the nature and extent of the patient's injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff or medical staff at the hospital, or treatment at an outside medical facility. If any such patient refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the patient, any refusal should be included in the recording, if possible.

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

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

300.6 REPORTING THE USE OF FORCE

Any use of force by an employee of OPS shall be documented promptly, completely and accurately in an appropriate report, depending on the nature of the incident. The officer shall articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances. To collect data for purposes of training, resource allocation, analysis and related purposes, OPS may require the completion of additional report forms, as specified in OPS policy, procedure or law.

When a patient is transferred from OPS custody to Clinical Staff, OPS will inform Clinical staff of physical restraints or control holds were used to control patient behavior.

300.6.1 NOTIFICATION TO SUPERVISORS

Supervisory notification shall be made as soon as practicable following the application of force. A supervisor shall also be notified if a patient alleges misuse of force by OPS personnel.

300.6.2 SUPERVISORS RESPONSIBILITY

When a supervisor is able to respond to an incident in which there has been a reported application of force, the supervisor is expected to:

Use of Force - Patients

- (a) If it is a calculated intervention, obtain the required video camera to film the extraction. Refer to OPS Area Extraction Policy, for the area extraction requirements.
- (b) The responding supervisor will complete the Supervisor's Review/Critique Use of Force Incident form (OPS Use of Force form 002) [See attachment: OPS UOF 002.pdf](#) in full and submit it to their Lieutenant.
 - 1. The responding supervisor's review shall include:
 - (a) A patient interview, if there are injuries to the patient who was the subject of the Use of Force.
 - (b) Video recording of the patient interview and OPS Use of Force form 007 [See attachment: OPS UOF 007.pdf](#) will be completed.
 - (c) The responding supervisor will complete a review using a report of findings-Patient Interview Form (OPS Use of Force form 008) [See attachment: OPS UOF 008.pdf](#).

This information will be included in the Use of Force package provided to the Executive Director review. Following the Executive Director review, a facility Use of Force committee will be convened.

- (c) Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- (d) Ensure that any injured parties are examined and treated.
- (e) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.
- (f) Identify any witnesses not already included in related reports.
- (g) Review and approve all related reports.
- (h) Determine if there is any indication that the patient may pursue civil litigation.
 - 1. If there is an indication of potential civil litigation, the supervisor should alert the Chief of Police via chain of command.
- (i) Evaluate the circumstances surrounding the incident and notify the Chief of Police via chain of command if there is a question of policy non-compliance or if for any reason further investigation may be appropriate.
- (j) Ensure that all reports are completed prior to the end of shift, unless approved to be completed at a later date by the on scene supervisor.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

Use of Force - Patients

300.6.3 DOCUMENTATION

- (a) All OPS staff involved in a use of force incident shall document their involvement in a report.
- (b) The Hospital Police Lieutenant will complete the Lieutenant's review, OPS Use of Force form 003 [See attachment: OPS UOF 003.pdf](#) and forward the completed Use of Force packet to the Chief of Police for review.
- (c) The Chief of Police is responsible for ensuring that documentation and the resulting investigation are strictly scrutinized for purposes of accuracy and completeness, to include a description of the attendant circumstances, review of witness statements and recordation of evidence. This is to include reviewing the full Use of Force packet and complete OPS form 004 [See attachment: OPS UOF 007.pdf](#).
- (d) If there are injuries to the officer, or any other individual(s) involved that are caused by the use of force, photographs shall be taken of these injuries, as well as of any pre-existing injuries, and all photographs shall be filed as evidence with the investigative report. Photographs of any property damage shall also be taken and filed. If there are injuries to the patient who was the subject of the Use of Force, a patient interview will be conducted. The interview will be video recorded and OPS Use of Force form 007 [See attachment: OPS UOF 007.pdf](#) will be completed and an OPS supervisor will complete a review using a report of findings-Patient Interview Form, OPS Use of Force form 008 [See attachment: OPS UOF 008.pdf](#). This information will be included in the Use of Force package to the Executive Director for review. Following the Executive Director's review a facility use of force committee will be convened.

300.6.4 EXECUTIVE COMMITTEE REVIEW AND REPORT

All of the following types of incidents shall be reported to, and reviewed by, an Executive Committee consisting of a cross-section of disciplines.

- (a)
 - 1. All use of force incidents which result in serious bodily injury
 - 2. All interventions involving the use of OC spray, police baton, excessive force, deadly force or allegations of excessive force.
 - 3. Shall not include any staff involved in the use of force to be reviewed. All of the following types of incidents shall be reported to, and reviewed by, an Executive Committee consisting of a cross-section of disciplines. The Executive Committee will review the full Use of Force packet prepared by the Chief of Police, Lieutenant and Sergeant. This review included all relevant police reports, audio or video recordings and patient records. The review committee will document this review on the facility Use of Force and Further Action Recommendation Form (OPS Use of Force form 005) [See attachment: OPS UOF 005.pdf](#). This form is to be signed by the facility Executive Director.
- (b) The Executive Director shall forward these written findings to the Chief of Law Enforcement (CLE) and the Chief Deputy Director no later than 30 working days from the date of occurrence.

Use of Force - Patients

300.6.5 DSH HEADQUARTERS SACRAMENTO REVIEW

- (a) The CLE will conduct an independent review of all Executive Committee Reviews to examine DSH policy compliance, ensure that a thorough investigation and management review occurred, and follow up on issues that may impact DSH.
- (b) To facilitate this review, all Use of Force packets including incident reports of the Executive Committee findings, will be forwarded to the Chief of Law Enforcement (CLE) within 30 working days of the date of occurrence. This may be delayed if Office of Law Enforcement Support (OLES) is reviewing the incident. A copy of the investigative report and pertinent supporting documentation such as interdisciplinary notes, written statements by employees, and relevant policy or procedures shall be included.
- (c) Information validated by the reviewers such as training records, logs and or other routine reporting documents are not required, unless they have specific relevance to the appropriate outcome of the incident.
- (d) In all instances the protections and confidentiality afforded to Peace Officers pursuant to Government Code sections 3300-3312, and Penal Code sections 832.7 and 832.8 will be strictly followed.

300.7 TRAINING

Officers will receive periodic training on this policy and demonstrate their knowledge and understanding.

300.8 HOSPITAL LAW ENFORCEMENT PROCEDURES

Each state hospital shall develop procedures to guide the planning, implementation and assessment of law enforcement intervention consistent with the provisions stated herein.

300.9 USE OF FORCE ANALYSIS

At least annually, the Operations Watch Commander should prepare an analysis report on use of force incidents. The report should be submitted to the CLE. The report should not contain the names of officers, suspects or case numbers, and should include:

- (a) The identification of any trends in the use of force by members.
- (b) Training needs recommendations.
- (c) Equipment needs recommendations.
- (d) Policy revision recommendations.

300.10 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

The Records Manager or the authorized designee shall ensure that data required by the Department of Justice (DOJ) regarding all officer-involved shootings and incidents involving use of force resulting in serious bodily injury is collected and forwarded to the DOJ as required by Government Code section 12525.2.