

TO: Chief Kevin Franklin, BPOA, BPMA,

From : BPCRB Use of Force Standing Committee Members, George Perezvelez, Chair

DATE: April 14th, 2025

SUBJECT: Review and changes to Policy 300: Use of Force

As per BPCRB Model mandate to review and make recommendations on policies, The BPCRB empanelled a subcommittee to review and make recommendations to policy 300 in 2022. The subcommittee held a total of 12 meetings and submitted a memo for review and discussion on March 11th 2022, September 28th 2023, June 25th, 2023 and December 26th, 2023 before a final vote for submission to the full BPCRB was held on January 8th, 2024. The vote to forward the recommendations to the full BPCRB was unanimous. Present during the discussion was command staff represented by Deputy Chief Logan and deputy Chief Patzer .

The subcommittee was composed of Board Member Perezvelez, White, Davis, Armstrong and Longmire with Perezvelez, White and Davis finalizing the memo for BPCRB review. The subcommittee focused on a change in the directive of when and how to apply force as well as a review of the use of force standard. Once those aspects were finalized, the review focused on how those two changes would impact the scope and direction of the full policy. The full BPCRB finalized its recommendations on April 14th, 2025

Therefore pursuant to BART BPCRB enabling Model;

Chapter 2-07 DUTIES AND RESPONSIBILITIES

E. Recommendations on Policies, Procedures, Practices and Training

- i) The BPCRB shall develop and review recommendations as to the policies, procedures, and practices of BPD in consultation with the IPA.
- ii) The goal of BPCRB recommendations shall be to improve the professionalism, safety record, effectiveness, and accountability of BPD employees.
- iii) The BPCRB may make recommendations to the Chief of Police, GM, and Board, as appropriate.

We look forward to the opportunity to discuss the recommendations per the model.

Recommendation #1 under Purpose and Scope

300.1 PURPOSE AND SCOPE

The BART Police Department's highest priority is safeguarding the life, dignity, and liberty of all persons. Officers shall demonstrate this principle in their daily interactions with the community they are sworn to protect and serve. The Department is committed to accomplishing this mission with respect and minimal reliance on the use of force by using rapport-building communication, crisis intervention, and de-escalation tactics before resorting to force, whenever feasible. This Department policy builds upon the Supreme Court's broad principles in *Graham v. Connor* (1989) 490 U.S. 386 and is more restrictive than the constitutional standard and state law. The Law Enforcement Code of Ethics requires all sworn law enforcement officers to carry out their duties with courtesy, respect, professionalism, and to never employ unnecessary force. These are key factors in maintaining legitimacy with the community and safeguarding the public's trust.

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial, unbiased, and reasonable manner.

Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.

Officers must strive to use the minimal amount of force necessary. In addition to those methods, techniques, and tools set forth below, the guidelines for the reasonable application of force contained in this policy shall apply to all policies addressing the potential use of force, including but not limited to the Control Devices and Techniques and Conducted Energy Device policies.

Recommendation (proposed change approved on February 10th, 2025)

The BART Police Department's highest priority is safeguarding the life, dignity, and liberty of all persons. Officers shall demonstrate this principle in their daily interactions with the community they are sworn to protect and serve. The Department is committed to accomplishing this mission with respect and minimal reliance on the use of force by using rapport-building communication, crisis intervention, and de-escalation tactics before resorting to force. This Department policy builds upon the

Supreme Court's broad principles in *Graham v. Connor* (1989) 490 U.S. 386 as a foundation and is more restrictive than the constitutional standard and state law. The Law Enforcement Code of Ethics requires all sworn law enforcement officers to carry out their duties with courtesy, respect, professionalism, and to never employ unnecessary force. These are key factors in maintaining legitimacy with the community and safeguarding the public's trust.

This policy provides guidelines on the use of force. While there is no way to specify the exact amount or type of force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial and unbiased manner.

Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.

Officers **shall** use the minimal amount of force necessary **to affect a law enforcement objective**.

In addition to those methods, techniques, and tools set forth below, the guidelines for the reasonable application of force contained in this policy shall apply to all policies addressing the potential use of force, including but not limited to the Control Devices and Techniques and Conducted Energy Device policies

Recommendation #2 under definitions

300.1.1 DEFINITIONS

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.

Recommendation (proposed change approved on April 14th, 2025)

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. Further, in any encounters that do call for applying force, officers shall use the minimal amount of force necessary to safely achieve their legitimate law enforcement objective without increasing the risk to others.**

Recommendation #3 -addition under definitions

Addition (proposed addition approved on April 14th, 2025)

MINIMIZING THE USE OF DEADLY FORCE. Deadly force may only be used when the officer believes that such action is immediately necessary to protect the officer or another person from imminent danger of death or serious bodily harm.

Addendums

Addendum 1 BPCRB Model Language

C. Recommendations on Policies, Procedures, Practices and Training

- i) The BPCRB shall develop and review recommendations as to the policies, procedures, and practices of BPD in consultation with the IPA.
- ii) The goal of BPCRB recommendations shall be to improve the professionalism, safety record, effectiveness, and accountability of BPD employees.
- iii) The BPCRB may make recommendations to the Chief of Police, GM, and Board, as appropriate.
- iv) The BPCRB shall review and comment on all additions and changes to policy, procedures and practices as well as all new initiatives (including training and equipment) proposed by BPD or OIPA and make recommendations to the Board.

Addendum 2 Berkeley Police Department Use Of Force Policy 300

300.1.2 USE OF FORCE STANDARD

In dealing with suspects, officers shall use alternatives to physical force whenever reasonably possible. In all cases where physical force is used, officers shall use a minimum amount of force that is objectively reasonable, objectively necessary, and proportional to effectively and safely resolve a conflict.

The United States Supreme Court in *Graham v. Connor*, 490 U.S. 386 (1989), held that, in order to comply with the U.S. Constitution, an officer's use of force must be objectively reasonable under the totality of circumstances known to the officer at the time. Additionally, Penal Code section 835(a) imposes further restrictions on an officer's use of force. But these standards

merely set the minimum standard for police conduct, below which an officer's conduct would be regarded as unlawful.

In fulfilling this Department's mission to safeguard the life, dignity, and liberty of officers themselves and all members of the community they are sworn to protect and serve, this policy requires more of our officers than simply not violating the law. As a result, this policy is more restrictive than the minimum constitutional standard and state law in two important respects. First, it imposes a higher duty upon officers to use a minimal amount of force objectively necessary to safely achieve their legitimate law enforcement objective. And, second, this policy imposes a stricter obligation on officers to exert only such force that is objectively proportionate to the circumstances, requiring a consideration of the seriousness of the suspected offense, the availability of de-escalation and other less aggressive techniques, and the risks of harm presented to members of the public and to the officers involved.

Addendum 3 Seattle Police Department Core Principles of Force

Seattle Police Manual USE OF FORCE POLICY Sections 8.000, 8.050, 8.100, 8.200

8.000 Use of Force – CORE PRINCIPLES

1. Every Member of the Seattle Police Department is Committed to Upholding the Constitution and Laws of

the United States and the State of Washington, and Defending the Civil Rights and Dignity of All Individuals, While Protecting Human Life and Property and Maintaining Civil Order.

It is the policy of the Seattle Police Department to accomplish the police mission with the cooperation of the public and as effectively as possible, and with minimal reliance upon the use of physical force.

The community expects and the Seattle Police Department requires that officers use only the force necessary to perform their duties and that such force be proportional to the threat or resistance of the subject under the circumstances.

An officer's commitment to public safety includes the welfare of members of the public, the officer, and fellow officers, with an emphasis on respect, professionalism, and protection of human life, even when force is necessary.

Officers who violate those values by using objectively unreasonable force degrade the confidence of the community, violate the rights of individuals upon whom unreasonable force is used, and may expose the

Department and fellow officers to legal and physical hazards.

Conversely, officers who fail to use timely and adequate force when it is necessary fail in their duty to act as public guardians and may endanger themselves, the community and fellow officers.

Use of Force: When Authorized

An officer will use only the force objectively reasonable, necessary, and proportional to effectively bring an incident or person under control, while protecting the life and safety of all persons.

Addendum 4 2023 The American Law Institute

§ 7.03. Minimum Force Necessary

In instances in which force is used, officers should use the minimum force necessary to perform their duties safely. Agencies should promote this goal through written policies, training, supervision, and reporting and review of use-of-force incidents.

Comment:

a. Minimum force. As noted in § 7.01, these Sections assert principles to which agencies and their policies should adhere, rather than standards for legal liability. They adopt the view that use-of-force policies should be more specific and informative than the general “reasonableness” standard applied pursuant to the U.S. Supreme Court’s constitutional precedents, though these Principles may also contribute to courts’ understanding of appropriate constitutional limits on the use of force. Thus, agency policies should require officers to use only the minimum force that is necessary under the circumstances. Force cannot be considered necessary if a practical, less harmful alternative means exists for achieving the same law-enforcement ends. Force should not be used simply to resolve a situation more quickly, unless the extended delay would risk the safety of the subject, officers, or others, or if it would risk damage to property or would significantly interfere with other legitimate law-enforcement objectives. Nor should force be used before a suspect manifests an imminent threat, when alternatives to force are feasible, or after a suspect no longer threatens a law-enforcement objective.

Addendum 5 Chicago Police Department General Order, G03-02 USE OF FORCE

This directive sets forth Department policy regarding sworn members' and detention aides' use of force.

II. DEPARTMENT POLICY

- Sanctity of Human Life. The Department's highest priority is the sanctity of human life. In all aspects of their conduct, Department members will act with the foremost regard for the preservation of human life and the safety of all persons involved.
- Public Cooperation. A strong partnership with the public is essential for effective law enforcement. Inappropriate or excessive uses of force damage that partnership and diminish the public trust that is a cornerstone of policing in a free society.
- Core Principle. The Chicago Police Department seeks to gain the voluntary compliance of subjects, when consistent with personal safety, to eliminate the need to use force or reduce the force that is needed.
- Assessing Uses of Force. The Chicago Police Department recognizes that Department members are often forced to make split-second decisions—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation. These decisions must therefore be judged based on the totality of the circumstances known by the member at the time and from the perspective of a reasonable Department member on the scene, in the same or similar circumstances, and not with the benefit of 20/20 hindsight. Nothing in this policy requires members to take actions, or fail to take actions, that unreasonably endanger themselves or others.

NOTE: Nothing in this policy precludes the legally mandated oversight or assessment of a Department member's use of force consistent with the procedures established in this policy.

III. USE OF FORCE - WHEN AUTHORIZED

- Definition of Force. Force is defined as any physical contact by a Department member, either directly or through the use of equipment, to compel a subject's compliance.
- Use of Force: Objectively Reasonable, Necessary, and Proportional. Department members may only use force that is objectively reasonable, necessary, and proportional in order to ensure the safety of a member or third person, stop an attack, make an arrest, control a subject, or prevent escape.

1. Objectively reasonable. The main issue in evaluating every use of force is whether the amount of force used by the officer was objectively reasonable in light of the totality of the

circumstances faced by the officer on the scene. Reasonableness is not capable of precise definition or mechanical application. Factors to be considered by the officer include but are not limited to:

a. b. c.

G03-02 Use of Force

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whether the subject is posing an imminent threat to the officer or others. the risk of harm, level of threat or resistance presented by the subject. the subject's proximity or access to weapons.

Page 1 of 5

2. Necessary. Department members will use only the amount of force required under the circumstances to serve a lawful purpose.
3. Proportional. Department members will use only the force that is proportional to the threat, actions, and level of resistance offered by a subject. This may include using greater force or a different type of force than that used by the subject. The greater the threat and the more likely that the threat will result in death or serious physical injury, the greater the level of force that may be necessary to overcome it. When or if the subject offers less resistance, however, the member will decrease the amount or type of force accordingly.
4. De-escalation. Members will use de-escalation techniques to prevent or reduce the need for force when it is safe and feasible to do so based on the totality of the circumstances. This includes continually assessing the situation and modifying the use of force as circumstances change and in ways that are consistent with officer safety. Examples of de-escalation techniques include but are not limited to:
 - exercising persuasion and advice, and providing a warning prior to the use of force.
 - determining whether the member may be able to stabilize the situation through the use of time, distance, or positioning to isolate and contain a subject.
 - requesting additional personnel to respond or make use of specialized units or equipment including crisis-intervention-team trained officers.
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Addendum 6 NIJ, National Institute of Justice

Date Published

March 5, 2020

Broadly speaking, the use of force by law enforcement officers becomes necessary and is permitted under specific circumstances, such as in self-defense or in defense of another individual or group.

There is no single, universally agreed-upon definition of use of force. The International Association of Chiefs of Police has described use of force as the "amount of effort required by police to compel compliance by an unwilling subject" [1].

Officers receive guidance from their individual agencies, but no universal set of rules governs when officers should use force and how much.

Context counts. No two situations are the same, nor are any two officers. In a potentially threatening situation, an officer will quickly tailor a response and apply force, if necessary. Situational awareness is essential, and officers are trained to judge when a crisis requires the use of force to regain control of a situation. In most cases, time becomes the key variable in determining when an officer chooses to use force.

Amount of Force Used

Law enforcement officers should use only the amount of force necessary to mitigate an incident, make an arrest, or protect themselves or others from harm. The levels, or continuum, of force police use include basic verbal and physical restraint, [less-lethal force](#), and lethal force.

[Learn more about the use-of-force continuum.](#)

The level of force an officer uses varies based on the situation. Because of this variation, guidelines for the use of force are based on many factors, including the officer's level of training or experience.

An officer's goal is to regain control as soon as possible while protecting the community. Use of force is an officer's last option — a necessary course of action to restore safety in a community when other practices are ineffective.

Injuries may occur in any use-of-force incident, and police should ensure that those injured receive medical aid and that the family of any injured person is notified.

Addendum 7 UNODC United Nations Office on Drugs and Crime

Accordingly, force must never be used vindictively or as a form of extrajudicial punishment; meted out in a discriminatory manner; or applied against an individual offering no resistance. In addition, no additional force is lawful when the need has passed, such as when a suspect is safely and lawfully detained. Discriminatory practices, such as those carried out by law enforcement officials against minorities, are clearly a violation of international law.

Central to the principle of necessity, however, is that when force is necessary, it must be no more than the minimum reasonably necessary in the circumstances. This means that even

violent or potentially violent suspects should be arrested, or killed, except in very extreme cases where using force and lethal force is the only possibility to stop an imminent risk to life.

In 1982, the Human Rights Committee stated in their views in the case of *Guerrero v. Colombia* that the state acted unlawfully by shooting suspected terrorists instead of arresting them, as they could have done in the circumstances. In 2015, in *Bouyid v. Belgium* (No. 23380/09), the Grand Chamber of the European Court of Human Rights reiterated that "in respect of a person who is ... confronted with law-enforcement officers, any recourse to physical force which has not been made strictly necessary by his own conduct diminishes human dignity and is, in principle, an infringement" of the right to freedom from torture and inhuman or degrading treatment

Addendum 8 Objectively Necessary Cambridge Dictionary

in a way that is [based](#) on [facts](#) and not [influenced](#) by [personal beliefs](#) or [feelings](#). [weigh](#) the [evidence logically](#) and objectively.

Addendum 9 Is “Objective Reasonableness” Really Objective? Examining the Shortcomings of Police Use of Force Evaluations

Posted by

[University of Baltimore Law Review Staff October 30, 2020](#)

IV. Conclusion

Continued use of the Graham standard for evaluating police use of force makes truly objective evaluations of such use impossible.^[39] However, as activism against systematic racism and police brutality continues, the debate over the best ways to reform policing remains an ongoing development.^[40] With continued protests and community dialogue, it may be possible to find a means of evaluating use of force that renders police officers truly accountable, but this can only happen when decisions about the use of force are made by someone other than the very officers who must decide its appropriateness.^[4]

Addendum 10 January 29, 2016, the Police Executive Research Forum (“PERF”) “Use of Force: Taking Policing to a Higher Standard; 30 Guiding Principles.”

“The sanctity of human life should be at the heart of everything an agency does.” “Agency mission statements, policies, and training curricula should emphasize the sanctity of all human life—the general public, police officers, and criminal suspects—and the importance of treating all persons with dignity and respect.”

“Departments should adopt policies that hold themselves to a higher standard than the legal requirements of Graham v. Connor.”

“This landmark decision should be seen as ‘necessary but not sufficient,’ because it does not provide police with sufficient guidance on use of force.”

final recommendations