

National Law Enforcement Use of Force Committee: Executive Summary

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The legal use of force by law enforcement officers in the United States is primarily judged by two Supreme Court decisions. In 1985 the Supreme Court ruled in *Tennessee v. Garner* that police use of deadly force to merely apprehend a non-violent fleeing felon was unlawful (Blume, 1984). In 1989 the court ruled in *Graham v. Connor* that the use of force when examined after the fact must be judged by the reasonable officer's perspective at the scene and not 20/20 hindsight (Clark, 2014). The improper use of force can expose an officer to criminal, civil, and administrative liability, and negatively affect police-community relations. Recent events in Ferguson, Missouri, New York City, Baton Rouge, and Sacramento have fueled a national debate on the use of force policies and whether they should be amended. In California, AB 931 proposed that an officer use time, distance, and communication to de-escalate encounters with suspects; however, the bill failed to pass in committee (Assembly, 2018). The public demands professional officers who are accountable to the public, and officers deserve clear policies and practical training to conduct their profession.

The President's Task Force on 21st Century Policing advocates that policies on the use of force should emphasize de-escalation and alternative solutions to deadly force. Traditional police culture in the past emphasized to hold your ground in arrest scenarios; and currently, a new way of thinking is underscoring the consideration of alternatives to the use of deadly force (President's Task Force on 21st Century Policing, 2015). The Police Executive Research Forum (PERF) opined in their report, *Re-engineering Police Use of Force*, that most academy training is inadequate. Officers spend many hours learning how to shoot a gun, but a few hours on how to de-escalate a situation and utilize crisis intervention techniques (Police Executive Research Forum, 2015). A decision-making model should be formulated wherein circumstances are analyzed by slowing the

event down, requesting a supervisor and additional resources, and employing de-escalation techniques. Police in Kansas City are undergoing tactical disengagement training, and the LAPD is providing preservation of life training; because poor tactics may lead to an unnecessary use of force (Police Executive Research Forum, 2015).

In 2017 eleven law enforcement leadership and labor organizations came together to propose the National Consensus Policy on the Use of Force (IACP, 2017). The policy endorses the reasonable officer standard per *Graham v. Connor* and adds the element of de-escalation when feasible. The PERF report also suggested that departments should work with mental health professionals to respond as a team to mental health incidents. Crisis intervention teams are preferable because they develop a level of expertise and knowledge of subjects requiring mental health assistance (Police Executive Research Forum, 2015).

Correspondingly, police agencies must build trust and legitimacy with the public and should adopt a culture of transparency and accountability. According to the President's Task Force, this can be accomplished via a transformation from the warrior mentality to a guardian concept for officers while interacting with the public. In furtherance of this ideal, patrol officers should initiate contacts with community members in non-enforcement situations to build public trust (President's Task Force on 21st Century Policing, 2015).

Presently recruitment and retention are affecting police departments throughout the nation. The Phoenix Police Department is down 600 officers, and San Diego is struggling to maintain full staffing in its police department. One consequence is that officers in many cities are overworked and do not have time to de-stress (Marvel & Fields, Presentation 5.2: Spotlight Experts-Recruitment and Retention, 2019). Furthermore, this negatively affects an officer's available time on patrol; which should be 40% proactive to devote to community policing projects. Therefore,

the community is not engaging with officers to address issues of concern in their neighborhoods (Marvel & Fields, Presentation 5.2: Spotlight Experts-Recruitment and Retention, 2019). To resolve the issue compensation and benefits packages should be increased to attract quality candidates to the profession; which is paramount in maintaining professional police departments.

In consideration of the above facts, the new National Policy on the Use of Force shall be:

DEFINITIONS:

Deadly Force: Any force that may cause death or serious injury to another.

Less Lethal Force: Any force other than deadly to restrain or overcome the resistance of another.

Carotid hold: A maneuver to restrict one's breathing for the purpose of incapacitation.

De-escalation: Using tactics verbal and non-verbal to create time, distance and other methods to reduce the threat to resolve a confrontation and avoid the use of force.

POLICY:

The use of force will be judged from the reasonable officer perspective, and officers shall maintain the sanctity of life mindset when determining whether to employ deadly force. When practicable officers should utilize all available resources to de-escalate or disengage with a suspect while shielding the public from the threat. Officers applying force other than deadly force will use force appropriate for the level of resistance received and will be discontinued immediately upon the suspect's compliance.

Deadly force may be utilized to protect oneself or others from death or serious bodily injury. Deadly force may be used to prevent the escape of a suspect who is committing a felony or

intends to commit a felony; and poses a risk of serious bodily injury or death to anyone if not apprehended. Deadly force shall not be used to protect property or if the suspect is only threatening himself. Less-lethal force options may be utilized against non-complaint resisting suspects and as an alternative to deadly force.

Firearms should not be fired at/or from a moving vehicle except to immediately defend life or prevent serious bodily injury. Officers confronted with a suspect in a vehicle moving towards them shall move out of the path when feasible. The application of carotid hold is only authorized on the same level as deadly force. All officers shall undergo annual training in the use of force and attend de-escalation technique scenario training.

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