

# FRESNO POLICE DEPARTMENT

STANDING ORDER NO. 2.5.2

Chapter: General Rules of Conduct

Topic: Use of Force

Effective Date: November 1, 1999

Supersedes Order(s): 2.5.2  
Previously issued: June 16, 1999

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Chief of Police

## REGULATIONS:

### 01.00 Legal Limitations

Members shall adhere to all legal limitations on the use of force, both statutory and as established by case law. Nothing in this Manual authorizes force in excess of those parameters. Department regulations shall be the same as these legal parameters, except as further limited by this order.

### 02.00 Force

#### 02.01 Reasonable Force

Members may use physical force to effect an arrest, prevent an escape, overcome resistance or defend themselves and others from injury. The type and degree of force used will be that which is reasonably necessary to effectively bring an incident under control. The level of force and the manner of its application shall be consistent with the training the member received relative to its use and application.

Members should attempt to make all arrests and take other enforcement actions in a manner that minimizes the need for force and maximizes voluntary compliance.

In certain situations, due to the immediacy with which an officer must apply force, together with the absence of time and/or physical ability of the member to select alternative methods, it may be necessary for the member to apply that method of force most readily available that will effect the desired results.

#### 02.02 Lethal Force Limitations

Lethal force is that force which may cause grave bodily harm or death.

Lethal force may be used only when necessary to protect other persons and/or the member from death or serious bodily injury. This may include using lethal force to prevent the escape of a fleeing felon whose escape presents a substantial risk of death or serious bodily injury to others.

Lethal force shall never be used *only* to protect property or to effect the arrest or prevent the escape of a person whose only offense is classified solely as a misdemeanor.

Lethal force shall never be used when its use creates a hazard to innocent bystanders, except when failure to use lethal force at the time would create a substantial, immediate threat of death or serious bodily injury to others and/or the member.

Members shall, when practical, identify themselves and state their intention to shoot before using a firearm.

#### 02.03 Justification - Known Facts

The decision to use force, including lethal force, must be made based solely on the facts known to the member at the time force is used. Justification for the use of force shall be based on the situation as it reasonably appeared to the member(s) directly involved in its application.

#### 02.04 Litigation Consideration

Violation of a section or sections of this order may lead to administrative sanctions. However, these regulations are not to be construed as statutes or a standard of care for external judgment (civil or criminal litigations) of the propriety of an action taken.

### 03.00 Special Leave

Any member who seriously injures or causes the death of any person through any act occurring on duty shall be placed on special leave until the member can be evaluated by a competent mental health professional. Members may be granted additional special

leave by the Chief of Police or his designee based upon the recommendation of competent medical authorities. Special leave granted in excess of the leave specified above shall be subject to the approval of the Chief of Police.

#### 04.00 Firearms

The following provisions shall govern the use of firearms other than previously covered in this order in sections 02.00 through 02.04.

#### 04.01 Proficiency

All sworn members shall demonstrate proficiency in firearms use each quarter in a training course conducted by the Department's Rangemaster. Notification shall be made to the Chief of Police, in writing, of any sworn member who fails to meet minimum requirements.

#### 04.02 Drawing Weapons

Members shall never draw nor display weapons unnecessarily, nor draw them in any public place except for official use.

#### 04.03 Warning Shots

Warning shots are prohibited except where they provide the ability to successfully diffuse an escalating and potentially life threatening incident. Situations where warning shots may be utilized are restricted to incidents where the use of lethal force would be justified. The purpose of this provision is to acknowledge warning shots may be a viable alternative for justifiable lethal force. Members are never required to fire any warning shots prior to the use of lethal force.

Members shall not fire warning shots in a mere attempt to stop fleeing suspects.

#### 04.04 Firing at or From Moving Vehicles

Firing at moving vehicles is rarely effective and is hazardous to innocent persons. Firing at such vehicles is generally prohibited, however, circumstances may be such to justify such shooting in isolated situations, in which case members shall exercise good judgment and discretion. Firing from a moving vehicle is prohibited.

#### 04.05 Animals

Killing an injured animal may be necessary when the animal is so badly injured that humane considerations require that it be relieved of its suffering and no other disposition is practical.

Use of a firearm to stop an attack by an animal which poses a threat of substantial harm to a member, *department K-9's*, *department horses*, or others is permitted. The safety of persons in the vicinity must be given due consideration.

#### 04.06 Possession of Concealed Weapons by Civilian Members

Civilian members are prohibited from carrying or possessing concealed firearms while on duty or on Department property or in Department vehicles except as may be required during the performance of their assigned duties or when the member is in possession of a valid permit to carry a concealed firearm.

#### 04.07 Weapon Safety

Actual weapons capable of firing shall not be used in simulated training exercises. When weapons are necessary to simulate police tactics, the Department will utilize trainer weapons that are incapable of being fired.

The drawing, display, and firing of weapons are limited to range training and actual field situations.

Exception: Due to the specialized weaponry utilized by SWAT and VCSU personnel combined with their increased level of training, this policy will not apply to SWAT and VCSU training simulations. This exception shall not relieve SWAT and VCSU personnel from exercising sound weapons safety.

#### 05.00 Vehicles as Weapon

The intentional striking of any person on foot with a vehicle, regardless of the speed involved, shall be considered as the use of lethal force.

#### 06.00 Less Lethal Impact Projectiles

Less lethal impact projectiles are those munitions that are fired, launched or otherwise propelled that will reduce the likelihood of serious injury or death to the suspect. Less lethal impact projectiles include bean bag projectiles, launchable wooden, foam, or rubber batons, and rubber pellets.

#### 06.01 Authorization to use Less Lethal Impact Projectiles

Only members who have successfully completed a Department approved training course in the proper use and deployment of less lethal impact projectiles shall be authorized to use them during actual operations.

#### 06.02 Justification for use of Less Lethal Impact Projectiles

The use of less lethal impact projectiles should be considered whenever the use of less lethal options would assist in arrest situations and restoring order by reducing the risk of serious injuries. Circumstances justifying the use of less lethal impact projectiles include, but are not limited to:

- (a) Effecting an arrest;
- (b) Preventing an escape;
- (c) Overcoming resistance;
- (d) Subduing vicious animals; or
- (e) Defending members and others from injury.

#### 06.03 Use of Less Lethal Impact Projectiles

When less lethal impact projectiles are used, medical care at a hospital must be provided to the subject.

#### 06.04 Reporting the use of Less Lethal Impact Projectiles

The use of less lethal impact projectiles constitutes a use of force and, as such, must be reported according to Department force reporting procedures.

#### 06.05 Storage and Handling of Less Lethal Shotgun & Projectiles

Storage of less lethal impact projectiles shall, whenever practical, be in accordance with manufacturers' recommendations. Munitions which have been removed from their original container shall be clearly and conspicuously identified as less lethal to prevent confusion with lethal munitions.

At the beginning of the member's shift, the less lethal shotgun shall be removed from the District gunsafe and placed in the Department provided Blackhawk soft case or Pelican case along with the Department issued patrol rifle. Less lethal shotguns shall be stored, without a round chambered, in the applicable case and shall be kept in the trunk of the patrol vehicle until deployed. At the end of the shift the member shall return the less lethal shotgun, unloaded (no rounds in the chamber or magazine), along with the less lethal ammunition to the gunsafe at the District station.

#### 07.00 Patrol Rifle

The patrol rifle is an optional firearm that will provide department members with increased safety by offering a firearm with greater range capabilities and an ability to defeat modern body armor. The patrol rifle is not an automatic weapon and will fire in a semi-automatic mode only. *The patrol rifle should primarily be used in incidents where there is a need to engage a suspect at a greater distance than would generally be effective with issued department handguns or shotguns. The patrol rifle also has the ability to defeat modern body armor but should not be used as a primary entry weapon by members authorized to carry and use it. Nothing in this order shall prohibit any member from using the patrol rifle in any manner consistent with established guidelines for firearms use.*

#### 07.01 Authorization and Use of the Patrol Rifle

Only members who have successfully completed a Department approved training course in the proper use and deployment of the patrol rifle shall be authorized to use their assigned rifle during actual operations. Members assigned the patrol rifle are required to qualify quarterly with their weapon during their normal range qualification.

The patrol rifle and one magazine are individually issued to Operations Commanders, Field Commanders and Patrol Sergeants. This weapon and the magazine shall be stored in the gunsafe located at each District station and shall not be taken home with the assigned member under any circumstances.

The rifle shall be removed from the gunsafe at the beginning of the shift and shall be placed in the Blackhawk soft case or Pelican case along with the less lethal shotgun. The rifle shall be placed in the case unloaded with the magazine detached from the weapon, and the case shall be stored in the locked trunk of the patrol vehicle. At the end of the shift the Department member shall return the rifle to the District station gunsafe in an unloaded condition with the magazine detached.

Any round chambered during the shift shall be discarded and replaced at the end of the shift. The discarded round shall be placed in a container in the gun safe. A new round shall be replaced into the magazine. At no time shall there be more than 28 rounds in the magazine. Members shall not take extra ammunition from the gunsafe nor shall they purchase or carry extra ammunition for their own use.

#### 07.02 Justification for Use of the Patrol Rifle

Justification for use of the patrol rifle shall be governed by sections 02.00 and 04.00 outlined in this standing order.

#### 07.03 Maintenance, Service and Repair

The patrol rifle shall be serviced and repaired by an authorized, certified armorer. Modifications of any kind shall not be performed on the patrol rifle without specific approval by the weapons committee and Chief of Police (e.g., stocks, different sights, etc.).

Members shall maintain a clean firearm using established cleaning procedures. Daily maintenance of this firearm is the sole responsibility of the member it is assigned to.

#### 08.00 Impact Devices

Batons, flashlights *and* other potential striking devices, when used in this manner, are classified as an application of force. This use of force will be judged by the same criteria as any other use of force. Uniformed officers shall take their baton to any call which has the potential for the use of force.

Striking a suspect's head or facial areas with *an impact weapon can be potentially lethal or may cause serious injury*, and is rarely effective in subduing a combative person. *Intentionally striking a suspects head with an impact device shall only be used in situations where lethal force is required.*

#### 09.00 Chemical Mace or Oleoresin Capsicum (OC)

Chemical Mace and OC are considered a use of force and are to be used only by officers who are trained in their use. Field Supervisors are no longer required to document the use of OC on a DOJ OC Application Report form. All other report forms regarding OC application remain in effect.

#### 10.00 Electronic Immobilizing Device (EID)

The application of any EID is considered a use of force. Authorization to carry such devices shall be given only to members trained in their use. Only those units issued by the Department shall be utilized.

Supervisors are no longer required to document the use of the EID on the FPD EID Report form. All other report forms regarding EID application shall remain in effect.

Caution: No EID shall be used in areas where there is a concentration of flammable or combustible liquid or material.

#### 10.01 Medical Attention

Any person subjected to any electrical shock from any EID shall be taken to UMC for treatment.

When the Taser is used and the darts have penetrated the skin or are suspected to have penetrated the skin of the individual, only trained medical personnel shall remove them.

#### 10.02 Maintenance

EID's which utilize rechargeable nickel cadmium batteries shall be fully charged. Only Department issued batteries will be used in any EID.

#### 10.03 Service and Repair

When an EID is found in need of service or repair, it should be routed to the PECS with a memo describing the problem.

#### 11.00 Reporting/Documenting the Use of Force

When any member subjects someone to the use of physical force causing injury, he/she shall immediately notify a supervisor. The supervisor shall then prepare an Unusual Occurrence Report which details the events that led to the application of force; the type and degree of force used; the extent of the subject's injuries; and, the treating physician. Such reports shall be submitted through channels to the Chief of Police not later than 0900 hours on the next business day following the incident. Any police report documenting the use of physical force causing injury shall be approved by a supervisor prior to submission to Records.

#### 11.01 Treatment

When the use of force causes injury or renders temporary disability to an arrestable subject, medical care at a hospital must be provided. When an officer injures a citizen who is not subject to arrest and who wishes treatment at any medical facility, the citizen will have to make arrangements for payment. The citizen may then contact the City's Risk Manager to obtain an application for reimbursement.

#### 12.00 Non-Injurious Force

When physical force is used in affecting an arrest or overcoming aggressive resistance and the use of force causes no injuries, the fact that force was used shall be so stated in the police report prepared to cover the incident. The report should cover the complete circumstances surrounding the use of force.

#### 13.00 Disposition of Firearms Discharge Reports/Investigations

##### 13.01 Review

The Chief of Police will review all administrative documents and reports related to an officer-involved shooting for the purpose of rendering a final disposition of either justifiable, non-justifiable, or accidental.

##### 13.02 Findings

When the facts and circumstances at the time of the firing were consistent with the provisions of this order, the discharge shall be classified as justifiable.

When the facts and circumstances at the time of the firing were not consistent with the provisions of this order and reflect negligence through inattention, neglect, recklessness, laxity, or failure to exercise the care that a prudent person usually exercises, the discharge shall be classified as non-justifiable.

A firing which occurs without premeditation, unexpectedly, or as a result of extrinsic factors, without negligence, shall be classified as accidental.

14.00 Corrective Action

When corrective action is necessary, it may be imposed by the Chief of Police subject to the provisions of the MC, applicable MOU, and FPM.

REFERENCE ORDERS:

- 3.8.1 Unusual Occurrence Notifications
- 3.8.14 Officer Involved Shootings