CITY OF
LONG BEACH

Memorandum

Date: August 17, 2020

To: Thomas B. Modica, City Manager

From: Robert G. Luna, Chief of Police

For: Mayor and Members of the City Council

Subject: **SPECIAL ORDER – USE OF FORCE POLICY**

At its August 11, 2020 meeting, the City Council requested information regarding a Special Order related to the Long Beach Police Department (LBPD) Use of Force Policy dated January 16, 2020 (attached). This special order includes a number of changes that the LBPD began earlier this year related to uses of force, duty to intervene, de-escalation, and a number of other policy changes.

Special Orders are issued when the LBPD has an immediate need to make an adjustment to a current policy, or when there is a need to urgently implement a procedure. A Special Order remains in place until the policy revision or development process is complete and the policy is archived in the LBPD Policy Manual. All LBPD policies and Special Orders are reviewed and approved by the Chief of Police.

While Special Orders are in place, the following process takes place:

- Revisions and adjustments to the Special Order and/or policy language;
- Consultation and review by the City Attorney, Human Resources; and,
- Meet and Confer with labor unions, which includes employee feedback.

If you have any questions, please contact me or my Chief of Staff Dina Zapalski at (562) 570-7301.

ATTACHMENT

CC: CHARLES PARKIN, CITY ATTORNEY
DOUGLAS P. HAUBERT, CITY PROSECUTOR
LAURA L. DOUD, CITY AUDITOR
LINDA F. TATUM, ASSISTANT CITY MANAGER
KEVIN JACKSON, DEPUTY CITY MANAGER
TERESA CHANDLER, DEPUTY CITY MANAGER
REBECCA G. GARNER, ADMINISTRATIVE DEPUTY CITY MANAGER
MONIQUE DE LA GARZA, CITY CLERK (REF. FILE #20-0677)
DEPARTMENT HEADS

City of Long Beach
Working Together to Serve

Memorandum

Date: January 16, 2020

To: DISTRIBUTION

From: Robert G. Luna, Chief of Police R. Luna

Subject: **REVISED SPECIAL ORDER- USE OF FORCE – EFFECTIVE JANUARY 16, 2020**

REVISED ADDED – *POLICE OFFICER – FORCE POLICY, A. Deadly Force, ii. Immediate Apprehension:* The use of deadly force for purposes of immediate apprehension is only authorized for a Police Officer. See the changes on page 8.

REVISED DELETED – *PARK RANGER AND AIRPORT SPECIAL SERVICES OFFICER - FORCE POLICY, A. Deadly Force, ii. Immediate Apprehension.* See the changes on page 11.

The attached Special Order, *Use of Force* is approved for distribution. This special order supersedes the following LBPD Special Order and Manual §§:

6.8.5 FIREARMS – SHOOTING POLICY
7.1.2.1 LEGAL AUTHORITY TO USE FORCE
7.1.2.2 FORCE DEFINED
7.1.2.3 FORCE POLICY
Special Order *Use of Cover Fire, 6/1/17*

The following sections remain in effect:

SPECIAL ORDER *Use of Force, 1/10/19*
7.1.2.4 Force Options
7.1.2.5 Reportable Use of Force
7.1.2.6 Non-Reportable Use of Force
7.1.2.7 Employee Responsibilities
7.1.2.8 Supervisor Responsibilities
7.1.2.9 Booking Sergeant Responsibilities
7.1.2.10 Watch Commander Responsibilities
7.1.2.11 Involved Employee Lieutenant Responsibilities
7.1.2.12 Division Commander Responsibilities
7.1.2.13 Bureau Responsibilities
7.1.2.14 Internal Affairs Responsibilities
7.1.2.15 Training Section Responsibilities

Effective Date: 1·16·20

Approved: R. Luna
Robert G. Luna, Chief of Police

RGL:PG:tjs
SP/M,O&TB/PolicyDocuments/UOFProject/PolicyDocuments/392Special Order

SPECIAL ORDER OF THE LONG BEACH POLICE DEPARTMENT
USE OF FORCE

Approved: R. Luna Date: 1.16.20

SPECIAL ORDER
USE OF FORCE
Effective January 1, 2020

Effective January 1, 2020 this Special Order revises LBPD Manual §§ 6.8.5 Firearms – Shooting Policy, 7.1.2.1 Legal Authority to Use Force, 7.1.2.2 Force Defined, and 7.1.2.3 Force Policy. The Long Beach Police Department (LBPD) complies with requirements set forth in Assembly Bill 392, an act to amend §§ 196 and 835a of the Penal Code, relating to Peace Officers.

USE OF FORCE

The LBPD believes that a key principle in maintaining public trust is having reverence for human life and ensuring that any use of force is reasonable. Officers shall remain professional, ethical, and treat others with respect.

Peace, security and detention officers respond to dynamic and rapidly evolving enforcement situations that may necessitate the use of reasonable force. Officers must constantly assess the situation, and the need for force, while remaining fair and unbiased.

No policy can anticipate every conceivable situation or exceptional circumstance which officers may face. In all circumstances, officers are expected to exercise sound judgment and critical decision making when using force options.

USE OF FORCE – DEFINITIONS

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

Airport Special Services Officer or **Airport SSO** has the same meaning as CPC § 830.33(d).

Armed Special Services Officer or **Armed SSO** shall refer to Airport SSO, Jail SSO when armed, SSO when armed.

Deadly force means any use of force that creates a substantial risk of causing death or serious bodily injury. Deadly force includes, but is not limited to, the discharge of a firearm.

Feasible means reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.

Force is any action to control a subject or to overcome resistance through the use of physical strength, weaponless defense techniques, pain compliance techniques, defensive weapons or a combination thereof.

Park Ranger has the same meaning as CPC § 830.31(b).

Peace Officer means a Police Officer, Park Ranger, and Airport SSO.

Police Officer has the same meaning as CPC § 830.1(a).

Special Services Officer or **SSO** shall refer to those Special Services Officers assigned to the Jail (CPC § 831(a)), Long Beach City College, City Hall, and Marine Patrol (CPC § 831.4(a)(1)).

Totality of the circumstances means all facts known at the time, including the conduct of the officer and the subject leading up to the use of force.

USE OF FORCE – LEGAL AUTHORITY TO USE FORCE

Only those Police Department employees defined below are subject to this policy.

Jail Special Services Officer
A Jail SSO may use reasonable force in establishing and maintaining custody of persons delivered to them by a law enforcement officer. (CPC § 831(f))

During the transport of a prisoner or prisoners, a Jail SSO may use reasonable force in establishing and maintaining custody of persons delivered to them by a Peace Officer. (CPC § 831.6(d))

Police Officer, Park Ranger, and Airport SSO (Peace Officer)
CPC §834(a) - If a person has knowledge, or by the exercise of reasonable care, should have knowledge, that he is being arrested by a peace officer, it is the duty of such person to refrain from using force or any weapon to resist such arrest.

CPC §835a(b) - A Peace Officer who has reasonable cause to believe that a person to be arrested has committed a public offense may use objectively reasonable force to:
1. Arrest a person;
2. Prevent escape; or
3. Overcome resistance.

CPC §835a(d) – A peace officer who makes or attempts to make an arrest need not retreat or desist from their efforts by reason of the resistance or threatened resistance of the person being arrested.

A peace officer shall not be deemed an aggressor or lose the right to self-defense by the use of objectively reasonable force. For the purposes of this policy, "retreat" does not mean tactical repositioning or other de-escalation tactics.

CPC §841 - The person making the arrest must inform the person to be arrested of the intention to arrest him, of the cause of the arrest, and the authority to make it, except when the person making the arrest has reasonable cause to believe that the person to be arrested is actually engaged in the commission of or an attempt to commit an offense, or the person to be arrested is pursued immediately after its commission, or after an escape.

The person making the arrest must, on request of the person he is arresting, inform the latter of the offense for which he is being arrested.

Special Services Officer
CPC §836.5(a) – An SSO, when authorized by ordinance, may arrest a person without a warrant whenever the officer or employee has reasonable cause to believe that the person to be arrested has committed a misdemeanor in the presence of the officer or

employee that is a violation of a statute or ordinance that the officer or employee has the duty to enforce.

CPC §836.5(b) (a) – No officer or employee shall be deemed an aggressor or lose his or her right to self-defense by the use of reasonable force to effect the arrest, prevent escape, or overcome resistance.

AUTHORIZED TRAINING

This policy is not intended to prohibit the discharge of a firearm during authorized practice and training at an approved area.

NEGLIGENT DISCHARGE

The discharge of any weapon by careless or negligent handling by an on or off duty employee shall constitute a neglect of duty.

DUTY TO INTERVENE

Intervention during a use of force is attempting to prevent or stop the inappropriate or unlawful behavior of another. When a Peace Officer or SSO perceives a use of force to be unreasonable, he or she shall intervene when able, and report the observations to a supervisor.

Intervention may take the form of one or more of the following actions:

- Strongly caution the other officer(s);
- Physical action to stop the unreasonable force.

DE-ESCALATION

De-escalation is attempting to stabilize a situation and reduce the immediacy of the threat so that more options, and resources can be called upon to resolve the situation through voluntary compliance.

A Peace Officer or SSO shall use de-escalation techniques, crisis intervention tactics, and/or other alternatives to force, when feasible.

VERBAL WARNINGS

A verbal warning shall be given, by a Peace Officer or SSO, prior to any use of force likely to cause serious injury, unless it would otherwise endanger the safety of officers, or when it is not feasible due to the circumstances. The purpose of the warning is to give individuals a reasonable opportunity to comply with the officer's direction.

MEDICAL AID

As soon as the scene is safe, Peace Officer(s) or SSO(s) shall ensure proper medical aid is provided for any injured person.

DISPLAY OF FIREARMS

A Peace Officer or SSO may draw or point a firearm when the officer reasonably believes it may be necessary for his or her own safety or for the safety of others.

SURROUNDINGS AND POTENTIAL RISK

Peace Officers or SSOs shall consider their surroundings and potential risks to the public, to the extent reasonable under the circumstances, before discharging a firearm.

WARNING SHOTS

The discharge of a firearm as a warning shot is not authorized.

SOUNDING AN ALARM

The discharge of a firearm may be used to sound an alarm or call for assistance, when other means of communication cannot be used.

EXCEPTIONAL CIRCUMSTANCES

Exceptional circumstances may necessitate the use of a firearm other than at a person, when the Peace Officer or SSO reasonably believes there is an imminent threat to life or of serious bodily injury for example, shooting at an animal (for further refer to LBPD Manual § 8.2.4 UNINTENTIONAL FIREARMS DISCHARGE AND ANIMAL SHOOTINGS).

POLICE OFFICER - FORCE POLICY

Police Officers will attempt to achieve control through direction, forewarning, or reasonable physical force.

Police Officers may, based on the totality of the circumstances, only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance. Force may be used to accomplish the following:

1. Effect a lawful investigative detention or arrest;
2. Control a resistive, combative or threatening subject;
3. Protect themselves, the subject or another person from injury, death or destruction of property; and
4. Stop a subject who is attempting to flee or escape a lawful detention or arrest.

The decision by a Police Officer to use force shall be reviewed and evaluated carefully and thoroughly, in a manner that reflects the gravity of that authority and the serious consequences of the use of force by Police Officers, in order to ensure that officers use force consistent with law and agency policies.

The decision by a Police Officer to use force shall be reviewed and evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight, and that the totality of the circumstances shall account for occasions when officers may be forced to make quick judgments about using force.

Force incident reviews should also consider the officer's tactics and the conduct of the subject leading up to, during, and after the use of force.

A. DEADLY FORCE

Police Officers may 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.

Where feasible, a Police Officer shall, prior to the use of force, make reasonable efforts to identify themselves as a Police 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.

A Police Officer shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable Police Officer would believe

the person does not pose an imminent threat of death or serious bodily injury to the Police Officer or to another person.

i. Imminent Threat

A Police Officer is justified in using deadly force upon another person when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary to defend against an imminent threat of death or serious bodily injury to the officer or to another person.

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 Police 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.

ii. Immediate Apprehension

A Police Officer is justified in using deadly force upon another person when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the Police Officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

The use of deadly force for purposes of immediate apprehension is only authorized for a Police Officer.

iii. Shooting at Moving Vehicles

Police Officers shall weigh the need to shoot at an imminent threat in a moving vehicle against the risk that a firearms discharge may create, such as harm to other persons in the vehicle, the public, or the danger of an uncontrolled vehicle from an incapacitated driver.

Police Officers shall avoid placing themselves in the path of a moving vehicle, or if feasible, move out of the way of an oncoming vehicle.

The use of firearms at a moving vehicle, by a Police Officer, is authorized in the event of an imminent threat or immediate apprehension.

iv. Shooting from Moving Vehicles

Police Officers shall consider the increased risk that shooting from a moving vehicle creates, and if feasible, consider the options of exiting the vehicle or driving away from the imminent threat.

The use of firearms from a moving vehicle, by a Police Officer, is authorized in the event of an imminent threat or immediate apprehension.

v. Directed Fire

Directed fire is a tactic of delivering controlled gun fire at a specific area, capable of containing the officers' rounds, where a suspect may not be directly exposed, but from where he/she poses an imminent threat.

Directed fire may only be used when no other reasonable course of action would allow officers to protect themselves or the public from an imminent deadly threat. Police Officers shall weigh the need to use directed fire against the risk that a firearms discharge may create to the public.

Directed fire may be used in the following circumstances:

a) Moving Persons to Safety - when there is a need to move a person from a position of imminent harm to one of safety; OR

b) Moving for Tactical Advantage - to maneuver officers from a position of disadvantage to a position of tactical advantage to stop an imminent threat, when responding to an incident, such as an active shooter or an organized terrorist attack.

The use of directed fire is only authorized for a Police Officer.

PARK RANGER AND AIRPORT SPECIAL SERVICES OFFICER - FORCE POLICY

Park Rangers and Airport SSOs will attempt to achieve control through direction, forewarning, or reasonable physical force. When acting in furtherance of their primary duty, Park Rangers and Airport SSOs may, based on the totality of the circumstances, only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance. Force may be used to accomplish the following:

1. Effect a lawful investigative detention or arrest;
2. Control a resistive, combative or threatening subject;
3. Protect themselves, the subject or another person from injury, death or destruction of property; and
4. Stop a subject who is attempting to flee or escape a lawful detention or arrest.

The decision by a Park Ranger and Airport SSO to use force shall be reviewed and evaluated carefully and thoroughly, in a manner that reflects the gravity of that authority and the serious consequences of the use of force by Peace Officers, in order to ensure that the force used is consistent with law and agency policies.

The decision by a Park Ranger and Airport SSO to use force shall be reviewed and evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight, and that the totality of the circumstances shall account for occasions when officers may be forced to make quick judgments about using force.

Force incident reviews should also consider the officer's tactics and the conduct of the subject leading up to, during, and after the use of force.

A. DEADLY FORCE

Park Rangers and Airport SSOs may 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.

Where feasible, Park Rangers and Airport SSOs 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.

A Park Ranger or Airport SSO shall not use deadly force against a person based on the danger that person poses to themselves, 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.

i. Imminent Threat

A Park Ranger or Airport SSO is justified in using deadly force upon another person when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary to defend against an imminent threat of death or serious bodily injury to the officer or to another person.

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 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.

ii. Shooting at Moving Vehicles

Park Rangers and Airport SSOs shall weigh the need to shoot at an imminent threat in a moving vehicle against the risk that a firearms discharge may create, such as harm to other persons in the vehicle, the public, or the danger of an uncontrolled vehicle from an incapacitated driver.

Park Rangers and Airport SSOs shall avoid placing themselves in the path of a moving vehicle, or if feasible, move out of the way of an oncoming vehicle.

The use of firearms at a moving vehicle, by a Park Ranger or Airport SSO, is authorized only in the event of an imminent threat.

iii. Shooting from Moving Vehicles

Park Rangers and Airport SSOs shall consider the increased risk that shooting from a moving vehicle creates, and if feasible, consider the options of exiting the vehicle or driving away from the imminent threat.

The use of firearms from a moving vehicle, by a Park Ranger or Airport SSO, is authorized only in the event of an imminent threat.

SPECIAL SERVICES OFFICER - FORCE POLICY

An SSO may only use force when, based on the totality of the circumstances, the SSO reasonably believes that another person is going to harm the SSO or another. The SSO may only use the amount of force reasonably necessary to defend themselves or another.

The reasonableness of a particular use of force will be reviewed and evaluated from the perspective of a reasonable person possessing the same information, training and experience, and faced with the same circumstances as the SSO who used force.

Force incident reviews should also consider the SSO's tactics and the conduct of the subject leading up to, during, and after the use of force.

This section shall apply to the following personnel:
1. City Hall SSO
2. Jail SSO
3. Long Beach City College SSO
4. Marine Patrol SSO

A. DEADLY FORCE

SSOs may use deadly force only when necessary in defense of human life. In determining whether deadly force is necessary, SSOs 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.

Where feasible, an SSO shall, prior to the use of force, make reasonable efforts to identify themselves as an SSO and to warn that deadly force may be used, unless the SSO has objectively reasonable grounds to believe the person is aware of those facts.

An SSO shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable SSO would believe the person does not pose an imminent threat of death or serious bodily injury to the SSO or to another person.

i. **Imminent Threat**

An SSO is justified in using deadly force upon another person when the SSO reasonably believes, based on the totality of the circumstances, that such force is necessary to defend against an imminent threat of death or serious bodily injury to the SSO or to another person.

A threat of death or serious bodily injury is "imminent" when, based on the totality of the circumstances, a reasonable SSO 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 SSO 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.

The use of deadly force by an SSO is only authorized in the event of an imminent threat.

ii. **Shooting at Moving Vehicles**
SSOs shall weigh the need to shoot at an imminent threat in a moving vehicle against the risk that a firearms discharge may create, such as harm to other persons in the vehicle, the public, or the danger of an uncontrolled vehicle from an incapacitated driver.

SSOs shall avoid placing themselves in the path of a moving vehicle, or if feasible, move out of the way of an oncoming vehicle.

The use of firearms at a moving vehicle, by an SSO, is authorized only in the event of an imminent threat.

iii. **Shooting from Moving Vehicles**
SSOs shall consider the increased risk that shooting from a moving vehicle creates, and if feasible, consider the options of exiting the vehicle or driving away from the imminent threat.

The use of firearms from a moving vehicle, by an SSO, is authorized only in the event of an imminent threat.