



Burbank Police Department

Scott LaChasse, Chief of Police

**Policy
300**

Approved: *Scott LaChasse*

Effective Date: February 12, 2014

CHAPTER 3 – GENERAL OPERATIONS

Use of Force

300.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that any force used by members of the Burbank Police Department is reasonable force and is used in accordance with the rights secured or protected by the Constitution and laws of the United States and that any unreasonable force is identified and addressed appropriately.

300.1.1 PHILOSOPHY

The use of force by law enforcement personnel is a matter of critical concern both to the public and to the law enforcement community. Officers are involved in numerous and varied human encounters on a daily basis and when warranted, officers may use force to carry out their lawful duties. Officers must have a clear understanding of their legal authority and its limitations.

The Department recognizes and respects the value of all human life and dignity without prejudice. It is also understood that vesting officers with the authority to use reasonable force and protect the public welfare requires a careful balancing of human interests.

300.1.2 GENERAL PRINCIPLES

Officers shall evaluate each situation requiring the use of force in light of the circumstances known to the officers. In determining the necessity for force and the appropriate level of force, the evaluation must include the severity of the crime at issue, whether the suspect poses an imminent threat to the safety of the officer or others, and whether the suspect is actively resisting. Officers maintain the right to self-defense and have a duty to protect the lives of others.

The following general principles are to assist officers in reaching appropriate decisions:

- (a) When appropriate and as safety permits, officers should use de-escalation techniques in order to reduce the need for force and should de-escalate the use of force as resistance decreases, while staying in control.
- (b) The number of officers on scene may increase the available force options, may reduce the overall force used, or may eliminate the need to use force.



Burbank Police Department

Scott LaChasse, Chief of Police

Policy
300

- (c) Officers should be trained that a hard strike to the head with any impact weapon, including a baton, could result in death, and any strikes to the head should be consistent with policy and training.
- (d) Officers should not use force against handcuffed or otherwise restrained subjects unless reasonable under the circumstances to stop an assault, escape, or as reasonable to fulfill other legitimate law enforcement objectives (such as transporting a suspect to the Jail for booking).
- (e) Officers should not use force against individuals who only verbally confront them and do not impede a legitimate law enforcement function.

300.1.3 DEFINITIONS

Definitions related to this policy include:

BlueTeam – A web-based application that allows supervisors to enter Critical Incident Reports (CIR) into the IA Pro Case Management System.

CEW – Conductive Electrical Weapon (i.e., TASER).

De Minimis Force – Physical interaction meant to separate, guide, and/or control that does not cause injury, but may cause temporary transient pain (e.g., wristlock). These very brief and inconsequential encounters require notification to a supervisor, documentation in police reports and on the Watch Commander Log. They do not require *BlueTeam* entries.

Force – The application of physical force, control techniques or tactics, chemical agents or weapons to overcome the force or resistance of another person. It is not a use of force when a person allows himself or herself to be searched, escorted, handcuffed, or restrained.

Serious Bodily Injury – Serious impairment of physical condition, including, but not limited to, the following: loss of consciousness; concussion; bone fracture; protracted loss of impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement (Penal Code § 243(f)(4)).

Hospitalization – Admitted to a hospital for treatment beyond that provided in an emergency room (see Medical Treatment below).

Injury – Bodily harm resulting in visible injury or complaint of pain.

Less Lethal Force – A level of force such that the outcome is not expected or intended to cause death or Serious Bodily Injury (see the Restraint Devices, Control Devices, and Conducted Energy Device Policies for authorized less lethal devices).

Deadly Force – 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 (Penal Code § 835a(e)(1)).



Burbank Police Department

Scott LaChasse, Chief of Police

Policy
300

Medical Treatment (MT) – Any on-scene or emergency room treatment or evaluation of an injury by professional medical staff or medical condition that does not require hospitalization (see above). Includes “Okay to Book” evaluations.

Pain Compliance – The use of painful, manual stimulus to control a resistive person. The use of pain compliance techniques should not result in bodily harm beyond temporary transient pain or redness.

Reasonable Force – Force that is objectively reasonable and necessary in light of the facts and circumstances confronting the officer without regard to the officer’s underlying intent or motivation. Such force that complies with the Fourth Amendment’s requirement of objective reasonableness under *Graham v. Connor*, 490 U.S. 386 (1989). “Reasonableness” of the force used must be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any interpretation of reasonableness must allow for the fact that police officers are often forced to make split-second decisions in circumstances that are tense, uncertain and rapidly evolving when determining the amount of force that is necessary in a particular situation.

Reportable Use of Force – Any force used to overcome active resistance that is greater than mere physical interaction or De Minimis Force between an officer and a member of the public.

Supervisor – A sworn Burbank Police Department employee at the rank of sergeant or above.

Subject or Suspect – Any person who has been subjected to force.

Type 1 Use of Force – Classified as a use of force that has the likelihood of causing significant injuries to a subject including: any use of “Deadly Force;” any use of force that results in or could reasonably be expected to result in “Serious Bodily Injury” (see § 300.7.2 – Supervisor’s Responsibilities). Examples of Type 1 force include:

- (a) Any use of a firearm.
- (b) Strikes to the head, neck or throat (if the force results in or is reasonably expected to result in Serious Bodily Injury).
- (c) Force resulting in broken bones.
- (d) Force resulting in loss of consciousness.
- (e) Application of a carotid restraint.
- (f) Force resulting in hospitalization.

Type 2 Use of Force – Classified as a use of force that does not rise to the level of a Type 1 use of force, but results in a complaint of an injury, causes an injury, or could reasonably be expected to cause an injury. Examples of Type 2 force include:

- (a) Use of a CEW device.
- (b) Use of an impact weapon (e.g., baton and flashlight).



Burbank Police Department

Scott LaChasse, Chief of Police

Policy
300

- (c) Deployment of Canine that results in injury or complaint of injury (with no hospitalization).

Type 3 Use of Force – Classified as a use of force that does not rise to the level of a Type 1 or Type 2 use of force, but results in a complaint of an injury, causes an injury, or could reasonably be expected to cause an injury . Examples of Type 3 force include:

- (a) Strike using hands.
- (b) Kick.
- (c) Take down.
- (d) Deployment of OC (Oleoresin Capsicum) spray.
- (e) Use of weaponless pain compliance techniques with sufficient force to cause an injury.
- (f) Exercising more than De Minimis force when placing a subject in a restraint (e.g., using handcuffs and/or front leg restraints).

Note: The force used to apply any restraints shall be the deciding factor, not the application of the restraint itself. Application of restraints is not in itself a reportable use of force, but shall be documented in the officer's report.

300.2 POLICY

It is the policy of this Department that 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). No policy can predict every situation an officer may encounter. The Department recognizes that each officer must be entrusted with well-reasoned discretion in determining the appropriate use of force in each incident. While it is the ultimate objective of every law enforcement encounter to minimize injury to everyone involved, nothing in this policy requires an officer to sustain physical injury before applying reasonable force.

While officers are trained and authorized to utilize a wide variety of force options, each officer is expected to comply with this policy and use only that degree of force that is objectively reasonable under the circumstances to successfully accomplish the law enforcement mission.

Penal Code § 830.1 gives peace officers legal authority to carry and use weapons in the performance of their duties. Before being authorized to carry lethal and less lethal weapons, officers shall receive copies of and be instructed on the following policies:

- (a) Use of Force
- (b) Control Devices
- (c) Conducted Electrical Weapon (CEW)

Nothing in this policy is intended to supersede any provisions of the *Peace Officers' Bill of Rights*.



Burbank Police Department

Scott LaChasse, Chief of Police

**Policy
300**

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 totality of the circumstances shall intercede to stop the use of such excessive force. Those officers shall report their observations to a supervisor without delay prior to leaving the scene of the incident.

300.2.2 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 (Penal Code § 835a).
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- (c) Officer or subject factors (age, size, relative strength, skill level, injury/exhaustion, and number of officers vs. subjects and associates).
- (d) The conduct of the involved officer (Penal Code § 835a).
- (e) The effects of drugs or alcohol.
- (f) The individual's apparent mental state or capacity (Penal Code § 835a).
- (g) The individual's apparent ability to understand and comply with officer commands (Penal Code § 835a).
- (h) Environmental factors, including obstacles, terrain, lighting, weather, etc.
- (i) Mental state of the subject and associates (drugs/alcohol, other mental impairments).
- (j) Proximity of weapons or dangerous improvised devices.
- (k) Time and circumstances permitting, the availability of other reasonable and feasible options and their possible effectiveness (Penal Code § 835a).
- (l) Seriousness of the suspected offense or reason for contact with the individual.
- (m) Training and experience of the officer.
- (n) Potential for injury to officers, suspects, and others.
- (o) Risk of escape.
- (p) Whether the person appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.
- (q) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officers or others.
- (r) Other potentially relevant circumstances (e.g., known criminal history of the individual).



Burbank Police Department

Scott LaChasse, Chief of Police

**Policy
300**

This policy recognizes that the time available for an officer to evaluate and respond to changing circumstances may impact his or her decision.

300.3 USE OF FORCE TO AFFECT AN ARREST OR MENTAL HEALTH DETENTION

Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use objectively reasonable force to affect the arrest, to prevent escape, or to overcome resistance. A peace officer who makes or attempts to make an arrest may, but is not required to, retreat or desist from his or 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 objectively reasonable force to safely effect the arrest, prevent escape, or to overcome resistance. It should be noted that the term "retreat" does not mean tactical repositioning or other de-escalation techniques (Penal Code § 835a).

Officers also have the right and public safety obligation to detain any person who is mentally impaired and is a danger to themselves or others or who may be violent. Officers may use objectively reasonable force necessary to detain a mentally impaired person.

300.3.1 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a passively or actively resisting individual. Officers may only apply those pain compliance techniques for which the officer has received Department approved training and only when the officer reasonably believes that the use of such a technique appears reasonable to further a legitimate law enforcement purpose.

Officers utilizing any pain compliance technique should consider the totality of the circumstances, including but not limited to:

- (a) The potential for injury to the officers or others if the technique is not used.
- (b) The potential risk of serious injury to the individual being controlled.
- (c) The degree to which the application of the pain compliance technique may be controlled given the level of resistance.
- (d) The seriousness of the offense.
- (e) The level of resistance of the involved individuals.
- (f) The need for prompt resolution of the situation.
- (g) The availability of other reasonable alternatives if time permits (e.g., passive/resistive demonstrators).

The application of any pain compliance technique should be discontinued once the officer determines that compliance has been achieved. Officers may continue the use of control holds when reasonable to do so. Pain compliance shall not be used as punishment.



Burbank Police Department

Scott LaChasse, Chief of Police

**Policy
300**

300.3.2 CAROTID RESTRAINT APPLICATION

The proper application of the carotid restraint hold by a trained officer may be effective in quickly restraining a violent individual. Due to the potential for injury, however, the carotid restraint hold may only be applied under the following conditions:

- (a) The officer must have successfully completed Department approved training in the use and application of the carotid restraint.
- (b) The carotid restraint may only be used when the officer reasonably believes that such a hold appears reasonable to prevent serious bodily injury or death to an officer or others.
- (c) The application of a carotid restraint on the following individuals should generally be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective, or would present a greater danger to the officer, the subject or others, and the officer reasonably believes that the need to control the individual outweighs the risk of applying a carotid control hold:
 - 1. Females who are known to be pregnant
 - 2. Elderly individuals
 - 3. Obvious juveniles
 - 4. Individuals who appear to have Down syndrome or who appear to have obvious neck deformities or malformations, or visible neck injuries

Any individual who has been rendered unconscious by the use of the carotid restraint shall receive prompt medical treatment prior to booking. Additionally:

- (a) Any officer applying or attempting to apply the carotid restraint shall immediately notify a supervisor of the use or attempted use of such a hold.
- (b) The officer shall inform any person receiving custody, or any person placed in a position of providing care, that the individual has been subjected to the carotid restraint hold and whether the subject lost consciousness as a result.
- (c) The use or attempted use of the carotid restraint shall be thoroughly documented by the officer in any related reports.

300.4 DEADLY FORCE APPLICATIONS

Officers may use deadly force in self-defense or in the defense of others only when the officer has an objectively reasonable belief that death or serious bodily injury is about to be inflicted upon themselves or others. 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. While the use of a firearm is considered deadly force, other force options might also be considered deadly force if the officer reasonably



Burbank Police Department

Scott LaChasse, Chief of Police

**Policy
300**

anticipates that the force applied will create a substantial likelihood of death or serious injury. Use of deadly force is justified only in the following circumstances (Penal Code § 835a):

- (a) An officer may use deadly force to protect himself/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. The risk of serious bodily injury or death to another person must not be speculative; that is, the mere fact that a suspect is fleeing in a neighborhood or near a school is not by itself sufficient to constitute an imminent risk.

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 himself/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 (Penal Code § 835a).

300.4.1 SHOOTING AT OR FROM MOVING VEHICLES

Officers must understand their responsibility to engage in safe tactics that minimize risk to themselves, other officers, and the public, particularly with respect to officers firing their weapons at moving vehicles. The use of firearms against moving motor vehicles can be dangerous and is generally ineffective.

Any officer threatened by an oncoming vehicle shall not be presumptively justified to use deadly force. When possible, officers shall first attempt to move out of the path of a moving vehicle before discharging their weapon. Officers should not position themselves or remain in the path of a moving motor vehicle. Additionally, they should not tactically position themselves directly in front of or behind a driver-occupied, stationary motor vehicle. Such positions are dangerous.

Officers shall not discharge a firearm at a motor vehicle or its occupants in response to a threat posed solely by the vehicle unless the officer reasonably believes that deadly force is justified by § 300.4 and the officer has no reasonable alternative course of action to prevent death or serious bodily injury.

In the extraordinary instance that an officer feels compelled to fire at a motor vehicle or its occupants, the conduct of all involved personnel shall be evaluated in accordance with sound tactical principles and critical decision-making.



Burbank Police Department

Scott LaChasse, Chief of Police

**Policy
300**

300.5 MEDICAL EVALUATION AND CARE

Employees must evaluate all subjects for injuries as soon as practicable after any use of force action. Additionally, a subject shall be promptly transported to a medical facility for examination or treatment by qualified medical personnel whenever the subject:

- (a) Strikes his or her head on a hard object or sustains a blow to the head or face because of the application of force by an officer, regardless of how minor any injury to the head or face may appear. The officer transporting the subject shall inform appropriate medical personnel that the subject was struck on the head or face, or struck his head or face.
- (b) Is restrained, or was attempted to be restrained, with a carotid restraint, or any kind of neck/throat restraint, whether or not the subject is rendered unconscious. The officer transporting the subject shall inform the medical staff of the manner in which the subject was restrained.
- (c) Is struck by a specialized weapon projectile (40mm projectile, TASER dart, etc.).
- (d) Has a visible injury or injury that appears to require medical treatment.
- (e) Alleges any injury or requests medical treatment, whether or not he or she has any apparent injuries.
- (f) Alleges that force was used against him or her, whether or not he or she has any apparent injuries.

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics, unusually high tolerance to pain or who engage in a protracted physical encounter with multiple officers may be at an increased risk of sudden death and should not be positioned face down on the ground any longer than is reasonably necessary to apply restraint devices. As soon as practicable after the application of the restraint devices, the subject shall be re-positioned from prone to a seated position. The subject should be examined by qualified medical personnel as soon as practicable. Any individual exhibiting signs of distress after such an encounter shall be medically cleared prior to booking.

300.5.1 REFUSAL OF MEDICAL CARE

If the person subjected to force refuses medical treatment in any of the cases previously described, he or she shall be transported to a medical facility and required to personally inform the medical staff of his or her refusal to receive medical treatment. The transporting officer shall make an effort to have the medical staff indicate the subject's refusal on a medical admissions report. The officer shall include in the appropriate report or memorandum the name of the medical personnel to whom the suspect indicated his or her refusal and the name of the medical staff member authorizing booking at the Jail. If the medical staff indicates that the subject should be treated despite his or her refusal, arrangements shall be made to transport the suspect to the County-USC Medical Center Jail Ward.

Any doubt regarding the need for medical treatment shall be resolved by transporting the suspect to an appropriate medical facility.



Burbank Police Department

Scott LaChasse, Chief of Police

**Policy
300**

300.5.2 TRANSPORTATION OF SUSPECTS

Whenever practicable, the subject upon whom force was used should be transported by officers other than those who used the force. In the event no other officers are available to transport the subject to a medical facility or the jail, the transporting officers shall notify a supervisor and document the reasons in the crime report.

300.6 NOTIFICATION AND REPORTING REQUIREMENTS

It is the policy of this Department to conduct an administrative inquiry on every use of force or alleged use of force by an officer. Generally, a sergeant will be responsible for conducting the inquiry and completing the Use of Force Report under the direction of a lieutenant. The purpose of the inquiry is to evaluate the circumstances confronted by the officers and the reasonableness of the force or level of force used. Policy, training, tactics, and equipment issues shall be considered in the evaluation and included in the Use of Force Report. This administrative inquiry shall be independent of any criminal investigation conducted by the Investigation Division.

Additionally, (1) pointing a firearm at a person during an in-progress or tactical field incident where the circumstances surrounding the incident create a reasonable belief that the use of the firearm may be necessary, or (2) unholstering or displaying a firearm without intentionally pointing it at a person is not a reportable use of force. Nonetheless, pointing a firearm at a person in non-tactical situations shall be reported to a supervisor and documented by the officer in a crime report or supplemental report or by the supervisor in the Watch Commander's Log when a crime was not committed. An example of a situation requiring the reporting of the pointing of a firearm is if the firearm is pointed at a motorist stopped for a traffic violation (not a felony stop) and the motorist is cited or advised and released.

Any other use of force by any employee shall be considered reportable use of force and shall be reported to a supervisor, documented promptly, completely, and accurately in a crime or supplemental report.

Absent a tactical/investigative necessity or medical emergency, officers shall report their involvement or observations to a supervisor without delay prior to clearing the scene involving a use of force. Officers that are required to leave the scene prior to the arrival of a supervisor shall report their involvement or observations involving a use of force to a supervisor as soon as practical and before the end of watch.

300.7 TYPE 1, 2,3 AND DE MINIMIS USE OF FORCE REPORTING REQUIREMENTS

For Type 1, 2, and 3 Use of Force incidents, all involved officers shall document their actions and observations in a crime or supplemental report. The documentation shall include:

- (a) The reason for the initial police presence.
- (b) A detailed description of the incident circumstances, including the words, actions, and/or threat posed by the subject and the factors described in § 300.2.2 to determine the reasonableness of the force.
- (c) A detailed description of the force used by the officer completing the report.



Burbank Police Department

Scott LaChasse, Chief of Police

Policy
300

- (d) A detailed description of the force used by other officers, if clearly observed.
- (e) A detailed description of force witnessed by each officer on scene.
- (f) A detailed description of any apparent injury to the suspect, any complaint of injury, or the lack of injury, including information regarding any medical aid or medical evaluation provided.
- (g) Ensure body worn camera (BWC) footage, in-car camera (ICC) footage, digital photographs, and audio files are uploaded into the appropriate digital file management system (Evidence.com, Foray, and Puma).

When De Minimis force is used, officers shall notify a supervisor and one of the involved officers shall accurately document the De Minimis force in a police report. Supervisors are responsible to carefully evaluate the De Minimis force to ensure the incident fits within its definition or to otherwise initiate a use of force investigation.

Supervisors shall note De Minimis force incidents on the Watch Commander Log.

300.7.1 INTERNAL AFFAIRS BUREAU INVESTIGATION OF TYPE 1 USE OF FORCE INCIDENTS

The Internal Affairs Bureau (IAB) should investigate all Type 1 Use of Force incidents, force incidents that may potentially involve misconduct or criminal conduct on the part of any involved officer, or those force investigations referred to IAB by a Division Commander, Deputy Chief, or the Chief of Police. As soon as practicable, the IAB Lieutenant shall notify the Deputy Chief of any force incident that may potentially involve misconduct or criminal conduct by involved officers.

The IAB Lieutenant will determine who will administratively interview the suspect regarding the use of force and when, with the concurrence of the Investigation Division Commander. Generally, criminal investigations will take precedence over the internal investigation unless otherwise determined by the Chief or his or her designee.

300.7.2 SUPERVISOR'S RESPONSIBILITIES INVOLVING TYPE 1 USE OF FORCE INCIDENTS

Upon notification of a Type 1 Use of Force incidents, a supervisor shall respond to the scene and initiate an on-scene investigation of the incident (per § 300.7.3). As soon as practicable, the supervisor shall determine if the use of force should be classified as a Type 1 incident and make the appropriate notifications as soon as possible. If the supervisor is unable to make that determination, the supervisor will consult with his or her direct supervisor to assist in the determination.

Until relieved by IAB, the on-scene supervisor shall request additional resources from the Watch Commander (as necessary) to ensure evidence is preserved and any and all civilian witnesses are contacted and their statements are obtained.

The supervisor shall be responsible for entering the incident into *BlueTeam* (refer to the [BlueTeam Reports Policy - 303](#)) and uploading any BWC footage, ICC footage, digital photos, and audio files recorded by the supervisor into the appropriate digital file management system (Evidence.com, Foray, and Puma).



Burbank Police Department

Scott LaChasse, Chief of Police

**Policy
300**

300.7.3 SUPERVISOR'S INVESTIGATION OF TYPE 2 AND TYPE 3 USE OF FORCE INCIDENTS

Upon notification of a Type 2 and Type 3 Use of Force incident, a supervisor will respond to the scene and thoroughly investigate all Type 2 and 3 incidents. Whenever possible, a supervisor who participated in or ordered the force should not conduct the force inquiry. In the event an involved supervisor is required to conduct the force inquiry, the reasons shall be documented in the Use of Force Report. When investigating a Type 2 or Type 3 incident, the handling supervisor shall, whenever possible:

- (a) Respond to the scene, examine the subject of the force for injury, interview the subject for any complaint of injury and where necessary, summon medical aid.
- (b) Ensure that any other injured parties are examined and treated.
- (c) Interview the subject of the force and the involved officers.
- (d) Locate and interview all potential witnesses, including Department personnel. Audio record all civilian witness statements including those who claim to have seen nothing. If significant canvassing is required, the Watch Commander should be contacted for additional supervisory personnel, including IAB staff.
- (e) When possible, assess the subject's injuries and determine whether they are consistent with the force reported by the officers.
- (f) Interview the treating physician or other qualified medical personnel to determine the extent of injuries and if they are consistent with the degree of force reported.
- (g) Ensure collection of evidence sufficient to establish material facts related to the use of force, including physical evidence, audio and video recordings, photographs, and other documentation of injuries or the absence of injuries.
- (h) Canvass the area for privately owned video that may have captured the contact and attempt to obtain copies voluntarily. If owner refuses, document the location and owner of the video. If no privately owned video is discovered, document that none was found.
- (i) Ensure the subject is photographed for identification purposes and to document 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.
- (j) Consider all relevant evidence to make credibility determinations and resolve material inconsistencies in statements, if feasible.
- (k) If the information indicates possible misconduct, the supervisor shall consult with the Watch Commander or supervising lieutenant and shall notify IAB.
- (l) Unless directed otherwise by IAB, require each officer at the scene to complete a crime or supplemental report. Each officer will describe what he or she did and saw with specificity, identifying all other officers involved in the incident when possible.



Burbank Police Department

Scott LaChasse, Chief of Police

Policy
300

300.7.4 SUPERVISOR'S FORCE INVESTIGATION REPORT FOR TYPE 2 AND TYPE 3 USES OF FORCE

For Type 2 incidents, the supervisor shall document the incident as follows:

- (a) Enter the incident into *BlueTeam* per the *BlueTeam Reports Policy*.
- (b) Upload associated BWC, ICC, digital photos, and audio files in the appropriate digital file management system (Evidence.com, Foray and Puma). Other electronic files may be attached to the *BlueTeam* report.
- (c) Complete a Supervisor's Use of Force Report (memorandum to the Division Commander) and forward to supervisor's lieutenant within 14 calendar days of learning of the use of force, unless an extension is approved by the supervisor's Division Commander. The report shall include the following:
 1. The supervisor's narrative description of the incident, summarizing the force used by the officers, injuries sustained by the subject and the officers, and the sequence of events. The summary should provide the reviewer a complete understanding of the incident, including, when each officer used force, why the force was necessary at each point in time, and how each injury, if any, occurred. The summaries of the statements should be brief and highlight only the relevant facts. A transcription of recorded civilian witness statements or duplication of officer report narratives should be avoided. Additionally, it will document the supervisor's actions in reviewing or screening the incident.
 2. In situations in which there are no known witnesses, the report will specifically state this fact. In situations in which witnesses were present but the supervisor did not determine the identification, phone number, or address of those witnesses, the report will state the reasons why.
 3. The charges filed against the suspect, whenever possible. When a prosecutorial agency declines to file criminal charges, the reasons for such declination shall be included in the report, if applicable.
 4. The supervisor's evaluation of the evidence involving the use of force, including any material inconsistencies in the evidence or statements.

The supervisor's Type 2 Use of Force Report file shall contain the following:

- (a) Supervisor's report.
- (b) Copy of *BlueTeam* report.
- (c) Copies of relevant crime or incident reports.
- (d) Photographs.
- (e) Any other documentation referenced in the supervisor's report.

For Type 3 incidents, the supervisor shall document the incident as follows:

- (a) Enter the incident into *BlueTeam* per the *BlueTeam Reports Policy*.



Burbank Police Department

Scott LaChasse, Chief of Police

**Policy
300**

- (b) Upload associated BWC, ICC, digital photos, and audio files in the appropriate digital file management system (Evidence.com, Foray and Puma). Other electronic files may be attached to the *BlueTeam* report.
- (c) Any witness statements taken by the field supervisor shall be memorialized in a follow-up report under the incident DR.

NOTE:

A Supervisor's Use of Force Report (memorandum to the Division Commander) is not necessary for Type 3 Use of Force investigations. Forward to supervising lieutenant the items listed below within 14 calendar days of learning of the use of force, unless an extension is approved by the supervisor's Division Commander.

The supervisor's Type 3 Use of Force Report file shall contain the following:

- (a) Cover Memo Sheet
- (b) *BlueTeam* report (completed as thoroughly as possible)
- (c) Watch Commander Insight
- (d) Attachments (refer to *Watch Commander Use of Force Checklist*)
 1. Police Reports
 2. Photos
 3. Booking Forms
 4. BPD In-House history
 5. Criminal History
 6. Watch Commander Log entry
 7. Shift Report
 8. Daily Field Activity Report(s)
 9. CAD for incident
 10. Dispatch audio/phone call(s)
 11. BWC/ICC footage
 12. PUMA recordings
 13. Video (surveillance / cellphone, etc.)
 14. Any other documentation deemed necessary.

300.8 ADMINISTRATIVE INTERVIEW OF SUSPECTS

The criminal investigation and the administrative inquiry shall remain bifurcated. At no time will the suspect be interviewed in the criminal matter and the administrative matter by the same person. Administrative interviews of suspects in Type 1 use of force cases shall be conducted by IAB personnel



Burbank Police Department

Scott LaChasse, Chief of Police

**Policy
300**

with the concurrence of the Investigation Division Captain, unless otherwise decided by the Deputy Chief or Chief.

The Watch Commander should conduct the interview of the subject of the use of force unless it is not practical for the watch commander to interview the suspect. If the field supervisor conducts the interview, the circumstances will be appropriately documented in the Use of Force Report.

Supervisors conducting a Use of Force investigation interview of a suspect in-custody should ensure that the suspect has been admonished of their Miranda rights before conducting the Use of Force interview. If a Miranda admonition was not previously given to the suspect by the arresting officer(s) or detective(s), the supervisor investigating the Use of Force should provide the admonishment before the interview.

Any statements made by the suspect of a case involving a use of force should be documented in the appropriate police report(s) and Use of Force report. If the suspect invokes his/her rights and refuses to provide a statement, then the specifics of the invocation (i.e., request for an attorney, or choosing to remain silent, etc.) should be documented in the police report(s) and Use of Force report. Also, see Policy 317 on Compliance with Constitutional Requirements.

Watch Commanders shall advise a suspect that he or she is being administratively interviewed as a witness for a Use of Force report and that the interview is being recorded (advisement should be recorded).

The administrative interview by a Watch Commander of a suspect involved in a Type 2 use of force (or Type 1 if applicable) should precede any custodial interrogation of the suspect by officers or investigators. If the suspect is in custody for a serious or violent crime, the Investigation Division Commander should be consulted before an administrative use of force interview of the suspect is conducted. If the Watch Commander believes that the significance of the criminal offense outweighs the minor nature of the force used, he or she may authorize officers to Mirandize and question the suspect on the criminal charges before the Watch Commander conducts the administrative interview. The Watch Commander shall fully articulate the justification in the Use of Force Report for review by the Critical Incident Review Board for authorizing the criminal interrogation to precede the administrative interview.

The supervisor approving the crime report shall ensure that "USE OF FORCE" is distinctly placed at the top of the narrative page of the original crime report (the template is available in ARS with the template code of "UOF"). This is in an effort to inform the City Attorney's Office and the District Attorney's Office that an Administrative Use of Force report exists.

300.9 WATCH COMMANDER / SUPERVISING LIEUTENANT RESPONSIBILITIES

Whenever possible, the Watch Commander or supervising lieutenant shall immediately examine and interview any person on whom Type 2 or Type 3 force was used. The interview shall be audio or video recorded. The Watch Commander or supervising lieutenant shall ask the person if he or she has any injuries, the nature of the injuries, and if he or she is in need of medical treatment. These questions shall be asked, whether or not the subject has any apparent injuries. If the subject is transported to a medical facility, the Watch Commander or supervising lieutenant shall direct a supervisor to interview



Burbank Police Department

Scott LaChasse, Chief of Police

**Policy
300**

the physician or qualified medical personnel to determine the extent of injuries (or lack thereof) and if they are consistent with the degree of force reported.

Watch Commanders shall interview suspects privately and out of the presence of others. Any deviation from this policy shall be documented in the Watch Commander's report.

Additionally, when the suspect is uncooperative, belligerent, or intoxicated, the supervisor or Watch Commander should attempt to obtain and record an initial statement. The Watch Commander should ensure that the suspect is interviewed again at a later time in the booking or detention process. If a second interview is not conducted or attempted, the reason shall be documented in the report.

For all force incidents, the Watch Commander or supervising lieutenant shall conduct a tactical review with the involved officers to discuss their tactical conduct and decision making associated with the use of force. The interviews of the involved officers, the involved subject, and the results of the Watch Commander's review of the incident shall be detailed in the Watch Commander's addendum to the Use of Force report (i.e., "Watch Commander's Insight"). The Watch Commander or supervising lieutenant shall make his or her recommendations as to whether further action or investigation is warranted, focusing specifically on training and policy issues. The Watch Commander or supervising lieutenant will ensure that the investigation and documentation completed by the supervisor is appropriate for the type of force used and is thorough and complete.

For all Type 1 use of force incidents, the Watch Commander or supervising lieutenant will be responsible for notifying IAB and the appropriate Division Captain as soon as possible.

300.9.1 WATCH COMMANDER / SUPERVISING LIEUTENANT ASSESSMENT ("INSIGHT")

The Watch Commander or supervising lieutenant must conduct a critical assessment of use of force incidents by their personnel. The assessment report must contain the header "Watch Commander Insight." The assessment should take into consideration all relevant facts, legal aspects, tactical decisions made leading up to the use of force, Department training standards, and policy requirements.

The assessment should include a reconciliation of the use of force incident against relevant policies. For example, if officers unsuccessfully attempt a physical takedown, deploy a Conducted Energy Device and then apply a Front Leg Restraint device, the assessment should minimally reconcile the officers' actions against the Use of Force Policy, the Conducted Energy Device Policy, and the Restraint Device Policy. Incidental policy issues, such as failure to comply with using a digital audio recorder (Use of Audio Recorders Policy) should also be addressed.

300.10 DEATH INVOLVING THE USE OF FORCE

It is the policy of the Burbank Police Department to request the Los Angeles County District Attorney's Office to conduct independent investigations of deaths of persons in the custody or control of the Burbank Police Department where the use of force by a peace officer may have been the proximate cause of the death. In the event of a death involving the use of force, the Investigation Division Captain will be notified. IAB staff shall respond to conduct an administrative investigation.



Burbank Police Department

Scott LaChasse, Chief of Police

**Policy
300**

At the discretion of the Investigation Division Captain, the Los Angeles County Sheriff's Department may be requested to conduct the investigation.

300.11 FORCE REVIEW INQUIRY

The entire Use of Force Report file shall be forwarded to the appropriate Division Captain for review within 21 calendar days of the incident. It shall then be forwarded to the Deputy Chief who shall convene a Critical Incident Review Board (CIRB) within 60 calendar days. The CIRB should consist of the Deputy Chief or designee and two captains to review the incident to assess tactics policy compliance and training concerns. Subject matter experts from within the Department may be utilized as resources by the CIRB to effectively evaluate the incident (refer to the Critical Incident Review Board Policy - 302).

300.11.1 ADMINISTRATIVE LEAVE PROCEDURES

Any employee whose actions or use of force in an official capacity results in death or serious physical injury to another person will be placed on paid administrative leave for a minimum of three workdays. Additional paid administrative leave may be authorized by the Chief of Police.

Any employee placed on paid administrative leave in accordance with this policy shall not return to duty without a written authorization from the Chief of Police. The Chief of Police may authorize the employee to return to a temporary administrative assignment as may be appropriate based on the circumstances.

While on paid administrative leave, the employee may be required to meet with a Department provided psychologist to address post critical incident trauma reactions and stress management. The employee's Division Captain will facilitate the employee's attendance at the initial and any follow up sessions.

300.11.2 NOTIFICATION TO PROSECUTION

When necessary, the Investigation Division Commander shall be responsible for informing prosecutors (City Attorney's Office and LA County District Attorney's Office) about the reporting requirements of the Department's Use of Force Policy. The prosecutors may request a copy of a Use of Force Report or administrative information not included in crime reports if determined by the prosecuting attorney to be relevant to the case. The investigator filing a criminal complaint must make a reasonable effort to advise the prosecuting attorney of the use of force in a case.

300.12 TRAINING

The Training Coordinator shall ensure the following:

- (a) That all sworn members receive annual training on the Department's Use of Force Policy.
- (b) That all training is properly documented in the employees' records.
- (c) That all employees authorized to carry lethal or less than lethal weapons are issued copies of the applicable policies.
- (d) That all newly hired sworn members are instructed on the Department's Use of Force Policy.



Burbank Police Department

Scott LaChasse, Chief of Police

**Policy
300**

The Watch Commanders and bureau lieutenants shall be responsible for ensuring their personnel receive recurrent training on this policy. This recurrent training may be conducted in roll call or other similar meetings. The recurrent training shall be documented on employee Comment Cards.

300.13 ANNUAL ANALYSIS OF USE OF FORCE

The Professional Standards Bureau will conduct an annual analysis of all Use of Force incident reports to identify patterns or trends. The analysis will be forwarded to the Chief of Police for final assessment for policy changes or training needs.

300.14 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

The Records Manager or 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 § 12525.2.