

CREATING POSITIVE CHANGE

Meeting Minutes
Valley Area Command Community Policing Council
Thursday, June 28, 2018
6:00 - 7:30pm
Johnny Tapia Community Center at Wells Park
500 Mountain St. NW

Albuquerque, New Mexico

In Attendance:

Voting Members:

- Rowan Wymark, CPC Chair
- Edwina Kiro
- · Farah Council
- Brendon Jaramillo
- Ari Posner

Absent: None

Non-Voting Members:

- Chris Sylvan, CPC Manager
- Shania Gallegos, CPC Temporary Scribe

Call to Order

Meeting called to order at 6:05PM by Chair, Rowan Wymark

Community Attendance:

- Eighteen members of the community in attendance at the meeting.
- Five APD Sworn Personnel in attendance at the meeting.

Determination of a Quorum

There were four voting members, therefore, a quorum was met.

Approve June Agenda

Passed by the approval of the agenda.

Approve May 2018 Meeting Minutes

Passed by the approval of the meeting minutes.

with the Albuquerque Police Department Presentation by: Robert Middleton, Commander of Internal Affairs Force Division with the Albuquerque Police Department and accompanied by Kenneth Johnston, Lieutenant in Internal Affairs Force Division

stated that each comment that was made was documented and taken into consideration. color represented on the policy and expressed that there are been a large amount of input. He also taking the steps required upon approval from all parties. Commander Middleton explained what each group to see and went through the policy line by line. The policy is still in draft mode and is currently Commander Middleton went through 2-52 Use of Force Policy Draft. He displayed the policy for the

Internal Affairs force division has been created because there was a huge issue with Use of Force investigations

- Show of Force
- Use of Force
- Serious Use of Force

Question (Q)/Answer (A) & Comment (C):

Level two we conduct sit down interviews and review video and documented. enough. is stuff that doesn't cause an injury. Level 2 is when we start using tools, there are injuries. officers, witness and I verify that everything that was said matches up and is documented then that's hour by a first line supervisor. Performance View unit Level 1 we can view the lapel and talk to the A: 2-52 will direct everything and all the other stuff will come out naturally. The trend is now to take an Q: When a UOF incident happens what they reporting requirements are, the process and the timeline is

what the officer has done and this unit will not do that. apart of your investigation. What a lot of police officer investigators due will go out and try to justify Why don't you trust what we say? What you say is not your get out of jail free card. What you say is

Q: Gram Plus...there is this confusion because the previous policies have not been directive

legal requirement is there and this is a policy requirement. A: A supreme court of the US ruling exists and it protects offices and directs officers what to do. The

This illustrates confusion. Q: Gram is an after action review and it precludes you from considering other options that are available

A: this is going to be a massive training requirement and it is going to take months and months to get

Q: In your investigative process, do you take in account how much time an officer has put into over

were they in, etc.? A: This unit will go through every detail as far as the work that week; did they get their rest, what area

Q: Have the CPA comments been inputted into this draft? The Amici has limited amount of input into

A: I have taken notes and I have them in my computer....

officers working overtime then we are not going to have enough officers in the field C: there is a shortage of officers and you guys keep mentioning the overtime but if we do not have

Q: How close are you to a final policy to be accepted by the DOJ

Q: do you have a policy analyst for your policies or does each unity write their own A: All these policies will be submitted to the academy by September A: we conduct them and these go through the PPRB (Police

Adjournment:

Meeting adjourned at 7:30 by Chair, Rowan Wymark

July Meeting: TBA



SOP 2-52

Effective: 6/2/17 Review Due: 6/2/18 Replaces: 4/1/16

2-52 USE OF FORCE

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Situations

2-52-5: Use of Force Training and

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Use of Force

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Investigations

2-52-1 Purpose

surrounding the use of force by sworn personnel The purpose of this policy is to describe the procedures, requirements, and expectations

Related SOPs

2-8: Use of On-Body Recording Devices

2-29: Emergency Response Team (ERT)

2-65: Interviews/Collection of Evidence at

Hospitals

2-80: Arrest/Booking Procedures

2-3: Firearms and Ammunition

Authorization

Electronic Control Weapon (ECW)

2-54: Use of Force Reporting and

Supervisory Force Investigation

Requirements

2-55: Use of Force Appendix

2-45: Pursuit by Motor Vehicle

7-3: Force Investigation Team (FIT)



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2-52-2 Policy

the United States and the State of New Mexico force or otherwise to fulfill their law enforcement obligations under the Constitution and laws of is not intended to limit the lawful authority of Department officers to use objectively reasonable minimum amount of force necessary in order to bring about their lawful objectives. This policy was established in Graham v. Connor, 490 U.S. 386 (1989), but also strive policy and training requires that officers not only follow the legal standard of using force, which in order to effect an arrest or protect the safety of the officer or another person. degrades the legitimacy of the officer's authority. Therefore, officers shall only use force that the United States Constitution, federal and state Laws, and the community. Unreasonable force using force when possible. Officers must remain mindful that they derive their authority from property, and their rights. It is the policy of the Department to de-escalate situations without The Department values the sanctity of human life and is committed to protecting people, their objectively reasonable based on a totality of the circumstances the officer is confronted with to utilize the Department

consistent with New Mexico law on self-defense or defense of others capsicum. less-lethal force weapons while on duty, including electronic control weapons and oleoresin Department allows for certain classifications of civilian employees Civilian employees have no power of arrest and therefore may only use to carry firearms

2-52-3 Definitions

specific to use of force, refer to text with the mouse cursor will display the definition. For a listing Key terms specific to use of force in this policy are green in color. Hovering over the SOP 2-55 - Use of Force Appendix of definitions



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2-52-4 Use of Force Requirements

⋗ General Requirements

- Policing at times requires that an officer exercise control of a violent or resisting and use, where appropriate, de-escalation techniques. decision-making and the tactics they choose to employ. The officer shall consider the direction and the outcome of many situations they handle, based on their confrontation can be de-escalated. However, officers do have the ability to impact community from risk of imminent harm. Clearly, not every potential subject to make an arrest or to protect the officer, other officers, or members of the violent
- Ņ Officers should continually assess the situation in order to increase an officer's array, coordination and other techniques, to maximize an officer's advantage accomplished by using time, distance, information, isolation, teamwork, ability to bring a situation to a safe, peaceful conclusion. This conclusion may be

Ē Assessing the Situation

N/A

consider these questions when assessing a situation that may require use of force: the facts and conditions confronting an officer when making decisions. Officers should The following questions help an officer assess the "totality of the circumstances," i.e.

- What resources can the officer use to de-escalate the situation or to minimize the need for the use of force?
- 2 Can the officer allow the person time to submit to arrest before using force?
- ယ S objectives? the officer using the minimum amount of force necessary to carry out lawful
- 4 commands? S the person physically or mentally capable 으 complying with the officer's
- Ġ Does the officer have an opportunity to utilize additional resources or other officers ð bring the situation to a peaceful resolution?
- <u>ე</u> What is the risk of bodily harm to the subject and/or officer as a result of the officer's others? lawful use of force in light of the level of threat the subject posed to the officer or
- 7 Does the proximity of weapons allow the subject to access them?
- ∞ What is the time available to an officer to make a decision? What efforts has the officer made to gain additional time?





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- 9 What are the physical considerations for the officer, such as officer exhaustion or injury during a physical confrontation?
- 10. Are innocent bystanders present who could be harmed if force is or is not used?
- 11. Are there hostile bystanders present who are sympathetic to the subject?

C. De-escalation

N/A

- Officers without increasing the risk of harm to the officer or others, officers shouldreasonable under the totality of circumstances and where it may be accomplished should look for opportunities Ö de-escalate the situation. When
- gather information about the incident;
- b. assess the risks to the subject(s), officer(s) and general public
- c. assemble resources;
- d. communicate and coordinate a response; and
- attempt to slow the momentum of the incident

6-7

- 2 subjects, in order to consider or use a greater variety of tactical options position or to a position which allows greater distance between them and the Officers should recognize that they may be able to move to a more tactically sound persuasion, and other tactics prior to escalating to the use of force, if feasible. In their interaction with subjects, officers shall use advisements, warnings, verbal
- ယ Officers are expected to recognize that their approach to a civilian interaction may influence whether a situation escalates to the need for use of force
- 4. When a use of force is necessary, officers will assess each incident to determine, based on policy, training and experience, which use of force option will de-escalate or control the situation.

N/A

4-7

N/A

- Ġ Supervisors will become involved as soon as practicable in the management of an officers' tactical actions. Supervisors should possess a good knowledge of tactics overall response to potentially violent encounters by coordinating resources and and ensure that officers under their supervision perform to Department standards
- 9 A degree of force which may have been justified earlier in an encounter does not remain justified indefinitely. Force shall be de-escalated as resistance decreases

N/A

D. Objectively Reasonable Force

N/A

The test and analysis that courts will use to examine whether a use of force is constitutional was set forth in Graham v. Connor, 490 U.S. 386 (1989) and the test has been expanded by subsequent court cases



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- Ņ Amendment of the United States Constitution. (1985) that the use of force by police officers is a seizure under the The United States Supreme Court decided in Tennessee v. Garner, 471 U.S. Fourth
- ယ apply when police officers make an arrest, investigatory stop, or other seizure of a person. The Court determined in Graham that an objectively reasonable standard shall
- 4 uncertain, and rapidly evolving. often forced to make split-second judgments, in circumstances that are tense perspective of a reasonable officer on the scene, rather than from 20/20 hindsight. The standard of reasonableness must take into account the fact that officers are The reasonableness of a particular use of force must be judged from the
- Ċī considered, along with other objective factors that may impact the reasonableness of an officer's actions. The courts analyze the reasonableness of an officer's use following "Graham Factors": of force actions by utilizing the "test of reasonableness," which consists of the confronting the officer's actions objectively reasonable given the facts and circumstances The standard of reasonableness in reviewing use of force is an objective one: were him or her? The officer's perception of the situation must be
- a. "the severity of the crime at issue";
- 0 "whether the suspect poses an imminent threat to the safety of the officers or
- 0 "whether he/she is actively resisting arrest or attempting to evade arrest by
- 0 Other factors which can influence reasonableness include the following
- The knowledge or belief the subject is under the influence of alcohol and/or
- 0 time. The subject's medical or mental history or condition known to the officer at the
- 0 encounters with law enforcement which were combative. subject's known history to include violent tendencies or previous
- Ω the officer. The relative size, age, and condition of the subject as compared with those of
- The number of subjects compared to the number of officers.
- .⊤ e situation (also refer to SOP 2-19 - Response to Behavioral Health Issues). this condition must be considered when reviewing the officer's approach to the The subject's condition, i.e., if it is apparent to the officer a subject is in crisis,
- 9 experience in martial arts or hand-to-hand combat) The special knowledge or skills possessed by the subject (such as known
- $\overline{}$ amount of force used The opportunities the officer had to use verbal de-escalation or to limit the



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- of force deemed reasonable in a given situation. of force in given situation whereas a positive disparity for the officer could reduce the level The existence of a negative disparity for the officer could justify the use of a higher level circumstances" and can have direct implications on the reasonableness of a use of force. disparity) or disadvantage (negative disparity)), are part of the "totality Disparities of force (i.e. differences in factors such as physical size, numbers, gender, age, weapons, injury, special knowledge or skills that place an officer at an advantage (positive of the
- 00 rapidly which may affect reasonableness of their current actions and require them Officers must be aware that the dynamics of a use of force encounter can change individual. to quickly escalate or de-escalate the level of force they are using against an
- iш Minimum Amount of Force minimum amount of force that is feasible within the available range of objectively reasonable force options. When force is necessary and objectively reasonable, officers shall strive to use the

4-7

N/A

- Officers need not start at the lowest level of force in every situation. Prior to using and the officer while achieving the arrest or lawful objective. options and select an option anticipated to minimize the level of injury to the subject particular force option, officers should evaluate their objectively reasonable
- 2 While utilizing a particular force option, officers should continually assess whether achieving the arrest or lawful objectives. the opportunity exists for them to safely deescalate their level of force while still
- ယ Whether a particular use of force is the minimum amount of force necessary must in circumstances that are tense, uncertain, and rapidly evolving. account for the fact that officers are often forced to make split-second judgments rather than from 20/20 hindsight. The objective determination of "minimal" must be objectively judged from the perspective of a reasonable officer on the scene,

F. Unreasonable Force

- The use of unreasonable force will subject officers to discipline, as well as possible criminal prosecution and/or civil liability. ರ
- N Officers must not engage in actions or tactics that precipitate the use others. Officers shall not use force to attempt to effect compliance with a command unreasonable force or that unduly jeopardize their own safety or the safety of that is unlawful.

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ω Any on-scene officer who observes another officer using force that a reasonable officer would view as excessive or unnecessary under the circumstances shall, when in a position to do so, safely intercede to prevent the use of such force.

1-7



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- 7
- 4. A use of force against a handcuffed individual, when required, must be objectively reasonable and may only be allowed under the following circumstances
- To prevent imminent bodily harm to the officer or another person or persons.
- 9 To overcome active resistance.
- To employ physical removal when necessary to overcome passive resistance.
- S to believe that a suspect who is fleeing or attempting to escape is a violent fleeing Prior to escalating to the use of deadly force, an officer must have probable cause or to others felon or poses a significant threat of death or serious physical injury to the officer
- 9 Use of Force to Effect a Detention, Conduct a Search, or Make an Arrest
- 5-7

themselves as peace officers before using force. a subject before resorting to use of force. Officers shall, whenever possible, make clear their intent to detain, search, or arrest When feasible, officers will identify

6-7

- H. Lawful Objectives
- Officers may use force consistent with this policy to accomplish lawful objectives.
- Ņ Any use of force, to include a show of force, shall be done only as objectively reasonable to accomplish a lawful police objective
- ယ The lawful objectives for which force may be appropriate include
- To effect a lawful arrest or detention of a person;
- Ö To gain control of a combative subject;
- 0.0 To prevent and/or terminate the commission of a crime;
- To intervene in a suicide or self-inflicted injury;
- To defend an officer or person from the physical acts of another; or
- J conduct a lawful search.

-Levels of Force

must be able to articulate an objectively reasonable basis to justify the level of force by the subject when determining their use of an appropriate level of force. Officers Officers shall consider the level of resistance, whether passive or active, presented

applicable. force option and factor(s) to consider pre-deployment and post-deployment, as This section describes the use of force options available to an officer in situations force is objectively reasonable and necessary. Each section describes the

Low Level Control Tactics



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-	ë	1. a. Officer Presence – a legally-designed show of force which has the potential to de-
		escalate situations.
	Þ.	Verbal Communication - Officers should attempt to use verbal communication skills
		to de-escalate situations before resorting to physical control methods.
	C.	Escort Techniques
	<u>d</u>	Application of handcuffs or other APD-approved restraint devices to a compliant
		person.
	Ф	Show of Force - A show of force shall be done only as objectively reasonable to
		accomplish a lawful police objective. It shall be reported following the requirements
		set forth in SOP 2-54 — Use of Force Reporting and Supervisory Force Investigation
		Requirements .

1-6 N ģ The use of any of the following tactics requires a Use of Force report and includes: Intermediate Force Empty hand tactics

Strikes, grabs, kicks, takedowns, distraction techniques and proper arrest techniques to control an actively resistant subject

iii. The use of leg sweeps, arm-bar takedowns, or prone objectively reasonable and shall only be considered following circumstances and utilized in the restraints must be

- to prevent imminent bodily harm to the officer or to another person or
- to overcome active resistance
- to overcome passive resistance and handcuff the subject, as is objectively reasonable and where physical removal is necessary
- Oleoresin capsicum (OC) spray Oleoresin capsicum is an inflammatory agent. With proper use, it is meant to

Ö

ii. Pre-deployment considerations Conditions where it is likely to affect innocent bystanders

assist officers in the control of actively resistant subjects

6-7

- Possibility of cross contamination in confined or enclosed environments
- Respiratory sensitivity of the elderly, infants, or children.
- iii. Post-deployment considerations

5-7

- as practical. Where handcuffing is appropriate, subjects should be handcuffed as soon
- personnel is offered as soon as practicable and without unnecessary delay. decontamination decontamination Once control is established and the scene is secure, officers may assist with by officers, of the subject. EMS, jail, medical, or other authorized Officers shall ensure that subject
- EMS shall be summoned in all instances when OC has been applied to a
- Suspects who have been exposed to OC shall not be left alone and shall be continuously monitored for any indications of medical complications



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5-7 Φ. 0 0 =: reasonable expectation that it would be unsafe for officers to approach the person within contact range. Refer to SOP 2-53, Electronic Control Weapon. another person from physical harm and only after considering less intrusive when such force is objectively reasonable to protect the officer, the subject, or the person by other tactics have been or will likely be ineffective, and there is a to use ECWs to control an actively resistant person when attempts to subdue means based on the threat or resistance encountered. Officers are authorized technique or to overcome passive resistance. Officers may use ECWs only physical injury or death. ECWs shall not be used solely as a pain compliance remember that improper or unauthorized deployment can result in serious Although consistent with the Department's Use of Force policies and training guidelines ECW utilization is considered a use of force and shall be deployed in a manner iii. Post-deployment considerations =: Electronic control weapon ess-lethal impact munitions Baton or impact weapons (using jabs or strikes) · In potentially lethal force situations, officers will have a lethal cover officer Pre-deployment considerations Post-deployment considerations Pre-deployment considerations Batons are considered an impact tool or weapon and are designed to assist officers in lawful use of force objectives where such force is authorized by this The distance from which the less-lethal impact munitions are fired will be based on these considerations when deploying less-lethal impact munitions. (iii) Objective reasonableness of the force being used eyelids, shortness of breath, and burning sensation on affected skin areas Common, normal reactions to articulate how this occurred in the appropriate Departmental report. If an officer inadvertently strikes the head, neck, or spine, the officer shall subject is established and the scene is secure. officers will immediately summon EMS Due to the increased blunt trauma capability from the use of a officers are not expected to predict a subject's movements. Physical struggles are often dynamic, rapidly changing encounters, and of lethal force is warranted. totality of circumstances and facts known to the officer at the time, the use be aimed toward attacking limbs and large muscle groups presented to the Strikes delivered to the head, neck, throat, or spine are considered lethal Performance of the impact munitions Manufacturer's recommendations ECWs are considered a less-lethal force option, officers must These areas shall not be intentionally targeted unless, based on the OC include twitching, contraction personnel once control of the Strikes should baton, of the



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	 Once the person is in custody and the scene has been secured, involved officers shall immediately request EMS personnel if a person has been hit
	by a less-lethal impact munition.
ယ	3. Lethal Force
	a. Firearms (refer to SOP 2-3 - Firearms and Ammunition Authorization)
	i. Officers shall carry only those weapons and ammunition that have
2-5	
	be performed by the Department's armorer, as approved by the Chief.
	ii. Pre-deployment considerations
2-5	 Officers will adhere to all firearms safety rules as outlined in department
	training.
	 Officers must recognize that once a firearm is drawn and no longer secured in
	the holster, their ability to react with less-lethal force in a particular situation
NA	•
N/A	
5-7	iii. Pos
	 Due to the high probability of death or serious physical injury when firearms
5-7	

J. Use of Lethal Force

- Lethal Force includes, but is not limited to, the following:
- a. Discharge of a firearmb. A strike to the neck, h
- serious physical injury or death. A strike to the neck, head or throat with a hard object that is likely to cause
- Ç of officers or others, officers may generally utilize any tactics or weapons of When lethal force is objectively reasonable and necessary to protect the lives opportunity available
- <u>d</u>. Neck holds shall be considered lethal force and are prohibited except where lethal force is authorized.
- 2 Officers may use lethal force when they have a reasonable belief that a subject another officer, or a member of the public. presents an imminent threat of serious physical injury or death to the officer,

9

serious physical injury to another person and probable cause exists to believe has just committed a violent felony involving actual or threatened infliction of Officers may use lethal force when there is probable cause to believe the subject



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protect the public or other officers from death or serious physical injury that lethal force is necessary to prevent the escape of the subject in order to

- 6-7
- ယ Verbal warnings shall be given when feasible
- 4. Warning shots are prohibited
- 7 Lethal Force and Motor Vehicles
- _ Officers are prohibited from reaching into vehicles, or intentionally placing lethal force themselves in the path of a vehicle, thereby creating a justification for the use of
- 2 Officers shall make every effort to move out of the path of a moving vehicle to a position of cover.
- ယ another person, or because the officer has no reasonable alternative course of necessary for self-defense, for defense of other officers, or for the protection of vehicle itself) against the occupant of the vehicle the officer is engaging is using lethal force (other than the Officers shall not discharge a firearm at or from a moving vehicle, unless officer or another person. Such action must be
- 4 if (1) the officer has no reasonable alternative; and (2) a reasonable officer would If an officer faces an imminent threat from a moving vehicle that the subject is additional risks to bystanders. Officers should consider whether the use of lethal believe the lethal force will remove the danger the vehicle poses, without creating intentionally driving into the officer or others, the officer may use lethal force only force creates a danger to the public that outweighs the likely benefits of its use.

Response to High Threat Level Situations

NA

- Absent an immediate need to act, officers should take time to plan how they will active shooter, immediate intervention should be considered. Officers should respond to the situation. However, under exceptional circumstances, such as an continuously evaluate whether their response is objectively reasonable
- N and concealment, as well as utilize barriers, to maximize their reaction time and deployment of resources Officers are expected to recognize and utilize positions of advantage, cover,
- ယ perform to the standards established in this policy. Supervisors should possess a working knowledge of a force array of tactics and less-lethal force options to ensure that the officers under their supervision
- 4 When an individual officer arrives on the scene of a potentially violent encounter, the officer should not attempt to resolve the incident alone, unless it is a violent



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and lethal force resources as a part of the force array prior to the initial contact. ongoing situation involving imminent threat of death or serious physical injury. When feasible, officers arriving on scene will secure additional less-lethal force

Çī Supervisors should manage the overall response to potentially violent encounters by coordinating resources and officers' tactical actions

2-52-5 Use of Force Training and Certification

- ≯ Officers will perform only those use of force options which they have been trained to and authorized by the department. use. Officers will carry only those use of force tools and equipment that are issued
- W Officers must complete and pass a Department-approved certification course to utilize any department-authorized use of force option. biennial recertification training, or as directed, in order to maintain their certification department-authorized use of force option. Officers are required to receive annual or instruction on each specific operation or tactic in order to be authorized to utilize any

NA

2-5

9 For training and certification requirements and for all training in use of force options Academy lesson plans housed on APDWeb, and to the Use of Force Appendix refer to the current APD Academy and New Mexico Law Enforcement

NA

2-52-7 Medical Attention Following Use of Force

Communications of their starting and ending mileage. and most direct route to the medical facility if feasible. Officers who transport a civilian to a medical facility for treatment shall take the safest immediately request medical attention if needed or as required by this section. gain control and secure the scene. immediately assess the subject for visible injuries or complaints of injuries once they Due to the wide range of possible outcomes from the use of force, officers shall The officer will monitor the subject and Officers shall notify APD

- In situations where the subject is forced into a face-down position, officers are so and monitor the subject for any respiratory or breathing problems; and expected to release pressure/weight from the subject as soon as it is safe to do
- 2 to reduce airflow or diaphragm function. Position the subject on their side or sit them up as circumstances allow so as not
- Ś Medical attention shall be requested immediately when an individual is injured or complains of injury following a use of force
- 4 Medical attention shall be summoned for the following Use of Force applications regardless of visible injury or complaint of injury when the subject is in custody



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safe to do so:

- Baton (Expandable or Straight)/Bokken
- <u>Б</u> 9 Oleoresin Capsicum (OC) Spray
- Electronic Control Weapons
- <u>а</u> с Use of patrol canine
- Ð Use of Force with a vehicle (refer to SOP 2-45 Pursuit by Motor Vehicle)
- Less-Lethal Impact Munitions
- Firearm
- Strikes to the head, throat or neck with a hard object.

2-52-8 Use of Force Reporting and Supervisory Force Investigations



- ₽ 54 - Use of Force Reporting and Supervisory Force Investigation Requirements Officers shall report use of force incidents pursuant to the requirements set forth in SOP 2-
- Ē Supervisors shall investigate use of force incidents pursuant to the requirements set forth in SOP 2-54 – Use of Force Reporting and Supervisory Force Investigation Requirements.