INTRODUCTION

This course is designed to provide our officers with a current update of basic weaponless defense techniques. Footwork, control holds, takedowns, gun retention, searching/handcuffing techniques and the carotid restraint will be covered in the course. This manual is to be used as a reference during in-service training and as a resource after training. The manual does not provide all the information available on the subject matter. The manual is provided in the hope that it may be used to increase retention of the psychomotor skills instructed in the course.

Losing an on duty physical confrontation is not an option for law enforcement officers, as this could result in death or serious bodily injury. Training, tactics, experience and physical fitness will all affect the degree of success an officer has when in a physical altercation. Officers must be proficient and confident in the techniques they elect to use. In order to achieve muscle memory or a conditioned physical response, most experts agree that the movement must be repeated at least 1000 times. To maintain proficiency with any technique, an individual must practice on a regular basis. Some of the techniques are capable of causing injury if practiced without appropriate care. Officers should practice the techniques with caution and restraint when working with a partner.

Brief summaries of some court opinions are included to illustrate how various types of use of force issues have been viewed by the court. Officers need to remember that new laws, department policies and court decisions are constantly developed that impact how we function.

CRIMINAL LAW AND DEPARTMENT POLICY

CALIFORNIA PENAL CODE SECTION 835:
Method of making arrest; amount of restraint
An arrest is made by an actual restraint of the person, or by submission to the custody of an officer. The person arrested may be subjected to such restraint as is reasonable for his arrest and detention.

ALBANY P.D. USE OF FORCE AND LEG RESTRAINT DEVICE POLICIES
Refer to and review attached Albany Police policy manual sections 300.1 through 300.5 and 306.1 through 306.8.

CALIFORNIA PEACE OFFICERS LEGAL SOURCEBOOK
Discussion of consensual encounters, detentions, arrests and pat down searches. Officers are directed to review the sourcebook sections on Search and Seizure – Persons.
Use of Force

300.1 PURPOSE AND SCOPE
This policy recognizes that the use of force by law enforcement requires constant evaluation. Even at its lowest level, the use of force is a serious responsibility. The purpose of this policy is to provide officers of this department with guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, each officer is expected to use these guidelines to make such decisions in a professional, impartial and reasonable manner.

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 on a daily basis in numerous and varied human encounters and when warranted, may use force in carrying out their duties.

Officers must have an understanding of, and true appreciation for, the limitations of their authority. This is especially true with respect to officers overcoming resistance while engaged in the performance of their duties.

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

300.1.2 DUTY TO INTERCEDE
Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of such excessive force. Such officers should also promptly report these observations to a supervisor.

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 circumstances perceived by the officer at the time of the event, to effectively bring an incident under control. "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 about the amount of force that is necessary in a particular situation.

Given that no policy can realistically predict every possible situation an officer might encounter in the field, it is recognized 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 actually sustain physical injury before applying reasonable force.
Use of Force

300.2.1 USE OF FORCE TO EFFECT AN ARREST
Any peace officer that has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape, or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance of the person being arrested; nor shall such officer be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance (Penal Code § 835a).

300.2.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE
When determining whether or not to apply any level of force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration. These factors include, but are not limited to:

(a) The conduct of the individual being confronted (as reasonably perceived by the officer at the time).
(b) Officer/subject factors (age, size, relative strength, skill level, injury/exhaustion and number of officers vs. subjects).
(c) Influence of drugs/alcohol (mental capacity).
(d) Proximity of weapons.
(e) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
(f) Time and circumstances permitting, the availability of other options (what resources are reasonably available to the officer under the circumstances).
(g) Seriousness of the suspected offense or reason for contact with the individual.
(h) Training and experience of the officer.
(i) Potential for injury to citizens, officers and suspects.
(j) Risk of escape.
(k) Other exigent circumstances.

It is recognized that officers are expected to make split-second decisions and that the amount of an officer’s time available to evaluate and respond to changing circumstances may impact his/her decision.

While various degrees of force exist, each officer is expected to use only that degree of force reasonable under the circumstances to successfully accomplish the legitimate law enforcement purpose in accordance with this policy.

It is recognized however, that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the standard tools, weapons or methods provided by the Department. Officers may find it more effective or practical to improvise their response to rapidly unfolding conditions they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be objectively reasonable and utilized only to the degree reasonably necessary to accomplish a legitimate law enforcement purpose.

300.2.3 NON-DEADLY FORCE APPLICATIONS
Any application of force that is not reasonably anticipated and intended to create a substantial likelihood of death or very serious injury shall be considered non-deadly force.
Use of Force

Each officer is provided with equipment, training and skills to assist in the apprehension and control of suspects as well as protection of officers and the public. Non-deadly force applications may include but are not limited to leg restraints, control devices and Taser described in Policy Manual §§ 306, 308 and 309 respectively.

300.2.4 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be very effective in controlling a passive or actively resisting individual. Officers may only apply those pain compliance techniques for which the officer has received departmentally approved training and only when the officer reasonably believes that the use of such a technique appears necessary to further a legitimate law enforcement purpose. Officers utilizing any pain compliance technique should consider the totality of the circumstance including, but not limited to:

(a) The potential for injury to the officer(s) 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 pain compliance technique may be controlled in application according to the level of resistance
(d) The nature of the offense involved
(e) The level of resistance of the individual(s) involved
(f) The need for prompt resolution of the situation
(g) If time permits (e.g., passive demonstrators), other reasonable alternatives

The application of any pain compliance technique shall be discontinued once the officer determines that compliance has been achieved.

300.2.5 CAROTID RESTRAINT

The proper application of the carotid restraint hold by a trained officer may be effective in restraining a violent individual. Only officers who have successfully completed department-approved training on the use of the carotid restraint hold and the department Use of Force Policy are authorized to use the technique. After initial training, officers shall complete training annually on the use of the carotid restraint hold.

The carotid restraint hold may only be used when the officer reasonably believes that the application of the hold appears necessary to prevent serious injury or death to an officer or other person(s).

After any application of any carotid restraint hold, the officer shall ensure the following steps occur:

(a) Any individual who has had the carotid restraint hold applied, regardless of whether he/she was rendered unconscious, shall be promptly examined by paramedics or other qualified medical personnel.
(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) Any officer applying the carotid restraint shall promptly notify a supervisor of the use or attempted use of such hold.
(d) The use or attempted use of the carotid restraint shall be thoroughly documented by the officer in the related incident report.

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Use of Force

(e) The use or attempted use of the carotid restraint shall be thoroughly documented by the officer in the related incident reports.

300.3 DEADLY FORCE APPLICATIONS
While the use of a firearm is expressly considered deadly force, other force might also be considered deadly force if the officer reasonably anticipates and intends that the force applied will create a substantial likelihood of causing death or very serious injury. Use of deadly force is justified in the following circumstances:

(a) An officer may use deadly force to protect himself/herself or others from what he/she reasonably believe would be an imminent threat of death or serious bodily injury.

(b) An officer may use deadly force to stop a fleeing suspect when the officer has probable cause to believe that the suspect has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer reasonably believes that there is an imminent or future potential risk of serious bodily injury or death to any other person if the suspect is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

300.4 REPORTING THE USE OF FORCE
Any use of physical force by a member of this department shall be documented promptly, completely, and accurately in an appropriate report depending on the nature of the incident. The use of particular weapons such as chemical agents may require the completion of additional report forms as specified in departmental policy and/or law.

300.4.1 NOTIFICATION TO SUPERVISORS
Supervisory notification shall be made as soon as practicable following the application of physical force, under any of the following circumstances:

(a) The application of force appears to have caused physical injury

(b) The individual has expressed a complaint of pain

(c) Any application of a control device

(d) The individual has been rendered unconscious

300.4.2 MEDICAL ATTENTION FOR INJURIES SUSTAINED USING FORCE
Prior to booking or release, medical assistance shall be obtained for any person who has sustained visible injury, expressed a complaint of injury or continuing pain, or who has been rendered unconscious. Based upon the officer’s initial assessment of the nature and extent of the subject’s injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff or medical staff at the jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practical, should be witnessed by another officer and/or medical personnel. If an audio recording is made of the contact or an interview with the individual, any refusal should be included, if possible.

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond physical characteristics, unusually high tolerance to pain or who require a protracted physical encounter with multiple officers to bring under control may be at an increased risk of sudden death and 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 SUPERVISOR RESPONSIBILITY
When a supervisor is able to respond to an incident in which there has been a reported application of force, the supervisor is expected to:

(a) Obtain the basic facts from the involved officer(s). Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.

(b) Ensure that any injured parties are examined and treated.

(c) Separately obtain a recorded interview with the subject(s) upon whom force was applied. If this interview is conducted without the person having voluntarily waived his/her Miranda rights, the following shall apply:
   1. The content of the interview should not be summarized or included in any related criminal charges.
   2. The fact that a recorded interview was conducted should be documented in a property or other report.
   3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.

(d) Once any initial medical assessment or first aid has been completed, ensure that photographs have been taken of any areas involving visible injury or complaint of pain as well as overall photographs of uninjured areas. These photographs should also be retained until all potential civil litigation has expired.

(e) Identify any witnesses not already included in related reports.

(f) Review and approve all related reports.

In the event that the supervisor believes that the incident may give rise to potential civil litigation, a separate potential claim form should be completed and routed to appropriate channels.

Should the supervisor determine that any application of force was not within policy, a separate internal administrative investigation shall be initiated.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.
Leg Restraint Device

306.1 PURPOSE AND SCOPE
The proper use and application of a leg restraint device can reduce the potential of injury and damage to property when dealing with violent or potentially violent persons. This section provides guidelines, policy and procedures for the proper use of these devices.

306.2 POLICY
When an officer deems it reasonable to restrain the legs of a violent or potentially violent person during the course of detention, arrest and/or transportation, only restraint devices approved by the Department shall be used, and only in the departmentally approved manner for such temporary immobilization of the legs.

306.3 AUTHORIZED RESTRAINT
The WRAP Restraint manufactured by Safe Restraints, Inc., Park City, Utah is the only restraint authorized by this department. Officers shall only use the WRAP Restraint restraint supplied by the Department.

306.4 USE GUIDELINES
In determining whether to use the restraint, officers should consider the following:

(a) If the officer and/or others are subject to harm due to the assaultive behavior of a violent, resisting and/or attacking suspect.

(b) If it is reasonable to protect the suspect from his/her own actions which would place him/her in danger e.g., hitting his/her head against the interior of the patrol unit, running away from the arresting officer while handcuffed, kicking at objects or officers.

(c) The restraint shall be used only after a person has been handcuffed.

306.4.1 MEDICAL CONSIDERATIONS
Prior to booking or release, medical assistance shall be obtained for any person(s) who has sustained visible injury, expressed a complaint of an injury or continuing pain, or who has been rendered unconscious. Based upon the officer's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff or medical staff at the jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practical, should be witnessed by another officer and/or medical personnel and a supervisor notified. If an audio recording is made of the contact or an interview with the individual, any refusal should be included, if possible.

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond physical characteristics, unusually high tolerance to pain or who require a protracted physical encounter with multiple officers to bring under control may be at an increased risk of sudden death and 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.

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306.5 PROCEDURE
The restraint device is designed to reduce the likelihood of injury to the restrained person or others, and to reduce the likelihood of property damage caused by the restrained person by preventing them from using his/her legs in a manner likely to result in injury or damage. The restraint will only be used to bind and immobilize a person’s legs. Only those officers trained in the use of the restraint are authorized to employ it on any person. The following guidelines shall be used when applying the restraint device:

(a) If practical, officer(s) should notify a supervisor of the intent to apply the restraint. In all cases, a supervisor shall be notified as soon as practical after the application of the restraint.

(b) Once the person’s legs have been bound, the safety clip of the restraint may be attached to the chain of the handcuffs, insuring enough slack is left to allow the person to sit in an upright position.

(c) Absent a medical emergency, the person being restrained shall remain restrained until the officer arrives at the jail or other facility or the person no longer poses a threat.

(d) Once secured, the person should be placed in a seated or upright position and shall not be placed on his/her stomach for an extended period as this may potentially reduce the person’s ability to breathe.

(e) The restrained person should be constantly watched by an officer while in the restraint. The officer is to ensure the person does not roll onto and remain on his/her stomach.

(f) The officer should look for signs of labored breathing and, where practical, take appropriate steps to relieve and minimize any obvious factors contributing to this condition.

306.5.1 TRANSPORTING RESTRAINED PERSONS
When transporting a person who has been restrained, officers shall observe the following procedures:

(a) Restrained suspects may be transported in a patrol unit. They should be seated in an upright position and secured by a seat belt. When the person cannot be transported in a seated position he/she should be taken by ambulance/paramedic unit.

(b) When taken by ambulance/paramedic unit, the restrained person shall be accompanied by an officer. The transporting officer should inform medical personnel that positional asphyxia is a concern and that the person should remain in an upright position where practicable. If medical personnel determine that it is in the best interest of the restrained person to be transported while lying down, the person should be kept on his/her side or back with appropriate adjustments to restraints so that the person’s arms are not pinned beneath them.

(c) Officers shall inform the jail staff that a restraint device was used on the arrestee prior to arrival at the jail.

306.6 DOCUMENTATION
Anytime the restraint device is used, the circumstances requiring its use shall be documented in the related report(s). The officer should include the following in the report:

(a) The amount of time the suspect was restrained

(b) How the suspect was transported and the position of the suspect

(c) Observations of the suspect’s physical and physiological actions
(d) Any known or suspected drug use or other medical problems
COURT DECISIONS

FORRESTER V. SAN DIEGO, 25 F. 3d 804 (9TH CIR. 1994)
Officers do not have to use a lesser intrusive method of control (force) as long as force is reasonable. Ruled that if officers have probable cause to arrest they can use pain inducing, nerve stimulation techniques if necessary.

GRIFFITH V. COBURN 05-2720 6TH CIR. (JAN. 10, 2007)
Suspect posed no threat to officers or anyone else. Neck restraint was used, improperly applied, use wasn’t documented in the report and no first aid was given following the use. Use of the neck restraint was unreasonable and violated constitutional right to be free from gratuitous violence during arrest.

ACOSTA V. HILL 05-56575 9TH CIR (OCT. 17, 2007)
No special 4th Amendment standard for unconstitutional deadly force. Instead, all that matters is whether the officer’s actions were reasonable. Ruled use of the carotid does not mean jury is to be given deadly force instruction. Jury given excessive force instruction and found for the officer. Jury determined the officer acted reasonably.

Objective Reasonableness. Refer to and review four attached pages

THINGS TO REMEMBER

POSITIONAL ASPHYXIA:
Can result from transporting a restrained person face down or on their back. Death can result from restricted breathing. Always transport restrained persons either seated or on their side.

EXCITED DELIRIUM OR DRUG INDUCED PSYCHOSIS:
Is a medical emergency with a psychotic presentation. Symptoms can include fear, panic, shouting, rapid pulse, bizarre behavior, unexpected strength, physical violence, hyperactivity, undressing, sweating, intense paranoia, hyperthermia, hiding, high blood pressure. Any one of these symptoms or a combination is not a total indicator that someone is experiencing drug induced psychosis. Officers should always err on the side of getting the subject medical attention.

DOCUMENTATION:
Following any use of force incident, always document specifics in detail in your report. State what technique(s) were used, why and what the results were. Document any injuries to suspects and officers and photograph them. Also document and photograph showing lack of visible injuries as well.
Reasonable Officer Standard

1. Would another officer with like or similar training and experience

2. facing the same or similar circumstances

3. act in the same or similar manner or exercise similar judgement
1. Peace Officers have a right to use force within the authority of the arrest
2. Careful attention must be paid to the facts and circumstances of each case
3. Officers must consider the severity of the crime at issue
4. Officers must consider whether the suspect poses an immediate threat to the safety of the officer or others
5. Officers must consider whether the suspect is actively resisting arrest or attempting to evade arrest by flight
6. Reasonableness must be judged from the perspective of the reasonable officer on the scene
7. Reasonableness is not based on hindsight
8. Officers are often forced to make split second judgements about the amount of force necessary in a particular situation
Three Prong Test
—Officers in the Field

1. Severity of the crime
2. The Suspect's threat.
3. Severity of suspect's ACTIVE resistance.

Graham v. Connor
Federalization of Force Options

2 Effects of Graham v. Connor

Created a National Standard of Police Use of Force

Moved Police Use of Force under the 4th Amendment