



CHULA VISTA POLICE DEPARTMENT PROFESSIONAL STANDARDS UNIT

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Chief of Police

January 28, 2019

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To: Chief Roxana Kennedy
Captain Phil Collum

REVIEWED BY CHIEF 1/28/2019
1/11/2019

From: Lieutenant Rusty Rea

Re: **Administrative Review
Officer Involved Shooting PS#17-1062**

Criminal Case Report #17-13455

Date of Incident: September 19, 2017

Location: [REDACTED] Monterey Avenue, Chula Vista

**Involved Officers: Officer David Sachs (ID 1184)
Officer Leopoldo Banales (ID 534)**

ADMINISTRATIVE ATTACHMENTS

1. Chula Vista Police Department Policy Manual Section 300 - Use of Force Policy.
2. Crimes of Violence Major Case File 17-13455; including all reports and discs containing interviews and photographs.
3. Expert Opinion of Use of Force Sgt. Donte Kendricks

SUMMARY OF INCIDENT

On Tuesday, September 19, 2017 at approximately 2059 hours, dispatch received a call from [REDACTED] reporting that a neighbor had called him names and thrown something at him. [REDACTED] indicated the neighbor possibly lived at [REDACTED] Monterey Avenue. At 2107 hours, [REDACTED] called again and was advised that no officers were currently available.

At approximately 2157 hours Officer David Sachs and Officer Leopoldo Banales were dispatched to the call and responded to [REDACTED] residence [REDACTED] [REDACTED] Avenue. Officers Sachs and Banales arrived at approximately 2208 hours. [REDACTED] was also with them as he was a ride along with Officer Banales.

During the initial investigation, [REDACTED] told them a neighbor had thrown a large chunk of concrete at him over the back fence, striking him in the shoulder. Officers Sachs and Banales determined the piece of concrete was thrown from [REDACTED] Monterey Avenue. They told [REDACTED] they would return after contacting the resident there.

At 2225 hours, Officer Banales advised dispatch they would be contacting the other party in this incident at [REDACTED] Monterey Avenue. Officer Sachs stated he believed the resident at [REDACTED] Monterey Avenue was likely suffering from mental health issues based on the description of the incident from [REDACTED]. Officer's Sachs and Banales knocked at the door and it was answered by [REDACTED]. They identified themselves as "Chula Vista Police" and [REDACTED] opened the door. They explained the situation and asked if there was anyone else in the house. [REDACTED] told them her schizophrenic son was also in the house. When told he had thrown a rock or block at the neighbor, [REDACTED] explained that her son was paranoid and thought the fence had been moved. She added, "he was out of his mind yesterday" and then invited the officers inside.

As [REDACTED] moved inside towards the kitchen, she asked the officers if they wanted her to get her son. Officer Sachs' replied, "sure", and then asked, "is he violent?" [REDACTED] replied, "umm no, not usually" and then chuckled. She added that she didn't know he had been outside. [REDACTED] then turned and called out, "David", as she moved through the kitchen and out of sight. David Scott replied, "yes" and [REDACTED] told him the police wanted to talk to him. Scott answered, "alright, that's fine." As this exchange occurred, Officer Sachs moved through the entry way toward the kitchen, followed by Officer Banales and [REDACTED]. [REDACTED] then added, "you shouldn't have thrown a rock at" before she was cut off by Scott responding, "yeah". As Scott responded, Officer Sachs entered the kitchen area and Scott came into view out of the darkness of the hallway. Initially, Scott appeared to be walking purposefully towards Officer Sachs, who began to greet Scott by asking, "how you doin'?" Scott rushed Officer Sachs armed with a knife in his right hand and began attacking Officer Sachs as he completed the greeting. Approximately 2 seconds elapsed between the moment Scott came into view and when he launched his attack on Officer Sachs.

As Scott repeatedly stabbed Officer Sachs in the face, Officer Sachs struggled to defend himself empty-handed, believing he was only being punched by Scott. Officer Banales attempted to assist Officer Sachs but was stuck behind him in the narrow entry way. After struggling with Scott for approximately 4 seconds, Officer Sachs was able to push Scott back into the kitchen where Scott fell to the ground. Officer Sachs immediately moved in and attempted to control and detain Scott, until he noticed the knife. Officer Sachs yelled repeatedly and retreated further into the house from the kitchen. He pushed [REDACTED] ahead of him into safety and away from Scott as he retreated. Officer Banales was moving in to assist when Officer Sachs began to retreat. As Officer Sachs retreated, Scott slashed at Officer Banales with the knife before standing up and turning back towards Officer Sachs. Officer Banales turned and retreated out the front door, pushing [REDACTED] outside ahead of him. Officer Sachs turned to face Scott while keeping [REDACTED] behind him, not knowing what or who may be further in the house. Scott advanced on Officer Sachs with the knife in his right hand while yelling, "homo piece of shit!" Officer Sachs drew his gun and fired 4 shots, striking Scott twice. Scott fell to the floor facedown. Approximately 23 seconds elapsed from the moment Scott began attacking Officer Sachs until the last shot was fired.

At 2228 hours, Officer Sachs advised that shots had been fired at [REDACTED] Monterey and then walked out of the [REDACTED] he was bleeding badly. When he exited the front door, he directed [REDACTED] to get him an ambulance, stating that he had been stabbed several times. Officer Sachs walked toward the street and told Officer Banales that he was bleeding and needed a tourniquet. [REDACTED] then told Officers Banales and Sachs that he did not see the suspect and he may not be down. Officer Sachs again asked Officer Banales for a tourniquet. Officer Banales headed to their vehicles to find one. [REDACTED] asked Officer Sachs if he could holster his weapon, and Officer Sachs replied that he couldn't. Officer Sachs directed [REDACTED] to apply pressure to the wound on his right arm. Officer Sachs told [REDACTED] he saw the suspect go down. He also asked to confirm the radio transmission had gone out as his ear piece had fallen out and he could not hear what was happening on the radio. At Officer Sachs direction, [REDACTED] began to take stock of his wounds.

At 2231 hours, additional units began to arrive. Officer Sachs advised them the suspect was down in the kitchen area and provided information on the layout of the house. A perimeter was established, and an entry team was formed. Officer Sachs was moved away from the driveway to a position behind cover. [REDACTED] as called out of the residence and the officers entered and cleared the residence.

At 2236 hours, officers advised medics were clear to enter the residence to assess and care for Scott. Fire personnel arrived and began providing aid to Officer Sachs at 2238 hours before entering the house to assess Scott at 2241 hours.

Officer Sachs was transported to USCD Medical Center.

Officer Yates rode in the ambulance with Scott as he was transported to Scripps Mercy Hospital. At 2305 hours, Officer Yates advised they were starting compressions. [REDACTED]

INVESTIGATION

On Tuesday, September 19, 2017 at approximately 2245 hours, I was called out to respond to an officer involved shooting at ██████ Monterey. Once on the scene I met with Professional Standards Lieutenant Don Redmond, Crimes of Violence Sergeant David Oyos, and other detectives from the unit. At approximately 0110 hours on September 20, Sergeant Adkins provided a briefing of what he knew about the incident. Additional information was provided by Officer Banales followed by Sergeant Kendricks and then Officer Valdivia. The briefing concluded at approximately 0145 hours and was followed by a walk-through of the scene provided by Officer Banales.

On September 25, 2017, Officer Sachs provided a voluntary statement and was interviewed by Detectives Sarah Sharpe and Anthony Molina of the Crimes of Violence Unit. Officer Sachs' attorney Robert Baumann was also present during the interview. For details of the interview, please see the supplemental report of Detective Sharpe. Officer Sachs' statement was consistent with the scene and evidence, to include body worn camera videos.

The investigation package consists of Chula Vista Police Department reports, which include the interviews of Officer Sachs, Officer Banales, and ██████ as well as other officers and witnesses. Also included are scene photographs, lab reports, the coroner's report, body worn camera videos, dispatch recordings, and CAD transcripts. I have reviewed all reports, videos, and recordings, as well as the expert opinion of use of force Sergeant Donte Kendricks, and found them all to be thorough and consistent.

CONCLUSIONS

The administrative review is primarily focused on adherence to department policy regarding the use of deadly force. The use of deadly force by a Chula Vista Police Officer at the time and date of this incident was specifically covered by Police Department Manual Sections 300.6(a) and (b) which stated:

300.6 DEADLY FORCE APPLICATIONS

Use of deadly force is justified in the following circumstances:

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

(b) An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the person 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 risk of serious bodily injury or death to any other person if the subject is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if an officer reasonably believes any of the following:

1. The person has a weapon or is attempting to access one and it is reasonable to believe the person intends to use it against the officer or another.
2. The person is capable of causing serious bodily injury or death without a weapon and it is reasonable to believe the person intends to do so.

It is worth noting for the purposes of any future review the Chula Vista Police Department Manual was updated eight days after this incident on 9/27/2017. The update renumbered this section as 300.4 but the verbiage is unchanged.

After being invited into the residence by [REDACTED] to continue his investigation, Officer Sachs was suddenly and violently attacked without warning by David Scott. Initially, Officer Sachs did not realize Scott was armed with a knife and actively stabbing him. Officer Sachs was able to knock Scott to the ground and moved in to take him into custody. At that time, Officer Sachs saw the knife in Scott's hand and realized he had been stabbed in the face, head, and arm. Officer Sachs disengaged and retreated, moving [REDACTED] away from Scott at the same time. Scott regained his feet and again charged Officer Sachs with the knife in hand. Officer Sachs was wounded, and his life was clearly threatened by Scott's assault. Officer Sachs responded with deadly force by firing his weapon four times. Officer Sachs ceased fire immediately upon stopping the threat.

Officer Sachs was within policy in using deadly force against the suspect.

ADDITIONAL CONCLUSIONS

This administrative review was also conducted with an eye toward adherence to policies and procedures other than deadly force, as well as a functional review of training, tactics, and equipment. Several aspects of the incident are listed below and include any criticism or recommendations if warranted.

Initial Patrol Response to Call for Service - Officers Sachs and Banales responded to [REDACTED] Melrose and spoke with the reporting party, [REDACTED]. They determined the direction for their investigation and located the suspect's residence at [REDACTED] Monterey to conduct follow up. Once at the suspect residence, Officer Banales updated their location on radio [REDACTED]. They contacted the resident who confirmed their suspicion that the suspect had mental health issues, but also indicated he was not violent, and specifically stated, "he was out of his mind yesterday". Overall their contact, investigation, and approach were handled appropriately. However, there are some areas of concern:

Officer Banales did not switch back to radio [REDACTED] (Dispatch) after updating their location.

As a result, the first call of "shots fired" was broadcast on inquiry, potentially delaying the response of additional assistance. This also necessitated a "patch" combining radio [REDACTED] causing confusion and increasing the potential for radio interference by officers on unrelated calls.

[REDACTED] appeared more like a fellow officer than a ride-along.

[REDACTED] remained close to Officers Banales and Sachs throughout the incident and was in effect, the third person in "the stack" as they entered the house. Additionally, his attire, a dark blue Chula Vista Police polo shirt with [REDACTED] embroidered on it, black pants, and a Chula Vista Police [REDACTED] hanging from a chain around his neck, could easily lead a suspect or bystander to believe that he was an officer. To prevent the potential for a ride-along to be targeted by a suspect, consideration should be given to updating the Chula Vista Police Department ride-along policy to expressly prohibit any attire which may misidentify the ride-along as an officer. Additional consideration should be given to prohibit any ride-along from entering the homes of suspects until after officers have made initial contact and determined it is safe for the ride-along.

Response to Attack by David Scott – Officer Sachs responded admirably. He was attacked suddenly and without warning with tremendous violence. It is not surprising Officer Sachs did not initially realize the suspect was armed. Even on body worn camera review, it is extremely difficult to recognize the knife without the aid of slow motion. Despite the size of Scott and the ferocity of his attack, Officer Sachs was able to knock Scott from his feet, moving the fight to where Officer Banales could assist and they would have a position of advantage. Officer Sachs, realizing that Scott was armed with a knife, loudly and clearly advised his partner about the weapon. Both officers immediately created distance and moved civilians toward safety before re-engaging Scott.

Application of Deadly Force - After creating distance, Officer Sachs was faced with an armed Scott charging him. Even though he was wounded in his dominant arm, Officer Sachs quickly removed his firearm from his department issued holster and fired four times in under 2 seconds. In reviewing the video, it appears Scott hunches after the first shot.



Officer Sachs used a Chula Vista Police Department issued Sig Sauer P320 9mm handgun (S/N 58A101470) and department issued Federal HST 147grain 9mm ammunition. Records show this was the weapon used when Officer Sachs last qualified on August 17th, 2017. When it was collected as evidence, the magazine had been removed and contained 13 cartridges. A loose cartridge which had been removed from the chamber was collected. Four spent casings were also collected, indicating that the gun was fully loaded with 18 rounds prior to the incident.

Officer Sachs' shooting was quick and accurate despite being wounded. He struck a moving suspect twice while firing rapidly. The combination of firearm and ammunition also performed as expected, stopping the threat and incapacitating the suspect with only two bullets impacting his body. There was no over-penetration as both bullets were recovered from the suspect's body.

Immediate On-Scene Post Shooting Response – Officer Sachs advised dispatch that shots had been fired on radio (██████████ Dispatch). He left the residence, which had not been cleared, to seek medical care. After reaching Officer Banales and ██████████ he asked them to request medical aid and indicated he could not hear radio traffic after losing his earpiece. Officer Banales advised shots had been fired on radio channel 3 (Inquiry) and requested medical aid. Both officers and ██████████ remained calm and relayed vital information regarding the layout of the residence and the suspect to responding officers. While officers are trained to provide aid to a wounded suspect within their abilities, in this case the injuries to Officer Sachs and the unknown status of the rest of the house precluded them from providing aid until additional resources arrived.

Neither Officer Sachs nor Officer Banales had an immediately accessible tourniquet.

As a result, when Officer Sachs requested a tourniquet for his arm, Officer Banales had to run back to the patrol vehicle to get one. This left Officer Sachs and ██████████ alone without cover. It also took far longer to obtain and apply the tourniquet than if either officer had one available on their person. In fact, over 4 minutes elapsed between Officer Sachs' request for a tourniquet and one being located and properly applied. To increase the likelihood of officers surviving life-threatening injuries, consideration should be given to updating the Police Department Policy to make tourniquets a required piece of issued equipment for all uniformed personnel. This update would also increase our ability to save the lives of civilian trauma victims.

Initial Response by Dispatch – The inquiry dispatcher received the first report of shots fired from Officer Banales and was able to communicate it immediately with her peer. The channel one dispatch then broadcast shots fired and the location before Officer Sachs called it over the air. Dispatch recognized the officers on-scene were using separate radio channels and quickly initiated a patch. They remained calm, relayed all pertinent information, and quickly reminded errant units to keep the air clear.

Initial Response by Responding Units - Emergency traffic was initiated, and a patch was created between Dispatch and Inquiry. Several units replied on the air they would be responding instead of adding themselves to the call using the MDC. Another unit attempted to give a disposition of an unrelated call before being told to contact dispatch by phone. A responding sergeant accidentally tripped the emergency button on his MDC preparing it for transport. Each of these incidents occupied valuable air time that may have hampered on-scene communication. These violations of [REDACTED] procedure were likely exacerbated by the patch between radio [REDACTED]. While a patch between radio [REDACTED] should be avoided, in this case it was required by Officer Banales' failure to return to [REDACTED] after updating his location.

Once on-scene, the responding officers quickly set up a perimeter and formed an entry team. They cleared the house and secured the suspect quickly so that medical personnel could provide aid to Scott. Medics were cleared to provide aid to Scott less than 8 minutes after the last shot was fired. Medics reached Scott less than 5 minutes after being cleared to enter. During the transport of David Scott, Officer Yates assisted in providing CPR in an attempt to save his life.

Supervision of the Scene – Sergeant Kendricks obtained a safety statement from Officer Sachs. Sergeant Meredith supervised the entry into the residence and ensured Scott received medical care. Both the suspect and Officer Sachs were accompanied to the hospital by officers. [REDACTED] was safely called out before officers entered and cleared the residence safely before quickly providing medical aid to Scott. Both the suspect and Officer Sachs were accompanied to the hospital by officers and the scene was properly secured.

No other issues or concerns were noted during this review.



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Date: January 10, 2019
To: Lieutenant Rusty Rea
From: Sergeant Donte Kendricks
Re: **Case # 1713455 UOF**

On 01/08/19, I met with Captain Collum regarding case #1713455. Captain Collum provided documents and DVDs to review which referenced the case. Captain Collum asked me to speak with Lt. Rea regarding my role in reviewing the use of force incident. I took the documents to my office and secured them.

I then called and spoke with Lieutenant Rea who formally asked me to review the force used in this case and render an expert opinion. I made the following assessment regarding the force Officer David Sachs used against suspect David Scott:

On 01/10/19, I viewed Officer Sachs and Officer Leo Banales' body worn camera recordings. I later read the case file, including detective Sarah Sharpe's written report of Sachs' statement. I determined the force used by Officer Sachs was proper and consistent with Graham V Conner, California law, Policy 300.6 (a) of the CVPD Policy Manual, his POST approved Police Academy and department in-service arrest and control training.



CVPD Arrest & Control Supervisor

Use of Force

300.1 PURPOSE AND SCOPE

This policy provides 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, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial and reasonable manner.

300.1.1 DEFINITIONS

Definitions related to this policy include:

Deadly force - Force reasonably anticipated and intended to create a substantial likelihood of causing death or very serious injury.

Force - The application of physical techniques or tactics, chemical agents or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed or restrained.

300.1.2 REQUIRED EQUIPMENT

Uniformed officers working in the field shall carry their duty weapon, TASER, O.C., and either a conventional or collapsible baton on their person at all times. Uniformed officers working in the field who are not authorized to carry the TASER shall carry their duty weapon, O.C., and either a conventional or collapsible baton on their person at all times.

300.2 POLICY

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 interactions and, when warranted, may use reasonable force in carrying out their duties.

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

The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests.

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 circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force. An officer who observes another employee use force that exceeds the degree of force permitted by law should promptly report these observations to a supervisor.

300.3 SECTION TITLE

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300.4 SECTION TITLE

300.5 USE OF FORCE

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 accomplish a legitimate law enforcement purpose.

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

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

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

300.5.1 USE OF FORCE TO EFFECT AN ARREST

Any peace officer may use reasonable force to effect an 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 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 reasonable force to effect the arrest, prevent escape or to overcome resistance (Penal Code § 835).

300.5.2 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) Immediacy and severity of the threat to officers or others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.

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- (c) Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The effects of drugs or alcohol.
- (e) Subject's mental state or capacity.
- (f) Proximity of weapons or dangerous improvised devices.
- (g) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (h) The availability of other options and their possible effectiveness.
- (i) Seriousness of the suspected offense or reason for contact with the individual.
- (j) Training and experience of the officer.
- (k) Potential for injury to officers, suspects and others.
- (l) Whether the person appears to be resisting, attempting to evade arrest by flight or is attacking the officer.
- (m) The risk and reasonably foreseeable consequences of escape.
- (n) The apparent need for immediate control of the subject or a prompt resolution of the situation.
- (o) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (p) Prior contacts with the subject or awareness of any propensity for violence.
- (q) Any other exigent circumstances.

300.5.3 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Officers may only apply those pain compliance techniques for which they have successfully completed department-approved training. Officers utilizing any pain compliance technique should consider:

- (a) The degree to which the application of the technique may be controlled given the level of resistance.
- (b) Whether the person can comply with the direction or orders of the officer.
- (c) Whether the person has been given sufficient opportunity to comply.

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

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300.5.4 CAROTID CONTROL HOLD

The proper application of the carotid control hold may be effective in restraining a violent or combative individual. However, due to the potential for injury, the use of the carotid control hold is subject to the following:

- (a) The officer shall have successfully completed department-approved training in the use and application of the carotid control hold.
- (b) The carotid control hold may only be used when circumstances perceived by the officer at the time indicate that such application reasonably appears necessary to control a person in any of the following circumstances:
 1. The subject is violent or physically resisting.
 2. The subject, by words or actions, has demonstrated an intention to be violent and reasonably appears to have the potential to harm officers, him/herself or others.
- (c) The application of a carotid control hold 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
- (d) Any individual who has had the carotid control hold applied, regardless of whether he/she was rendered unconscious, shall be promptly examined by paramedics or other qualified medical personnel and should be monitored until examined by paramedics or other appropriate medical personnel.
- (e) 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 control hold and whether the subject lost consciousness as a result.
- (f) Any officer attempting or applying the carotid control hold shall promptly notify a supervisor of the use or attempted use of such hold.
- (g) The use or attempted use of the carotid control hold shall be thoroughly documented by the officer in any related reports.

300.6 DEADLY FORCE APPLICATIONS

Use of deadly force is justified in the following circumstances:

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

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- (b) An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the person 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 risk of serious bodily injury or death to any other person if the subject is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if an officer reasonably believes any of the following:

1. The person has a weapon or is attempting to access one and it is reasonable to believe the person intends to use it against the officer or another.
2. The person is capable of causing serious bodily injury or death without a weapon and it is reasonable to believe the person intends to do so.

300.6.1 SHOOTING AT OR FROM MOVING VEHICLES

Shots fired at or from a moving vehicle are rarely effective. Officers should move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others.

Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle.

300.7 REPORTING THE USE OF FORCE

Any use of 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 officer should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances. To collect data for purposes of training, resource allocation, analysis and related purposes, the Department may require the completion of additional report forms, as specified in department policy, procedure or law.

300.7.1 NOTIFICATION TO SUPERVISORS

Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances:

- (a) The application caused a visible injury.
- (b) The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.
- (c) The individual subjected to the force complained of injury or continuing pain.
- (d) The individual indicates intent to pursue litigation.
- (e) Any application of a TASER device or control device.

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- (f) Any application of a restraint device other than handcuffs, shackles or belly chains.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was struck or kicked.
- (i) An individual alleges any of the above has occurred.

300.7.2 WATCH COMMANDER RESPONSIBILITY

The Watch Commander shall monitor the use of all use of force incidents, and shall ensure training on the use of control devices is provided as needed. The Watch Commander shall respond to inquiries or notification of areas of concern with specific incidents from the Use of Force Coordinator.

300.7.3 USE OF FORCE COORDINATOR RESPONSIBILITY

The Use of Force Coordinator shall review each application of a use of force by any personnel. This review should consist of an independent review of all Use of Force Reports or other information for consistency, tactics, and adherence to current legal standards and this policy manual. Incidents giving rise to questions or areas of concern should be forwarded to the shift Watch Commander, along with an explanation of the areas of concern and a request for answers or other actions. Some examples of other actions may include, but are not necessarily limited to, a critique of the incident with involved personnel, providing counseling to involved personnel, or providing additional training to involved personnel.

300.8 MEDICAL CONSIDERATION

Prior to booking or release, medical assistance shall be obtained for any person who exhibits signs of physical distress, who has sustained visible injury, expresses a complaint of injury or continuing pain, or who was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed.

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 practicable, should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

The on-scene supervisor, or if not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called "excited delirium"), or who require a protracted physical encounter with multiple

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officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away if appropriate.

300.9 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 officers. 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) When possible, separately obtain a recorded interview with the subject 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 has been completed or first aid has been rendered, 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 be retained until all potential for civil litigation has expired.
- (e) Identify any witnesses not already included in related reports.
- (f) Review and approve all related reports.
- (g) Determine if there is any indication that the subject may pursue civil litigation.
 1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.
- (h) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance or if for any reason further investigation may be appropriate.

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.

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300.9.1 WATCH COMMANDER RESPONSIBILITY

The Watch Commander shall review each use of force by any personnel within his/her command to ensure compliance with this policy and to address any training issues.

300.10 TRAINING

Officers will receive periodic training on this policy and demonstrate their knowledge and understanding.