

County of Santa Clara

Office of the Sheriff

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MEMORANDUM

Laurie Smith
Sheriff

TO : Honorable Members of the Board of Supervisors

FROM : Laurie Smith, Sheriff 

SUBJECT : Referral Relating to Policing, Use of Force, and Emergency Response

DATE : June 18, 2020

We are heartbroken over the murder of George Floyd by a man wearing a uniform. Since that tragic incident, communities across our nation have voiced their concerns and demands for change within law enforcement. We want to assure the public that the Santa Clara County Sheriff's Office is listening, and we support positive change.

The Santa Clara County Sheriff's Office is dedicated to the preservation of public safety by providing innovative and progressive service in partnership with the community. Our mission and our core values have been the guiding principle for our philosophy as an agency, including the development and implementation of our training, policies, and culture. As such, most of the recommendations made in the referral are existing policy and/or practice within the Sheriff's Office.

In response to the "8 Can't Wait" movement, Sheriff Laurie Smith and her Administration have been working in collaboration with our unions to review our current policies and make any necessary revisions and reforms. Our current policies and training have always embraced our core values and are in line with all eight reforms, most of which have been our practice for years. Recently, the carotid restraint was removed from our use-of-force continuum and is no longer a less lethal option.

Recommendation	Implementation Status
1. Duty to Intervene	Intervention and duty to report observed use of force, including any instances of excessive force, is required.
2. Ban Chokeholds and Strangleholds	The use of chokeholds and strangleholds have always been expressly prohibited. The use of the Carotid Restraint has been prohibited except in rare, life and death circumstances

	where deadly force is justified. The Sheriff's Office has removed the Carotid Restraint as a less lethal option from our policy and state mandated training.
3. Require De-Escalation	De-escalation and interpersonal communication training, including methods that use time, distance, cover, and concealment, to avoid escalating situations and to minimize use of force are emphasized in our policy and training.
4. Require Use of Force Continuum	Our policy and training emphasize a use of force continuum and requires only the degree of force which is reasonable under the circumstances to protect themselves or others.
5. Require Warning Before Shooting	Our policy expressly requires a verbal warning when feasible. This training is reinforced through scenario training and verbal commands are required during all range qualifications.
6. Ban Shooting at Moving Vehicles	Our policy prohibits shooting at a moving vehicle, except in rare circumstances when a life-threatening situation requires immediate action to stop a deadly threat and protect human life.
7. Exhaust All Alternatives Before Shooting	Deputies may only use deadly force or discharge their firearm after all reasonable and feasible means of apprehension and control have been exhausted. Our policy and training emphasize the use of less lethal options.
8. Require Comprehensive Reporting	Comprehensive use of force reporting is required by policy, including all involved deputies and witnesses. Body worn camera and supervisory review are required for all instances of use of force.

In addition, it was requested to report on compliance with California law:

Legislation	Summary	Implementation Status
SB 230 (Caballero) - Law enforcement: use of deadly force: training: policies (2019-2020)	Requires law enforcement agencies to maintain a policy by January 1, 2021 that provides guidelines on the use of force, utilizing de-escalation	The Sheriff's Office Use of Force General Order and Custody Bureau Use of Force Policy have included many of the requirements and training points enumerated within SB 230 based on case law and best

	techniques and other alternatives to use of force, specific guidelines for the application of deadly force, and factors for evaluating and reviewing all use of force incidents.	practices. The Sheriff's Office has recently made updates to the General Order to include changes required by SB 230 and is working to revise the Custody Bureau Policy with plaintiffs' counsel as required by the Court by January 1, 2021, as required by statute.
AB 392 (Weber) - Peace officers: deadly force (2019-2020)	Revises the standards for use of deadly force by peace officers.	The Sheriff's Office has already implemented changes to training to incorporate AB 392, including academy use of force and perishable skills training.

Additional recommendations were made on police reform topics, which we have addressed below. Once again, most of the recommendations are current practice or policy:

Recommendation	Implementation Status
1. Prohibiting the hiring of enforcement and correctional officers with a history of excessive force or misconduct complaints (including lateral transfers).	The Sheriff's Office has a comprehensive hiring process that mandates a pre-employment background investigation for all peace officers, as required by Government Code §1031 and the California Commission on Peace Officer Standards and Training (POST). Our background process is comprehensive and allows executive staff to make informed hiring decisions. A history of excessive force, misconduct, violence, racism, other forms of bigotry, or any variance from our core values are automatically disqualifying.
2. Making public a list of all lethal and less-lethal armaments currently owned by County departments.	The Sheriff's Office concurs with this recommendation in concept. We will review ways that this information can be shared easily with the public.
3. Limiting the acquisition of "military-style" weaponry and equipment.	The Sheriff's Office does not procure military specific equipment; however, we do strongly believe in providing our first responders with the appropriate safety equipment and training to protect themselves and our community from harm. Proper equipment enhances the safety of officers who are often called upon to respond to dangerous or violent situations. Not being properly equipped can have life-threatening consequences, both for the law

	<p>enforcement personnel and the public they have sworn to protect. This equipment includes rescue and defensive equipment, which are critical tools for responding to violent situations while allowing for de-escalation and safe resolutions. Proper equipment and training have been critical to our response to many local tragedies, including the Gilroy Garlic Festival Mass Shooting, Lehigh Cement Mass Shooting, and many others.</p>
<p>4. Banning or limiting the use of tear gas and rubber bullets as a crowd control technique.</p>	<p>The Sheriff’s Office has rigid and restrictive policies on the use of any less lethal force options. Sheriff’s Office Personnel are trained on crowd control and management methods, as required by Penal Code §13514.5. The fundamental role of law enforcement is the protection of the rights all people have to peacefully assemble, demonstrate, protest, or rally. In turn, law enforcement also has the responsibility to ensure public safety and to protect the lives and property of all people when incidents become violent.</p>
<p>5. Restructuring County emergency response to ensure that the County employees best trained and suited to handle a given situation are able to do so.</p>	<p>The Sheriff’s Office has always had a service-based philosophy and responds to most calls, both emergency and non-emergency, which we believe has developed a high-level of police legitimacy in the communities we serve. However, all too often society’s failures are heaped upon the backs of peace officers to resolve. The Sheriff’s Office embraces creative ways to resolve emergencies, particularly mental health crises, using supplemental resources. We continue to call for a 24x7 mobile crises team to work collaboratively with law enforcement to provide mental health services and crises response in the field, consistent with successful models that have been used in many other jurisdictions.</p>

We recognize the confidence of the public we serve is essential. With that comes the need to constantly review and reform how we keep the public safe. However, we cannot overlook the dangers that law enforcement officers face each and every day they serve and protect our communities. We are eager to have meaningful discussions with the community and County

leadership about these issues to determine what is the best for the people we serve. We thank everyone for their continued support and remain committed to providing the highest level of public safety and service to Santa Clara County.