



# Proposed Policy 300 – Use of Force for Berkeley Police Department

Presentation to the City Council • July 23, 2020

# Presenters

- Kitty Calavita, Chairperson, Police Review Commission (PRC)
- Commissioner George Perezvelez, Chairperson, PRC Use of Force Policy Subcommittee
- Commissioner Izzy Ramsey, Member, PRC Use of Force Policy Subcommittee
- Katherine Lee, PRC Officer and Secretary to the PRC

# City Council's Oct. 31, 2017 directives regarding a use of force policy

- a. *Enhance BPD's use of force policy statement.*
- b. *Create a definition of use of force.*
- c. *Require that all uses of force be reported.*
- d. *Categorize uses of force into levels for the purposes of facilitating the appropriate reporting, investigation, documentation and review requirements.*
- e. *Require Use of Force Reports to be captured in a manner that allows for analysis.*
- f. *Require that the Department prepare an annual analysis report relating to use of force to be submitted to the Chief of Police, Police Review Commission and Council.*

# “8 Can’t Wait”

## In General Order U-2

- Chokeholds and strangleholds banned
- Verbal warning required before shooting
- Duty to intervene when seeing another officer use excessive force
- UOF Continuum (but not in BPD’s Policy 300)

## Added and/or Enhanced in proposed Policy 300

- Attempts at de-escalation of all situations
- Exhaustion of alternatives before using lethal force
- Ban on shooting at moving vehicles absent imminent threat
- Requiring reporting of all uses of force

# Enhanced use of force policy statement and definitions

- Sanctity of life (Sec. 300.1) – PRC enhanced BPD’s statement and moved to first section of policy, to stress importance.
- Use of force standard (Sec. 300.1.2) – (discussed in more detail later)
- Core principles (Sec. 300.1.3) – BPD already embraces many of these principles. This serves as a public declaration of the philosophical foundation of the use of force policy.
- Definitions (Sec. 300.1.4) – Force, non-lethal force, less-than-lethal force, and deadly force are defined.

# Minimal use of force and minimal reliance standard

- Established in the use of force standard (Section 300.1.2) and repeated elsewhere in policy.
- Requiring officers to use the minimum amount of force that is objectively reasonable, objectively necessary, and proportional is a more strict standard than the minimum standard set forth by the U.S. Supreme Court in *Graham v. Connor*.

# Objectively reasonable, objectively necessary, and proportional

- Found in the use of force standard and throughout the policy.
- Together with the minimal use of force, establishes a more stringent standard for the application of force.
- Reflects values of the Berkeley community without increasing potential liability of the City.

# Use of Deadly Force (Section 300.4)

- Limits allowable use of deadly force to situations whether death or serious bodily injury is imminent, thus reflecting emphasis on the sanctity of life.
- Defines serious bodily injury more narrowly than in the state Penal Code.
- Exceeds requirements of AB 392, setting new standard for use of deadly force in California effective Jan. 1, 2020.
- Does *not* include requirement to exhaust all reasonable alternatives. The narrowly defined allowable use of deadly force should be sufficient to protect the public.



# Use of Force Continuum (Section 300.3.4)

- Concept: there are reasonable and proportional responses to various types of threats officers face.
- Force used need not be sequential, if lower levels are not appropriate.
- Added as requested by Council.
- Is one of the “8 Can’t Wait” policy reforms.

# Reporting Levels

## (Section 300.6.2)

- BPD's draft policy expanded on the types of force that are reportable; PRC's draft expands further.
- PRC draft defines four levels of force. These facilitate the appropriate reporting, documentation, investigation, and review of uses of force.
- Added as requested by Council.
- Comprehensive reporting is one of the "8 Can't Wait" policy reforms.