



Staff Report

TO: City Council
FROM: Sean Thuilliez, Chief of Police
DATE: July 21, 2020
SUBJECT: Analysis of Use of Force Policies of the Beaumont Police Department

Background and Analysis:

On Monday June 15, 2020, the California Attorney General (AG) issued a press release calling for broad police reforms. Within this document were nine specific recommendations for police departments to use to evaluate and amend their use of force policies. Omitted from this press release were the two landmark use of force and training bills passed in California – AB392 and SB230. These two pieces of legislation further advanced the national standard that California law enforcement continues to set in the arenas of training, use of force, and transparency in policing.

The following areas were identified by the AG – intervention, chokeholds and carotid restraints, de-escalation, proportionality, verbal warnings, moving vehicles, deadly force as last resort, comprehensive reporting, and canine use. This report focuses on comparing the AG’s recommendations to the policies of the Beaumont Police Department (BPD).

Intervention

The AG summarizes as, “... all agencies should have a policy requiring officers to intervene to stop another officer from using excessive or unnecessary force.” BPD policy states, “*Policy 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.*”

Ban Chokeholds and Carotid Restraints

The AG summarizes as, “All agencies should have a policy prohibiting the use of chokeholds, strangleholds, carotid restraints, or other restraints, or body positioning that

is designed to, or which may foreseeably result in, the cutting off of blood or oxygen to the person.”

BPD policy states, “*Policy 303.3.4 Carotid Control Hold – This policy has been removed from BPD policy.*”

De-escalation

The AG summarizes as, “... all agencies should require officers to de-escalate situations, when possible, before using force.”

BPD Policy states, “*Policy 466.6 De-Escalation – Officers should consider that taking no action or passively monitoring the situation may be the most reasonable response to a mental health crisis. Once it is determined that a situation is a mental health crisis and immediate safety concerns have been addressed, responding members should be aware of the following considerations and should generally,*” and

“*Policy 308.9 Kinetic Energy Projectile Guidelines – This department is committed to reducing the potential for violent confrontations. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury and can be used in an attempt to de-escalate a potentially deadly situation.*”

Proportionality

The AG summarizes as, “All agencies should provide express guidance on proportionality to ensure officers understand the relationship that should exist between the force they use, and the threat presented in a particular situation. The guidance may include adopting a spectrum, chart, chart, or matrix, which can take the form of a graphical representation.”

BPD Policy states, “*Policy 300.4 Deadly Force Applications – If an objectively reasonable officer would consider it safe and feasible to do so under the totality of the circumstances, officers should evaluate the use of other reasonably available resources and techniques when determining whether to use deadly force. The use of deadly force is only justified in the following circumstances (Penal Code § 835a). Refer to attached policy for further restrictions on the use of deadly force.*”

Verbal Warnings

The AG summarizes as, “All agencies should require officers to give verbal warning, when feasible, before using force, whether lethal or less-lethal.”

BPD Policy states, “*Policy 308.9.2 Control Devices – Control devices may be used when a decision has been made to control, restrain or arrest a subject who is violent or*

who demonstrates the intent to be violent, and the use of the device appears reasonable under the circumstances. When reasonable, a verbal warning and opportunity to comply should precede the use of these devices.”

Moving Vehicles

The AG summarizes as, “... all agencies should prohibit officers from discharging a firearm at the operator or occupant of a moving vehicle unless the operator or occupant poses an imminent threat of death or serious bodily injury to the public or officer. All agencies should also prohibit officers from discharging a firearm from their moving vehicle, providing only for exceptions that require such actions to end an imminent threat to human life.”

BPD policy states, “*Policy 300.4.1 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.*”

Deadly Force as Last Resort

The AG summarizes as, “... consistent with the core concepts of de-escalation, necessity, and proportionality, all agencies should require that deadly force be used only as a last resort when feasible alternatives have been exhausted or are not feasible to protect the safety of the public and police officers.”

BPD policy states, “*Policy 300.2 Use of Force – 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,*” and

“Policy 300.3.2 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.”

Comprehensive Reporting

The AG summarizes as, “... all agencies should create a general order dedicated to use of force reporting and investigations, requiring comprehensive reporting that includes both uses of force and threats of force.”

BPD policy states, “Policy 300.5 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.”

Canine Use

The AG summarizes as, “... all agencies should discontinue the use of ‘find and bite’ and ‘bite and hold’ techniques and instead implement ‘find and bark’ or ‘circle and bark’ techniques, where canines are trained and deployed to alert by barking, rather than biting a suspect as a first response, and then circling and barking until the handler takes control.”

BPD Policy - Currently the BPD does not deploy handler protection canines or police service dogs (PSD)s. However, the Department is not in agreement with the AG recommendation based on current case law; the courts have opined on many cases that the use of police dogs does not constitute deadly force, further stating that the use of police dogs trained in the “bite and hold” technique generally does not constitute deadly force.

Fiscal Impact:

None

Recommended Action:

Receive and file.