

OFFICE OF THE CHIEF OF POLICE

SPECIAL ORDER NO. 3

April 4, 2019

APPROVED BY THE BOARD OF POLICE COMMISSIONERS ON March 26, 2019

SUBJECT: COMPLAINT RELATED TO A NON-CATEGORICAL USE OF FORCE – REVISED; RECLASSIFICATION OF A LEVEL II USE OF FORCE INVESTIGATION TO A LEVEL I – ESTABLISHED; REPORTABLE NON-CATEGORICAL USE OF FORCE INCIDENTS – RENAMED AND REVISED

PURPOSE: The purpose of this Order is to incorporate reporting procedures consistent with the Training Evaluation and Management System II (TEAMS II) and the TEAMS II, Use of Force System.

PROCEDURE: Attached to this Order are Department Manual Sections 3/830.10, *Complaint Related to a Non-Categorical Use of Force*, 3/830.15, *Reclassification of a Level II Use of Force Investigation to a Level I*, and 4/245.05, *Categories and Investigative Responsibilities For Use of Force*, with the revisions indicated in italics.

AMENDMENTS: This Order amends Sections 3/830.10, 4/245.05 and adds Section 3/830.15 to the Department Manual.

AUDIT RESPONSIBILITY: The Commanding Officer, Audit Division, shall review this directive and determine whether an audit or inspection shall be conducted in accordance with Department Manual Section 0/080.30.



MICHEL R. MOORE
Chief of Police

Attachments

DISTRIBUTION "D"

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VOLUME III
Revised by Special Order No. 3, 2019**

830.10 COMPLAINT RELATED TO A NON-CATEGORICAL USE OF FORCE. When a complaint is related to a Non-Categorical *Use of Force (NCUOF)*, the investigating supervisor shall notify his or her watch commander or officer in charge (*OIC*) immediately. The watch commander or *OIC* shall assess the *incident* and determine if immediate notification to Internal Affairs Group (IAG) is required.

Consistent with policy, a public complaint shall be accepted from any source, including the subject of the use of force. If IAG does not respond and assume responsibility for investigating the incident as a personnel complaint, the supervisor shall complete a (public) Complaint Form, Form 01.28.00, in addition to the use of force investigation report. However, where a subject of force does not request to make a public complaint (i.e., unauthorized or excessive force) and there is no independent evidence of misconduct related to the force, any statements that materially differ, shall be addressed within the NCUOF investigation as a Level I investigation. Any separate allegations of misconduct unrelated to the NCUOF (e.g., biased policing, discourtesy, unlawful search) shall be documented in a personnel complaint consistent with current policy. A complaint unrelated to unauthorized or excessive force does not require a reclassification of a Level II use of force investigation to a Level I.

Notes: Versions of events that differ from one another do not *necessarily* amount to an allegation of misconduct for purposes of determining preliminary investigative responsibility. In such cases, the supervisor should conduct a thorough use of force investigation and document the conflicting statements in accordance with *NCUOF* reporting guidelines.

Neither out-of-policy recommendations nor out-of-policy findings for the use of force automatically require a personnel complaint. Supervisors shall ensure the findings outcome is consistent with Department Manual Section 3/793, Adjudicating a Non-Categorical Use of Force Incident.

830.15 RECLASSIFICATION OF A LEVEL II USE OF FORCE INVESTIGATION TO A LEVEL I. *When a public personnel complaint is generated (i.e., unauthorized or excessive force) prior to the final adjudication of a Level II Use of Force (UOF) incident by Critical Incident Review Division (CIRD), including complaints related to civil litigation, regardless of the source of the complaint, the Level II UOF investigation shall be redirected to the original investigating entity and reclassified as a Level I, consistent with Department Manual Section 4/245.11, Non-Categorical Use of Force Reporting Levels. Reclassification should be completed as soon as possible and can be directed by the commanding officer of the respective Area or bureau. In such cases, the investigating entity shall make every effort to complete a Level I investigation in accordance with Department Manual Section 4/245.11.*

Note: *When possible, all allegations of misconduct related to the same Non-Categorical Use of Force incident should be added to the original public personnel complaint. The investigating entity shall ensure the completed investigation is routed to the concerned Area/division commanding officer for adjudication.*

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245.05 CATEGORIES AND INVESTIGATIVE RESPONSIBILITIES FOR USE OF FORCE. A reportable use of force incident is classified as either a *Categorical Use of Force (CUOF)* or a *Non-Categorical Use of Force (NCUOF)*. Categorical uses of force are outlined in Department Manual Section 3/794.10, *Categorical Use of Force Investigations*. *Force Investigation Division (FID)* is responsible for the investigation of all CUOF incidents. All other reportable uses of force are classified as NCUOF incidents, including any unintentional (inadvertent or accidental) head strike(s) with an impact weapon or device which does not result in serious bodily injury, hospitalization or death and is approved to be handled as a NCUOF by the *Commanding Officer, FID*. Advice regarding the reportability or categorization of a use of force should be requested from FID or *Critical Incident Review Division (CIRD)* directly or via the *Department Operations Center*.

Non-Categorical Use of Force Incident – Defined. A NCUOF is defined as an incident in which any on-duty or off-duty Department employee whose occupation as a Department employee is a factor, uses physical force or a control device to:

- Compel a person to comply with the employee's direction;
- Defend themselves;
- Defend others;
- Effect an arrest or detention;
- Prevent escape; or,
- Overcome resistance.

Note: It is the policy of the Department that personnel may use only that force which is objectively reasonable.

The following incidents are not reportable NCUOF incidents:

- Any incident investigated by FID (Department Manual Section 3/794.10);
- The use of a C-grip, firm grip, or joint lock, which does not result in an injury or complained of injury to the subject;
- The use of a joint lock walk-down or body weight to overcome a subject's passive resistance which does not result in an injury or complained of injury to the subject;
- In a crowd control situation, a use of force report is not required when officer(s) become involved in an incident where force is used to push, move, or strike individuals who exhibit unlawful or hostile behavior and who do not respond to verbal directions by the police. This applies only to officers working in organized squad and platoon sized units directly involved in a crowd control mission. Additionally, should force be utilized under these circumstances, officers shall notify their immediate supervisor of the use of force once the tactical situation has been resolved. The supervisor shall report the action on the Incident Command System (ICS), Form 214(Activity Log), or as directed by the incident commander. When a suspect has been taken into custody, the booking number or Division of Records (DR) number of the related report shall be cross-referenced on the ICS Form; and,

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Note: The use of chemical agents, including OC on a crowd as a whole, during crowd control situations shall be approved by a commander or above.

- *The discharge, including tactical discharge, of a projectile weapon (e.g., beanbag shotgun, 37mm or 40mm projectile launcher or Compressor Air Projectile System), electronic control device (Taser), or any chemical dispenser that does not make contact with an individual or their clothing is not a reportable use of force.*

Note: Such incidents shall be reported on an Employee's Report, Form 15.07.00, and submitted to the *employee's* commanding officer for review and appropriate action. After all risk management, misconduct, or policy issues are identified, the *Employee's Report* shall be forwarded to *Personnel and Training Bureau and CIRD* for review and retention. *A copy can be forwarded to CIRD@lapd.lacity.org.*

A use of force report is required when an officer(s) becomes involved in an isolated incident with an individual during a crowd control situation, which goes beyond the mission of the skirmish line.