



BUREAU OF FIRE INVESTIGATION

Title: San Francisco Fire Department Weapons and Use of Force Policy

Date: December 1, 2009 (Last Revision November 13, 2003)

H-6 Fire Investigators are required to carry a firearm issued by the San Francisco Police Department in the performance of their duties after having received the appropriate training and meeting the requirements below. It is the responsibility of the BFI officer(s) to ensure that newly assigned members receive the appropriate training as soon as possible and practical, based on availability of training and funding. All BFI personnel shall familiarize themselves with the regulations listed below and shall comply with them.

I. GENERAL POLICY

A.) Firearms Issuance: Prior to the issuance of firearms by the San Francisco Police Department to SFFD members, the Fire Investigator and the BFI officer shall verify that the following requirements have been successfully achieved by the member:

1. Valid PC 832 Arrest and PC 832 Firearms Certification (Classroom and Range) OR P.O.S.T. Peace Officer Certification
2. Background Check by SFPD or an SFFD authorized outside agency
3. Psychological Examination by an SFFD authorized outside agency
4. Successful completion of SFPD Range training
5. Successful completion of SFPD or P.O.S.T. certified training in the Use of Force

Additionally, the BFI officer shall provide review with the member copies of the pertinent sections of the California Penal Code (830.37 (a), 834, 835, 835(a), 836.1, 836.2), as well as a personal copy of this policy. The member shall sign a statement that he or she has received this material and has met the pre-requisites listed above before accepting a firearm from the SFPD.

B.) Relinquishment of Weapons: At the time of a member's retirement, reassignment from the BFI, or any type of relinquishment of Peace Officer status, the member shall return the SFPD issued firearm (with associated equipment) to the SFPD Rangemaster and the SFFD badge (star), handcuffs, liquid chemical agent, and authorized impact to the BFI officer. The member shall forward an SFFD General Form report recording this transaction through his or her direct supervisor to the Fire Marshal.

C.) Requirement to Carry Issued Equipment: While performing duties in the field, members shall carry the following equipment: SFFD identification card, SFFD badge (star), handcuffs, liquid chemical agent, authorized impact weapon (Yawara stick), spare ammunition clip, and authorized firearm. While in quarters of the Arson Task Force, members shall keep all weapons either stored in the designated weapons locker or properly holstered.

Only SFPD issued ammunition shall be used in SFPD issued firearms.

D.) Storage of Equipment when Off Duty: Equipment listed in item C above, with the exception of their SFFD badge (star), shall be stored in the designated weapons locker when members are not on duty.

EXCEPTION: When members are at the SFPD range in an off duty status.

E.) Qualification: The BFI officer shall coordinate qualification requirements with the SFPD Rangemaster. All members shall qualify approximately every six months (January and July) and at least two times per year at the SFPD Range. It is each member's responsibility to keep current on range qualification. Members are to be aware of monthly responsibilities regarding weapons and training as outlined on the Bulletin Board located in the Weapons Room. All members shall comply with the designated training in a timely manner.

F.) Advanced Officer Training: All members shall complete the required Advanced Officer Training approximately every two years, as scheduled by the BFI Officer through SFPD.

G.) Additional responsibilities: Members issued a firearm by the SFPD shall be responsible for its security, cleanliness, and maintenance at all times. Only the SFPD Range Staff shall perform any repairs or modifications to weapons. No unauthorized modifications to an SFPD issued weapon will be permitted.

A member shall immediately report a lost or stolen Department issued weapon to the SFPD and shall have a police report initiated. Such member shall also file a General Form Report through proper channels to the Chief of Department immediately. The report shall include a complete description of the weapon (including serial number), and all facts surrounding the loss or theft. The General Form Report shall include a copy of the Police Report.

II. Use of Force Policy

A.) Policy. The purpose of this order is to set forth the circumstances under which investigators may resort to the use of force. The order also outlines procedures for reporting and evaluating incidents involving the use of force.

1.) It is the policy of the San Francisco Fire Department to accomplish the Peace Officer mission as effectively as possible with the highest regard for the dignity of all

persons and with minimal reliance upon the use of physical force. The use of physical force shall be restricted to circumstances authorized by law and to the degree minimally necessary to accomplish a lawful Peace Officer task.

2.) Fire Investigators are occasionally confronted with situations where control must be exercised to effect arrests and to protect the public safety. Control may be achieved through advice, warnings, and persuasion, or by the use of physical force. While the use of reasonable physical force may be necessary in situations that cannot be otherwise controlled, force may not be resorted to unless other reasonable alternatives have been exhausted or would clearly be ineffective under the particular circumstances.

3.) Fire Investigators are permitted to use whatever force is reasonable and necessary to protect others or themselves, but no more. The purpose of this policy is not to restrict investigators from using sufficient force to protect themselves or others, but to provide general guidelines under which force may be used. If exceptional circumstances occur which are not contemplated by this order, investigators should use any force reasonably necessary to protect themselves or others; however, they must be able to articulate the reasons for employing such force.

B.) CATEGORIES OF FORCE TO EMPLOY (IN ASCENDING ORDER OF GRAVITY)

1.) When the use of force is necessary and appropriate, Fire Investigators shall, to the extent possible, utilize an escalating scale of options and not employ more forceful measures unless it is determined that a lower level of force would not be adequate, or such a level of force is attempted and actually found to be inadequate. The scale of options, in order of increasing severity, is set forth below:

- a.) Verbal Persuasion
- b.) Physical Control (e.g., passive resister, bent wrist control, excluding the carotid restraint)
- c.) Liquid Chemical Agent
- d.) Carotid Restraint
- e.) Department Authorized Impact Weapon
- f.) Firearm

It is not the intent of the order to require Fire Investigators to try each of the options before escalating to the next. Clearly, good judgment and the circumstances of each situation will dictate the level at which an investigator will start. Investigators using any type of force are accountable for its use.

C.) REASONABLE FORCE

1.) Fire investigators must occasionally employ the use of force to effect arrests and ensure the public safety. It is not intended that any suspect should ever be allowed to be the first to exercise force, thus gaining an advantage in a physical confrontation. Nothing in this order should be interpreted to mean that an investigator is required to engage in prolonged hand-to-hand combat with all its risks before resorting to the use of force that will more quickly, humanely and safely bring an arrestee under physical control.

2.) Penal Code Section 835a provides that, *“Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the 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 of the person being arrested; nor shall such officer be deemed the aggressor or lose his/her right to self defense by the use of reasonable force to effect the arrest, or to prevent escape, or to overcome resistance.”*

D.) CIRCUMSTANCE JUSTIFYING THE USE OF FORCE

1.) Investigators may use force in the performance of their duties in the following circumstances:

- a.) To prevent the commission of a public offense.
- b.) To prevent a person from injuring himself/herself.
- c.) To effect the lawful arrest/detention of persons resisting or attempting to evade that arrest/detention.
- d.) In self-defense or in the defense of another person.

2.) Before using force, the investigators should consider these questions.

- a.) What actions on the part of the suspect justify the use of force?
- b.) What crime is being or has been committed?
- c.) Does the situation require the immediate use of force?

E. VERBAL PERSUASION AS A MEANS OF EFFECTING CUSTODY

- 1.) The practice of courtesy in all public contact encourages understanding and cooperation; lack of courtesy arouses resentment and often physical resistance. Simple directions which are complied with while you merely accompany the subject are by far the most desirable method of dealing with an arrest situation. Control may be achieved through advice, persuasion and warnings before resorting to actual physical force.
- 2.) The above should not be construed to suggest that you should ever relax and lose control of a situation, thus endangering your personal safety or the safety of others. Fire Investigators are permitted to use that force which is reasonable and necessary to protect themselves from bodily harm.

F.) USE OF PHYSICAL CONTROL TO ACCOMPLISH CUSTODY

- 1.) Frequently, subjects are reluctant to be taken into custody and offer some degree of physical resistance. Normally all that is required to overcome the resistance is physical strength and skill in defensive tactics, e.g., passive resister, bent wrist control.
- 2.) Defensive tactics are techniques intended for use when weapons are not available or their use is inadvisable or unreasonable under the circumstances. You must, however, ensure that you are capable of utilizing physical skills to subdue a person. Good judgment is extremely important in deciding which tactics to use and how much force to apply. The force used must be necessary.
- 3.) When confronted with a situation that may necessitate the use of physical control, additional cover law enforcement shall be requested prior to the contact.
- 4.) In encountering physical resistance and/or assault, an investigator's primary goal is to control the situation. The level of force encountered determines what form of defense should be exercised. When conditions permit, the best means of controlling a subject is by the imposition of physical restraint.

a.) Choking by means of placing pressure on the subject's trachea is a prohibited practice.

b.) Rendering a subject unconscious by applying pressure to the carotid artery is permissible only when lesser types of restraint would be ineffective.

G.) USE OF LIQUID CHEMICAL AGENT TO ACCOMPLISH CUSTODY

1.) Liquid chemical agent is a non-lethal device designed to subdue a person by projecting a specially formulated liquid onto the face. It is not designed to replace the police revolver or baton. Liquid chemical agent is a defensive weapon intended for use when attempting to subdue an unarmed attacker or to overcome resistance likely to result in injury to either the suspect or the investigator.

2.) In most instances, liquid chemical agent will reduce or eliminate the necessity for greater physical force to effect the arrest. Every investigator should be equipped with liquid chemical agent and, when practical to do so, should use it rather than the baton or carotid restraint.

3.) **MEDICAL TREATMENT.** If a chemical agent is utilized, members shall immediately request an ambulance for medical assistance. Persons who have had a chemical agent sprayed on their faces shall have their faces washed and their eyes flushed with clean water as soon as possible. If a police unit is not on the scene, one shall be requested immediately to initiate a report.

4.) **MONITORING SUBJECTS.** Investigators shall ensure that any person who has been sprayed with Mace or O.C. is kept under direct visual observation until he/she has been medically evaluated by ambulance personnel. If an ambulance is unavailable or the delay will be excessive, SFPD shall be requested to transport the exposed subject to SFGH for medical evaluation.

5.) **BOOKING FORM.** Persons who have been sprayed with liquid chemical agent shall have that noted on the booking form.

H.) USE OF CAROTID RESTRAINT TO ACCOMPLISH CUSTODY

1.) Carotid restraint, when properly applied, is a very effective means of subduing a violent subject; however, caution must be used in its application. The investigator applying the hold must attempt to ensure the hold does not slip into bar arm trachea choke.

2.) Carotid restraint is an acceptable use of force in the following situations:

a.) The investigator is physically attacked.

b.) To stop a physical attack on another person.

c.) The investigator has attempted a lesser level of force and found it to be inadequate.

d.) In the investigator's best judgment, having evaluated the particular circumstances, a lesser level of force would be inadequate.

3.) **MEDICAL TREATMENT.** Investigators finding it necessary to apply the carotid restraint must monitor the subject's vital signs closely. Additionally, if the subject has difficulty breathing or does not immediately regain consciousness, the arresting investigator shall immediately call paramedics to the scene. In all cases where the carotid restraint is used, the subject shall be medically evaluated.

4.) **BOOKING FORM.** Persons who have been the subject of a carotid restraint shall have that noted on the booking form.

I.) USE OF AUTHORIZED IMPACT WEAPON TO ACCOMPLISH CUSTODY

1.) The authorized impact weapon in the hands of an investigator trained in its use is a very formidable weapon. If we are to obtain effective results, avoid unnecessary injury to suspects, and minimize criticism of the Department, the impact weapon must be used properly and judiciously.

a.) The impact weapon must be carried properly on the investigator's belt. An impact weapon left in the car is of no use to an investigator in a confrontation.

b.) Fire Investigators are not to slap the palm of their hand with the impact weapon or poke the impact weapon at people as an intimidation technique.

c.) The impact weapon, when properly used, is capable of delivering extremely powerful blows to stun and incapacitate an aggressive opponent. It is also capable of delivering lethal or permanently disabling blows. Blows to the head, throat, side of the neck, or armpit must be avoided whenever possible.

d.) Striking a handcuffed prisoner with an impact weapon is expressly prohibited (except as allowed for in Section I., C., of this order).

e.) Fire Investigators will carry only impact weapons issued by the Department.

J.) USE OF FIREARM TO ACCOMPLISH CUSTODY (See Section III Use of Firearms)

K.) UNNECESSARY FORCE (DEFINED)

1.) Unnecessary force occurs when it is apparent that the type or degree of force employed was neither necessary nor appropriate. When any degree of force is utilized as summary punishment or for vengeance, it is dearly improper and unlawful.

2.) Malicious assaults and batteries committed by investigators constitute gross and unlawful misconduct. Penal Code Section 149 provides criminal penalties for every public investigator who under the color of authority, without lawful necessity, assaults or beats any person.

3.) When the use of force is applied indiscriminately, the investigator will face civil and criminal liability and Department disciplinary action.

4.) Justification for the use of force is limited to what is reasonably known or perceived by you at the time. Facts discovered after the event, no matter how compelling, cannot be considered in determining whether the force was justified.

L.) REPORTING AND INVESTIGATING THE USE OF FORCE

1. **TYPES OF INCIDENTS REQUIRING REPORTING.** Members must report the use of the following types of force:

a.) Physical control, when the person is injured or claims to be injured.

b.) Liquid chemical agent, when sprayed on or at the person.

c.) Authorized impact weapon, when the person is struck or jabbed

d.) When the investigator finds it necessary to strike a suspect with his/her fist, a flashlight, or any other object.

e.) Carotid restraint.

f.) Discharge of Firearm (see also: Section III. Use of Firearms).

2. **NOTIFICATION/INCIDENT REPORT.** In all cases in which an investigator is required to report the use of force, the investigator using the force shall **IMMEDIATELY** notify his/her on duty supervisor. If unable to make contact, investigator shall leave a message and notify next level of chain of command (BFI Officer, Fire Marshal, Deputy Chief of Operations in that order). The investigator using the force shall notify the on-duty or on-call Arson Task Force Police Inspector, complete an Unusual Occurrence Report and:

a.) When the investigator using force is also the reporting investigator, prepare a fire investigation report containing the following information:

(1) The type of force used (*e.g.*, carotid restraint, struck with fist).

(2.) Reason for the use of force (*e.g.*, subject resisted arrest).

(3.) The supervisor's name, rank, badge/star number and time notified. If applicable, the supervisor's reason for not responding to the scene shall also be included.

b.) In the event that the investigator using force is not the investigator preparing the fire investigation report, the investigator using the force shall:

(1) Ensure that he/she is clearly identified in the fire investigation report.

(2) Ensure that the fire investigation report includes:

- The type of force used (e.g., carotid restraint, struck with fist).
- Reason for the use of force (e.g., subject resisted arrest).
- The supervisor's name, rank, badge/star number and time notified.

3. **SUPERVISOR'S RESPONSIBILITIES.** When notified of the use of force, supervisors shall determine whether anyone (including the investigator) has sustained an injury and its severity. If an injury has been sustained which is serious enough to require immediate medical treatment, the on-duty supervisor shall immediately respond to the scene of the incident unless the response is impractical, poses a danger, or where the investigator's continued presence creates a risk. Response is optional in other reportable use of force incidents.

In any case, supervisors shall investigate the incident and prepare a detailed Unusual Incident report including the type of force used, any reported injuries, the details of the incident, and witness statements (when available) to the Chief of Department through chain of command by the end of their tour of duty. If off duty, the report shall be completed by the end of the next work day. A copy of the police report shall be attached to the General Form Report. If the investigator is injured, his or her immediate supervisor shall prepare an injury report in accordance with Department requirements.

III. USE OF FIREARMS POLICY

A. **GENERAL.** It is the policy of the San Francisco Fire Department that investigators exhaust all reasonable means of apprehension and control before resorting to the use of firearms. Investigators, however, shall not

unnecessarily or unreasonably endanger themselves in applying the policies and procedures contained in this order in actual situations. Fire Investigators are not authorized to carry a firearm while off duty. Gun Range qualification training shall be done during on-duty work hours.

B. DRAWING FIREARMS

1. **PUBLIC PLACES.** An investigator shall not draw a firearm in any public place, except in the line of duty or for inspection by a superior.
2. **INVESTIGATOR / PUBLIC SAFETY.** Nothing in this policy shall prohibit the drawing or exhibiting of a firearm in the line of duty when an investigator reasonably believes it necessary for his/her own safety or for the safety of others. Investigators may also draw and be ready to use a firearm anytime they have reasonable cause to believe that they or another person may be in immediate danger of death or great bodily injury. Investigators shall not cock their firearms in these instances.
3. **JUSTIFICATION.** Any investigator drawing a weapon in public must be able to articulate the reasons consistent with this order and any other current order regarding the subject. Firearms shall not be displayed without justifiable cause.
4. **HOLSTERING WEAPONS.** When an investigator determines that the danger is eliminated, the handgun shall be holstered or the shoulder weapon held in a port arms position away from the person. If the person is not arrested, the investigator should tell the individual the reason the weapon was pointed at him/her if the circumstances permit.
5. **COCKING OF FIREARMS.** An investigator shall not carry a firearm in the cocked position at any time.

C. DISCHARGE OF FIREARMS

1. **REASONABLE METHODS OF APPREHENSION.** Investigators shall not discharge a firearm in the performance of their duties except in the circumstances described below in Section III. D. 2. and only after all other reasonable methods and procedures of apprehension and

control have failed. "Other reasonable methods and procedures of apprehension and control" shall be based upon the investigator's capabilities at the time of the discharge, the nature and immediacy of the threat, the extent of the threat to innocent persons, the nature of the crime, and the suspect's reputation for violence.

2. **PERMISSIBLE CIRCUMSTANCES.** Investigators may discharge a firearm in any of the following circumstances:

a.) In the necessary defense of himself/herself when the investigator has reasonable cause to believe that he/she is in imminent danger of death or serious bodily injury.

b.) In the necessary defense of another person when the investigator has reasonable cause to believe that the person is in imminent danger of death or serious bodily injury.

c.) To make an arrest when:

(1) The investigator has reasonable cause to believe that the suspect has committed or attempted to commit a felony involving the use or threatened use of deadly force; and

(2) The investigator has reasonable cause to believe that a substantial risk exists that the person to be arrested will cause death or serious bodily injury if his/her apprehension is delayed; and

(3) After all other reasonable means of apprehension and control have been exhausted.

3. **VERBAL WARNING.** If feasible, and if to do so would not increase the danger to the investigator or others, a verbal warning to submit to the authority of the investigator shall be given prior to the use of deadly force.

4. **ENDANGERING THE PUBLIC/RECKLESS DISCHARGE.**

Investigators shall take extreme care when discharging their weapons so as not to endanger innocent persons or jeopardize property. The discharging of firearms in a reckless and irresponsible manner, or while under the influence of any substance likely to impair physical or

mental processes, is prohibited and subject to disciplinary action by the Department.

5. **PROHIBITED CIRCUMSTANCES.** Investigators shall not discharge firearms under any of the following circumstances:

- a. As a warning.
- b. At or from a moving vehicle unless the circumstances come within the provisions as set forth in Section III., D., 2., a., b., c. of this order.
- c. In misdemeanor cases, except if the circumstances come within the provisions as set forth in Section III., D., 2., a., b., c., of this order.
- d. In circumstances that do not require police action.
- e. At a moving vehicle with the intent to disable it.

D. **REPORTING DISCHARGE OF FIREARMS.** Except while at an approved range, an investigator who discharges a firearm, either on or off duty, shall immediately report the incident to the San Francisco Fire Department Bureau of Fire Investigation supervisor, Fire Marshal, and immediately to the San Francisco Police Department through 911. This includes an intentional or accidental discharge, either within or outside the City and County of San Francisco.