



Police Department

June 16, 2020

Greetings Napa Community,

I, like many police leaders and city officials, have received requests for responses to the 8Can'tWait campaign. I wanted to take the opportunity to share with our community how the Napa PD policies address the campaign. Since taking over at the Napa PD, my philosophy has been to be transparent, which has helped the PD build trust. We wanted to take the opportunity to share some of our philosophies and policy with you as it relates to recent events as well.

Napa PD recognizes and respects the value of all human life and dignity without prejudice to anyone. The sanctity of human life is at the heart of everything we do. To ensure our officers are held accountable as well as the public, we have a comprehensive Body Worn Camera program.

In 2019, the California Police Chiefs Association led law enforcement stakeholder engagement in discussions that ultimately set a new legal standard for peace officers' use of deadly force in California (AB 392, Weber) and CPCA sponsored legislation. This set a national precedent by establishing a minimum use of force policy standard for all departments (SB 230, Caballero). Most of the policies outlined in the 8Can'tWait campaign have been captured by these two new landmark laws.

However, several provisions, most notably the requirement officers' exhaust all alternatives, were not included in either bill due to shared concerns by law enforcement and policymakers. Instead, alternatives to those provisions were embraced to accomplish our shared goal of reducing deadly force incidents.

De-Escalation Requirement:

SB 230 requires that "officers utilize de-escalation techniques, crisis intervention tactics, and other alternatives to force when feasible." SB 230 also mandates each policy require officers to conduct all duties in a manner that is fair and unbiased. Additionally, SB 230 requires all officers be trained in alternatives to deadly force and de-escalation techniques.



(Napa PD Policy 300.2): *When feasible based on the circumstances members will incorporate and utilize conflict resolution and de-escalation techniques as part of their force options as listed in Napa Police Department Crisis Intervention Incidents policy. De-escalation techniques include, but are not limited to:*

- (a) Gathering information about the incident,*
- (b) Assessing risks,*
- (c) Gathering resources (personnel and equipment),*
- (d) Using time, distance, cover,*
- (e) Using crisis intervention techniques,*
- (f) Communicating and coordinating a response.*

Require warning before shooting:

AB 392 states: “where feasible, a peace officer shall, prior to the use of force, make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts.” This requirement is consistent with federal case law.

(Napa PD Policy 300.4): Deadly Force Applications

Where feasible, the officer shall, prior to the use of force, make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts. Officers shall not use deadly force against a person based on the danger that person poses to him/ herself, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer or to another person (Penal Code § 835a).

Duty to Intervene:

SB 230 sets forth a “requirement that an officer intercede when present and observing another officer using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances.” This provision is consistent with federal law as well.

(Napa PD Policy 300.2.1): DUTY TO INTERCEDE

Any officer or supervisor 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. Before electing to intercede, an officer or supervisor should take into account the possibility that other officers may have additional



information regarding the threat posed by the subject(s). An officer or supervisor who observes another employee use force that exceeds the degree of force permitted by law should promptly report these observations to a supervisor.

Require Comprehensive Reporting:

SB 230 already requires “comprehensive and detailed requirements for prompt internal reporting and notification regarding a use of force incident.” Additionally, legislation from 2015 (Assembly Bill 71) requires statewide detailed reporting requirements on serious use of force incidents. SB 230 also requires officers to report excessive force they witness.

(Napa PD 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. Each use of force is reviewed up the chain. An annual analysis is conducted to identify any trends of force by members, training needs, equipment needs, and policy revision updates.

Ban Chokeholds and Strangulations:

SB 230 requires that “an officer may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense.” Any excessive force beyond this requirement is unreasonable. CPCA does not have a position on the outright ban of less lethal force options, but instead leaves that to each agency for determination. However, any use of force should meet this standard.

(Napa PD Policy 300.3.4) Carotid Control Hold

The carotid control hold may only be used when other control techniques have failed or are inappropriate and deadly force may become objectively reasonable if the carotid control hold is not used. Any neck restraint or any force intended to restrict a person's airway, unless deadly force is justified, is not permitted.

Ban Shooting at Moving Vehicles:

Again, outright prohibitions in all circumstances does not account for situations where the driver of a vehicle may be threatening death or great bodily injury to others. SB 230 requires



“Comprehensive and specific guidelines for the application of deadly force,” which should include guidance on the limited situations that would warrant shooting at moving vehicles.

(Napa PD 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.

Require Use of Force Continuum

The use of force continuum is an outdated model that has proven impractical, even dangerous, when applied in real life situations. Instead, policies should focus on requiring officers to create space and separation in an attempt to utilize de-escalation techniques, which is captured in the training and policy requirements within SB 230.

Require Exhaust all Alternatives Before Shooting

Arguably the most controversial provision in 8CantWait’s platform, this requirement was rejected in AB 392 debate because of the untenable position it puts officers and departments in, by permitting second-guessing of split-second decisions. Instead, the focus should be on training alternatives to deadly force, requirements on proportional force, and de-escalation requirements, all of which are contained in SB 230. If this requirement is implemented, an officer’s decision concerning the use of force alternative should be judged based upon the totality of the circumstances and reasonable officer standard in AB 392.

Napa PD officers are instructed in the philosophy of Distance, Cover, and Time while trying to slow down the momentum. We encourage our officers to exhaust all other alternatives, including non-force and less lethal force options, prior to resorting to deadly force. We offer our officers several less-lethal options that include pepper spray, pepper balls, tasers, the wrap, bean bag munitions and batons.

All Napa Police Department Policies can be found on the Napa Police Department website or by clicking [here](#).