

Policy Toolkit

Using the Model Use of Force Policy
in Your California Community

POLICY TOOLKIT

USING THE MODEL USE OF FORCE POLICY IN YOUR CALIFORNIA COMMUNITY

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HOW TO USE THE MODEL USE OF FORCE POLICY

Understanding Your Community's Current Use of Force Policies, Identifying Policy Differences, and Considering Opportunities for Reform

The Model Use of Force Policy is designed to provide communities with the most comprehensive model policy on the use of force. Covering a wide range of use of force areas—from weapons and de-escalation strategies to pursuits and crowd management—the Model Policy's modules draw from extensive research into policing and public safety, mental and behavioral health, as well as leading practices from around the country identified through a study of the use of force policies in place in America's 100 largest cities.

Your community can follow these steps to understand your police department's current policies, identify differences between your department's policies and the leading practices in the Model Policy, and consider opportunities for reform.

Understanding Your Community's Current Use of Force Policies

Before considering—and advocating for—use of force policy reforms, you should understand your community's current policies. You can find your police department's policy manual on the department's website, where it is required to be posted under California law.

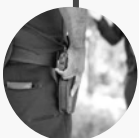
California also requires all police department policy manuals to include a specific section on use of force. This section is most often titled "Use of Force" but sometimes labeled "Response to Resistance" or divided into sections on "Less-Lethal Force" and "Deadly Force." These policy sections contain your department's most important provisions on the use of force, including the provisions explaining when officers are authorized to use force as well as how they must deploy that force.

You should also locate and review your police department's other policies that address the use of force or are closely related to the topic.

These include the following policy areas covered by the Model Policy's modules:



De-Escalation



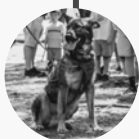
Firearms, which are sometimes covered in a **"Deadly Force"** section



Tasers, which can be referred to as Conducted Energy Devices, Electronic Control Devices, or Electronic Control Weapons



Vehicle and Foot Pursuits



Canines

Policy sections can be difficult to read and understand. Departments often make efforts to simplify them, but the policies are rooted in legal concepts and language, contain many defined terms and cross references, and sometimes cite to sections of [California's Government Code](#). While use of force policies tend to spell out what officers can and cannot do, they do not typically explain “why.”

The Model Policy’s modules offer several resources you can use to better understand how a particular policy fits into your department’s police operations, as well as the choices your department may have made in crafting that policy.

Each Policy Module features:



A checklist of **Key Things to Know**



An explanation of **Why** the module’s **Topic is Important** in addressing the use of force



A researched analysis of **How Policies** on the module’s topic **Control the Use of Force by Officers** and **What Do Effective Policies Look Like?**

Identifying Policy Similarities and Differences

A use of force incident in your community may motivate you to review your police department’s policies. Or you may be interested in whether your department has adopted evidence-based policies to regulate the use of force. You can use the Model Policy’s modules to identify similarities and differences between your department’s policies and leading practices.

Identifying Policy Differences: Deploying Tasers

Most police departments equip their officers with Tasers or similar electronic control weapons designed to incapacitate threatening individuals. But, as the Taser has become a more uniform law enforcement weapon, police department policies governing its use have not developed as consistently. Policies across the U.S. and within California can differ on key concepts such as the maximum amount of time a Taser can be applied to incapacitate an individual.

The research behind the Model Policy suggests that there should be a clear limit on the number of Taser deployment cycles—and seconds that a Taser is applied—to prevent physical harm to a person. Some police departments do not use a restrictive approach and instead leave open the option for officers to repeatedly apply a Taser to a resisting individual.

You can compare your department's policy provisions on these key force concepts with the Model Policy's modules, as shown below using a Taser policy from a mid-size California police department.

Mid-size California Police Department

Tasers

Once the darts make contact, the Taser will operate for a 5-second period. If the suspect is subdued prior to the 5-second term, shut the Taser off... If the Taser does not gain control or is ineffective, other tactical options should be considered.

Model Use of Force Policy

Incapacitating Weapons

A Taser may be used only for the minimal amount of time necessary, and in no event may the Taser be applied for longer than a full five-second cycle without interruption. A Taser deployment should not exceed 15 seconds (3 cycles of 5 seconds each) and the fewest number of Taser cycles should be used to accomplish the objective.

Interpreting Subtle but Significant Differences in Policy Language: Authorizing the Use of Force

At first glance, many departments' policy provisions may sound very similar, differing on only a few words. But these words can be significant and result in profoundly different standards for when and how police officers are permitted to use force. You can closely read your department's policies to see whether, for instance, your department's standard for using force is "objective reasonableness"—a lower and more permissive standard that does not require the minimum amount of force—or "necessary and proportional"—a higher and more restrictive standard that requires only the minimum amount of force.

Large California Police Department

Policy on Authorizing the Use of Force

Officers are permitted to use force that is **objectively reasonable** to defend themselves or others, to effect an arrest or detention, and/or to prevent escape or overcome resistance.

Model Use of Force Policy

Authorization and Standard for Use of Force

Officers are permitted to use force that is **necessary, proportional** to the totality of the circumstances, and the amount of force is limited to **the minimum amount of force** the officer believes is feasible.

Considering Opportunities for Reform

The Model Policy's modules highlight dozens of use of force policy concepts that may reveal differences between your department's policies and leading and evidence-based practices. From whether a use of force policy requires officers to justify individual baton strikes to whether it restricts drawing firearms to situations where deadly force is authorized, the Model Policy is centered around regulations minimizing the use of unnecessary force. The Modules also focus on situations where force should not be authorized, from whether a policy limits the use of canines in apprehension to when a suspect poses an imminent threat to whether a policy restricts officers' crowd control enforcement actions to only those individuals breaking the law.

Policing reform efforts such as the *8 Can't Wait* campaign have focused on a set of increasingly consensus policy changes. Several of these measures, like banning chokeholds or requiring officers to intervene in misconduct, are now reflected in most of the policies from police departments in the 100 largest U.S. cities. The Model Policy's modules include these provisions but go further in highlighting ways communities can strengthen their policies on the use of force. For instance, the de-escalation module is not just focused on requiring the use of the concept but also on whether officers are required to employ de-escalation as soon as an individual's resistance decreases and must stop using force if resistance stops.

HOW AN EFFECTIVE PUBLIC SAFETY POLICY CHANGE PROCESS WORKS

Changing public safety policies can be challenging—if you are a community member, an advocate, a local elected official, or even a police chief. But, as the Model Policy’s modules reveal, your police department’s use of force policies matter. They are the first step in a continual cycle that progresses through training, implementation, and accountability that can improve your community’s policing.

Reforming public safety policies is typically a multistep process:



Proposing reforms: proponents of policy reform—either within or outside the police department—propose changes to department policies.



Evaluating proposed changes: the department—along with key stakeholders like police unions, municipal lawyers, and, ideally, the public—considers the proposed changes, often weighing the case in favor of reform against risks like liability or being one of the first departments to adopt a new approach.



Implementing new policies: the department finalizes new policy language, trains officers on updated standards, and develops accountability mechanisms. The department and key stakeholders should also inform and educate community members about the changes to the department’s policies and practices.

Proposing Policy Reforms

When proposing policy reforms, there are several steps you can take to ensure that you make the strongest case for a particular policy change—whether you are working within or outside the police department. You should clearly explain the change you are proposing, make evidence-based arguments, if they are available, for why the proposal is effective policy, and point to other police departments and jurisdictions that have adopted similar approaches.

Using a policy reform discussed in this Toolkit—the concept that there should be a clear limit on the number of Taser deployment cycles and seconds that a Taser is applied—below are examples of how you can effectively present this information in proposing a policy change.

1. Explaining the Policy Change

The department's use of force policy should limit the number of Taser deployment cycles against a resisting individual to a maximum of three cycles—each a standard 5 seconds—for a total of no more than 15 seconds.

This policy change can prevent the use of unnecessary force and avoid serious harm to individuals.

2. Making Evidence-based Arguments

According to Police Executive Research Forum and U.S. Department of Justice guidelines, the most common factors associated with Taser-related deaths are repeated and multiple applications and cycling time that exceeds 15 seconds in duration. (PERF & DOJ 2011 [ECW Guidelines](#))

The American Academy of Emergency Medicine issued a Clinical Practice Statement advising physicians that they should consider additional evaluation and treatment for individuals that experienced a Taser application longer than 15 seconds. ([Vilke et al. 2010](#))

3. Providing Examples of Jurisdictions that have Adopted the Policy

Many police departments across the U.S. have adopted this policy including Boston, Chicago, Las Vegas, Mesa, Milwaukee, Oklahoma City, Philadelphia, and Seattle. In California, large police departments like Oakland, mid-size departments like Ontario, and smaller departments like Tulare have also adopted it.

Evaluating Proposed Policy Changes

Police departments evaluating proposed policy changes typically consider:

- How the proposed policy aligns with federal and state statutes, court decisions, and other relevant regulations;
- If the proposed policy limits or creates liability for the department and/or its city; and
- Whether the proposed policy might impact the department's labor agreement with its police union, add new responsibilities for the department's operations, or require the department to expend additional resources.

This Toolkit covers how the Model Policy addresses these common questions.

Implementing New Policies

A key part of the policy change process is developing the new policy language for your department's policy manual or General Orders. There are two common approaches to drafting policy changes. The first approach is to propose new sections that fully replace existing policies. The Model Policy includes comprehensive modules your department can draw from.

In some cases, this approach is challenging because the existing policies may contain other provisions—unrelated to the policy you are seeking to change—that stakeholders are hesitant to revise. You can also propose revisions to existing policies that insert needed language, delete old provisions, and ensure that the revised policy provides officers with clear guidance. Below is an example of how you can effectively revise an existing Taser policy to incorporate the Model Policy's concept that there should be a clear limit on the number of Taser deployment cycles and seconds that a Taser is applied.

Once the darts make contact, the Taser will operate for a 5-second ~~period~~ cycle, and in no event may the Taser be applied for longer than the full 5-second cycle. If the suspect is subdued prior to the 5-second ~~term~~ cycle, shut the Taser off.

A Taser may be used only for the minimal amount of time necessary and a Taser deployment should not exceed 15 seconds (3 cycles of 5 seconds each). The fewest number of Taser cycles should be used to accomplish the objective and, ~~if~~ if the Taser does not gain control or is ineffective, other tactical options ~~should~~ shall be considered.

Upon finalizing new policy language, your department must train its officers on any updated standards and develop accountability mechanisms for ensuring the new policy is followed.

Your department and key community stakeholders should also inform and educate community members about the changes to the department's policies and practices. There are several ways your department can explain the reasons behind its policy changes:



Media releases and other **updates to the department's website** where policies are required to be posted under California law



Social media posts



Community meetings

HOW DO THE MODEL POLICY'S PROVISIONS ALIGN WITH LAWS, COURT DECISIONS, AND OTHER REGULATIONS?

In evaluating proposed policy changes, your department will want to know whether the proposed reforms align with federal laws and court decisions, California laws, and other relevant regulations and guidelines like those issued by the California Commission on Peace Officer Standards and Training (POST).

The Model Policy's provisions were developed to align with each of these authorities, providing your community with carefully crafted policy language in 10 key use of force policy areas.

Federal Laws and Court Decisions

There is no single federal law that dictates use of force policy for all law enforcement agencies nationwide. Instead, police departments and officers point to *Graham v. Connor*, a 1989 U.S. Supreme Court decision, as the legal ruling that has shaped the contemporary understanding of acceptable policing practices. The *Graham* case created a minimum threshold or “floor” for police behavior; anything below the Court’s “objectively reasonable” standard infringes upon an individual’s 4th Amendment rights.

The Model Policy’s authorization and standard for the use of force is a constitutional policy that exceeds the “floor” set by the Supreme Court in *Graham*. As the Authorization and Standard for Use of Force module explains, police departments across the U.S. are increasingly adopting policies that go beyond *Graham* in limiting when force is permitted and how their officers can use it. The principles at the core of the Model Policy’s standard—like limiting an officer’s use of force to only the amount of force that is necessary—have already been adopted by many of the nation’s largest police departments, demonstrating that these policies not only align with federal laws and court decisions but also follow leading practices.

California Laws

Several California laws govern the use of force by California police officers and the Model Policy’s provisions align with these statutes. Like the *Graham* caselaw, these California laws should be seen as “floors”: department policies that meet or exceed the statutes are following the law. California laws create minimum standards for when police can use any force, impose specific minimum standards for the use of deadly force, restrict the use of rubber or plastic bullets and tear gas in managing crowds, prohibit chokeholds and carotid restraints, and create duties to intervene in misconduct and provide medical aid to individuals injured by force.



Minimum Standards for the Use of Force

California Govt. Code § 7286(b)(1))

Policies must require officers to use de-escalation techniques and alternatives to force before using force. In authorizing force, policies must limit officers’ use of force to a level of force they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of resistance.

The Model Policy’s modules meet and exceed these requirements.



Minimum Standards for the Use of Deadly Force

California Govt. Code § 7286(b)(12) and California Penal Code § 835a(c)(1)

Policies must limit officers' use of deadly force to when they believe, based on the totality of the circumstances, deadly force is necessary. In authorizing deadly force, policies must require the use of other available resources and techniques, if reasonably safe and feasible. Policies must also limit the use of deadly force to either defending against an imminent threat of death or serious bodily injury or to apprehending a fleeing person for any felony that threatened or resulted in death or serious bodily injury. Moreover, policies must require officers to identify themselves and warn that deadly force may be used, when feasible.

The Model Policy's modules meet and exceed these requirements.



Restrictions on the Use of Rubber or Plastic Bullets ("Kinetic Energy Projectiles") and Tear Gas ("Chemical Agents") in Managing Crowds

California Penal Code § 13652

Policies must restrict the use of kinetic energy projectiles—like rubber or plastic bullets—and chemical agents—like tear gas—against crowds to defending against a threat of death or serious bodily injury or bringing an objectively unlawful situation under control.

The Model Policy's modules meet and exceed these requirements.



Prohibitions on Chokeholds and Carotid Restraints

California Govt. Code § 7286.5

Policies must prohibit the use of chokeholds and carotid restraints.

The Model Policy's modules meet these requirements.



Duty to Intervene in Misconduct and Provide Medical Aid

California Govt. Code §§ 7286(b)(9) and (15)

Policies must create duties for officers to intervene in misconduct and provide medical aid to individuals injured in use of force incidents.

The Model Policy's modules meet and exceed these requirements.

Multiple California laws contain requirements on the reporting and investigating of use of force. While the Model Policy’s modules include general provisions on these areas, the modules are focused on policies relating to the authorization and use of force. Your department should consult the relevant California laws if you are considering reforms to reporting and investigation policies.

Accreditation Standards

The California Commission on Peace Officer Standards and Training (POST) “Use of Force Standards and Guidelines” detail the statewide minimum standards California police departments are required to incorporate into their use of force policies. Using the California laws governing the use of force, the POST Standards and Guidelines identify around 10 standards that address the authorization and use of force.

The Model Policy’s modules meet these standards.

DO THE MODEL POLICY'S PROVISIONS LIMIT OR CREATE LIABILITY FOR YOUR CITY?

Your department will typically consider whether a proposed policy change may limit or increase liability for the agency and your city. Excessive force incidents can create large liabilities for municipalities—over the past decade more than \$3.2 billion has been spent to settle misconduct claims against the nation's 25 largest police and sheriff's departments. The Model Policy's modules are designed to minimize the use of force and, if adopted and implemented, should lower the use of unnecessary—but constitutionally permitted—force by your department's officers, limiting your department's liability.

Departments are also likely to consider their liability when an officer uses excessive force or is alleged to have used excessive force. In these situations, the Model Policy's provisions can help your department demonstrate that it is meeting federal standards for effective policies—known as *Mone*// liability standards—and avoid unwarranted liability claims. And there are limited ways the Model Policy's provisions on the use of force could be used by those bringing excessive force claims against your department.

Meeting *Monell* Liability Standards: How the Model Policy Limits Municipal Liability

Federal civil rights laws permit lawsuits against your department and city when policies or official procedures are responsible for a violation of federally protected rights. It is not enough for a department to have policies in place—departments must show that their policies, training, and accountability systems meet the *Monell* liability standards and adequately protect people’s constitutional rights.

Adopting the Model Policy’s provisions can help your department meet the *Monell* liability standards and limit its liability for unwarranted excessive force claims. The Model Policy’s modules are thoroughly researched, evidence-based, and built around safeguarding the key constitutional rights at the core of the *Monell* standards. From protecting against excessive force that violates the Fourth Amendment, crowd enforcement actions that infringe on the First Amendment’s freedoms of speech and assembly, inadequate medical care after a force incident that breaches the Eighth Amendment’s prohibition on cruel and unusual punishment, or mistreatment of vulnerable populations that disregards the due process guaranteed by the Fourteenth Amendment, the Model Policy is designed to meet constitutional standards.

“A city can certainly choose to hold its officers to a higher standard than that required by the Constitution without being subjected to increased liability under § 1983. To hold that cities with strict policies commit more constitutional violations than those with lax policies would be an unwarranted extension of the law, as well as a violation of common sense.”

U.S. Court of Appeals for the Sixth Circuit

Smith v. Freland (1992)

Because courts tend to review excessive force claims against police departments and cities under the *Graham* standard—asking if an officer acted reasonably—your department’s use of force policies are unlikely to decide the outcome of whether your municipality is liable. Instead, your department’s

use of force policy could be offered as evidence that the department's training, supervision, or accountability systems were insufficient, underscoring the widely held view that these areas are critical for effectively implementing policies.

An Officer Uses Excessive Force and Violates Department Policies: Potential Impacts of the Model Policy

Your department's police union may ask a different question: how do the Model Policy's provisions impact a criminal prosecution or a civil lawsuit against an officer that has used excessive force and violated the department's policies? The U.S. Supreme Court has made clear that claims of excessive force should be analyzed under a Fourth Amendment "reasonableness" standard. City and police department policies do not determine constitutional law, as one federal appellate court has explained.

Instead, some lower courts allow evidence of an officer's violation of department policy because it might bear upon whether the officer's actions were reasonable. Other courts do not follow this approach. For these reasons, an officer facing charges or claims of violating a person's constitutional rights should know that the department's use of force policy provisions could be offered as evidence that the officer's actions were unreasonable.

COLLECTIVE BARGAINING AGREEMENTS, DEPARTMENT OPERATIONS, AND BUDGETS

Do the Model Policy's Provisions Impact CBAs, Create Administrative Responsibilities, or Require Budget Increases?

Your department may have questions about how adopting the Model Policy's provisions may impact the department's collective bargaining agreement, create new administrative responsibilities for the department, or require the department to expend additional resources. The short answer is: the Model Policy's provisions may impact these areas of the department's operations in the same way as any other proposed use of force policy changes. But the Model Policy's provisions should not spark unique collective bargaining issues, generate unusual administrative burdens, or lead to ballooning budgets.

Collective Bargaining Agreements

Collective bargaining agreements under California’s Meyers-Milias-Brown Act (MMBA) guide the negotiation process between your police department, its officers, and their unions. Use of force policy reforms, however, are fundamental managerial decisions made by a city using its police powers under the California Constitution. Fundamental managerial or policy decisions are typically not subject to the MMBA’s meet-and-confer requirements unless these decisions have a significant adverse effect on the officers’ working conditions, including wages and hours. When this occurs, there is an obligation to negotiate the “effects” or “impact” of the policy change, but not the policy decision itself, a process known as “effects” bargaining.

Despite this exemption, police unions often assert that changes in use of force policies—such as the adoption of the Model Policy’s standard for authorizing force—affect officer safety. Courts and regulators have not always upheld a local government’s ability to avoid the meet-and-confer process, leading some cities and police departments to engage proactively in “effects” bargaining. By having this negotiation, cities can sometimes obtain better results, and, in the end, the police department can proceed in implementing the policy changes.

New Administrative Responsibilities

When departments change their use of force policies, they typically take on some new administrative responsibilities, including training the department’s officers on the new policies and ensuring that suitable accountability systems are in place. Departments adopting the Model Policy’s provisions will need to shoulder these manageable responsibilities, much as they would if they were implementing any other use of force reforms.

Budget Implications

Departments adopting the Model Policy’s provisions could incur some additional costs generally in line with the normal expenses associated with updating use of force policies. Initial training for officers on the new policies might use the services of professional trainers or require overtime for officers attending courses. Departments can incorporate ongoing annual and biannual training sessions into their annual budgets and planning, and these necessary activities may add modest costs.

TOOLKIT SOURCES & RESOURCES

Sources, Reports, and Toolkits

Center for Policing Equity: [Improving Use of Force Policy Community Toolkit](#)

New Era Public Safety: [A Guide to Fair, Safe, and Effective Community Policing](#)

New Era of Public Safety: [An Advocacy Toolkit For Fair, Safe, and Effective Community Policing](#)

President's Task Force on 21st Century Policing: [Final Report](#)

Daigle Law Group: [Developing Constitutional & Effective Policies](#)

RAND Corporation: [Better Policing Toolkit](#)

Renne Public Law Group: [The Road to Police Reform is Paved with Bargaining](#)

Use of Force Caselaw

Graham v. Connor, 490 U.S. 386 (1989)

Monell v. Department of Social Services of the City of New York, 436 U.S. 658 (1978)

California Laws and Standards

California Govt. Code §§ 3500-3512

California Govt. Code § 7286

California Govt. Code § 7286.5

California Penal Code § 835a

California Penal Code § 13652

California Commission on Peace Officer Standards and Training: POST Use of Force Standards and Guidelines (Rev. 2021)

Model Use of Force Policy

The Model Use of Force Policy developed by the Stanford Center for Racial Justice is a comprehensive model policy on use of force for police departments and communities across the United States. Covering a wide range of use of force areas— from weapons and de-escalation strategies to pursuits and crowd management —the Model Policy’s modules draw from extensive research into policing and public safety, mental and behavioral health, and leading practices around the country. The Model Policy is designed to aid police departments and communities in reforming their policing and advancing practices that will be fair, safe, and equitable for everyone.

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