

Memorandum

TO: ALL DEPARTMENT PERSONNEL

FROM: Anthony Mata
Chief of Police

**SUBJECT: TACTICAL CONDUCT AND
PERSONS EXPERIENCING A
MEDICAL EMERGENCY**

DATE: October 21, 2022

APPROVED

Memo #2022-054

BACKGROUND

Duty Manual section L 2602.5 TACTICAL CONDUCT states, “A core transaction is defined as a lawful detention (justified by reasonable suspicion) or a lawful arrest (justified by reasonable cause). If no core transaction exists, no force is reasonable.” While this language is consistent with established use of force case law, specifically [Graham v. Connor \(link\)](#), it does not adequately describe situations when force may be used consistent with the Fourth Amendment, outside the context of a criminal detention or arrest.

Officers are routinely requested and dispatched to aid medical personnel due to potentially combative patients. Persons experiencing medical emergencies resulting in altered states of consciousness (e.g., brain injury, dementia, severe inebriation or intoxication, or diabetic shock) may become combative and resistant to EMS personnel. Often in those situations, there is no lawful detention justified by reasonable suspicion of criminal conduct or probable cause for violation of a criminal law. There are three statutory bases for taking a person into custody for evaluation and treatment when a person is a danger to themselves or others or is gravely disabled: as a result of a mental health disorder ([Welfare and Institutions Code section 5150](#)); as a result of inebriation ([Welfare and Institutions Code section 5170](#)); or as a result of the use of controlled substances ([Welfare and Institutions Code section 5343](#)). There are, as noted, other medical conditions that may sometimes rise to the level of a medical emergency (e.g., dementia, brain injury, or diabetic coma) that may require law enforcement intervention.

When confronted with a medical emergency where law enforcement intervention may be requested, the courts will ask:

1. Was the person experiencing a medical emergency that rendered them incapable of making a rational decision under circumstances that posed an immediate threat of serious harm to themselves or others?
2. Was some degree of force reasonably necessary to ameliorate the immediate threat?

3. Was the force used more than reasonably necessary under the circumstances (i.e., was it excessive)?

After reviewing Duty Manual, it was apparent that both a revision and an addition was needed to bring the Tactical Conduct policy in line with best practices.

ANALYSIS

The Duty Manual has been revised to reflect changes described below. Additions are shown in *italics and underlined*. Deletions are shown in ~~strike-through~~ form.

L 2602.5 TACTICAL CONDUCT:

Revised 10-21-22

Department members are expected to use tactics that are consistent with San Jose Police Department and California P.O.S.T. Commission training standards. Based on the totality of the circumstances, and allowing for the fact that police officers are often forced to make split-second judgments in circumstances that are tense, uncertain, and rapidly evolving about the amount of force that is necessary in a particular situation, Department members shall consider the following relevant tactical considerations in any situation where an officer reasonably believes that the use of physical force is or may become necessary:

- CORE TRANSACTION: A core transaction is defined as a lawful detention (justified by reasonable suspicion) or a lawful arrest (justified by reasonable cause). *Except as specified in L 2602.6 PERSONS EXPERIENCING A MEDICAL EMERGENCY*, if no core transaction exists, no force is reasonable. Department members shall consider whether the suspect is subject to detention or arrest prior to using physical force.

- LEVEL OF URGENCY: Department members shall consider whether the suspect presents an immediate and credible threat of physical harm to any person or if there is an immediate need to use physical force. If the circumstances permit, officers shall consider waiting for an additional officer(s) or a supervisor prior to contacting the suspect.

- THREAT ASSESSMENT: Department members shall consider using all reasonable methods to obtain relevant information regarding the parties associated to the call or contact in order to assess any threats and to select tactics and tools (i.e., less-than-lethal force options) appropriate to the threat. Relevant information may include any history of a subject's propensity for violence or flight, frequency of police contact, a history of mental illness, known weapons, military training, known motivations or ideologies, or any use of intoxicants or medications. Relevant information may also include a known association to a particular identifiable residence or business. If time permits, Department members shall inquire directly with Communications while ~~en route~~ *enroute* if this information is neither obtained nor communicated during the dispatch of a call for service.

- COVER, CONCEALMENT, DISTANCE, AND TIME: Department members shall consider tactically advantageous objects and/or positions at their disposal prior to and during a force encounter. The proper use of cover, concealment, distance and the

simple passage of time through negotiation and de-escalation are all tactics that may help a Department member avoid and/or minimize the use of physical force. Officers shall consider tactically repositioning themselves if doing so can be accomplished safely and may assist in de-escalating the situation.

- CRISIS INTERVENTION TEAM: Department members shall request that a Crisis Intervention Team member respond to calls where there is information suggesting that the suspect is mentally ill.

L 2602.6 **PERSONS EXPERIENCING A MEDICAL EMERGENCY:**

Added 10-21-22

Department members may encounter persons who are combative due to a medical emergency. Similarly, Department members may be requested to assist Emergency Medical Services (EMS) personnel with combative patients. In these situations, Department members should recognize the person experiencing the medical emergency may not have committed a crime. Whenever practicable, officers should consider options other than force to render the situation safe, so EMS personnel are able to provide medical attention. In those situations where other options are not practical or there is an immediate need to intervene due to the seriousness of the emergency, officers shall only use force as follows:

- When the person is believed to be experiencing a medical emergency that has rendered them incapable of making a rational decision under circumstances that poses an immediate threat of serious harm to themselves or others,
- And some type of force is reasonably necessary to reduce the immediate threat,
- And the level of force used is reasonably necessary under the circumstances.

Any force used under this policy is reportable force as outlined in L 2604 GENERAL RESPONSIBILITIES WHEN FORCE IS USED. Department members shall document the specific articulable facts that led the officer to believe the subject was experiencing a medical emergency that posed an immediate threat to themselves or others, any steps the officer took to resolve the threat without using force, the necessity for the force, the level of resistance or combativeness, the level and amount of force used, injuries sustained, and the medical care provided.

ORDER

Effective immediately, all Department personnel shall adhere to the above Duty Manual sections.



Anthony Mata
Chief of Police