



KENSINGTON POLICE DEPARTMENT

217 ARLINGTON AVENUE / KENSINGTON, CALIFORNIA 94707
TEL: 510-526-4141 FAX: 510-526-1028

Walt Schuld
Interim Chief of Police

June 15, 2020

Kensington Community,

Based upon recent events, several inquiries have been made concerning Kensington PD's Use of Force Policy. On June 11th, I presented the Board of Directors and the Community with a comparison of our use of force policy to #8Can'tWait's proposed recommendations. I have been requested to summarize that presentation, which is summarized below:

Kensington PD retains the services of Lexipol, a 'police standards, training and policy service' provider comprised of lawyers, police professionals and industry experts. Most police departments throughout California use this service. Lexipol is aligned with both State and Federal Law, updated on a continual basis and legally defensible.

In 2019, the California Chiefs of Police Association (CPCA) led discussions which resulted in a new legal standard for peace officers' use of deadly force in California (AB 392). This CPCA sponsored legislation set national precedent by establishing a standard for minimum use of force by all police departments (SB 230). Many of the recommendations outlined in #8Can'tWait's campaign have been addressed by these two landmark changes in the law. I will explain any differences below. Kensington PD's policy conforms with State and Federal Law and best practices.

I would like to reassure local residents, community leaders and concerned citizens that Kensington PD continues to operate within established use of force guidelines as explained below:

1. Officers have a duty to intervene and stop unreasonable force. They must also report the incident to their supervisor as soon as possible or reasonable. This requirement is outlined in our Use of Force Policy and Standards of Conduct Policy. Moreover, officers are required to report any criminal or departmental policy violation they witnessed. Supervisors are required to report and fully document any misconduct by an officer(s). **This established practice coincides with #8Can'tWait's policy and State law.**
2. A use of force continuum does not align with Kensington PD's established policy or State law. It was adopted by law enforcement decades ago, but has since improved to provide better informed, evidence-based use of force policies. This

model was proven to be not only impractical, but dangerous, when applied in real life situations. This outdated use of force model was replaced by the '*reasonable objectiveness standard*'.

All situations are different and cannot be predicted. The officer's decision and subsequent action is based on the totality of the circumstances presented him/her at the time. This "best standards" doctrine is accepted by the courts.

An example of this past policy may involve officers responding to protesters blocking the street. The protesters would interlock their arms to one another inside locked tubes and refuse to comply. Officers would initially use verbal commands, then escalate by attempting to pull their arms apart, which failed. According to the use of force continuum, the next level involved the use of OC, a chemical agent that causes inflammation making it difficult for the person to see and breathe. It would be deemed unreasonable to put a chemical substance in the eyes of a passive resister. The 'reasonableness' standard would have provided an alternative course of action upon initial resistance, because a reasonable officer would not have used OC on a passive resister. **#8Can'tWait's use of force continuum does not align with Kensington PD's established policy or State law.**

3. I expanded the de-escalation section of our Use of Force policy to include, "When feasible, officers shall use de-escalation techniques and/or tactics provided in training, in order to reduce the need for, or degree of force."

De-escalation tactics are routinely used by Kensington Police Officers in all use of force situations and can be found in our crisis intervention, civil disputes and mental illness department policies. Officers are trained in these tactics in the police academy, during their Field Training Program, as part of their reality-based training scenarios, and through formal training provided by P.O.S.T. (Peace Officer Standards and Training). **This established practice coincides with #8Can'tWait's policy and State law.**

4. Chokeholds and/or strangleholds are not sanctioned nor a part of Kensington PD policy. Although listed, Carotid Restraint Hold techniques are not currently practiced and have been removed from the policy.

State law remains impartial on an outright ban of less lethal force options, but states that SB230 requires that an officer may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense. **This established practice coincides with #8Can'tWait's policy and State law.**

5. When feasible, Kensington PD requires a verbal warning before use of force is initiated. **This established practice coincides with #8Can'tWait's policy and State law.**

6. Officers are authorized to shoot at the driver of a moving vehicle when there is no other means available to prevent the advancing threat of death or great bodily injury to the officer(s) or others. Officers are not authorized to shoot at a vehicle to disable it. #8Can'tWait is requesting a complete ban on shooting at moving vehicles. **Kensington PD's policy coincides with State law.**
7. Officers are required to complete detailed reports on any use of force and to notify their supervisor. The supervisor is required to conduct an investigation of the incident, which includes locating witnesses, conducting interviews, ensuring accuracy in the report and that any injured party(s) was examined and treated. Use of force is reviewed by Command staff to determine whether or not a violation of policy occurred, then forwarded to the Chief of Police.

A Use of Force Review Board is convened when the force used by the officer results in injury or death to another person. The findings of the board are forwarded to the Chief of Police for final disposition.

All law enforcement agencies in Contra Costa County, including Kensington PD, participates in a Countywide Officer Involved Fatal Incident Protocol. When an officer is involved in a fatal incident, a specialized team of officers, investigators and the District Attorney's Office investigate the incident. **This established practice coincides with #8Can'tWait's policy and State law.**

8. Kensington PD's policy requires an officer to consider alternatives before discharging his/her weapon. Section 835(a)(2) of the California Penal Code states that officers shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer. In addition, under training and policy requirements, SB230 states that an officer will consider all alternatives based on training, alternatives to deadly force, requirements on proportional force, and de-escalation techniques. **This established practice coincides with #8Can'tWait's policy and State law.**

California has some of the most highly trained officers in the United States. Kensington PD officers train quarterly on the Use of Force policy and SB392. Use of force by Kensington officers has been extremely rare. The agency averaged only one use of force incident per year, which is attributable in part to the low crime rate, but more importantly to our officer's verbal skills, de-escalation tactics and training. The police department also trains in anti-bias policing, with a P.O.S.T. certified train-the-trainer instructor in Fair and Impartial Policing that is authorized to train our officers. Our training program was recently audited by an independent retired Captain, who determined our training was not only up to date, but above the standard.

All officers are equipped with body worn cameras that document every police contact along with Computer Aided Dispatch that documents and records every aspect of the officer's detail or assignment.

In response to the question regarding diversity within the Kensington PD, I offer the following statistics:

11% African American
22% Asian
37.5% Hispanic
33% Caucasian
22% Female (one sworn/one non-sworn)

I appreciate the opportunity to respond to your questions concerning our Use of Force Policy and look forward to working with the community as we navigate through these recent tragic events. As always, feel free to contact me with any additional questions or concerns you may have.

Thank you,



Walt Schuld
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