

TRAINING BULLETIN

A PUBLICATION OF THE SAN DIEGO POLICE DEPARTMENT

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21-12

DECEMBER 23, 2021

IMPLEMENTATION OF ASSEMBLY BILL 26

I. PURPOSE

The purpose of this bulletin is to provide information on Section 7286 of the California Government Code relating to instances of excessive force, intervention, and reporting requirements.

II. BACKGROUND

Assembly Bill 26 enhanced Section 7286 of the California Government Code and establishes new laws relating to instances of excessive force, intervention, and reporting requirements.

The legislative intent of AB 26 is to prevent excessive force, prevent retaliation against Department members who report excessive force, intervene in instances of excessive force, and to provide consequences for failure to intervene. It additionally imposes other sanctions on officers who fail to abide by the new legislation.

III. SCOPE

This Training Bulletin applies to all members of the Department.

IV. DEFINITIONS

Excessive force - means a level of force that is found to have violated Section 835a of the Penal Code, the requirements on the use of force required by this section, or any other law or statute.

Intercede - includes, but is not limited to, physically stopping the excessive use of force, recording the excessive force, if equipped with a body-worn camera, and documenting efforts to intervene, efforts to deescalate the offending officer's excessive use of force,

and confronting the offending officer about the excessive force during the use of force and, if the officer continues, reporting to dispatch or the watch commander on duty and stating the offending officer's name, unit, location, time, and situation, in order to establish a duty for that officer to intervene.

Retaliation - means demotion, failure to promote to a higher position when warranted by merit, denial of access to training and professional development opportunities, denial of access to resources necessary for an officer to properly perform their duties, or intimidation, harassment, or the threat of injury while on duty or off duty.

V. PROCEDURES

- A. AB 26 clarifies language about the use of force and provides clear and specific guidelines regarding when officers may or may not draw a firearm or point a firearm at a person.

SDPD Department Policy 1.04 has been amended to reflect these changes and now states, "Members shall not draw, display, or point a firearm at a person in the performance of duty except in situations known, or reasonably believed to be dangerous. (Refer to Department Procedure 1.04, Use of Force.)"

- B. Department Procedure 1.56, Section V.F., is in the process of being amended to reflect the following:

The supervisor who receives the notification of intervention shall monitor the workplace to ensure no retaliation is made against the person(s) who intervened or reported the intervention.

1. The supervisor shall follow-up with the employee in 30 days to ensure no retaliation has taken place against the reporting or intervening Department member(s).

- C. AB 26 additionally requires agencies establish procedures to prohibit an officer from training other officers for a period of at least three years from the date that an abuse of force complaint against the officer is substantiated. The SDPD Discipline Manual will be changed to reflect the following:

Sustained Findings of Force Requiring Suspension of Training Authority

- i. Government Code Section 7286 states that all law enforcement agencies must implement procedures to prohibit sworn Department members against whom an excessive force/abuse of force complaint is sustained from training other officers for a period of at least three (3) years from the date the complaint was sustained.

- ii.** All completed investigations with sustained findings for force that violated section 835 of the California Penal Code or any other law or statute must be reviewed by In-Service Training, a Police Legal Advisor, the Internal Affairs Commanding Officer, Executive Assistant Chief and the Chief of Police.
- iii.** If appropriate, the CPP may also review the investigation.
- iv.** After all appeals related to the findings and any related discipline have been exhausted, or the sworn Department member accepts the findings and discipline and declines further proceedings, the sworn Department member shall be issued a written notice of suspension of their training authority. Government Code Section 7286 does not permit any appeal of the training suspension.
- v.** The order shall specify the exact date in which reinstatement of training authority return after the suspension.

Please read at squad conferences and post.