



Walnut Creek Police Department Interoffice Memorandum “Safety ~ Service ~ Honor”

June 9, 2020

Walnut Creek Police Department Responds to “8 Can’t Wait” Campaign Recommendations

In response to recent inquiries regarding a national campaign called “8 Can’t Wait”, and local requests for a restrictive use of force policy, the Walnut Creek Police Department is releasing a summary of our Department’s pertinent policies to provide information on how they compare to the 8 Can’t Wait recommendations. Additionally, most of the recommendations outlined in the 8 Can’t Wait campaign have been captured in California statute.

The campaign has identified the following eight policy recommendations regarding the use of force by law enforcement. We include our relevant policy direction in each instance. The Department’s entire policy manual is located on our website.

1. Require de-escalation.

Walnut Creek Police Department policy requires officers to employ de-escalation techniques when dealing with people in crisis. Officers receive significant amount of training in de-escalation and crisis intervention.

California Senate Bill 230 requires that “officers utilize de-escalation crisis intervention tactics, and other alternatives to force when feasible.” SB 230 also mandates that policy requires 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.

2. Require warning by officers before shooting.

Walnut Creek Police Department policy expressly requires officers to provide verbal warnings, where feasible, to make reasonable efforts to warn that deadly force may be used.

Additionally, California Assembly Bill 392 (effective January 1, 2020) 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.

3. Department shall require officers to intervene in the event of excessive force.

Walnut Creek Police Department policy expressly requires officers to intervene and stop excessive force if they observe it occurring. Policy also requires every officer to report any excessive force to a supervisor.

Any officer 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. An officer who observes another employee use force that exceeds the degree of force permitted by law should promptly report these observations to a supervisor.

Additionally, Senate Bill 230 set 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.

4. Require comprehensive reporting of use of force incidents.

Walnut Creek Police Department policy requires that all uses of force be reported promptly, accurately and completely.

Senate Bill 230 already requires “comprehensive and detailed requirements for prompt internal reporting and notification regarding a use of force incident.” 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.

5. Ban Chokeholds and Strangulations.

The police department does not authorize chokeholds or strangulations.

Police Chief Tom Chaplin today announced that effectively immediately, Walnut Creek Police Department will no longer allow the use of a carotid control hold by officers. Over the past year, prior to the tragic killing of George Floyd in Minnesota on May 25, Chief Chaplin and his executive leadership had been examining use of force policies for the Police Department. Over the past decade, there have been 4 instances where a

carotid control hold, sometimes mistakenly referred to as a chokehold, was used to subdue violent suspects. This hold has not been used since 2015. In each case, the hold was used only long enough to allow for officers to safely take the person into custody, and there were no injuries as a result. However, over the past few years, the Police Department has expanded its tool kit of available less-than-lethal weapons. There are other more effective and less potentially dangerous methods of bringing a suspect into custody, and the Department will continue to investigate and embrace more options for law enforcement.

6. Ban shooting at moving vehicles.

Walnut Creek Police Department policy expressly prohibits shooting at vehicles except in life-threatening circumstances. The policy states that 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.

The police department is currently evaluating the language in this policy.

7. Require use of force continuum.

Walnut Creek Police Department policy specifically states that officers shall use only that amount of force that reasonably appears necessary given the facts and totality of the circumstances known to or perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose (Penal Code § 835a).

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.

8. Require officers to exhaust all means before shooting.

Walnut Creek Police Department policy only permits the use of any deadly force when:

- 1) An officer reasonably believes that the use of deadly force is necessary to protect the officer or another from a threat of imminent death or serious bodily injury, or
- 2) To stop a fleeing subject when the officer has probable cause to believe that the person has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer reasonably

believes that there is an imminent risk of serious bodily injury or death to any other person if the subject is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

The Walnut Creek Police Department recognizes and respects the value of all human life and dignity without prejudice to anyone. The Department will continue to evaluate our policies and training to ensure they further our shared goal of reducing deadly force incidents and that we are treating all persons with dignity and respect. We are committed to continued dialogue with our community on this very important topic.