

USE OF FORCE

<p>POLICY & PROCEDURE NO. 1.00</p>	 <p>ISSUE DATE: June 9, 2003</p>
<p>MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: 1.3.1; 1.3.2; 1.3.3; 1.3.4; 1.3.5</p>	<p>EFFECTIVE DATE: June 12, 2020</p>
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GENERAL CONSIDERATIONS AND GUIDELINES

Because of their law enforcement and peacekeeping role, police officers will be required at times to resort to the use of physical force to enable them to fully carry out their responsibilities. Police officers are confronted continually with situations requiring or resulting in the use of various degrees of force to affect a lawful arrest, to ensure public safety, or to protect themselves or others from harm. The degree of force used is dependent upon the facts surrounding the situation the officer's face. Only a reasonable and necessary amount of force may be used. The degree of force the officer is forced to use often depends upon the amount of resistance or threat to safety the situation produces.

The objective of the use of force is to maintain and/or reestablish control over a situation. Control is reached when a person complies with an officer's directions and/or the suspect is restrained or apprehended and no longer presents a threat to the officer or others. Since officers will encounter a wide range of behaviors, they must be prepared to utilize a range of force options that are reasonable and necessary to maintain and/or reestablish control by overcoming resistance to the officers' lawful authority while minimizing injuries.

Because there are an unlimited number of possibilities, allowing for a wide variety of circumstances, no written policy can offer definitive answers to every situation in which the use of force might be appropriate. Rather, this policy will set certain specific guidelines and provide officers with a concrete basis on which to utilize sound judgment in making reasonable and prudent decisions.

POLICY

It is the policy of the department that: [1.3.1]

1. Officers use only the force that is reasonably necessary to make a lawful arrest, to place a person into protective custody, to effectively bring an incident under control, or to protect the lives or safety of the officer and others.
2. When exigent and unforeseen circumstances cause officers to deviate from the provisions of this rule, officers are still expected to act with intelligence, sound judgment and in full conformity with both state and federal laws and constitutional provisions.
3. Any such deviation from the provisions of this policy shall be examined on a case by case basis.

DEFINITIONS

1. *Deadly Force*: Any use of force that is reasonably intended or likely to cause death or great bodily harm. In cases of an officer involved shooting refer to policy [1.02] **Post-Shooting Incident Procedures**
2. *Non-Deadly Force*: Any use of force other than that which is considered deadly force. This includes any physical effort used to control or restrain another, or to overcome the resistance of another.
3. *Intervene*: To come between, whether verbally or physically, so as to prevent or alter a result or course of events.

PROCEDURES

Use of Deadly Force

1. Officers are authorized to use deadly force to: [1.3.2]
 - a. Protect the officer or others from what is reasonably believed to be a threat of death or serious bodily harm; and/or
 - b. To affect an arrest only if:
 - i. The arrest is for a felony.
 - ii. The officer reasonably believes that the force employed creates no substantial risk to innocent persons; and
 - iii. The officer reasonably believes that:

- a. the crime for which the arrest is made involved conduct including the use or threatened use of deadly force, or
 - b. There is a substantial risk that the person to be arrested will cause death or serious bodily harm if such person's apprehension is delayed.
2. Where practicable prior to discharging a firearm, officers shall identify themselves as law enforcement officers and issue verbal commands.
3. The mere placing of handcuffs on a prisoner will not be construed to be a use of physical force. Use of restraining devices is mandatory on all prisoners, unless in the officer's judgment unusual circumstances exist which make the use of restraining devices impossible or unnecessary (e.g., very young juvenile, handicapped, injured).

Deadly Force Restrictions

1. Officers may use deadly force to destroy an animal that represents a threat to the public or as a humanitarian measure where the animal is seriously injured when the officer reasonably believes that deadly force can be used without harm to the officer or others. Officers should attempt to notify owners of domestic animals (dogs, cats) prior to destroying the animal.
2. Firearms should not be discharged as a bluff, warning, or signal shot. *[1.3.3]*
3. Discharging a firearm at or from a moving vehicle creates a substantial risk to innocent bystanders and should occur only in extreme circumstances where the immediate use of a firearm is necessary to protect the officer or others from death or serious bodily injury.

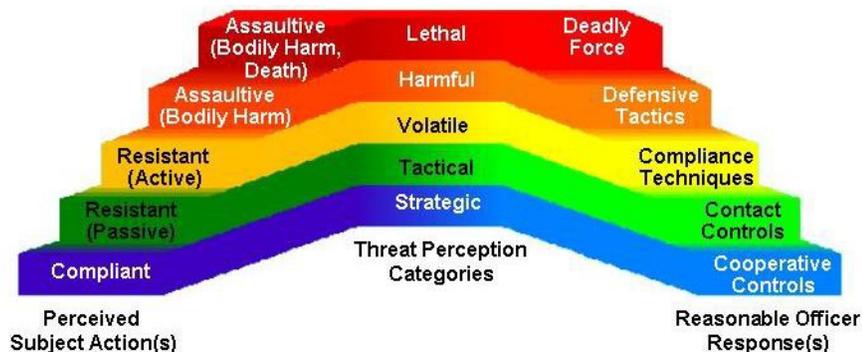
Use of Non-Deadly Force *[1.3.4]*

1. Where deadly force is not authorized, officers may use only that level of force that is reasonably necessary to effectuate their duties, or to defend themselves or others.
2. Officers who are trained to do so are authorized to use department-approved, non-deadly force techniques and issued equipment to:
 - a. Protect the officer or others from physical harm;
 - b. Restrain or subdue a resistant individual, while making a lawful arrest or placing a person in protective custody; and/or
 - c. Bring an unlawful situation safely and effectively under control.
3. Any officer who uses non-lethal force shall complete a Use of Force report in our Blue Team reporting system.

- The use of neck restraints, commonly known as chokeholds, have a potential for serious injury, and therefore, are not authorized unless the circumstance(s) warrant the use of deadly force. [1.3.4]

Model of Force MPTC

- Each encounter an officer is involved in should be viewed as a dynamic and evolving event. This requires the officer to continuously monitor both the situation and the actions of the subject(s) involved. Based on the officer's assessment of the perceived subject actions and situation, he/she will determine to escalate, de-escalate, or maintain the current force options.
- The Use of Force Model was developed in 1991 by Dr. Franklin Graves, Federal Law Enforcement Training center. This model provides basic subject classification and potential officer responses. A subject may fit into more than one classification at a given time, and it is up to the officer to reasonably apply the necessary and appropriate force options based on the situation faced at the time.
- The potential responses listed may not include all force options open to the officer at a point in time, based on his/her level of training and available equipment. It shall be stressed, as part of this policy, that the Use of Force Model is guideline and suggested courses of action but are not the only course of action.



Compliant subject

Level 1

This subject complies with officer requests/orders and offers no resistance either verbal or physical. The vast majority of persons an officer will encounter are in this classification.

Potential responses: Communication skills; physical contact to guide subject; or compliant handcuffing techniques.

Passive Resistant subject

Level 2

The preliminary level of non-compliance. While the subject does not comply with officer requests/orders and may issue verbal non-compliance, there is no physical resistance or flight. An example is a subject that goes limp or lies on the ground but offers no resistance to being handcuffed or moved by officers.

Potential response: Empty hand contact controls to guide or remove subject from an area and handcuff.

Active Resistant subject

Level 3

Non-compliance includes physical effort or flight by the subject that is directed at avoiding the arrest. Examples include flight by either foot or conveyance, lying on the ground and locking arms under body, holding on to other persons or objects, or tensing up, twisting or pulling away from the officer.

Potential responses: Empty hand techniques to gain control (wristlock, arm-bar); distraction techniques (joint manipulation, pressure points); chemical irritants (OC), or baton arm-lock. Use of the ECW in a drive stun is also an example of a response at this level.

Assaultive / Bodily harm

Level 4

The officer perceives that a subject is preparing to assault, is currently assaulting, or has assaulted the officer or another person with force that will not cause serious injury or death. Examples include empty hand assaults such as pushing, shoving, punching, wrestling or grasping.

Potential responses: Defensive tactics designed to cease the non-lethal assault such as empty hand strikes (elbow, knee, head-butt, kicks, punches, and blocks); or less-lethal weapons (baton

strikes, blocks, and bean-bag gun). Full Deployment of the ECW where the probes “hit” the subject would also be a response at this level.

Assaultive / Serious Bodily Harm or Death

Level 5

The officer perceives that an assault on him/herself or another has risen, or is about to rise, to a level with the potential to cause serious injury or death.

Examples include empty hand attacker trying to disarm an officer, strangling, and assaults with weapons.

Potential responses: While a department-issued or approved firearm is the preferred response in a lethal force encounter, it is recognized that a situation may arise where an officer has been disarmed or is caught unaware by a sudden and violent assault. If such occurs, the following options should also be considered: less-lethal weapons (baton strikes to red target areas, bean-bag gun with modified points of aim to upper torso/head); or empty hand strikes or holds to lethal target areas, or weapons of available means.

Threat Perception Categories

Strategic - the broad “mind set” of the officer, represented by the blue baseline on the Threat Perception Color Code. The contemporary officer must maintain this functional foundation, centered upon strategies designed to enhance the status of safety.

Tactical - the second level on the Use of Force Model, depicted by the color green. Here the officer perceives an increase in threat potential within the confrontational environment and tactical procedures are designated and deployed.

Volatile - the third level on the Use of Force Model utilizing the color yellow to indicate an activated level of alertness and threat potential. Here the officer is confronted with the presence or potential of critical dynamics, including threat intensity and severity within the enforcement encounter.

Harmful - at this level on the Use of Force Model the color orange denotes an accelerated perception of threat directed upon the officer or others. In this regard the officer must deploy initial defensive force in the effort toward eventual subject compliance and control.

Lethal - the highest level on the Use of Force Model correlates to the most intense color in the Threat Perception Color Code □, red. Although this potentially lethal degree of threat is most infrequent, it remains most crucial for the continuation of officer safety and security.

Medical Attention

1. After any level of force is used, the officer shall, as soon as practicable, evaluate the need for medical attention or treatment for that person upon whom the force was used and arrange for such treatment when: [1.3.5]
 - a. That person has a visible injury; or
 - b. That person complains of injury or discomfort and requests medical attention.
 - c. In the case of use of oleoresin capsicum spray or another chemical agent, immediately after use on a suspect, officers shall be alert to any indications that the individual needs medical care. This includes, but not necessarily limited to, breathing difficulties, gagging, profuse sweating and loss of consciousness.
 - d. Decontamination of the individual includes washing the affected areas with a dishwashing liquid or soap plus washing and irrigating the eyes, face, and head with fresh water.
 - e. The Town of Needham's emergency medical personnel will assess all medical injuries and determine the appropriate level of care needed.
 - f. The welfare, care and proper treatment of the citizen and prisoners in police custody must be of paramount concern to every member of this department.

Injury to Prisoner

1. The officer shall promptly notify his/her immediate supervisor of the incident.
2. The officer shall attempt to locate and identify all witnesses, and obtain and document their statements.

3. The officer shall prepare and submit all required reports. If more than one officer is involved in a use of force incident resulting in an injury, each officer shall complete a report outlining his/her actions and observations in the incident. (See Section E below regarding reports and statements.)

Duty to Intervene

Effective immediately, it shall be the duty of all sworn members of the Needham Police Department present at any scene where force is being applied, to either stop, or attempt to stop, another member of the Department when force is being unreasonably applied or is no longer valid.

1. All sworn members of the Department must recognize and act upon the duty to intervene to prevent or stop any member from conducting any act in violation of this policy (i.e. excessive force).
2. De-escalation will play a critical role in intervention.
3. Intervention may be verbal or physical Depending on the circumstances. It may be necessary to stand between another officer and the subject or to hold the officer back if verbal intervention does not work.
4. Failure to intervene may subject a sworn member to disciplinary action, civil liability and/or criminal prosecution.
5. After intervention, medical aid shall be rendered if necessary.
6. Immediately notify a supervisor after intervention was used when safe to do so.
7. Any intervention will require the intervening officer to file a report documenting observations, statements made, intervention used and any injuries to the subject as result of a violation of this policy (i.e. excessive force)
8. Intervention will be a critical part of all use of force training from here forward.

De-escalation

De-escalation will continue to be a critical part of every Use-of-Force training the Department conducts.

Patrol Supervisor

1. If available, the patrol supervisor shall immediately respond to the scene of any incident where, as the result of the application of physical force, an officer is injured, or a prisoner

has a visible injury, or complains of injury or discomfort and requests medical attention, and

2. The patrol supervisor shall:
 - a. Ensure that officers receive any necessary assistance, including medical treatment, and that any injuries to officers are properly documented;
 - b. Ensure that the need for medical treatment for the prisoner is properly evaluated and provided;
 - c. Determine if a detective should respond to the scene and the level of investigative services to be utilized (including photos, measurements and diagrams). If an injury or complaint of pain exists, supervisors are encouraged to obtain photographs; and

NOTE: A photograph showing no injury may be as important as one which shows injury.

- d. File a report on the incident and his/her observations in Blue Team.
3. In cases of an officer involved shooting refer to policy [1.02] **Post-Shooting Incident Procedures**

Reports and Statements

1. This section on reports and statements shall apply to all situations involving the actual or alleged use of force and governed by Policy & Procedure 1.00 to 1.03 or any subsection of those policies.
2. As set forth above, the department recognizes that officers experience significant stress in incidents involving the actual or alleged discharge of weapons, those involving serious injury or death, those involving an altercation and those involving the use of significant force to subdue an individual.

Officers involved in or witnessing the use of force shall have the right to consult with an attorney and a union representative. They may make such consultation before being required to write a report or give an interview regarding the incident. All officers involved in any such incident shall be notified of these rights by their supervisor or the officer in charge of any investigation.

Officers involved in incidents resulting in injury or death resulting from the use of force by a Needham police officer, or in the discharge of a weapon shall submit a report and be interviewed as soon as practicable after they have had the opportunity to consult with an attorney and union representative, and after they have had the opportunity to seek any necessary medical treatment.

¹ *Com. v. Klein*, 372 Mass. 823, 363 N.E.2d 1313 (1977)

² The Fifth Amendment to the Constitution of the United States and Article 12 of the Massachusetts Declaration of Rights apply to situations, which could ultimately involve as issue of criminal charges, including the right to remain silent and the right to consult an attorney. The courts have held that a police officer cannot be compelled to give a statement in such a case. *Carney v. Springfield*, 403 Mass. 604 (1988). Employees have the right to have a union representative present and to consult a union representative. *NLRB v. Weingarten*, 420 U.S. 251 (1975).