

USE OF FORCE & REMOVAL FROM DUTY

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I. 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 effect 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. The Department's guiding value when using force SHALL be Reverence for Human Life. Officers SHALL attempt to control an incident by using time, distance, communications, and available resources in an effort to de-escalate the situation, whenever it is safe and reasonable to do so. When warranted, department personnel may objectively use reasonable force to carry out their duties. Note that de-escalation tactics first need to be attempted and failed OR not feasible based upon the totality of the circumstances.

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 re-establish 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.

II. POLICY

It is the policy of the department that:

- A. 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.
- B. An officer present and observing another officer using physical force, including deadly force, beyond that which is necessary or objectively reasonable based on the totality of the circumstances, **SHALL intervene to prevent the use of unreasonable force**, unless intervening would result in imminent harm to the officer or another identifiable individual.
- C. Intervention to prevent another officer from using unreasonable force is already a constitutional duty for all officers. 2
- D. An officer who fails to intervene may subject them to disciplinary action, civil liability and/or criminal prosecution. POST may also revoke the officer's certification or order them to be retrained after a POST hearing.

III. DEFINITIONS

- A. *Deadly Force / Lethal Force:* Any use of force that may result in death or great bodily harm.
- B. *Physical Force / Less Lethal 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.

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- C. *De-escalation Tactics*: Proactive actions and approaches used by an officer to stabilize a law enforcement situation so that more time, options and resources are available to gain a person's voluntary compliance and to reduce or eliminate the need to use force including, but not limited to:
1. Verbal persuasion,
 2. Warnings,
 3. Slowing down the pace of the incident,
 4. Waiting out a person,
 5. Creating distance between the officer and a threat and
 6. Requesting additional resources to resolve the incident (e.g. calling in medical or mental health professionals), as defined in subsection 51 ½ of chapter 111, to address a potential medical or mental health crisis.
- D. *Chokehold*: The use of a lateral vascular neck restraint, carotid restraint or other action that involves the placement of any part of law enforcement officer's body on or around a person's neck in a manner that limits the person's breathing or blood flow with the intent of or with the result of causing bodily injury, unconsciousness or death.
- E. *Serious Bodily Injury*: Bodily injury that results in: (i) permanent disfigurement; (ii) protracted loss or impairment of a bodily function, limb or organ; or (iii) a substantial risk of death. This may also be referred to as "serious physical injury."
- F. *Officer-involved Injury or Death*: Any event during which an officer:
- a. discharges a firearm, as defined in M.G.L. c. 140, § 121, actually or proximately causing injury or death to another;
 - b. discharges any stun gun as defined in M.G.L. c. 140, § 121, actually or proximately causing injury or death to another;
 - c. uses a chokehold, actually or proximately causing injury or death of another;
 - d. discharges tear gas or other chemical weapon, actually or proximately causing injury or death of another;
 - e. discharges rubber pellets from a propulsion device, actually or proximately causing injury or death of another;

- f. deploys a dog, actually or proximately causing injury or death of another;
- g. uses deadly force, actually or proximately causing injury or death of another;
- h. fails to intervene, as required by M.G.L. c. 6E, § 15, to prevent the use of excessive or prohibited force by another officer who actually or proximately causes injury or death of another; or
- i. engages in a physical altercation with a person who sustains serious bodily injury or requests or receives medical care as a result, provided that such medical care relates to an actual condition or injury that is more than *de minimis*. An injury is more than *de minimis* where it produces an observable injury or medical condition, the customary medical response to which would include that a person visit an emergency room, or have a doctor or other medical professional attend to, give an opinion regarding, diagnose, and/or provide medical treatment for the injury or condition.

IV. PROCEDURES

A. Parameters for the Use of Deadly Force / Lethal Force

1. A law enforcement officer SHALL not use deadly force upon a person unless:
 - a. De-escalation tactics have been attempted and failed or not feasible based upon the totality of the circumstances **and**
 - b. Such force is necessary to prevent imminent harm to a person and the amount of force used is proportionate to the threat of imminent harm.
2. Officers are authorized to use lethal force to:
 - 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 effect an arrest only if¹:
 - i. The arrest is for a felony;

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- ii. The officer reasonably believes that the force employed creates no substantial risk to innocent persons; and
 - iii. The officer reasonably believes (i.e. has “probable cause”) that:
 - [a] The crime for which the arrest is to be 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.
3. Where practicable prior to discharging a firearm, officers SHALL identify themselves as law enforcement officers and state their intent to shoot.

B. Deadly Force / Lethal Force Restrictions

- 1. Officers may use lethal force to destroy an animal that represents a threat to public safety, or as a humanitarian measure where the animal is seriously injured when the officer reasonably believes that lethal force can be used without harm to the officer or others.
 - a. Where feasible, children should not be present.
 - b. Every reasonable attempt to locate and receive permission from the animal’s owner should first be made before destroying the animal.
 - c. Calls involving certain wildlife (moose, black bears, etc.) fall under the jurisdiction of the Environmental Police. It is the Environmental Police only who are authorized to take lethal force on such animals unless the animal poses a threat to the general public and immediate action is needed to save a life or prevent serious injury.
- 2. Firearms SHALL not be discharged as a bluff, warning, or signal shot.

3. A law enforcement officer SHALL not discharge any firearm into or at a fleeing motor vehicle unless, based on the totality of the circumstances, such discharge is necessary to:
 - a. Prevent imminent harm to a person
 - b. The discharge is proportionate to the threat of imminent harm to a person.
4. Officers **SHALL not be trained** in and **SHALL not use a chokehold** without exception.

C. Use of Physical Force / Less Lethal Force

1. A law enforcement officer SHALL not use physical force upon another person **unless**:
 - a. De-escalation tactics have been attempted and failed **or**
 - b. The de-escalation tactics are not feasible based on the totality of the circumstances.

And such force is necessary to:

- c. Effect the lawful arrest or detention of a person; or
- d. Prevent the escape from custody of a person; or
- e. Prevent imminent harm and the amount of force used is proportionate to the threat of imminent harm;

Provided, however that a law enforcement officer may use necessary, proportionate and non-deadly force in accordance with the regulations promulgated by the committee on police training and certification.

2. Where lethal force is not authorized, officers may use only that level of force that is reasonably necessary to bring an incident under control.
3. Officers are authorized to use department-approved, less lethal 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.
4. The mere placing of handcuffs on an individual will not be construed to be a use of physical force. Use of restraining devices is mandatory on all detainees, 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).

D. De-escalation

1. An officer SHALL use de-escalation techniques and other alternatives to higher levels of force consistent with his or her training whenever possible and appropriate before resorting to force and to reduce the need for force.
2. Whenever possible and when such delay will not compromise the safety of the officer or another and will not result in the destruction of evidence, escape of a suspect, or commission of a crime, an officer SHALL allow an individual time and opportunity to submit to verbal commands before force is used.

E. Medical Attention

1. After any type of force is used, officers SHALL always evaluate the need for medical attention and provide medical care when appropriate. Specifically, officers SHALL provide proper medical aid when:
 - j. After the use of a lethal (deadly) weapon(s).
 - k. After the use of a less-lethal weapon.
 - l. When the use of weaponless tactics results in injury to the person subject to the use of force.

- m. When injuries are sustained as a result of law enforcement action.
- n. When a person, including a suspect or detainee, requests medical attention.
- o. That person has a visible injury.
- p. When an officer is on call for service, or during the detention or arrest of a person, and;
 - i. There is an obvious severe injury to a person.
 - ii. A person is in medical distress. i.e., unable to breathe, labored breathing, wheezing, etc.
 - iii. A person is unresponsive or unconscious.

NOTE: Any person requesting and/or deemed in need of immediate medical attention SHALL be transported in accordance with the departmental policy on **P&P 3.01 Transportation of Detainees** to the appropriate hospital or medical facility. All medical treatment received SHALL be noted in the officer's report.

2. Injury to a Detainee

- a. The officer SHALL promptly notify his/her immediate supervisor of the incident.
- b. The officer SHALL attempt to locate and identify all witnesses and obtain and document their statements.
- c. 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.

3. Patrol Supervisor

- a. 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 detainee has a visible injury, or

complaints of injury or discomfort and requests medical attention, and

- b. [S]he SHALL:
- i. Ensure that officers receive any necessary assistance, including medical treatment, and that any injuries to officers are properly documented;
 - ii. Ensure that the need for medical treatment for the detainee is properly evaluated and provided;
 - iii. 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.

- iv. File a report on the incident and his/her observations with the officer-in-charge of the police station.

F. Use of Force: Removal From Duty

1. The purpose of this Policy is to address the sworn and civilian personnel's well-being as the result of death or serious bodily injuries as a result of less lethal use of force. As with death, serious injury as a result of a shooting, or critical and traumatic incident, the officer and support personnel can be exposed to mentally painful and highly stressful situations that cannot be resolved through normal stress coping mechanisms. Unless adequately treated, these situations can cause disabling emotional and physical problems.
2. The same guidelines SHALL be adhered to as in **P&P 1.02 Post-Shooting Incident Procedures** including but not limited to the following:

- a. Debriefings SHALL be held as soon as possible after the incident. The department SHALL ensure that there is a debriefer on call or on-duty at all times so that someone is available shortly after an incident.
- b. Involved personnel SHALL be removed from line duties pending evaluation and administrative review but SHALL remain available for any necessary administrative investigations.
- c. All officers directly involved in such incidents SHALL be required to contact a department designated specialist for counseling and evaluation as soon as practical after the incident. Involved support personnel should also be encouraged to contact such specialists after such incident. After the counseling sessions, the specialist SHALL advise the agency:
 - i. Whether it would be in the officers' best interest to be placed on administrative leave and for how long;
 - ii. Where the officers were relieved of any weapons after an incident, at what point they should be returned; and
 - iii. What will be the best continued course of counseling.
- d. The department strongly encourages the families of the involved officers to take advantage of available counseling services.
- e. Any department investigation of the incident SHALL be conducted as soon and as quickly as practical.
- f. The department should brief other department members concerning the incident so that rumors are kept to a minimum. Department members are encouraged to show the involved officers their concern.
- g. All personnel involved in such incidents should be advised that they are not permitted to speak with the media about the incident.

- h. In order to protect against crank or abusive calls, officers should be advised to have phone calls answered by another person for several days if their names are released to the public.
- i. Officers directly involved in such incidents SHALL be required to re-qualify in less lethal weapons as soon as practical.

G. Mass Demonstrations

1. When the Westford Police Department learns of a planned mass demonstration, the department SHALL engage in a good faith effort to communicate with organizers to discuss logistical plans, strategies to avoid conflict, and communications between police and event participants.
2. The Department will appoint an officer in charge of developing de-escalation plans and communicating them throughout the department.
3. No officer SHALL use or order any of the following types of force unless de-escalation was not feasible or failed and the measures used are necessary to prevent imminent harm and are proportionate to the threat of harm;
 - 1) Tear gas or any other chemical weapon;
 - 2) Rubber pellets, or
 - 3) A dog to influence or control a person's behavior.

If police make use of any of these forms of force, the agency must explain their use in a report to POST.³ This report to the POST Commission will detail all measures that were taken in advance of the event to reduce the probability of disorder and all de-escalation tactics and other measures that were taken at the time of the event to deescalate tensions and avoid the necessity of using the tear gas or other chemical weapon, rubber bullets or dog.

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

² *Com. v. Adams* 416 Mass 558 (1993)

³ Massachusetts Peace Officer Standards and Training Commission