

POLICY #1-5



USE OF FORCE

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GENERAL CONSIDERATIONS

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 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 subject 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.

The value of human life is immeasurable in our society. The Weymouth Police Department places its highest value on the sanctity of life, the safety of its officers and the public. The Department's policies and procedures are designed to ensure that this value guides police officers in their use of lethal force.

POLICY [1.3.1]

It is the policy of the department that officers use reasonable force when force is used to accomplish lawful objectives such as making a lawful arrest, placing a person into protective custody, to bring an incident under control, or to protect the lives or safety of the officer and others. The use of any weapon, lethal or less lethal, while performing departmental duties is restricted to sworn personnel.

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In each instance, lawful and proper force is restricted to that reasonably necessary to control and terminate unlawful resistance and to prevent any attack against the officer or another person. This includes the use of lethal and/or less lethal force with lethal and less lethal weapons. The degree of force that may be used will be determined by the facts and circumstances of the incident including but not limited to: the nature of the offense, the degree of resistance of the subject, and the threat to the safety of the officer or others.

[1.3.1]

No policy or procedure for lethal or less lethal force can cover every situation officers may encounter. However, officers are expected to use proper judgment, restraint and competence, whatever the level of force required.

DEFINITIONS

Lethal Force: Any use of force that is reasonably likely to cause serious bodily injury or death.

Less Lethal Force: Any use of force that is not likely to cause serious bodily injury or death. It includes the use of approved defensive/physical tactics, aerosol sprays, electronic control weapons, the baton, and K9 contact.

Passive Resistance: The preliminary level of non-compliance, where a subject, although non-compliant, offers no physical or mechanical energy enhancement towards the resistant effort.

Active Resistance: Advanced level of non-compliance, where a subject's resistance is increased in scope and intensity, and includes energy enhanced physical or mechanical defiance.

Assaultive/Bodily Harm: The officer's attempt to gain lawful compliance has been met with active, hostile, non-compliance, culminating in a perceived or actual attack upon the officers or others. The scope and severity of the attack would support the reasonable assumption that the actions of the attacker would not result in anyone's death or serious bodily injury.

Serious Physical Injury: Injury that creates a substantial risk of death or serious permanent disfigurement, or results in long-term loss or impairment of any body part or organ. [1.3.2]

Reasonable Belief: The known facts and circumstances that would cause an ordinary and prudent officer to act or think in a similar way under similar circumstances. [1.3.2]

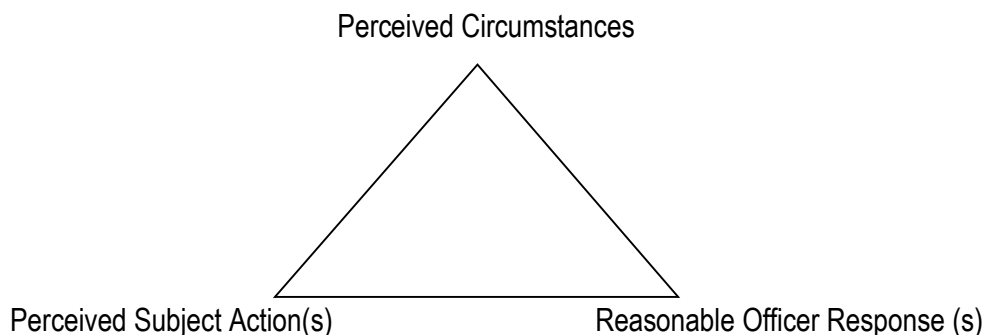
Probable Cause: Trustworthy facts and circumstances known to an officer that would lead a reasonable person to conclude that it is more likely than not that the suspect has committed, or is committing a crime; or evidence of a crime will be found in a particular place.

De-escalation: De-escalation is using communication and conflict management skills when safe to do so, and when time and circumstances permit. It is designed to persuade hostile, non-compliant, or potentially violent people that a peaceful solution is their best option.

Duty to Intervene: All officers are trained and required to intervene when they recognize that any other officer, of any rank, is acting contrary to the law or department policy.

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MPTC USE OF FORCE REFERENCE GUIDE



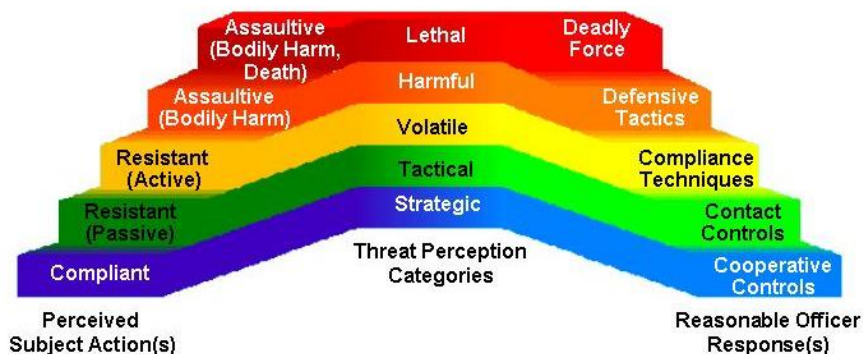
The Totality Triangle © depicts the three elements which must be considered in determining whether an application of force was objectively reasonable.

Perceived Circumstances - the officer's perspective of the severity of any crime, the existence of an immediate safety threat to the officer or others, and the degree of compliance / non-compliance from the subject; culminating in its identification on the Use of Force Model.

Perceived Subject Action (s) - the subject action (s) as perceived by the reasonable officer that designates the subject at one or more of the Use of Force Model's compliant / non-compliant categories.

Reasonable Officer Response (s) - the "balanced" response (s) appropriate for the reasonable officer's selection from the Use of Force Model's identified response categories, in order to maintain or gain subject compliance and control.

MPTC Use of Force Model



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Threat Perception Color Code - the tactically applied and color adapted correlation of the Threat Perception Categories on the Use of Force Model.

Control Superiority Principle © - the understanding and visualization method utilized to reinforce the inherent principle of officer force superiority over the subject's degree of compliance/non-compliance.

Assessment/Selection Arrows - the mechanism utilized to indicate the dynamic nature of an officer's decision-making process of Tactical Transition © during the enforcement encounter.

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.

Perceived Subject Action (s) Categories

Compliant - represents the vast majority of officer/citizen confrontations in the form of cooperation and control. Such cooperation is generally established and maintained via cultural acceptance and verbalization skills.

Resistant (Passive) - the preliminary level of citizen non-compliance. Here, the citizen, although non-compliant, offers no physical or mechanical energy enhancement toward the resistant effort.

Resistant (Active) - the subject's non-compliance is increased in scope and/or intensity. The subject's non-compliance now includes energy enhanced physical or mechanical defiance.

Assaultive (Bodily Harm) - the officer's attempt to gain lawful compliance has culminated in a perceived or actual attack on the officer or others. The officer makes the reasonable assessment that such actions by the subject would not result in the officer's or other's death or serious bodily harm.

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Assaultive (Serious Bodily Harm / Death) - the officer's attempt to gain lawful compliance has culminated in the perception of an attack or the potential for such an attack on the officer or others. The officer makes the reasonable assessment that such actions by the subject could result in serious bodily harm or death to the officer or others.

Officer Response (s) Categories

Cooperative Controls - includes controls developed to preserve officer safety and security, including: communication skills, restraint applications, etc.

Contact Controls - includes countermeasures designed to guide or direct the non-compliant subject. These "hands on" tactics could include the elbow/wrist grasp, Hand Rotation Position©, etc.

Compliance Techniques - includes countermeasures designed to counter the subject's enhanced degree of resistance. These tactics could include the Hand Rotation Technique©, aerosol irritants, directed canine bark, muzzled canine contact and ECW in drive stun mode.

Defensive Tactics - includes countermeasures designed to cease the subject's non-lethal assault on the officer or others, regain control, and assure continued compliance. These tactics could include baton strikes, kicking techniques, canine contact, and ECW in full probe deployment.

Lethal Force - includes immediate and conclusive countermeasures designed to cease an assault which is lethal or could cause great bodily harm to the officer or others. These tactics could include the use of a firearm, lethal strikes, or tools of available means.

PROCEDURES

1. Use of Lethal Force

1.1. Officers are authorized to use lethal force to: [1.3.2]

1.1.1. A police officer may use lethal force only when the officer reasonably believes that the action is in defense of human life including the officer's own life, or in the defense of any person in imminent danger of serious physical injury; and/or

1.1.2. To effect an arrest only if:

- The arrest is for a felony;
- The officer reasonably believes that the force employed creates no substantial risk to innocent persons; and
- The officer reasonably believes (has "probable cause") that:
 - The crime for which the arrest is to be made involved conduct including the use or threatened use of lethal force, or
 - 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.

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- 1.2. Where practicable prior to discharging a firearm, officers shall identify themselves as law enforcement officers and state their intent to shoot.
 - 1.3. 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, such as a young juvenile or a person who is handicapped or injured.
 - 1.4. Firearms to Carry When off Duty: Due to the high level of training and competency, which members develop with the issued firearm, all members are strongly advised to carry the department issued pistol when they choose to carry a firearm off duty. This policy shall not be interpreted as restricting any member, who possesses a valid "License to Carry a Firearm" from carrying any firearm under the conditions of law while off duty. If a department member does not have a valid Massachusetts License to Carry (LTC) the only weapon an employee may carry off duty is the department issued weapon.
2. Lethal Force Restrictions
 - 2.1. 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. Patrol rifles shall not be used to destroy animals.
 - 2.2. Firearms shall not be discharged as a bluff, warning, or signal shot. [1.3.3]
 - 2.3. Officers should refrain from discharging a firearm at or from a moving vehicle unless any occupant is using or threatening to use lethal force. Officers should not shoot when a vehicle is no longer an imminent threat.
3. Use of Less Lethal Force (Sworn and Civilian) [1.3.4]
 - 3.1. Where lethal force is not authorized, officers may use only that level of force that is reasonably necessary to bring an incident under control.
 - 3.2. Officers are authorized to use department-approved, less lethal force techniques and issued equipment to:
 - 3.2.1. Protect the officer or others from physical harm;
 - 3.2.2. Restrain or subdue a resistant individual, while making a lawful arrest or placing a person in protective custody; and/or
 - 3.2.3. Bring an unlawful situation safely and effectively under control.
 - 3.3. 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

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circumstances exist which make the use of restraining devices impossible or unnecessary.

NOTE: Also see Electronic Control Weapons Policy

4. Medical Attention

- 4.1. After any level of force is used, the officer shall immediately 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]

4.1.1. That person has a visible injury; or

4.1.2. In the case of use of pepper spray, immediately after spraying a subject, officers shall be alert to any indications that the individual needs medical care. This includes, but is not limited to breathing difficulties, gagging, profuse sweating and loss of consciousness; or

4.1.3. That person complains of injury or discomfort and requests medical attention.

4.1.4. NOTE: Any person requesting and/or deemed in need of immediate medical attention shall be transported (in accordance with the departmental policy on Transporting Prisoners) to the appropriate hospital or medical facility. All medical treatment received shall be noted in the officer's report.

4.2. Injury to Prisoner

4.2.1. The officer shall promptly notify his/her immediate supervisor of the incident.

4.2.2. The officer shall attempt to locate and identify all witnesses, and obtain and document their statements.

4.2.3. 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.

5. Reporting Use of Force [1.3.6]

- 5.1. A Use of Force Report is required to be completed and submitted by any department member who:

5.1.1. Discharges a department authorized firearm, for other than training, recreational purposes or euthanizing animals. [1.3.6(a)];

5.1.2. Takes an action that results in or is alleged to have resulted in injury or death of another person [1.3.6(b)];

5.1.3. Applies force through the use of lethal or less lethal weapons [1.3.6 (c)]; or

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5.1.4. Applies weaponless physical force as a means to defend themselves or another. (Physical touching, gripping or holding, frisking, handcuffing or other custodial procedures are not included.)

5.2. Use of Force Reports shall be completed and submitted to the Officer in Charge of the shift prior to the end of the officer's tour of duty unless circumstances dictate otherwise. In such cases the Use of Force report may be completed and submitted at the discretion of the Captain of Field Services.

5.3. The Officer in Charge of the shift shall review the Use of Force Report and submit this form to the Chief of Police prior to the end of the tour of duty when the incident occurred.

6. Patrol Supervisor

6.1. 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

6.2. [S]he shall:

6.2.1. Ensure that officers receive any necessary assistance, including medical treatment, and that any injuries to officers are properly documented;

6.2.2. Ensure that the need for medical treatment for the prisoner is properly evaluated and provided;

6.2.3. Determine if an officer of a higher rank 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. Officers are advised to protect the privacy and confidentiality of all subjects.

6.2.4. Upon entry into the police station, the Watch Commander shall immediately examine the prisoner and if he/she finds any bruises, cuts or other injuries, shall forthwith make a written report thereof to the Chief of Police noting his/her observations.

6.2.5. The Watch Commander shall review the Use of Force Report and submit this form to the Chief of Police prior to the end of his/her tour of duty when the incident occurred.

7. Review of Use of Force [1.3.13] [1.3.7]

7.1. The Officer in Charge of the shift or a Supervisor Not involved in the incident shall review the Use of Force Report and submit this form to the Chief of Police prior to the end of the tour of duty when the incident occurred.

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7.2. All Use of Force Reports shall be reviewed by the Captain of Field Services and filed in the Annual Use of Force file for annual review.

7.3. All Use of Force Reports shall be reviewed annually. [1.3.13]

7.3.1. This review will attempt to identify trends, improve training, enhance officer safety, and evaluate weapon and equipment needs/upgrades.

8. Reassignment of Officers in Use of Force [1.3.8]

8.1. Any employee (sworn or civilian), whose actions or use of force results in a death or serious physical injury of another, shall be reassigned from any line function to administrative duties until the completion of an administrative review by a supervisor not involved in the incident. This may include being placed on paid administrative leave.

8.2. Every firearm discharged during an officer involved shooting shall be seized by the patrol supervisor or person authorized by the watch commander, for the purposes of mechanical and ballistics examination as soon as practical. The officer whose firearm was seized shall be issued a temporary firearm until the completion of the investigation.

8.3. Officers removed from line functions due to use of force involvement shall be sent for post-incident debriefing or counseling.

9. Annual/Biennial Proficiency Training [1.3.11]

9.1. At least annually, all agency personnel authorized to carry weapons are required to receive in-service training on the agency's use of force policies and demonstrate proficiency with all approved lethal weapons and electronic controlled weapons that the employee is authorized to use. Officers are required to learn de-escalation during recruit academy training, and further, are required to undergo additional annual in-service de-escalation training. In-service training for other less lethal weapons and weaponless control techniques shall occur at least biennially. In addition:

9.1.1. Proficiency training must be monitored by a certified weapons or tactics instructor;

9.1.2. Training and proficiency must be documented; and

9.1.3. The agency must have procedures for remedial training for those employees who are unable to qualify with an authorized weapon prior to resuming official duties.

10. De-escalation Techniques

10.1. De-escalation is using communication and conflict management skills when safe to do so, and when time and circumstances permit. It is designed to persuade hostile, non-complaint, or potentially violent people that a peaceful solution is their best option. In some situations, police may be able to use de-escalation communication techniques to calm suspects and avoid (or minimize) using force.

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10.2. Note: Time spent using de-escalation techniques can provide more time for back-up to arrive;

10.3. Efficacy of any de-escalation technique is determined by the totality of circumstances and may not always be practical or safe.

11. Duty to Intervene

11.1. All officers have a responsibility and an obligation to protect the public and other employees.

11.2. Officers should be aware of their personal responsibility during use of force encounter. Officer shall have an affirmative duty to intervene, regardless of rank and/or assignment, should they observe a situation in which they perceive more than the reasonably necessary use of force is being deployed by a fellow officer or that force is being applied for longer than required.

11.3. Every employee has a responsibility to report any incident where an officer is suspected of inappropriately using force or continuing to use force beyond what reasonable to accomplish the task at hand.

12. Training on Use of Force Policy [1.3.10] [1.3.12]

12.1. Every department employee (sworn and civilian) authorized to carry lethal and less lethal weapons shall be issued copies of and receive instruction and training in the department's use of force policy and shall demonstrate proficiency in the use of agency authorized weapons before being authorized to carry any weapon. The department's firearms instructor will document instruction, training and proficiency from qualification. The department's ECW Instructor will include this training in one ECW training annually.

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

² M.G.L. c. 276, s. 33

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