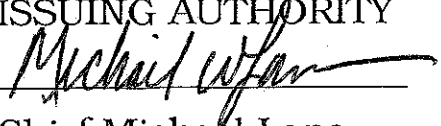


USE OF FORCE

POLICY & PROCEDURE NO. 1.01	ISSUING AUTHORITY  Chief Michael Lane
	EFFECTIVE DATE: <u>November 1, 2010</u>
MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: 1.3.1; 1.3.2; 1.3.3; 1.3.5;	REVIEWED BY DATE: <u>January 1, 2012</u>

I. GENERAL CONSIDERATIONS AND GUIDELINES

Police officers are continuously confronted with situations requiring or resulting in the use of force. The degree of force used is dependent upon the *Totality Triangle* surrounding the situation the officer's face. The *Totality Triangle* depicts the three elements which must be considered in determining whether an application of force was objectively reasonable. The objective of the use of force is to maintain and/or reestablish control over a situation.

II. POLICY

It is the policy of the department that:

1. Officers use only the force that is objectively reasonable to accomplish lawful objectives such as 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. [1.3.1]
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. Any such deviations from the provisions of this rule shall be examined on a case by case basis.

III. DEFINITIONS

- A. *Force*: Any physical effort used to compel, repel and/or control.
- B. *Non-Lethal Force*: (Non-Deadly Force) That force which is not likely or intended to cause serious bodily harm or death.
- C. *Lethal Force*: (Deadly Force) That force which is likely or intended to cause serious bodily harm or death.
- D. *Bodily Harm*: A bodily injury that does **not** create a substantial risk of death; causes serious and/or permanent disfigurement; or results in significant loss or impairment of the functioning of any body part.
- E. *Serious Bodily Harm*: (Serious Bodily Injury) A bodily injury that creates a substantial risk of death; causes serious and/or permanent disfigurement; or results in significant loss or impairment of the functioning of any body part.
- F. *Perceived Subject Action (s) Categories*
1. **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, verbalization skills, etc.
 2. **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.
 3. **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.
 4. **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.
 5. **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.

G. Officer Response (s) Categories

1. **Cooperative Controls** - include contemporary controls developed to preserve officer safety and security, including: communication skills, restraint applications, etc.
2. **Contact Controls** - includes resistant countermeasures designed to guide or direct the non-compliant subject. These “hands on” tactics would include the elbow / wrist grasp, Hand Rotation Position ©, etc.
3. **Compliance Techniques** - includes resistant countermeasures designed to counter the subject’s enhanced degree of resistance. These tactics could include the Hand Rotation Technique ©, chemical irritants, etc.
4. **Defensive Tactics** - includes assaultive 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, etc.
5. **Deadly Force** - includes assaultive countermeasures designed to cease an assault which is lethal or could cause great bodily harm on the officer or others. These tactics could include the use of a firearm, lethal strikes, etc.

IV. PROCEDURES

A. Use of Deadly Force [1.3.2]

1. Officers are authorized to use deadly force to:
 - a. Protect the officer or others from what is reasonably believed to be a threat of death or serious bodily injury; and/or
 - b. To effect an arrest only if¹:
 - 1) The arrest is for a felony;
 - 2) The officer reasonably believes that the force employed creates no substantial risk to innocent persons; and
 - 3) The officer reasonably believes (i.e. has “probable cause” to believe) 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.
2. Where practical prior to discharging a firearm, officers shall identify themselves as law enforcement officers and state their intent to shoot.
3. Officers may use deadly force to euthanize 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 deadly force can be used without harm to the officer or others.

B. Deadly Force Restrictions

1. WARNING SHOTS:

Firearms shall not be discharged as a bluff, warning. [1.3.3]

2. MOVING VEHICLES:

Officers should refrain from discharging a firearm at a moving or fleeing vehicle unless any occupant is using or threatening to use deadly force. Officers should not shoot when the vehicle is no longer an imminent threat.

C. Use of Non-Lethal Force: Where deadly force is not authorized;

1. officers may use only that level of force that is objectively reasonable to bring an incident under control within the Municipal Police Training Committee (MPTC) Use of Force Model. There are five categories listed below for officers to refer. These are guidelines for officer to help them determine the perceived action of the subject the officer is dealing with at the time of the incident.

a. Perceived Subject Action (s) Categories

- i. 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, verbalization skills, etc.
- ii. 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.

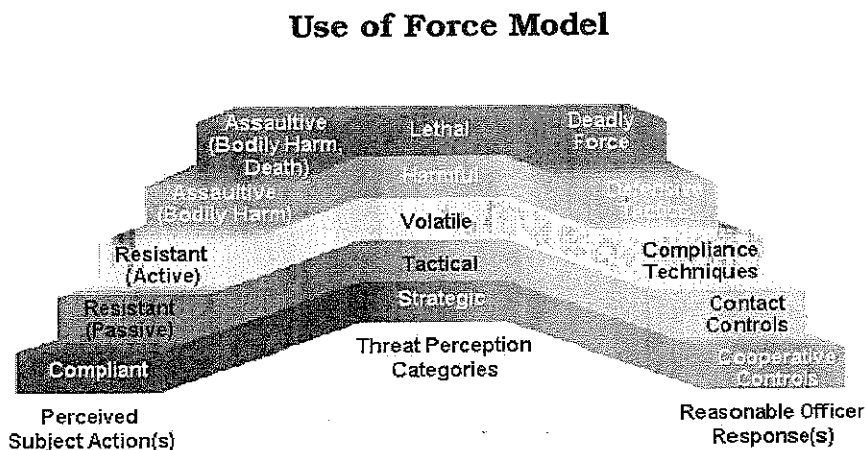
- iii. **Resistant (Active)** - the subject's non-compliance is increased in scope and / or intensity. The subject's non-compliance now includes energy enhanced physical or mechanical defiance.
 - iv. **Assaultive (Bodily Harm)** - the officer's attempt to gain lawful compliance has culminated in a perceived 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.
 - v. **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.
2. Officers are authorized to use department-approved, non-deadly force techniques to respond to perceived subjects actions as described by the MPTC Use of Force Model. Below are categories where officers can use their issued equipment when dealing with a perceived subjects action at the time of the incident:

a. Officer Response (s) Categories

- i. **Cooperative Controls** - include contemporary controls developed to preserve officer safety and security, including: communication skills, restraint applications, etc.
- ii. **Contact Controls** - includes resistant countermeasures designed to guide or direct the non-compliant subject. These "hands on" tactics would include the elbow / wrist grasp, Hand Rotation Position ©, etc.
- iii. **Compliance Techniques** - includes resistant countermeasures designed to counter the subject's enhanced degree of resistance. These tactics could include the Hand Rotation Technique ©, chemical irritants, etc.
- iv. **Defensive Tactics** - includes assaultive 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, etc.

- v. **Deadly Force** - includes assaultive countermeasures designed to cease an assault which is lethal or could cause great bodily harm on the officer or others. These tactics could include the use of a firearm, lethal strikes, etc.
3. Officers may use the above response categories to:
- Protect the officer or others from physical harm;
 - Restrain or subdue a resistant individual, while making a lawful arrest or placing a person in protective custody; and/or
 - Bring an unlawful situation safely and effectively under control.
4. 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)

D. *Use of Force Model*



The Use of Force Model was developed in 1991 by Dr. Franklin Graves, Federal Law Enforcement Training Center and Professor Gregory J. Connor, University of Illinois Police Training Institute. TM 1998, G. Connor. All rights reserved.

1. Use of Force Model Descriptions:

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

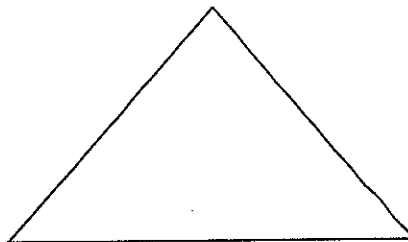
2. **Threat Perception Categories:**

- a. **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.
- b. **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.
- c. **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.
- d. **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.
- e. **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.

3. **Totality Triangle:**

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

PERCEIVED CIRCUMSTANCES



Perceived Subject Action (s)

Reasonable Officer Response (s)

4. **Perceived Circumstances -**

- a. 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.

5. **Perceived Subject Action (s)**

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

6. **Reasonable Officer Response (s)**

- a. 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

E. After Care

1. Chemical Weapons

a. Pepper Spray

- 1) Suspects subdued through the use of pepper spray may need to be decontaminated. Officers should refrain from decontaminating detainees while they are violent or assaultive.

- 2) Remove suspect from contaminated area. If the subject was sprayed in a closed room or vehicle, ventilate the area.
 - 3) Suspects should be instructed to try to be calm and not to touch their face. If wearing contact lenses, remove as soon as reasonably possible.
 - 4) Decontamination wipes may be used if available.
 - 5) Allow suspect access to a running hose, holding cell sink or eye wash station if circumstances permit. The effected area may be washed with soap and water.
 - 6) Creams and oils should be avoided as they lock the capsicum against the skin.
 - 7) If symptoms such as breathing difficulties, gagging, profuse sweating and loss of consciousness persist, seek medical attention.
- b. Tear Gas – CN, CS, CR
- 1) Remove suspect from contaminated area to fresh air. Wind or a fan blowing on the suspect will remove particles.
 - 2) Avoid rubbing eyes. Wash affected area with soap and water.
 - 3) Remove contaminated clothing.
 - 4) Be careful to avoid becoming cross contaminated.

F. Medical Attention [1.3.5]

1. After any level of force is used (including weaponless tactics), 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:
 - a. The suspect is in obvious need of medical attention.
 - b. The suspect has a serious visible injury; or
 - c. The suspect complains of injury or discomfort and requests medical attention.
2. Injury to Prisoner: See department policy on **Use of Force Reporting**.
3. Any person requesting and/or deemed in need of immediate medical attention shall be evaluated by medical personnel or 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.

- a. If the suspect displays Impaired thinking, disorientation, hallucinations and/or delusions, intense paranoia, violent and/or bizarre behavior AND during the arrest exhibits great strength, a diminished sensitivity to pain, the individual may be showing signs of Excited Delirium. During the arrest or immediately after the struggle sudden death may ensue. Arrestees displaying these symptoms should be checked by medical personnel.
- b. Persons suffering from Cocaine Intoxication, particularly if additional alcohol is used, are subject to increased blood pressure, heart rate and body temperature. Sudden death may occur in such persons. Arrestees displaying these symptoms should be checked by medical personnel.
- c. Psychiatric patients who display hyperthermia (over heating), are in and out of consciousness and have lumpiness of skeletal muscles may be suffering from Neuroleptic Malignant Syndrome and may also be prone to sudden death. Arrestees displaying these symptoms should be checked by medical personnel.

G. Reporting Use of Force: See the department policy regarding *Use of Force Reporting*.

H. Use of Force by Sworn Officers

1. SWORN OFFICERS: Officers use only the force that is reasonably necessary to accomplish lawful objectives such as 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. [1.3.1]
2. PERCEIVED CIRCUMSTANCES: The level of force used by an officer shall be a response based upon:
 - a. Threat Perception - the reasonable officer's perspective of the situation in reference to the severity of any crime, the existence of an immediate safety threat to the officer or others, and the degree of compliance from the subject;
 - b. Perceived Subject Action(s) - the subject action(s) as perceived by the reasonable officer.
 - 1) Compliant: The officer maintains or gains compliance to desired directives via options of tradition, time, communication skills, etc.

- 2) Passive Resistive: The subject's degree of noncompliance is free of physical or mechanical enhancement, other than sheer unresponsiveness.
- 3) Active Resistive: The subject's noncompliance has become more active in scope and intensity to a level of energy enhanced physical or mechanical defiance.
- 4) Assaultive (Bodily Harm): An actual attack upon the officer or others. The scope and severity of the attack would not support the reasonable officer's assessment of death or serious bodily harm to occur to the officer or others.
- 5) Assaultive (Serious Bodily Harm/Death): The reasonable officer could conclude that death or great bodily harm may be inflicted as a result of the subject's actions.

3. REASONABLE OFFICER RESPONSES

- a. Cooperative Controls: (Compliant) - Includes the subject's acceptance of authority by the use control techniques including; communication skills, common tactics, body language, etc.
- b. Contact Controls: (Passive Resistant) - "Hands on" techniques used to guide or direct the subject. The primary force component at this level could be non-pain compliance techniques, etc.
- c. Compliance Techniques: (Active Resistant) - The force forms could include elements of pain compliance, chemical irritants, joint restraints, electrical weapons in drive stun mode, etc.
- d. Defensive Tactics: (Assaultive) - The officer is justified in taking appropriate steps to immediately cease the assaultive action and to gain compliance and maintain control of the subject. Force could include weapon (baton) strikes, electrical weapon deployment, and canine apprehension.
- e. Deadly Force: (Lethal) - Absolute and immediate tactics must be deployed to stop the lethal risk and secure conclusive compliance and control. Force options could include those leading to permanent debilitation or even death, including firearms and weapons of available means.

I. *Use of Force, Non-Sworn Employees*

1. NON-SWORN: Non-sworn employees have no authority to use force for law enforcement purposes. Non-sworn have no authority to use force other than that associated with a citizen's right to use force.

2. CITIZENS ARREST: A non-sworn employee may use force against another when he/she is making or assisting in making an arrest and he/she believes that such force is immediately necessary to effect a lawful arrest. ²
 - a. The use of force is not justifiable unless:
 - 1) The employee makes known the purpose of the arrest or believes that it is otherwise known by or cannot reasonably be made known to the person to be arrested; and
 - 2) When the arrest is made under a warrant, the warrant is valid or believed by the employee to be valid.
 - b. The use of deadly force is not justifiable unless the employee effecting the arrest:
 - 1) Is authorized to act as a peace officer or is assisting a person whom he believes to be authorized to act as a peace officer, and
 - 2) Believes that the force employed creates no substantial risk of injury to innocent persons; and
 - 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 seriously bodily harm if his apprehension is delayed.
3. SELF DEFENSE³
 - a. Non-Deadly Force: For the use of non-deadly force to be justified, the employee must:
 - 1) Have reasonable concern for his/her safety;
 - 2) Pursued all possible alternatives to combat; and
 - 3) Force used must be no greater than necessary.
 - b. Deadly Force: For the use of deadly force, an employee must:
 - 1) Have a reasonable fear that he/she is in imminent danger of death or serious bodily harm; and
 - 2) No other means will suffice to prevent such harm.
4. DEFENSE OF THIRD PERSON: ⁴
 - a. A non-sworn employee is justified in using force against another to protect a third person when:
 - 1) A reasonable person in the employee's position would believe the intervention to be necessary for the protection of the third person, and

-
- 2) In the circumstances, as that reasonable person would believe them to be, the third person would be justified in using such force to protect himself. The reasonableness of the belief may depend in part on the relationships among the person involved.

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

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

³ *Com. v. Haddock*, 46 Mass.App.Ct. 246, 704 N.E.2d 537 (1999)

⁴ *Com. v. Martin*, 369 Mass. 640, 341 N.E.2d 885 (1976)