



# Policy 1111

Subject	
<b>BATONS</b>	
Date Published	Page
<b>DRAFT 26 July 2023</b>	<b>1 of 9</b>

*By Order of the Police Commissioner*

## POLICY

The purpose of this policy is to establish guidelines for proper use of Batons.

**While members must at all times comply with the minimum legal requirements governing the use of force, they must also comply with even stricter standards set forth by Department policy (See Policy 1115, *Use of Force*).**

## CORE PRINCIPLES

**Use of Force: Batons.** Issued and authorized Batons can be an effective tool for crowd control, escort, and compliance when used properly and in the proper circumstances. As more fully set forth in this policy and in Policy 1115, *Use of Force*, the authorized use of Batons is restricted.

**Sanctity of Human Life.** Members shall make every effort to preserve human life in all situations.

**Value and Worth of All Persons.** All human beings have equal value and worth and members shall respect and uphold the value and dignity of all persons at all times.

**Peaceful Resolutions.** Members shall avoid the Use of Force unless it is not possible to do so.

**De-Escalation.** Members shall use De-Escalation Techniques and tactics to reduce any threat or gain compliance to lawful commands without the Use of Force or with the lowest level of force possible (See Policy 1107, *De-Escalation*).

**Avoiding Escalation.** Members shall not do or say anything that escalates an encounter unless necessary to achieve a lawful purpose.

**Assessment.** Members shall continuously assess each situation and change the member's response as the circumstances change. Members may be justified in using force in one instance, but not justified in using force an instant later. This duty to assess includes the continuous assessment of circumstances before and after the member uses force.

**Use of Force: Reasonable, Necessary, and Proportional.** Members shall use only the force reasonable, necessary, and proportional to respond to the threat or resistance to effectively and safely resolve an incident, and will immediately reduce the level of force as the threat or resistance diminishes.

**Reporting Use of Force.** Each member who uses force, or observes another member or members use force, shall immediately notify their supervisor, and will accurately and completely report the Use of Force by the end of their tour of duty (See Policy 725, *Use of Force Reporting, Review, and Assessment*).

**Duty to Intervene.** Members shall intervene to prevent the abusive conduct or the use of excessive force by another member (See Policy 319, *Duty to Intervene*).

**Duty to Provide Medical Assistance.** After any Use of Force incident, members shall immediately render aid to any injured person consistent with the member's training and request medical assistance. If restrained, persons are not to be positioned facedown as it may cause positional asphyxia, and placing restrained persons on their back may lead to radial nerve damage to the wrists and forearms. Restrained persons are to be placed in a seated position or on their sides.

**Accountability.** Members shall be held accountable for uses of force that violate law or policy.

**Retaliatory Force.** Members are prohibited from using force against persons engaged in First Amendment protected activities or to punish persons for fleeing, resisting arrest or assaulting a member, or for any other punitive reason (See Policy 804, *First Amendment Protected Activity*).

## **DEFINITIONS**

**Active Aggression** — Active Aggression is when a person attacks or attempts to attack a member or another person. Strikes, kicks, or attempted strikes or kicks with hands, fists, the head, elbows, knees, or an instrument, constitute Active Aggression.

**Aggravated Aggression** — Aggravated Aggression is when a person presents an Imminent Threat of death or serious physical injury to the member or another person based on the Totality of the Circumstances. Aggravated Aggression represents the least encountered but most serious threat to a member or other person. Even when confronted with Aggravated Aggression, the member is required to make every reasonable effort to de-escalate and to continuously assess the member's Use of Force.

**Baton** — An impact weapon designed for blocking, jabbing, striking, or to apply control holds. Batons authorized for BPD use are the Monadnock Expandable Baton, the Crowd Control Straight Baton, and the Espantoon:

**Crowd Control Straight Baton** — A wooden or synthetic composite baton generally 36-42 inches in length and weighing 32-46 ounces to be used in crowd control situations.

**Espantoon** — Wooden baton between 22-25 inches in length and 16-32 ounces, with the striking end of the baton being between 1 ½ - 1 ¾ inches in diameter, and the grip end being 1 ¾ inches in diameter. This baton has color restrictions and shall only be coated in an Oak, Ash, Maple, Hickory or Rosewood finish. Decorations are prohibited.

**Expandable Baton** — Monadnock Autolock Expandable metal Baton with Power Safety Tip; 22 inches in length is issued to all members and is considered one of the less-lethal weapons members are required to wear on their duty belt.

**Deadly Force/Lethal Force** — Any force likely to cause death or serious physical injury, whether the member intended to cause death or serious physical injury or not. Examples of Deadly Force/Lethal Force may be found listed within the definition of Level 3 Use of Force.

**De-Escalation Techniques** — De-Escalation Techniques are actions taken by members that are designed to eliminate the need to use force in order to resolve any event or situation. De-Escalation Techniques include: talking to a person using a tone of voice and language that is not aggressive or confrontational; creating space or placing barriers between the member and the person; waiting the person out when circumstances permit; permitting a person to move about when safe; permitting a person the opportunity to make statements or ask questions; slowing down the pace of an incident; tactical re-positioning and requesting additional resources. The guiding principles for de-escalation are patience, flexibility, and the desire to resolve each situation peacefully (See Policy 1107, *De-Escalation*).

**Imminent Threat** — A person presents an Imminent Threat when the person has the means and ability to harm the member or another person, and the member reasonably believes the person intends to deliver that harm.

**Improvised Impact Weapon (IIW)** — An Improvised Impact Weapon (IIW) is a device or object that is not a Department-approved weapon, but is nonetheless used as an impact weapon (e.g., flashlight, radio, or stick). Such weapons may be unpredictable, ineffective, or exert unexpectedly high levels of damage (e.g., board with protruding nail). Consequently, members shall use Improvised Impact Weapons only in rare, emergency conditions where members lack an authorized Baton or other approved less-lethal alternatives, and use of an Improvised Impact Weapon is reasonable and necessary to defend against a person displaying Active or Aggravated Aggression.

**Prohibited Impact Weapons** — Blackjacks/Slapjacks, weighted gloves, brass knuckles, or iron claws are strictly prohibited.

**Resistance** — Members may face the following types of Resistance to lawful directives:

**Active Resistance** — Active Resistance is when a person moves to avoid detention or arrest but does not attack or attempt to attack the member or another person. Attempts to leave the scene, fleeing, hiding from detection, physical resistance to being handcuffed, or pulling away from the member's grasp are all examples of Active Resistance. Verbal statements, bracing, or tensing alone do not constitute Active Resistance. A person's reaction to pain caused by a member or purely defensive reactions to force does not constitute Active Resistance.

**Passive Resistance** — Passive Resistance is when a non-assaultive person fails to comply with the member's commands without attempting to flee. Passive Resistance may include, but not be limited to, going limp, standing stationary and not moving based upon lawful direction, and/or verbally signaling an intention to avoid or prevent being taken into custody.

**Temporary Pain** — Any pain or complaint of pain that is brief, does not result in injury, and is delivered as a means to gain compliance. Temporary Pain may result from the application of, but is not limited to, elbow grips, wrist grips, shoulder grips, pressure point techniques, and/or forcible takedowns.

**Totality of Circumstances** — The Totality of Circumstances consists of all facts and circumstances surrounding any event. The facts and circumstances may include but are not limited to:

- Whether an offense has occurred;
- The nature of the offense;
- The seriousness of the offense;
- The size and strength of the person;
- The number of persons;

- The availability of weapons;
- Whether the person is exhibiting signs of mental illness or is experiencing a behavioral health crisis;
- Whether a person suffers from a medical or behavioral health disability, physical or hearing impairment, is impaired by alcohol or drug use, or may be non-compliant due to a language barrier;
- Other force options;
- Availability of non-force options, including tactical repositioning, going to cover, or other De-Escalation Techniques;
- Environmental factors;
- Availability of back up and specialized units.

**Use of Force** — Any Use of Force or threat of force that falls within Level 1, Level 2, or Level 3 force as defined in this policy regardless if these techniques make contact or result in visible injury. Use of Force Levels are:

**Level 1 Use of Force** — Includes:

- Using techniques that cause Temporary Pain or disorientation as a means of gaining compliance, hand control or escort techniques (e.g., elbow grip, wrist grip, or shoulder grip), and pressure point compliance techniques. Force under this category is not reasonably expected to cause injury,
- Pointing a firearm, less-lethal launcher, or CEW at a person,
- “Displaying the arc” with a CEW as a form of warning, and
- Forcible takedowns that do not result in actual injury or complaint of injury.

**NOTE:** Escorting, touching, or handcuffing a person with minimal or no resistance does not constitute a Level 1 Use of Force.

**EXCEPTION #1:** SWAT team members and members assigned to work on a federal task force will not be required to report the pointing of a firearm at a person as a Use of Force during the execution of SWAT team or federal task force duties.

**EXCEPTION #2:** Pointing of a firearm at a person by any member, if done solely while entering and securing a building in connection with the execution of an arrest or search warrant, will not be a Use of Force. A permanent-rank supervisor must still complete a Form 93, Weapons-Pointing Report detailing the incident (See Policy 725, *Use of Force Reporting, Review, and Assessment*).

**Level 2 Use of Force** — Includes:

- Force that causes or could reasonably be expected to cause an injury greater than Temporary Pain or the use of weapons or techniques listed below — provided they do not otherwise rise to a Level 3 Use of Force:
- Discharge of a CEW in drive-stun or probes deployment, in the direction of a person, including where a CEW is fired at a person but misses,
- Use of OC spray or other chemical agents,
- Weaponless defense techniques including, but not limited to, elbow or closed fist strikes, open hand strikes, and kicks,

- Discharge of a less-lethal launcher/munitions in the direction of a person,
- Canine-inflicted injuries that do not rise to a Level 3 Use of Force,
- Non-weapon strikes to the head, neck, sternum, spine, groin, or kidney area, and
- Striking of a person or a vehicle with a vehicle that does not rise to Level 3 Use of Force.

**Level 3 Use of Force** — Includes:

- Strikes to the head, neck, sternum, spine, groin, kidneys, or kidney area with an impact weapon,
- Firearm discharges by a BPD member,
- Applications of more than three (3) CEW cycles in a single encounter, regardless of the mode or duration of the application, and regardless of whether the applications are by the same or different members,
- CEW application for longer than 15 seconds whether the application is a single continuous application or from multiple applications,
- Uses of Force resulting in death, serious physical injury, loss of consciousness, or requiring hospitalization, and
- Uses of Deadly Force/Lethal Force, such as:
  - Intentionally striking a person's head against a hard, fixed object such as a roadway, concrete floor, wall, or iron bars;
  - Knee strikes or kicks to a person's head or neck;
  - Any strikes to a person's throat;
  - "Knee drops" against a prone or supine person's head, neck, or torso;
  - Chokeholds/Neck Holds;
  - Shooting someone in the head, neck, chest, or back, with a less-lethal launcher at close range.
  - The use of any force on a person whose health, age, condition, or circumstances make it likely death or serious physical injury will result.

**NOTE:** Hospitalization refers to admission to the hospital, and does not include treatment and release in the emergency department, no matter how long the stay.

## **GENERAL**

1. Department-issued Batons are an effective tool for strikes, jabs, holds, and blocks, however their use is subject to the Totality of the Circumstances and proper training.
2. Prior to being approved to carry a BPD-authorized Baton, all members will receive training from a certified weapons instructor at the Education and Training Section (E&T). Members who demonstrate proficiency in the use of BPD-authorized Batons shall be approved to carry Batons.

## **DIRECTIVES**

### **Permitted Use**

3. Any Use of Force must be preceded by an analysis, to the greatest extent possible, applying the principles of the sanctity of life, critical thinking and decision-making, and de-escalation. These principles must be an ever-present priority as a member is making the decision of whether to use any type of force, and particularly Deadly Force/Lethal Force. Any strike or jab with a Baton or IIW qualifies as a Use of Force, and may only be used when reasonable, necessary, and proportional.
4. A member who uses a Baton or IIW to deliver strikes shall strike only the arms or legs and shall avoid striking the head, neck, sternum, spine, groin, or kidneys. Strikes to the torso, in areas other than the sternum, spine, groin, or kidneys, are permitted but disfavored due to the increased risk of serious physical injury. Strikes to the head, neck, sternum, spine, groin, or kidneys are Deadly Force/Lethal Force.
5. Strikes, jabs, or blocks from a Baton or IIW constitute Uses of Force. Therefore, members shall only use a Baton or IIW to strike, jab, or block when it is reasonable, necessary, and proportional, to effectively and safely resolve an incident, based on the Totality of Circumstances, and in accordance with the Department's Use of Force policy (See Policy 1115, *Use of Force*).
6. When safety permits, members shall provide a warning and allow a reasonable amount of time for the person to comply with the warning prior to striking the person with a Baton or IIW.
7. Members shall use the Baton or IIW only in accordance with policy and Department training.
  - 7.1. Members may use a Baton to guide, escort, or control persons exhibiting Passive Resistance as long as the Baton is not used to deliver strikes or jabs.
  - 7.2. Members may use a Baton or IIW to jab, block, or strike in response to Active Aggression or Aggravated Aggression.
8. Any member who uses a Baton or IIW to strike a person must be able to articulate the facts and circumstances that justified each Baton or IIW strike on the person.

### Prohibited Use

9. A member who is not trained and currently certified to carry an Expandable Baton, Espantoon, or Crowd Control Straight Baton shall not carry or deploy such weapons.
10. Members shall never use a Baton or IIW to strike a person who is compliant or who is exhibiting Passive Resistance or Active Resistance.
11. Members shall not use a Baton or IIW to strike persons in the head, neck, face, sternum, spine, groin, or kidneys unless Deadly Force/Lethal Force is justified. Strikes to the torso are permitted but disfavored because of the risk of striking a prohibited area (e.g., the sternum, spine, or kidneys).
12. Except where Deadly Force/Lethal Force is justified, the member shall not use a Baton or IIW to strike a person if:
  - 12.1. The person is obviously pregnant.

- 12.2. The person is apparently elderly.
- 12.3. The person is apparently a small child.
- 12.4. The person is visibly frail or appears to have a low body mass.
- 12.5. The person appears to be experiencing a medical or behavioral health crisis.
- 12.6. The person is in danger of falling from a significant height.
13. Baton or IIW use on a handcuffed or restrained person is only permitted in the rare and exceptional circumstance where:
  - 13.1. The person is displaying combative and/or violent behavior,
  - 13.2. The person presents an Imminent Threat to the safety of the member or other persons, and
  - 13.3. Lesser means or attempts to resolve the incident such as hands-on arrest or control techniques have failed.
14. Once a person is no longer a threat, the member shall stop striking the person with the Baton or IIW.
15. The use of an IIW as a weapon for the purpose of striking or jabbing is prohibited, except in the rarest of situations where no other reasonable alternative exists. The use of such weapons against a person shall be considered a Use of Force subject to the permitted and prohibited uses of Batons described above, and shall be reported in accordance with Policy 725, *Use of Force Reporting, Review, and Assessment*. Any member who uses an IIW must transition from the use of the IIW to an approved weapon or force technique as soon as possible.
16. Members are prohibited from using a Crowd Control Straight Baton to disperse crowds or others unless those crowds or others are committing acts that endanger the member or public safety and security, or the participants refuse to obey lawful orders to disperse and the use of a Crowd Control Straight Baton is reasonable, necessary, and proportional. Orders to deploy Crowd Control Straight Batons to disperse crowds will come from the Incident Commander overseeing the response to civil disturbances and/or First Amendment assemblies or demonstrations (See Policy 413, *Mobile Field Force* and Policy 804, *First Amendment Protected Activity*).
17. No modifications of any sort shall be made to Batons or Espantoons including, but not limited to, coring, filling the batons, notching, adding protrusions, or re-painting.
18. The carrying and/or use of blackjacks/slapjacks, weighted gloves, brass knuckles, iron claw, or any unauthorized weapons are **strictly prohibited**.

#### **Baton/IIW as Use of Force**

19. Deployment of Batons may constitute the following Uses of Force:

- 19.1. Baton use to guide or escort a person through approved “come-along” techniques or control holds where the person complains of Temporary Pain or greater injury will result in a Level 1 Use of Force. Guiding or escorting a person where there is **no** injury or complaint of pain or injury is **not** a Level 1 Use of Force.
- 19.2. A Baton or IIW strike is considered Level 2 Use of Force, at a minimum, and will be reported and investigated per the Use of Force guidelines as outlined in Policy 725, *Use of Force Reporting, Review, and Assessment*.
- 19.3. Any strikes with a Baton or IIW to the head, sternum, face, spine, groin, or kidney area constitutes a Level 3 Use of Force, and will be reported to the Special Investigation Response Team (SIRT) (see Policy 710, *Level 3 Use of Force Investigations/Special Investigation Response Team (SIRT)*).
- 19.4. Members shall immediately notify their supervisor when a Baton or IIW has been utilized in such a manner to constitute a Use of Force as described above. Members shall refer to Policy 725, *Use of Force Reporting, Review, and Assessment*, for all reporting/notification requirements.

## **REQUIRED ACTION**

### **Education and Training Section (E&T)**

20. The Baton shall only be issued to members that have completed and passed recruit level training at E&T.
21. Members will be trained and certified for Department-approved Batons and Espantoon before being authorized to carry those weapons.
22. Members will complete training on the use of Batons and/or Espantoon every three years and those who successfully complete the training will be certified to carry the Baton and/or Espantoon. Any member who does not successfully complete the training and receive certification shall not carry or use a Baton or Espantoon until the training and certification is completed.
23. Crowd Control Straight Batons may be issued to members who have been trained and certified on their use, on a permanent or as needed basis.
24. Espantoon may be carried by members who have been trained and certified, so long as the weapon meets the dimensional stipulations in this policy.

## **ASSOCIATED POLICIES**

- Policy 319, *Duty to Intervene*  
Policy 413, *Mobile Field Force*  
Policy 414, *Less-Lethal Munitions and Chemical Agents*



Policy 710, *Level 3 Use of Force Investigations/Special Investigation Response Team (SIRT)*  
Policy 725, *Use of Force Reporting, Review, and Assessment*  
Policy 804, *First Amendment Protected Activity*  
Policy 1115, *Use of Force*

**RECISSION**

Remove Policy 1111, *Batons / Impact Weapons*, dated 24 November 2019.

**COMMUNICATION OF POLICY**

This policy is effective on the date listed herein. Each employee is responsible for complying with the contents of this policy.