



# USE OF FORCE

**General Order Number: 30.4**

**Effective Date: 03/04/2025**

## **POLICY:**

The Brookline Police Department places the highest value on the life and safety of our officers and on the safety of the public. A reverence and respect for the dignity of all persons and the sanctity of human life shall be reflected in all training, leadership, and procedures of the Brookline Police Department. The Department's regulations, policies and procedures are designed to ensure that these values guide officers in the use of force. It is the policy of the Brookline Police Department that police officers may use only the amount of force that is proportionate and necessary to control an incident, to make an arrest, or to protect themselves or others from injury or death.

Officers are confronted daily with situations requiring the use of force to affect an arrest or ensure public safety. How much force is used is dependent upon the facts known to the officer or reasonably available at the time its use becomes necessary. It is recognized that officers are required to make split-second decisions about the amount of force that is necessary in a particular situation.

**When time and the totality of the circumstances permit, officers shall use de-escalation tactics in order to reduce the need for force.**

Examples include:

- A. The use of verbal advisements, warnings, and persuasion.
- B. Attempts to slow down or stabilize the situation so that more time, options and resources are available.
- C. Officers should consider whether a subject's lack of compliance is a deliberate attempt to resist or is caused by an inability to comply.

**All Officers of the Brookline Police Department shall use only force that is reasonable and necessary when used to accomplish lawful objectives. This mandate includes the concept of proportionality, which considers whether a particular use of force is appropriate when compared to the threat faced by the officers and is proper given the totality of the circumstances.**

**Members of the Department shall carry only those weapons assigned to them and authorized by the Chief of Police (M.G.L. c. 41, s.98) while on duty.** These include paid police details, and appearances in courts. When an off-duty officer activates themselves, they shall behave in the same manner as when on duty.

No policy or procedure guiding the use of force can possibly cover every situation. Officers of the Brookline Police Department are expected to respond to all emergencies decisively, using the highest level of good judgment, restraint, professional competence, and the ability to utilize whatever level of **force may be necessary and proportionate to the reasonable perceived circumstances.**

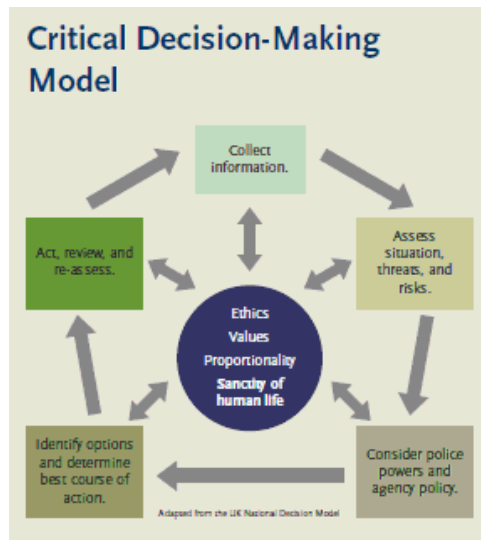
Before an officer is authorized to carry any type of weapon, they will receive instructions in the department regulations, policies and procedures concerning the use of force. Officers receiving this instruction must satisfactorily show a working knowledge of the subject matter by way of practical and written testing. They shall use only those techniques and tactics approved by either the Brookline Police Department or the Massachusetts Police Training Committee. An annual review and testing process will be conducted and documented by certified firearms instructors according to the approved training policy.

Prior to the issuance of any weapon to members of the Brookline Police Department, the Department armorer shall review, inspect and approve each individual weapon. If any malfunctions or defects are found or if the weapon is found to be unsafe in any manner, the deficiency shall either be rectified or the weapon shall be returned to the manufacturer for a replacement weapon.

**DEFINITIONS:** For these procedures the following definitions will apply:

**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.

**CRITICAL DECISION-MAKING MODEL:** The Critical Decision-Making Model is a five-step critical thinking process: 1. Collecting information, 2. Assessing situations, threats, and risks, 3. Considering police powers and agency policies 4. Identifying options and determining best course of action and 5. Act, review, and re-assessing (See diagram).



**DEADLY FORCE:** Is the degree of physical force that can reasonably be expected to cause death or serious physical injury. The discharge of a firearm toward a person is an example of the use of deadly force.

**DE-ESCALATION:** 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, verbal persuasion, warnings, slowing down the pace of an incident, waiting out a person, creating distance between the officer and a threat and requesting additional resources to resolve the incident, including but not limited to, calling in medical or licensed mental health professional to address a potential medical or mental health crisis.

**DEFENSIVE FORCE:** The necessary infliction of physical battery to overcome physical resistance or to protect others from assault or injury.

**LESS LETHAL FORCE:** Is force that is not intended to cause serious physical harm or death. This includes the use of approved defensive/physical tactics, less lethal launchers, approved chemical substances, the canine, the authorized baton or other less lethal weapons approved by the Chief of Police.

**MINIMUM AMOUNT OF FORCE:** The minimum amount of force is the least amount of force that is proper, reasonable, and necessary to achieve a lawful objective.

**PERCEIVED CIRCUMSTANCES:** The officers understanding of the situation based on the information available; including the severity of any crime, the existence of an immediate safety threat to the officer or others and the degree of compliance/noncompliance from the subject.

**PERCEIVED SUBJECT ACTION (S):** The subject action (s) as perceived by a reasonable officer that designates the subject as either compliant or non-compliant.

**PROPORTIONALITY:** The fundamental principle that the use of force must fit the nature and gravity of the offense and/or perceived circumstances.

**REASONABLE BELIEF:** Information and circumstances that would cause an ordinary and prudent person to act or think in a similar way under similar circumstances.

**REASONABLE OFFICER RESPONSE:** The balanced and proportionate response appropriate for the reasonable officer as selected from use of force options, in order to gain subject compliance and control.

**SERIOUS BODILY INJURY:** This is a 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. 1.3.2

**WEAPONLESS PHYSICAL FORCE:** Weaponless physical force includes, but is not limited to the MPTC Use of Force Model and defensive tactics areas of contact controls, compliance Techniques, and personal weapons techniques. Examples of weaponless physical force includes, but is not limited to, escorts, wristlocks, armbars, hand, elbow, feet and knee strikes.

## **PROCEDURES:**

Officers should approach each situation using the 5 step critical-decision making process (CDM), which will allow them to quickly analyze and respond appropriately to a range of incidents. These steps include:

- Collecting information,
- Assessing the situation, threats, and risks,
- Considering police powers and agency policy,
- Identifying options and determining the best course of action, and
- Acting, reviewing, and re-assessing the situation.

The CDM is anchored by the ideals of ethics, values, proportionality, and the sanctity of human life. Everything in the model flows from that principled core. All training conducted by the Department's training division, in particular those involving the review of the Use of Force, Defensive Tactics and De-escalation, will emphasize the CDM process.

- 1. DE-ESCALATION:** Whenever reasonable according to Department policies and training, officers shall use de-escalation tactics to gain voluntary compliance and seek to avoid or minimize the use of physical force.

**A.** When safe and feasible, officers shall:

1. Attempt to slow down or stabilize the situation so that more time, options and resources are available.

- a. Mitigating the immediacy of the threat gives officers more time to call additional officers or specialty units and to use other resources.
- b. The number of officers on scene may make more force options available and may help reduce overall force used.

**B.** Consider whether a subject's lack of compliance is a deliberate attempt to resist or an inability to comply based on factors including, but not limited to:

Medical conditions  
 Mental/Behavioral Health Crisis  
 Developmental disability (such as Autism or Asperger Syndromes)  
 Physical limitation  
 Language barrier  
 Drug or alcohol use

Such considerations, when time and circumstances reasonably permit, should then be considered when planning a response.

**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, verbal persuasion, warnings, slowing down the pace of an incident, waiting out a person, creating distance between the officer and a threat and requesting additional resources to resolve the incident, including, but not limited to calling in a medical or licensed mental health professional, as defined in subsection (a) of section 51112 of chapter 111, to address a potential medical or mental health crisis.

These tactics include, but are not limited to:

- i. Placing barriers between an uncooperative subject and an officer.
- ii. Moving from a position that exposes officers to potential threats to a safer position.
- iii. Reducing exposure to a potential threat using **time, distance, cover or concealment**.
- iv. Communication from a safe position intended to gain the subject's compliance, using verbal persuasion, advisements or warnings.
  - a. Avoidance of physical confrontation, unless immediately necessary (e.g. to protect someone or stop dangerous behavior).
  - b. Using verbal techniques to calm an agitated subject and promote rational decision making.
  - c. Calling additional resources to assist, including more officers, CIT officers and officers equipped with less-lethal tools.
  - d. Removing unnecessary persons from the scene.

- 2. ANNOUNCING THE INTENT TO USE FORCE:** As an alternative and/or the precursor to the actual use of force, BPD officers shall consider verbally announcing their intent to use force, including displaying an authorized weapon as a threat of force, when reasonable under the circumstances. The threatened use of force shall only occur in situations that an officer reasonably believes may result in the authorized use of force. This policy shall not be construed to authorize language that may escalate a dangerous situation, such as language that is unnecessarily harsh or loud.
- 3. AMOUNT AND DEGREE OF FORCE:** The amount of force used shall be proportionate to the perceived circumstances, that is, no greater than is proper, reasonable, and necessary in a given situation. The amount and degree of force, which may be employed, will be determined by the information and the surrounding circumstances, including but not limited to those listed here.
- A. The nature of the offense;
  - B. The behavior of the subject(s);
  - C. Actions by third parties who may be present;
  - D. Physical odds against the officer;
  - E. Safety of the general public;
  - F. The feasibility or availability of alternative actions.

Other factors to consider when using force include but are not limited to the following:

Age	Subject's actions	Training
Sex	Experience	Exhaustion
Size	Perceptions	Skill level
Disability	Prior knowledge	Environment
Special circumstances	Injury	Physical – Conditions

**All sworn employees will intervene, if a reasonable opportunity exists, when they know or should know another employee is using unreasonable force.**

- 4. CALL FOR ASSISTANCE WHEN POSSIBLE:** An officer acting alone may be required to resort to a much greater degree of force than would be necessary if another officer or officers had been present. Therefore, unless immediate action is required, an officer should try to be mindful of their own levels of physical and mental fatigue and call and wait for assistance whenever appropriate.
- 5. USE OF FORCE IN ASCENDING ORDER:** Use of force options are described below in ascending order from the least severe to the most severe measures. The fundamental principle is that the use of force must be proportionate to the offense

and/or perceived circumstances. Officers must never overlook the possibility of force de-escalation when appropriate.

**A. Cooperative Controls:**

**i. Command Presence (Appearance & Communication):** The image that an officer conveys can in many cases influence the outcome of the situation. The officer should be neat and well groomed. The Officer should be mindful of body language, always maintaining the highest level of vigilance. The officer should exude an aura of authority and ability.

**ii. Dialogue/Persuasion:** Effective verbal communication can many times reduce or manage anxious, aggressive, or violent behavior. The appropriate uses of verbal persuasion can in some cases prevent and or minimize the need for physical force.

**B. Contact Controls/Passively Resistant Subject(s)**

**Escort/Compliance**

**i. Initial (Light) Physical Tactics:** This application is appropriate when the subject's physical resistance is minor, and can be easily controlled. Examples of this are guiding an uncooperative subject into a handcuffing position, out of a vehicle, or into another room. Peaceful demonstrators refusing to comply with verbal commands would fall into this category.

**C. Compliance Techniques/Actively Resistant Subject (s)**

**Chemical / Kinetic Force Compliance**

**i. Chemical Substance (OC Spray, Pepperball Projectile Launcher-Pepperball is an encapsulated projectile containing powdered cayenne pepper that is fired via dedicated launcher):** Chemical substances should **not** be used if resistance is minor, or if **light physical tactics would achieve the same end**. Chemical substances may be used in self-defense or defense of another. They may also be used to subdue a person who physically resists arrest or to discourage persons engaged in violent conduct. They may be utilized with the subject who resists initial physical contact, shows signs of imminent physical resistance, or when a physical confrontation would be necessary in self-defense or in defense of another. The utilization of chemical substances may not be appropriate if such use could affect innocent bystanders particularly children.

**D. Compliance / Mechanical/ Assaultive/Threatening Subject(s)**

**i. Baton:** The baton may be used by an officer in self-defense or defense of another. It may be used when necessary to subdue a person who physically

resists arrest or to stop a person(s) engaged in violent conduct. It may also be considered when lesser methods have failed or would be obviously futile.

- ii. **Less Lethal Projectile:** The .40mm Launcher Unit with sponge round may be used when deemed necessary to subdue a person who actively resists arrest or to stop persons engaged in violent conduct. Its use may also be considered when lesser methods have failed or would expose an officer or other person to unnecessary danger. Examples of its use would be in the prevention of suicide by an armed individual (not armed with a firearm), or in the controlling of a violent or potentially violent emotionally disturbed person.
- iii. **Canine:** The Brookline Police Department recognizes that the use of a trained canine is a real or implied use of force. As such, canine officers may only use that level of force that is reasonable and necessary to achieve a lawful objective. The request for use of canines shall be consistent with the use of force guidelines as set forth in this policy.

#### **E. Deadly Force**

- i. **FIREARMS/DEADLY FORCE:** Law enforcement officers shall not use deadly force upon a person unless de-escalation tactics have been attempted and failed or are not feasible on the totality of the circumstances and 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.

### **6. PROHIBITIONS:**

- A.** Force must not be continued after the purpose for which it was applied has been accomplished.
- B.** Under no circumstances shall an officer use or permit the use of force as a method of punishment or revenge.
- C.** Under no circumstances shall an officer use or permit the use of excessive force. All sworn employees will intervene, if a reasonable opportunity exists, when they know or should know another employee is using unreasonable force.
- D.** Deadly force shall not be used against a person who poses a danger only to themselves
- E.** No force may be used against an individual that is not both necessary and proportionate to the situation.
- F.** A law enforcement officer shall not use a chokehold. Chokeholds are strictly forbidden by statute and are not trained by this department.



7. **PROPER TRAINING:** Officers shall not carry or use any weapon while on duty unless they have received proper training and authorization.
8. **USE OF FIREARMS/DEADLY FORCE:** This section sets forth guidelines for Brookline Police Officers making decisions regarding the use of deadly force. These procedures have been developed with serious consideration for the safety of both police officers and the public, and with the knowledge that officers must sometimes make split-second decisions in life and death situations.
  - A. A Law enforcement officer **shall not** use deadly force upon a person unless de-escalation tactics have been attempted and failed or are not feasible based on the totality of the circumstances and 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. Officers **may not** use deadly force, except to protect themselves or another person from imminent death or serious bodily injury.
  - B. Officers may discharge their firearms only when so doing will not unreasonably endanger innocent persons.
  - C. Officers **may** use deadly force to apprehend a fleeing felon when the following is met:
    1. The felony involved the use or threatened use of deadly force,  
**AND**
    2. The escape would result in imminent death or serious bodily injury to the officer or another if apprehension is delayed.
  - D. Officers **shall not** discharge their firearms to threaten or subdue persons whose actions are destructive of property, or harmful only to themselves, unless such actions constitute an imminent threat of death or serious bodily injury to the officer or others.
  - E. A law enforcement officer shall not discharge any firearm into or at a moving motor vehicle unless, based on the totality of the circumstances, including the risk of safety to other persons in the area, such discharge is objectively reasonable, necessary to prevent imminent harm to a person and the discharge is proportionate to the threat of imminent harm; and only if the following conditions exist:
    1. A person in the vehicle is immediately threatening the officer or another person with deadly force by means other than the vehicle, or when the vehicle is intentionally being used as a deadly weapon, and all other reasonable means of defense have been exhausted (or are not present or practical), which includes moving out of the path of the vehicle.

2. Officers have not intentionally positioned themselves in such a way as to create a likelihood of being struck by an occupied vehicle (e.g., surrounding a vehicle at close proximity while dismounted);
3. The officer is not firing strictly to disable the vehicle; and
4. The circumstances provide a high probability of stopping or striking the intended target.

Some factors that law enforcement officers should consider when evaluating circumstances and determining when they may discharge their firearm into or at a moving vehicle:

1. Bullets fired at moving motor vehicles are often unable to stop or disable the motor vehicle.
2. Bullets fired may miss the intended target or ricochet and cause injury to officers or others, and
3. The vehicle may crash and cause injury to officers or other innocent persons if bullets disable the operator.
4. Officers shall make all reasonable efforts to move and/or stay out of the way of a moving motor vehicle.
5. As much as possible, officers should avoid placing themselves in proximity to the front or rear of a vehicle with an engine that is running.
6. Officers should use any reasonable barrier for protection from a moving motor vehicle. Whenever possible, an officer should attempt to place substantial physical barriers between themselves and the vehicle of suspected risk. Trees of substantive size, utility poles, concrete structures and other vehicles are often available to serve this purpose.
7. Firing strictly to disable a vehicle is prohibited.
8. 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 prevent imminent harm to a person and the discharge is proportionate to the threat of imminent harm to a person. An officer may use deadly force at a moving vehicle when the officer or others are currently being threatened with death or serious bodily injury other than the motor vehicle.

- F. Officers **shall not** discharge their firearms from a moving vehicle.
- G. Officers encountering a situation where the use of deadly force is necessary shall, if circumstances and safety considerations allow, issue a verbal warning first. The preferred verbal warning is "**POLICE - DON'T MOVE!**"
- H. Officers approaching situations where they can anticipate a hostile, armed individual should attempt to first call for assistance, and then take a position of cover before encountering the individual, unless such delay would pose a greater risk to public safety.
- I. Should extenuating circumstances require a course of action that deviates from this policy; the matter will be reviewed by administration.

9. **WARNING SHOTS:** Officers **shall not** fire warning shots or shoot to signal for help.

10. **DUTY TO INTERVENE:** Sworn employees have an obligation to protect the public and other employees. If officers witness colleagues using excessive or unnecessary force, or anticipate a colleague is about to use excessive or unnecessary force in any situation, they are required to immediately take action to stop any use of excessive or unnecessary force.

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.

An Officer who observes another officer using physical force, including deadly force beyond that which is necessary or objectively reasonable base on the totality of the circumstances shall report the incident to an appropriate supervisor as soon as reasonably possible but not later than the end of the officer's shift. The officer **shall** prepare a detailed written statement describing the incident consistent with uniform protocols. The officer's written statement shall be included in the supervisor's report. An Officer who reports abuse by other law enforcement personnel will be protected from retaliation (See Duty to Report Abuse, Excessive Force or Misconduct by Law Enforcement Personnel policy).

11. **FIRST AID/MEDICAL TREATMENT:** Following law enforcement action in which injuries have been sustained, proper medical aid shall be rendered as quickly as reasonably possible to any person to include innocent bystanders, suspects, or detainees. Proper medical aid is defined as immediate first aid treatment including CPR, administered on the scene of an incident /injury within the scope of department personnel's training. Officers on scene shall request emergency medical professionals when there is an obvious severe injury(s), medical distress is apparent or when the individual is unconscious.

Proper medical aid may include:

- A. Increased observation of a person to detect obvious changes in their condition
- B. The flushing of chemical agents from the eyes of an affected person

- C. Applying first aid within the scope and training of department personnel for any obvious severe injuries or unconsciousness
- D. Evaluation by an EMT or Paramedic
- E. For more serious or life-threatening incidents, immediate aid by medical professionals includes transportation to a medical facility

It is required to provide proper medical aid after the use of force or other Law Enforcement action. Examples of when medical aid must be provided:

- A. After the use of a lethal (deadly) weapon
- B. After the use of a less-lethal weapon
- C. When the use of weaponless tactics results in injury to the person subject to the use of force
- D. When injuries are sustained as a result of law enforcement action
- E. When a person, including the suspect or detainee, request medical attention
- F. When an officer is on a call for service or during the detention or arrest of a person and:
  - 1. There is an obvious severe injury to a person
  - 2. A person is in medical distress i.e., unable to breathe, labored breathing, wheezing etc.
  - 3. A person is unresponsive or unconscious

**12. DUTY TO REPORT USE OF WEAPONS OR THE APPLICATION OF PHYSICAL FORCE:** A report shall be submitted by an officer forthwith, subject to any constitutional rights the officer may have, to the Chief of Police and their immediate supervisor whenever:

- A. An officer has used any lethal or non-lethal weapon or other force in excess of what is necessary for compliant handcuffing.
- B. An officer has taken action that results in or is alleged to have resulted in an injury or death to another person.
- C. An officer has drawn and brandished a firearm or other weapon when dealing with a member of the public.
- G. An officer discharges a firearm, for other than training or proper use at an authorized pistol range.
- E. The officer's report should include, but is not limited to, the following:
  - i. State your perception at the time of the incident based upon your training and experience.
  - ii. Be specific with regard to the force you employed, areas to which it was directed and why it was employed in place of other force options

- iii. Indicate the causes for your actions including all reasonable suspicions and probable cause.
- iv. Describe the subject's actions leading up to the use of force and quote the subject's statements, directly if possible.
- v. Quote your statements / commands as accurately as possible.
- vi. Be chronological
- vii. Describe the totality of the circumstances.
- viii. Include all witness statements.
- ix. Describe all actions after control was achieved.
- x. Describe all post incident medical attention provided to the subject.
- xi. List any and all battery / injury inflicted upon you.
- xii. Describe any post incident medical attention provided to you.

**13. SUPERVISOR REPORT/INVESTIGATION: Supervisors should respond to the scene of any use of force incident to initiate the investigation.** A supervisor not directly involved in the use of force incident shall submit a completed report on any incident involving the use of force by an officer. This report shall include the reporting officer(s)' written statements. The supervisor's report shall be completed by the end of that supervisor's tour of duty, except in extreme circumstances where additional investigation is necessary. This report shall state if the use of force was consistent with Department policies and Department training.

Supervisors should use the below guidelines in determining if an officer(s) use of force was reasonable.

**Proportionate:** The action must be proportionate given all of the circumstances; the action is not proportionate if a less injurious alternative existed to meet the same lawful objective.

**Lawful:** There must be a legal basis for taking action

**Accountable:** Officers must be able to explain why they chose a particular option (justification), as well as what other options were available and why those were not chosen (preclusion).

**Necessary:** The action must be required to carry out an officer's lawful duty, absent another tactical option.

**Ethical:** The action must reflect the values of the Brookline Police, including integrity and respect of human rights.

**14. REVIEW BY COMMANDING OFFICER:** All reports referred to in Section 12 and 13 shall be forwarded to the officer's Commanding Officer, who shall review the matter. In the event that the Commanding Officer was involved in the Use of Force incident, all reports shall be forwarded to the Commanding Officer's immediate supervisor for review.

**15. ALL REPORTS ARE TO BE FOWARDED TO THE CHIEF OF POLICE.** The Chief of Police will review the information and forward the report to the Office of

Professional Responsibility. The review by OPR should include, but not be limited to, determining whether or not the use of force was consistent with the Department Policy, Department Training, and officer and public safety. Annually, a review of all submitted Use of Force Reports will be conducted by the Office of Professional Responsibility to determine if any changes are needed in department policies, practices, equipment, training, and to determine if any trends or patterns are revealed. The following data shall be reviewed as part of the annual review submitted by the Office of Professional Responsibility:

1. Date and time of incidents
2. Type of force or type of weapon used
3. Types of encounters resulting in the use of force
4. Race, age, and gender of subjects involved
5. Injuries (to subjects, agency employees and others involved)

**No reports shall be given to the media except as authorized by Department policy.**

#### **16. NATIONAL USE OF FORCE DATA REPORTING- LEEP**

The Brookline Police Department, in partnership with the FBI, is working to improve the way the nation collects statistics on law enforcement use of force. The reporting of use of force data will include any use of force that results in death or serious bodily injury to a person, as well as any time a law enforcement officer discharges a firearm at a person.

The Office of Professional Responsibility will maintain an account through the Law Enforcement Enterprise Portal (LEEP) of CJIS under the National Use of Force Data Collection page. When a Brookline Police use of force incident meets the criteria requested by the FBI National Use of Force collection policy, OPR will enter the incident into the LEEP system. OPR will make an entry into the National Use of Force system at least monthly, and in the event that there were no qualifying use of force incidents, OPR will submit an entry indicating that there were zero qualifying incidents for the month.

#### **17. INVESTIGATION WHEN USE OF FORCE RESULTS IN A DEATH:** Whenever an officer uses force that results in a death or an injury that may result in a death, the Commanding Officer on Duty shall immediately notify the following:

- A.** Chief of Police
- B.** Superintendent
- C.** Deputy Superintendents
- D.** Office of Professional Responsibility
- E.** Norfolk County District Attorney's Office
- F.** Department Public Information Officer

The incident shall be investigated by the Detective Division and the Norfolk County District Attorney's Office with oversight by the Office of Professional Responsibility. The weapon or weapons used shall be secured for examination.

- 18. RE-ASSIGNMENT AFTER FORCE RESULTING IN DEATH OR SERIOUS INJURY:** When any employee whose action(s) or use of force has resulted in a death or serious injury, or when the discharge of an officer's firearm has resulted in any injury, they will be immediately re-assigned to temporary administrative duty. This assignment shall remain in effect pending a review of the circumstances surrounding the incident. Such reassignment shall not be considered punishment or any indication of wrongdoing. During this time of administrative re-assignment, post-incident debriefing and mandatory counseling for those involved will be administered.
- 19. AUTHORITY TO CARRY AND / OR USE DEPARTMENT FIREARMS:** Only those officers who have received specific training and demonstrated proficiency are authorized to use department-approved firearms, this shall include lethal as well as less than lethal weapons. They must have demonstrated proficiency by achieving minimum scores on a prescribed course, demonstrating knowledge of the laws concerning the use of firearms, and being familiar with safe-handling procedures. The necessary training shall be coordinated with the Training Division. All firearms training shall be in accordance with Massachusetts Police Training Committee standards.
- A.** No member of this Department will be authorized to carry any type of weapon until he or she has been issued a copy of and received instruction on the Department's Use of Force Policy. Each member shall sign a receipt indicating that the officer has received a copy of this Brookline Police Department Use of Force Policy, which shall be maintained by the Training Division.
- 20. SAFE HANDLING / SECURITY- STORAGE OF FIREARMS:** All officers shall be responsible for the safe handling of their firearms at all times. They shall ensure the security of their firearms at all times, both on-and off-duty. Weapons must be locked and secured as mandated by Mass. General Law so as to prevent theft and unauthorized access/accidental use. Officers may employ commercial locking devices on the firearm or secure the firearm in a locked container, while maintaining exclusive control over the same. If officers are unable to comply with this action they must immediately notify the shift commander. The shift commander shall take appropriate action to secure the weapon and submit a special report on the matter.

Approved, off duty firearms, shall be stored in compliance with Mass General Law mandates.

**A. Administrative Unloading Procedure:**

1. Officers shall remove the magazine from their weapon, while the firearm remains holstered.
2. Officers shall remove the weapon from its holster, keeping their finger off the trigger and outside the trigger guard.
3. Officers will then secure the firearm.

## **B. Administrative Reloading Procedure:**

1. Officers should holster the weapon, without the magazine.
2. Officer shall, while the weapon is holstered:
  - a. Insert the magazine into the magazine well;
  - b. Ensure that the magazine clicks into place;
  - c. Tug on the magazine to ensure that the magazine has seated properly

Each less lethal launcher, not deployed, shall be stored in a designated gun locker in the Patrol Supervisor's room in a safe condition (i.e. safety on, action open, chamber and magazine empty). Sponge projectile rounds shall be stored and secured along with the weapon in the gun locker.

- 21. INSPECTION/RECORDS:** A certified firearms instructor or the department armorer shall inspect and approve all authorized firearms. A complete record of all approved firearms shall be maintained by the department armorer. All department issued firearms that require service shall be handled by the department armorer. Any unsafe firearms shall be removed from service and reviewed, inspected and approved by the department armorer prior to being placed back into use. The records shall be maintained on a computer program, "Department Equipment Inventory System" in the CAD system.

Every Thursday, the Third Platoon north side Patrol Supervisor shall conduct an inspection to verify that all shotguns and less lethal launchers, both deployed and secured, are stored in safe condition, as well as assure that the requisite numbers of sponge projectile rounds are accounted for. This inspectional information shall be recorded in the Department Equipment Inventory System in the CAD system using code 9082 – Weapons Inspection.

On the first Tuesday of every month, the Department Armorer or their second, shall inspect, clean and lubricate each weapon as needed. The Armorer shall maintain an inspection record in the "Department Equipment Inventory System" in the CAD system and note any and all actions taken. Officers shall have the record available for review by their supervisor at all times.

**The Lieutenant assigned to the Office of Professional Responsibility will verify that the above inspections and records are maintained.**

- 22. FIREARMS TO BE CARRIED WHEN ON DUTY:** Members of the department shall carry **only** their assigned department issued firearms and **authorized** ammunition issued by the department whenever they are on-duty or in a compensated status (detail). These firearms shall be carried in a manner consistent with the rules and regulations of the Department. Other weapons authorized by the Department for Special Operations may be selectively issued to qualified personnel by a Superior Officer, if they are deemed necessary to ensure the safety and effectiveness



of police operations. Officers armed with such weapons, shall use such weapons in accordance with the Rules and Regulations of the Brookline Police Department.

The standard service firearms and corresponding duty ammunition issued by the Brookline Police Department are listed in the Duty Firearms and Duty Ammunition Special Orders. These Special Orders shall be reviewed on a yearly basis and updated as necessary.

- 23. AUTHORIZATION TO CARRY FIREARMS OFF DUTY:** Unless prohibited to do so by the Chief of Police, members of the department are authorized to carry the department-issued weapon with department-issued ammunition while off duty. Due to the high level of on-going training with the department issued firearm all members are authorized to carry the department issued weapon carried in the authorized holster, while 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 conditions of law while off duty."

**The use of a personal firearm by an off duty officer for any lawful and appropriate purpose shall not in and of itself be considered to be a grossly negligent act, and shall not in and of itself be cause for loss of personal indemnification by such officer.**

- 24. USE OF ALL FIREARMS OFF DUTY USE:** The policies and procedures contained in this chapter shall apply to the use of firearms regardless of the officer's duty status, unless that officer has been prohibited to carry firearms by the Chief of Police. It is the policy of the Brookline Police Department to authorize Brookline Police Officers to carry and possess issued or approved firearms, and other such weapons authorized by the Chief of Police, whether on or off duty. This authority, granted by the Chief of Police under G.L. c. 41s 98, is strictly limited to the following conditions and with the following restrictions.
- A.** If an officer becomes legally disqualified from possessing a firearm or license to carry, by virtue of an abuse prevention order or any other means, they shall immediately notify the on-duty Commanding Officer. The officer shall comply with any lawful request from another law enforcement agency, relating to the surrender of any department issued firearm.
  - B.** Should any situation, event, or condition arise which affects an officer's ability, fitness, or suitability including their ability to safely carry or possess a firearm, the officer must immediately report such situation to the on duty commanding officer. When necessary, the commanding officer will make arrangements to have department-issued firearm(s) secured. Additionally, the officer will be required to surrender any License to Carry firearms they possess and or personal firearms they possess at the request of the Chief or the Chief's representative.
  - C.** Officers must comply with the safe storage requirements of G.L. c. 140 s. 131L. When not under the officer's immediate control, all firearms must be secured and safely stored.

- D. Members of the department shall take all reasonable precautions to ensure that weapons issued to them by the department are protected from loss, misuse, or theft.

25. **OFF-DUTY WEAPONS:** If an officer wishes to be indemnified by the Department for the potential use of a non-Department issued firearm while off duty, the officer must:

- A. File an Off Duty Firearm Authorization Request seeking the Chief of Police's authorization to carry the firearm while off duty.
- B. Submit the firearm to a Department armorer for inspection and function checking. The armorer shall ensure the weapon is clean and functioning properly by doing the following:
  - 1. Observe the owner field strip their weapon and inspect all observable parts for cleanliness and lubrication.
  - 2. Observe the owner reconfigure the weapon for use.
- C. Demonstrate annual proficiency with the firearm to the satisfaction of a Department firearms instructor, who shall make a written record of the event. Any weapon found to be unsuitable by the Firearms Instructor/Armorer shall be excluded for approval.
- D. Carry only Department approved ammunition in the authorized off duty weapon. A firearms instructor must approve such ammunition in writing.
- E. Follow all the provisions of this policy when carrying the authorized weapon off Duty.
- F. Notify the Training Supervisor in writing of any loss or sale of the weapon.
- G. If the authorization is granted, the Training Supervisor shall record the make, model and serial number of the weapon and place this information with other firearms records.
- H. The officer must qualify with the weapon at the range on an annual basis.
- I. Any officer who has not qualified with his/her approved off-duty weapon **may** not be indemnified by the department for any use of such weapon until such time as the officer has qualified.
- J. The authority to carry or possess issued or authorized weapons by the Brookline Police Department may be immediately revoked upon an officer's suspension, discharge, or termination. Any department issued firearms and personal weapons, License to Carry (LTC) and Firearm Identification Card (FID) must be surrendered to a supervisor upon request. If their LTC or FID card is not from the Brookline

Police Department, the Police Department where it was issued from will be notified.

- K.** Unless authorized by the department otherwise, when carrying issued or approved firearms, officers must carry a badge and police identification card.
- L.** Except for demonstration purposes at the Police Department's firearms range, officers shall not allow any non-police personnel to carry, shoot, or possess any department issued firearms.
- M.** Officers shall carry issued or approved handguns only in a suitable retention holster approved by the department armorer, of safe construction, and in good repair, so as to maintain control over the handgun and prevent its loss or accidental discharge.
- N.** Personnel assigned to the Firearms Training Unit and Department armorers may possess weapons in addition to the duty firearm, so long as such carrying, transportation, use, and possession is related to official duty and otherwise complies with all other department policies, procedures, rules, and regulations.
- O.** All other department policies, procedures, rules, and regulations apply to the off-duty carrying, possession, use, and storage of issued or approved firearms. This includes provisions relating to use of force and modifications to firearms.

**26. USE OF UNAUTHORIZED OFF-DUTY FIREARMS:**

- A.** This policy does not prohibit an officer who is off duty from carrying a firearm as authorized by the issuance of a License to Carry Firearms under M.G.L. c. 140 s. 131.
- B.** The use of a firearm that has not been authorized by the Department is done without the indemnification of the Department and the officer assumes all liability for such use.

**27. CARRYING WEAPONS WHILE IN PLAIN CLOTHES:** No member of the department dressed in civilian clothing shall carry their firearm in such a manner that will attract attention or will be in open view unless they are displaying their badge of office in close proximity to the firearm.

**28. DRAWING / DISPLAY OF FIREARMS:** Officers may draw or display their firearms at any time there is justification for its use to accomplish a proper police purpose. Any officer who unnecessarily draws or displays their weapon shall report their actions in compliance with Section 12 of this chapter.

**29. PLANNED MASS DEMONSTRATIONS:**

- A.** A police department shall establish plans to avoid and to de-escalate potential or actual conflict between officers and mass demonstration participants. When a

police department obtains advance knowledge of a planned mass demonstration within the police department's jurisdiction, the police department shall diligently attempt in good faith to:

- (i) communicate with organizers of the event before the event occurs in an effort to establish reliable channels of communication between officers and event participants, and
  - (ii) discuss and establish logistical plans to avoid or, if necessary, to deescalate potential or actual conflict between law enforcement officers and mass demonstration participants.
- B. The department shall designate an officer in charge of de-escalation planning and communication to carry out the above plans within the department.
- C. A law enforcement officer shall not discharge or order the discharge of tear gas or any other chemical weapon, discharge or order the discharge of a kinetic impact device or rubber pellets from a propulsion device or order the release of a dog to control or influence a person's behavior unless:
  - (i) de-escalation tactics have been attempted and failed or are not feasible based on the totality of the circumstances; and
  - (ii) the measures used are necessary to prevent imminent harm and the foreseeable harm inflicted by the tear gas or the chemical weapon, kinetic impact device, rubber pellets or dog is proportionate to the threat of imminent harm.
- D. If a law enforcement officer utilizes or orders the use of tear gas or any other chemical weapon, rubber pellets or a dog against a crowd, the law enforcement officer's appointing agency shall file a report with the Massachusetts Peace Officer Standards and Training Commission ("POST") detailing 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 de-escalate tensions and avoid the necessity of using the tear gas or other chemical weapon, rubber pellets or dog.
- E. The Massachusetts Peace Officer Standards and Training Commission ("POST") shall review the report and may make any additional investigation. After such review and investigation, the commission shall, if applicable, make a finding as to whether the pre-event and contemporaneous de-escalation tactics were adequate and whether the use of or order to use such tear gas or other chemical weapon, rubber pellets or dog was justified.

- F. If a law enforcement officer utilizes or orders the use of kinetic impact devices, 40MM, or a dog against a crowd, the law enforcement officer's appointing agency shall file a report with the Commission detailing all of the 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 de-escalate tensions and avoid the necessity of using said weapons, including a detailed justification of why use of said weapons was objectively reasonable.
- G. Canines should not be utilized for crowd control, restraint, or management of peaceful demonstrations-but may be deployed for management of peaceful demonstrations in isolated circumstances related to bomb detection, pursuit of suspects in buildings, and related situations. Utilization does not include circumstances in which the canine remains on a short lead in close proximity to the handler and is well behind the line of contact between law enforcement and 'civilian personnel.
- H. The use of Kettling as a means of crowd control, crowd management, or crowd restraint is prohibited.
- I. All sworn employees shall receive initial training on officer's response to crowd control situation for new hires and retraining shall be conducted at least once every two years.

## **APPENDIX A**

### 550 CMR 6.00: USE OF FORCE BY LAW ENFORCEMENT OFFICERS

#### Section

#### 6.01 Purpose and Scope

#### 6.02 Authorization

#### 6.03 Definitions

#### 6.04 Use of Non-Deadly Force

#### 6.05 Use of Deadly Force

#### 6.06 Duty to Intervene

#### 6.07 Use of Force Reporting

#### 6.08 Mass Demonstrations, Crowd Control, and Reporting

#### 6.09 Investigation when Use of Force Results in a Death or Serious Bodily Injury

#### 6.10 Use of Force Training

#### 6.01: Purpose and Scope

#### 6.01 Purpose and Scope

1) Purpose. The purpose of this CMR is to establish rules governing the use of force by law enforcement officers.

2) Scope. This CMR applies to all law enforcement officers as defined in M.G.L. c. 6E, § 1.

#### 6.02: Authorization

This CMR is promulgated pursuant to M.G.L. c. 6E, § 15(d) requiring the Peace Officer Standards and Training Commission and the Municipal Police Training Committee to jointly promulgate rules and regulations governing the use of force by law enforcement officers.

### 6.03: Definitions

Chokehold. The use of a lateral vascular neck restraint, carotid restraint or other action that involves the placement of any part of a 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.

Commission. The Massachusetts Peace Officer Standards and Training Commission as established in M.G.L. c. 6E, §2.

Committee. The Municipal Police Training Committee as established in M.G.L. c. 6, § 116.

Deadly Force. Physical force that can reasonably be expected to cause death or serious physical Injury.

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, verbal persuasion, warnings, slowing down the pace of an incident, waiting out a person, and requesting additional resources to resolve the incident, including, but not limited to, calling in medical or licensed mental health professionals, as defined in subsection (a) of section 51½ of chapter 111, to address a potential medical or mental health crisis. De-escalation shall include, but is not limited to, issuing a summons instead of executing an arrest where feasible.

Department/Police Department/Law Enforcement Agency/Agency.

- i. A state, county, municipal or district law enforcement agency, including, but not limited to: a city, town or district police department, the office of environmental law enforcement, the University of Massachusetts police department, the department of the state police, the Massachusetts Port Authority police department, also known as the Port of Boston Authority police department, and the Massachusetts Bay Transportation Authority police department;
- ii. a sheriff's department in its performance of police duties and functions;  
or
- iii. a public or private college, university or other educational institution or hospital police department.

Dog. For the purposes herein, shall also refer to a K-9, canine or police dog.

Force. The amount of physical effort, however slight, required by police to compel compliance by an unwilling individual.

Kettling. Confinement or corralling by law enforcement of a group of demonstrators or protesters in a small area without any means of egress as a method of crowd control, management, or restraint.

Law enforcement officer/officer. Any officer of an agency, including the head of the agency; a special state police officer appointed pursuant to section 58 or section 63 of chapter 22C; a special sheriff appointed pursuant to section 4 of chapter 37 performing police duties and functions; a deputy sheriff appointed pursuant to section 3 of said chapter 37 performing police duties and functions; a constable executing an arrest for any reason; or any other special, reserve, or intermittent police officer.

Non-deadly force. Any use of force other than that which is considered deadly force that involves physical effort to control, restrain, or overcome the resistance of another.

Officer-involved injury or death. Any event during which an officer:

- (i) discharges a weapon, or stun gun, as defined in section 121 of chapter 140, actually or proximately causing injury or death to another;
- (ii) discharges any stun gun as defined in said section 121 of said chapter 140, actually or proximately causing injury or death to another;
- (iii) uses a chokehold, in violation of M.G.L. c. 6E, §14(c), actually or proximately causing injury or death of another;
- (iv) discharges tear gas or other chemical weapon, actually or proximately causing injury or death of another;
- (v) discharges rubber pellets from a propulsion device, actually or proximately causing injury or death of another;
- (vi) deploys a dog, actually or proximately causing injury or death of another;
- (vii) uses deadly force, actually or proximately causing injury or death of another;
- (viii) 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
- (ix) engages in a physical altercation with a person who sustains serious bodily injury or requests or receives medical care as a result.

Passive resistance. An individual who is non-compliant with officer commands that is nonviolent and does not pose an immediate threat to the officer or the public.

Serious Bodily Injury. Bodily injury that results in:

1. permanent disfigurement;
2. protracted loss or impairment of a bodily function, limb, or organ; or
3. a substantial risk of death.



Tear Gas or Other Chemical Weapons ("CW"). Any weapon that contains chemical compounds that temporarily make people unable to function by causing irritation to the eyes, mouth, throat, lungs, and skin, or that otherwise restrain a person by causing pain. This shall not include oleoresin capsicum (OC) spray.

#### 6.04: Use of Non-Deadly Force

1) A law enforcement officer shall not use physical force upon another person unless de-escalation tactics have been attempted and failed or are not feasible based on the totality of the circumstances and such force is necessary and proportionate to:

- iv. effect the lawful arrest or detention of a person;
- v. prevent the escape from custody;
- vi. prevent imminent harm and the amount of force used is proportionate to the threat of imminent harm, while protecting the safety of the officer or others; or
- vii. defend against an individual who initiates force against an officer.

However the law enforcement officer may use necessary proportionate and non-deadly force in accordance with regulations promulgated jointly by the commission and the municipal police training committee pursuant to subsection (d) of section 15.

2) A law enforcement officer shall use only the amount of force necessary against an individual who is engaged in passive resistance to effect the lawful arrest or detention of said individual and shall use de-escalation tactics where feasible.

3) Physically escorting or handcuffing an individual with minimal or no resistance does not constitute a use of force for purposes of this section. Use of force does include the pointing of a firearm, Less Lethal Weapons at an individual and the use of DC spray on an individual or directed toward an individual.

4) Officers shall always provide appropriate medical response to individuals who are exhibiting signs of or complaining of injury or illness following a non-deadly use of force when safe and tactically feasible.

5) All law enforcement officers shall be properly trained and certified in the use of any less-lethal weapons before being authorized to carry or use such force options.

6) Except to temporarily gain, regain or maintain control of an individual and apply restraints, a law enforcement officer shall not intentionally sit, kneel, or stand on an individual's chest, neck, or spine, and shall not force an individual to lie on their stomach.

7) A law enforcement officer shall not obstruct the airway or limit the breathing of any individual, nor shall a law enforcement officer restrict oxygen or blood flow to an individual's head or neck. An individual placed on their stomach during restraint should be moved into a recovery position or seated position as soon as practicable.

#### 6.05: Use of Deadly Force

1) A law enforcement officer shall not use deadly force upon a person unless de-escalation tactics have been attempted and failed or are not feasible based on the totality of the circumstances and 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 and;

(a) The imminent harm poses an imminent danger of death or serious bodily injury to the officer or another person;

(b) The officer attempts as many de-escalation tactics that are feasible under the circumstances, including utilizing barriers where feasible; and

(c) The officer's use of force is objectively reasonable.

2) A law enforcement officer shall not use a chokehold or other tactics that restrict or obstruct an individual's breathing or oxygen or blood flow to an individual's head or neck. A law enforcement officer shall not be trained to use 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.

3) An officer may not use deadly force against a person who poses only a danger to themselves.

4) A law enforcement officer shall not discharge any firearm into or at a moving motor vehicle ' unless, based on the totality of the circumstances, including the risk of safety to other persons in the area, such discharge is objectively reasonable, necessary to prevent imminent harm to a person and the discharge is proportionate to the threat of imminent harm; and only if the following conditions exist:

(a) A person in the vehicle is immediately threatening the officer or another person with deadly force by means other than the vehicle, or when the vehicle is intentionally being used as a deadly weapon, and all other reasonable means of defense have been exhausted (or are not present or practical), which includes moving out of the path of the vehicle;

(b) Officers have not intentionally positioned themselves in such a way as to create a likelihood of being struck by an occupied vehicle (e.g., surrounding a vehicle at close proximity while dismounted);

(c) The officer is not firing strictly to disable the vehicle; and

(d) The circumstances provide a high probability of stopping or striking the intended target.

5) A law enforcement officer shall not use deadly force at any point in time when there is no longer an objectively reasonable belief that an individual currently and actively poses an immediate threat of serious bodily harm or death, even if deadly force would have been justified at an earlier point in time.

6) Where feasible based on the totality of the circumstances, officers shall verbally identify themselves as police officers and issue some warning before using deadly force.

7) Officers shall always provide appropriate medical response to an individual following a use of deadly force when safe and tactically feasible.

#### 6.06: Duty to Intervene

A law enforcement officer present and observing another officer using or attempting to use 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 observed officer's use of unnecessary or unreasonable force, regardless of the rank of the officer so observed, unless intervening would result in imminent harm to the officer or another identifiable individual.

The failure of a law enforcement officer to intervene as set forth herein may subject the officer to decertification by the Commission.

#### 6.07: Use of Force Reporting

Law enforcement agencies shall develop and implement a policy and procedure for reporting the use of force. Such policy shall mandate reporting such incidents including but not limited to officer-involved injuries or deaths as described herein, and include the use of a standard use of force reporting form as approved by the Committee and the Commission which shall be completed by any officer who uses force.

Law enforcement agencies shall report to the National Use of Force Data Collection Database when actions by a law enforcement officer resulted in the death or serious bodily injury of an individual, or when a law enforcement officer, in the absence of death or serious bodily injury, discharged a firearm at or in the direction of a person.

Law enforcement agencies are not required to report the discharge of a firearm during training or qualification exercises, or for the purposes of animal destruction/euthanasia where necessary.

An officer who observes another officer using physical force, including deadly force, beyond that which is necessary or objectively reasonable based on the totality of the circumstances shall report the incident to an appropriate supervisor as soon as reasonably possible but not later than the end of the officer's shift. The officer shall prepare a detailed written statement describing the incident consistent with uniform protocols. The officer's written statement shall be included in the supervisor's report.

An officer who knowingly makes an untruthful statement concerning a material fact or knowingly omits a material fact from a use of force report may be subject to decertification.

Law enforcement agencies shall develop and implement a policy and procedure for law enforcement personnel, including but not limited to law enforcement officers, to report abuse by other law enforcement personnel, including but not limited to law enforcement officers, without fear of retaliation or actual retaliation.

Any harassment, intimidation, or retaliation against any officer who either intervened to prevent or stop an excessive force incident or made, intended to make, or is required to make a report regarding the witnessed excessive force incident shall be reported immediately to an appropriate supervisor and will not be tolerated. Any such actions may result in decertification.

All use of force reports shall be retained and maintained by the law enforcement agency/department and are subject to discovery and access through the Massachusetts Public Records Law MGL c. 66.

#### 6.08: Mass Demonstrations, Crowd Management, and Reporting

1) A police department shall establish plans to avoid and to de-escalate potential or actual conflict between officers and mass demonstration participants. When a police department obtains advance knowledge of a planned mass demonstration within the police department's jurisdiction, the police department shall diligently attempt in good faith to:

4. communicate with organizers of the event before the event occurs in an effort to establish reliable channels of communication between officers and event participants, and
5. discuss and establish logistical plans to avoid or, if necessary, to de-escalate potential or actual conflict between law enforcement officers and mass demonstration participants.

2) The department shall designate an officer in charge of de-escalation planning and communication to carry out the above plans within the department.

3) A law enforcement officer shall not discharge or order the discharge of tear gas or any other chemical weapon, discharge or order the discharge of a kinetic impact device or rubber pellets from a propulsion device or order the release of a dog to control or influence a person's behavior unless:

- (i) de-escalation tactics have been attempted and failed or are not feasible based on the totality of the circumstances; and

(ii) the measures used are necessary to prevent imminent harm and the foreseeable harm inflicted by the tear gas or the chemical weapon, kinetic impact device, rubber pellets or dog is proportionate to the threat of imminent harm.

4) If a law enforcement officer utilizes or orders the use of kinetic impact devices, rubber bullets, CEDs, CWs, ECWs, or a dog against a crowd, the law enforcement officer's appointing agency shall file a report with the Commission detailing all of the 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 de-escalate tensions and avoid the necessity of using said weapons, including a detailed justification of why use of said weapons was objectively reasonable.

5) Canines should not be utilized for crowd control, restraint, or management of peaceful demonstrations-but may be deployed for crowd control, restraint, or management of peaceful demonstrations in isolated circumstances related to bomb detection, pursuit of suspects in buildings, and related situations. Utilization does not include circumstances in which the canine remains on a short lead in close proximity to the handler and is well behind the line of contact between law enforcement and civilian personnel.

6) The use of Kettling as a means of crowd control, crowd management, or crowd restraint is prohibited.

#### 6.09: Investigation when Use of Force Results in a Death or Serious Bodily Injury

Law enforcement agencies shall develop and implement a policy and procedure for reporting a use of force that results in a death or serious bodily injury.

Whenever an officer uses force that results in a death or serious bodily injury, the Officer-in-Charge shall immediately notify the agency head or their designee. The agency shall conduct an investigation according to their policies and protocols.

If the use of force involved a weapon, the agency head or their designee shall secure the weapon or weapons used for examination and maintain the appropriate chain of custody protocols.

#### 6.10: Use of Force Training

1) The Committee shall develop and periodically deliver use of force training to law enforcement officers consistent with these Regulations, including, but not limited to:

- i. de-escalation tactics;
- ii. handling emergencies involving individuals with mental illness;
- iii. responding to mass gatherings;
- iv. cultural competency;
- v. progression of force; and

- vi. lawful use of force techniques and equipment on a schedule to be determined by the Committee.

2) The Commission and the Committee shall jointly develop a model use of force policy. All law enforcement agencies shall have a written use of force policy consistent with the model policy and the agency's particular mission; provided, however, that an agency's use of force policy shall comply with 550 CMR 6.00 and all relevant state and federal laws.

## **APPENDIX B**

Peace Officer Standards and Training Commission Guidance on Developmentally Appropriate De-escalation and Disengagement Tactics, Techniques and Procedures and Other Alternatives to the Use of Force for Minor Children.

### **Introduction**

In Section 119 of the Chapter 253 of the Acts of 2020, the Legislature instructed the Massachusetts Peace Officer Standards and Training Commission ("Commission") to: "issue guidance as to developmentally appropriate de-escalation and disengagement tactics, techniques, and procedures and other alternatives to the use of force for minor children that may take into account contextual factors including, but not limited to, the person's age, disability status, developmental status, mental health, linguistic limitations or other mental or other mental or physical condition."

The purpose of this guidance is to provide Massachusetts Law Enforcement Officers and Law Enforcement Agencies 1 with guidelines for the use of developmentally appropriate de-escalation and disengagement tactics, techniques and procedures and other alternatives to use of force with minor children (i.e. children under the age of 18). This guidance does not have the force of a statute or regulation, and does not express requirements with which Law Enforcement Officers or Agencies must comply.

The Commission recognizes that in issuing such guidance, it must balance the goals of improving the safety of children, the needs of the community, and the well-being of Law Enforcement Officers,<sup>2</sup> while increasing trust between Law Enforcement Officers and the communities they serve. The Commission expects that this guidance will be modified and refined as new knowledge, facts, and scientific evidence inform the understanding of factors that influence the outcomes of Law Enforcement Officer-minor child interactions.

Moreover, the Commission believes that these Law Enforcement Officer-minor child interactions are best understood in a broader context that acknowledges the convergence of multiple factors, primarily minor child factors, community factors, and Law Enforcement Officer factors, in determining the outcome of these interactions.

## **Context of the Interaction between Minor Children and Law Enforcement Officers**

### **Minor Children**

Minor children are uniquely vulnerable to violence and trauma. Interactions between Law Enforcement Officers and minor children often represent a minor child's earliest experiences with the legal or law enforcement system and may impact a minor child's development, sense of security and regard for authority. Law Enforcement Officers who are well trained and supported to embrace and understand developmentally appropriate interventions with minor children are likely to engage in positive and culturally-competent interactions with minor children that increase their well-being and promote successful outcomes.

It is well documented that minor children are developmentally distinct from adults. These developmental differences are related to the biological immaturity of children, including their lack of life experience relative to adults. According to the National Academy of Sciences' Reforming Juvenile Justice report (2013), children are developmentally distinct from adults in at least three ways: (1) they demonstrate less emotional self-regulation in emotionally charged situations; (2) they have increased susceptibility to external influences such as peer pressure and immediate incentives; and (3) they are less able to make judgments and decisions that require future orientation. Minor children have a propensity for "rash, impulsive and poorly considered actions" especially when faced with "emotionally-charged situations where the time for deliberation is limited, and they lack access to an adult or other person who can help them consider options and consequences - often when with peers." (Kinscherff, 2021). Due to their developmental immaturity, they are less likely than adults to respond favorably to transactional policing approaches, accurately appraise officer behavior and experience police stops as a deterrent to criminal behavior (Thurau and Fine, 2021).

### **Community**

It is also well-established that factors associated with the community environment such as crime level, police patrol presence, socioeconomic level and neighborhood disorganization affect police behavior and arrest rates. (Sanborn and Salerno, 2005). Research on race and policing indicates that Black Americans experience a greater frequency of police contacts, discretionary stops, and police harassment when these stops occur (Maynard and Haider-Markel, 2014; Fagan et al., 2010; Fagan and Tyler, 2005; Meares, 2014)

Discretionary stops by police that are interpreted as harassing, unfair, or discriminatory undermine the public trust in police, encourage avoidance of police and negatively impact community and individual mental health (Geller et al., 2014; Sewell, Jefferson and Lee, 2016). Research has found that community factors and perceptions of procedural justice also impact the attitudes that minor children have toward police (Office of Juvenile Justice

and Delinquency Prevention, 2018). When Law Enforcement Officer-minor child interactions are unbiased, respectful and built on a foundation of positive community experiences, they are more likely to elicit cooperation, foster trust and decrease a minor child's experience of fear and trauma during contacts with Law Enforcement Officers.

#### Law Enforcement Officers

Factors associated with individual officer characteristics such as an officer's years of experience on the job and the overall culture of a police department also influence Law Enforcement Officer-minor child interactions. (Office of Juvenile Justice and Delinquency Prevention, 2018). Law Enforcement Officers who are well trained, properly supported in their job, and emotionally regulated are more likely to communicate effectively with children, make sound assessments of risk and options for intervention, and slow down when necessary to de-escalate a crisis incident.

The increased exposure to violence and threats to the personal safety of self and the safety of others on the job creates high levels of occupational stress for Law Enforcement Officers. On the job exposure to the serious injury or death of a child has been recognized as one of the most stressful critical incidents Law Enforcement Officers may encounter in the course of their careers. Law Enforcement Officers should have access to support and post-encounter crisis debriefing of critical incidents involving minor children to prevent stress reactions.

During interactions with minor children, Law Enforcement Officers should be particularly aware of minor children's normal developmental tendencies to react anxiously and distrustfully to police presence. When feasible, they should approach minor children in a non-confrontational manner to diffuse tension while maintaining safety. Law Enforcement Officers should be trained in developmentally appropriate, trauma-informed and racially equitable tactics to de-escalate minor children, including communication strategies which avoid threats and intimidation and promote calm age-appropriate language, provide choices and allow ample time for compliance. It is also critical that Law Enforcement Officers are aware of their own stress level and the impact of their presence and behavior on the outcome of interactions with minor children.

### **POST COMMISSION GUIDANCE**

#### **DE-ESCALATION & DISENGAGEMENT**

1. When appropriate, safe, and feasible in determining how to respond to minor children, Law Enforcement Officers should use de-escalation strategies in an attempt to problem solve and provide alternatives to arrest.
2. Law Enforcement Officers should consider all approved diversion options and select the alternative which least restricts the minor child's freedom and provides an alternative compatible with the best interests of the minor child and the community. When



interacting with minor children, Law Enforcement Officers should make every reasonable effort to prevent an incident from escalating.

3. Any Law Enforcement Officer involved in a situation with a minor child should remain calm, engage the minor child in dialogue, and attempt to gain cooperation and trust from the minor child whenever safe and feasible.

4. When appropriate and feasible, Law Enforcement Officers should approach a minor child in a manner that is slower and more deliberate than a Law Enforcement Officer would approach an adult, in order to begin a process of de-escalation and to encourage and promote mutual cooperation and trust.

5. Law Enforcement Officers should attempt to engage the minor child in conversation, explain their role as peace-keeper, and encourage the minor child to partner with the officer in keeping the peace and managing the situation by using the timing, language, and physical bearing that is least likely to escalate the minor child's response.

6. Law Enforcement Officers' attempts to keep the peace should provide the minor child with the opportunity to understand and comply with their instructions, encourage questions and provide answers, and minimize the likelihood for confrontation by engaging in and facilitating nonthreatening dialogue.

7. When it is safe and feasible, Law Enforcement Officers should adopt a calm, collaborative, respectful, and firm demeanor with minors to prevent a fight, flight or freeze response, slow down the interaction, and de-escalation the situation.

8. When interacting with a minor child, Law Enforcement Officers should explain the interaction in an age or developmentally appropriate manner, use developmentally appropriate language, maintain a non-threatening demeanor, and treat the minor child with courtesy, professionalism, dignity, respect, and equality.

9. When interacting with a minor child, officers should avoid tactics that are demeaning or likely to humiliate the minor child.

## **EDUCATION & TRAINING**

10. Training of Law Enforcement Officers should address child and adolescent development, brain development, and trauma informed, age-appropriate, and culturally relevant tactics to prevent escalation of Law Enforcement Officer-minor child interactions.

Training should include, but is not limited to:

a. Implicit and explicit bias training to address racial, age-based, gender, cultural, linguistic, and economic bias and the disproportionate impact of such biases on minor children of color;

- b. Trauma training that includes strategies for effective, trauma-informed responses to minor child behavior. Training should provide a basic understanding of emotional and/or traumatic stress presentation in minor children;
- c. Scenario based training involving interactions with minor children;
- d. Training should include special considerations that officers should take when encountering special populations including minor children suffering from cognitive/and or mental health issues, minor children under the influence of substances, minor children with disabilities, and minor children for whom English is not a first language; and
- e. Training in communication, stabilization, and crisis intervention strategies and techniques. Strategies/techniques should encompass:
  - i. active, reflective, and empathic listening;
  - ii. rapport building;
  - iii. affect management; and
  - iv. crisis negotiation and response.

11. Law Enforcement Agencies should develop a specific academy training on how to interact and engage with minor children. Academy training should include the following as it relates to minor children:

- a. Conflict resolution and problem solving;
- b. Alternatives to arrest; and
- c. Impact of child development and trauma on minor children's ability to process, take directives, and respond to Law Enforcement Officers.

## **TRAUMA**

12. Law Enforcement Officers should be encouraged to access support and debriefing following critical incidents involving minor children.

13. Partnerships between Law Enforcement Officers and behavioral health professionals should be encouraged and Law Enforcement Officers should have access to accurate information about community resources for minor children and their families.

## **COMMUNITY**

14. Law Enforcement Agencies should encourage and provide resources for Law Enforcement Officers of all ranks to establish community relationships through non-enforcement interactions among Law Enforcement Officers, minor children, and other community members.

15. Law Enforcement Agencies should make identified community resources for minor children available and accessible to Law Enforcement Officers.

16. Law Enforcement Agencies should periodically review and update procedures for effective Law Enforcement Officer-minor child interactions that include effective communication strategies for children.

17. Law Enforcement Agencies should support initiatives that increase positive Law Enforcement Officer-minor child interactions and engagement in communities that increase community trust in Law Enforcement Officers.