Waltham Police Department
CHAPTER 1
USE OF FORCE

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PURPOSE:

To establish guidelines and limitations concerning the use of force for the Waltham Police Department.

POLICY:

1. The Waltham Police Department values the sanctity of life and bodily integrity of all individuals. The Waltham Police Department prioritizes the dignified and respectful treatment of all members of the public, as well as the safety of officers. In accordance with these principles, the Waltham Police Department and its officers shall implement this policy and sub-policies in a manner that is fair and unbiased consistent with M.G.L. c. 6E, §1.

2. Officers shall seek to de-escalate and gain the voluntary compliance of individuals at all safe and feasible opportunities. If force is warranted, officers shall use only the amount of force that is necessary and objectively reasonable to accomplish lawful objectives and proportionate to the resistance or threat encountered.

3. There is a compelling public interest that officers' use of force complies with the law. Officers who use excessive force degrade the confidence of the community that they serve, undermine the legitimacy of an officer's authority, and hinder the agency's ability to provide effective law enforcement services to the community. Accordingly, officers who use excessive force may be subject to the following consequences:

a. Agency discipline, up to and including termination;

b. Action on their certification by the Massachusetts Peace Officer Standards and Training Commission, up to and including decertification;

c. Criminal prosecution; and/or

d. Civil liability.

4. Only personnel who demonstrate proficiency in lethal and/or less lethal authorized weapons are authorized to carry those weapons. Proficiency is determined through training in accordance with Municipal Police Training Committee guidelines and department policy and procedure. All officers must qualify for, keep, and maintain a License to Carry Class A firearms permit, issued by the Chief of Police of the Waltham Police Department. Periodic computer checks will be conducted for appropriate compliance.

1. DEFINITIONS:

a. **AGENCY:** The Waltham Police Department.

b. **AUTHORIZED AGENCY PERSONNEL**: Agency personnel, both sworn and non-sworn, who are authorized by the agency to possess, carry, and use agency-approved weapons or force. **[1.1.0]**

c. **AUTHORIZED WEAPONS:** Weapons that meet agency specifications that officers or authorized agency personnel are permitted to carry and for which officers or authorized agency personnel have successfully completed proficiency and safety training. **[1.1.0]**

d. **CHOKEHOLD:** As defined in M.G.L. c. 6E, § 1 and 555 CMR 6.03, 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 an individual's neck in a manner that limits the individual's breathing or blood flow with the intent of or with the result of causing bodily injury, unconsciousness, or death.

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

f. **DEADLY OR LETHAL FORCE:** As defined in M.G.L. c. 6E, § 1 and 555 CMR 6.03, physical force that can reasonably be expected to cause death or serious bodily injury.

g. **DE-ESCALATION:** Proactive actions and approaches used by an officer to slow down, stabilize, and reduce the intensity of an encounter in an attempt to avoid or mitigate the need to use force and to avoid or reduce threats, gain the voluntary compliance of the individual involved in the encounter, and safely resolve the encounter without further jeopardizing the safety of the officer or any individual present or involved in the encounter.

h. **DE-ESCALATION TACTICS:** As defined in M.G.L. c. 6E, § 1 and 555 CMR 6.03, 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 M.G.L. c. 111, § 51½(a), to address a potential medical or mental health crisis. De-escalation tactics shall include, but are not limited to, issuing a summons instead of executing an arrest where feasible. De-escalation tactics include the use of critical thinking skills to evaluate options and tactics consistent with 555 CMR 6.00 and the Commission's guidance entitled *Developmentally Appropriate De-escalation and Disengagement Tactics, Techniques and Procedures and Other Alternatives to the Use of Force for Minor Children* (2021).

i. **DOG:** As defined in 555 CMR 6.03, a K-9, canine or police dog.

j. **ELECTRONIC CONTROL WEAPON (ECW)/CONDUCTED ENERGY DEVICES (CEDS):** As defined in 555 CMR 6.03, a portable device or weapon, regardless of whether it passes an electrical shock by means of a dart or projectile via a wire lead, from which an electrical current, impulse, wave, or beam is emitted that is designed to incapacitate temporarily by causing neuromuscular incapacitation or pain so that an officer can regain and maintain control of the individual. For purposes of this policy, "ECW" shall also mean a "stun gun" as that term is defined in M.G.L. c. 140, § 121.

k. **EXCESSIVE FORCE:** Force that is not necessary, proportionate or objectively reasonable.

l. **FIREARM:** As defined in M.G.L. c. 140, § 121, a stun gun, pistol, revolver, rifle, shotgun, sawed-off shotgun, large capacity firearm, assault-style firearm and machine gun, loaded or unloaded, which is designed to or may readily be converted to expel a shot or bullet; the frame or receiver of any such firearm or the unfinished frame or receiver of any such firearm; provided, however, that "firearm" shall not include any antique firearm or permanently inoperable firearm.

m. **FORCE:** As defined in 555 CMR 6.03, the amount of physical effort, however slight, required by police to compel compliance by an unwilling individual. For purposes of this policy, "force" includes:

1. Any physical strike or attempted strike;

2. Any intentional contact with an individual through the use of a weapon (e.g., baton, OC, ECW, chemical weapon, kinetic impact device);

3. Any significant physical contact that restricts movement (e.g., takedown, hard empty-hand techniques, chokeholds);

4. Pointing a firearm, ECW, or chemical weapon at an individual; and

5. Deployment of a police dog resulting in contact. "Force" does not include physically escorting or handcuffing an individual who offers minimal or no resistance.

n. **HARM:** Injury inflicted upon an individual, whether visible or not.

o. **IMPACT WEAPONS:** Agency-approved tools designed to assist officers in gaining and maintaining control of an individual when empty-hand control techniques are insufficient.

p. **IMPLICIT BIAS:** Unconscious attitude or stereotype that affects how people perceive and interact with others.

q. **KETTLING:** As defined in 555 CMR 6.03, 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.

r. **KINETIC IMPACT DEVICE:** Less-lethal projectile-based tools designed to assist officers in gaining and maintaining control of an individual when empty-hand control techniques are insufficient.

s. **LAW ENFORCEMENT OFFICER/OFFICER:** As defined in M.G.L. c. 6E, § 1 and 555 CMR 6.03, a sworn member of the agency, including the Chief of Police.

t. **MPTC:** Municipal Police Training Committee established in M.G.L. c. 6, § 116.

u. **NON-DEADLY OR LESS-LETHAL FORCE:** As defined in 555 CMR 6.03, 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.

v. **OLEORESIN CAPSICUM (OC) SPRAY:** An inflammatory agent that irritates the mucus membranes and eyes to cause tears and pain.

w. **PASSIVE RESISTANCE:** As defined in 555 CMR 6.03, an individual who is noncompliant with officer commands and who is nonviolent and does not pose an immediate threat to the officer or the public.

x. **SERIOUS BODILY INJURY:** As defined in M.G.L. c. 6E, § 1 and 555 CMR 6.03, bodily injury that results in:

a. Permanent disfigurement;

b. Protracted loss or impairment of a bodily function, limb, or organ; or

c. A substantial risk of death.

y. **TEAR GAS OR OTHER CHEMICAL WEAPONS (CW):** As defined in 555 CMR 6.03, 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 an individual by causing pain. This shall not include oleoresin capsicum (OC) spray.

z. **USE OF FORCE REPORTING FORM:** A form that has been approved by the Commission and the MPTC or a form approved by the Chief of Police that collects at a minimum the information collected on the form approved by the Commission and the MPTC.

aa. **VERBAL COMMANDS:** The use of advice, persuasion, warnings, and/or clear directions prior to resorting to or concurrent with the use of actual physical force.

2. PROCEDURES:

The use of force is authorized only when it is necessary, proportionate, objectively reasonable and for a lawful purpose. **[1.1.1]**

The reasonableness of a particular use of force is based on the totality of circumstances known by the officer at the time of the use of force and weighs the actions of the officer against the rights of the individual, in light of the circumstances surrounding the event. The totality of circumstances includes, but is not limited to, the officer's own tactical decisions and conduct leading up to the use of force. It must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must allow for the fact that officers are often forced to make split-second decisions in circumstances that are tense, uncertain, and dynamic and rapidly evolving about the amount of force that is necessary, proportionate and objectively reasonable in a particular situation. The reasonableness inquiry in an excessive-force case is an objective one: whether the officers' actions are objectively reasonable in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation.

Accordingly, the Waltham Police Department will thoroughly document, review, and investigate all uses of force by officers to assure compliance with all legal requirements and this policy.

a. GENERAL:

1. Whenever officers are involved in an encounter with an individual, officers shall prioritize the safety of members of the public, officers, and any other individual(s) involved, throughout the entirety of the encounter.

2. When time and circumstances reasonably permit, officers shall attempt to resolve encounters without resorting to force. Officers shall not intentionally employ tactics that are likely to necessitate the need for force or escalate the level of force necessary to resolve an encounter.

3. When officers come in contact with members of the public, they are encouraged to be conscious of non-criminal factors that could impact that interaction. Such factors include, but are not limited to, an individual's mental or physical condition, age or developmental maturity, language or cultural differences, the legacy of policing on vulnerable populations, and the agency's history with the public. Factors such as these may affect an individual's ability to understand, respond to, and comply with an officer's commands, such that an officer should consider modifying their de-escalation tactics and techniques. Officers should also be mindful of the role implicit bias can play in their interactions with individuals, especially in stressful situations.

4. When time and circumstances reasonably permit, officers shall attempt to de-escalate an encounter at all available and appropriate opportunities, including by assessing and gathering information before an officer arrives on scene, before the escalation of the use of force, throughout an encounter, and until the conclusion of an encounter.

5. When time and circumstances reasonably permit, officers shall utilize advisements, warnings, verbal persuasion, verbal instructions, and other de-escalation tactics such as area containment, surveillance, waiting out an individual, summoning reinforcements, creating time and distance, alternative response, peer response, crisis intervention team, etc.], seeking assistance from a mental health professional, and/or calling in specialized units in order to reduce the need for force and increase safety. Officers shall document when such efforts were attempted or were not feasible.

6. Any force used shall be necessary, proportionate, and objectively reasonable in relation to the level of resistance encountered, whether increasing or decreasing, throughout an encounter.

b. **<u>USE OF FORCE AUTHORIZATION AND LIMITATIONS</u>:**

1. Officers are only authorized to use the amount of force that is necessary, proportionate, and objectively reasonable to accomplish lawful objectives.

2. An officer shall not use 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:

a. Effect the lawful arrest or detention of an individual;

b. Prevent the escape of an individual from custody;

c. Prevent imminent harm through the use of an amount of force that is proportionate to the threat of imminent harm while protecting the safety of the officer or others; or

d. Defend against an individual who initiates force against an officer.

3. The authorized use of force ends when resistance ceases, or the officer has accomplished the lawful objective necessitating the use of force. The officer's justification for the use of force must be based on the totality of the circumstances known or perceived by the officer at the time such force is used, including levels of resistance, the subject's behavioral cues, the number of officers and/or individuals present, and the availability of other options.

4. Force shall never be used as punishment or retaliation, or to subject an individual to torture or other cruel, inhumane, or degrading treatment.

c. VERBAL WARNING:

When tactically feasible, officers will identify themselves as police, law enforcement and issue verbal commands or warnings before using force. When time and circumstances reasonably permit, officers will allow the individual a reasonable opportunity to comply with verbal commands before resorting to force. A verbal warning is not required where the officer must make a split-second decision or if the officer has an objectively reasonable belief that issuing the warning would place any individual's safety at risk. Officers shall document when such efforts were attempted or were not feasible.

d. USE OF NON-DEADLY OR LESS-LETHAL FORCE: [1.1.4]

1. Officers shall use only the amount of force necessary, proportionate, and objectively reasonable to overcome resistance or accomplish the lawful police objective. Nondeadly force shall conform to the agency's standard of conduct, policies, procedures, and training.

2. An officer shall use only the amount of force necessary, proportionate, and objectively reasonable 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 who offers minimal or no resistance does not constitute a use of force.

4. Use of force does include the pointing of a firearm, ECW, CED, or chemical weapon at an individual and the use of OC spray on or directed toward an individual.

5. Impact weapons and kinetic impact devices may be used as a non-deadly force option when applied to appropriate target areas but may also constitute deadly force if applied in a manner or to a part of the body likely to cause death or serious bodily injury.

e. USE OF DEADLY OR LETHAL FORCE: [1.1.2]

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 an individual 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 individual;

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

c. The officer uses only the amount of force that is objectively reasonable.

2. UNCONVENTIONAL WEAPONS:

In sudden, unpredictable confrontations where deadly force would be authorized, an officer may use any available means (e.g., flashlight, radio, or other equipment) to defend themselves or others, provided the level of force is objectively reasonable under the circumstances.

3. DEADLY FORCE RESTRICTIONS:

a. IMMEDIACY OF THE THREAT REQUIRED:

An 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.

b. SUICIDAL INDIVIDUALS:

An officer may not use deadly force against an individual who poses a danger only to themselves.

f. USE OF FORCE RESTRICTIONS:

1. SITTING, KNEELING, OR STANDING ON AN INDIVIDUAL:

Except to temporarily gain, regain or maintain control of an individual and apply restraints, an officer shall not intentionally sit, kneel, or stand on an individual's chest or spine and shall not force an individual to lie on their stomach. In no event may an officer intentionally sit, kneel, or stand on an individual's neck or head.

2. OXYGEN AND BLOOD FLOW:

An officer shall not obstruct the airway or limit the breathing of any individual, nor shall an 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.

3. RESTRAINED INDIVIDUALS:

Force shall not be used against individuals in handcuffs unless it is objectively reasonable, necessary, and proportionate to prevent imminent harm to the officer or another individual, to prevent escape, to ensure safety or to overcome passive resistance where physical removal is necessary.

4. CHOKEHOLDS:

Officers 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.

g. MASS DEMONSTRATIONS AND CROWD MANAGEMENT:

In addition to the below, refer to Chapter 102 – Crowd Control, for more information.

1. It is the policy of the Waltham Police Department to respect the constitutional rights of individuals engaged in lawful demonstrations, to avoid unnecessary conflict, and to attempt to de-escalate potential conflicts whenever feasible.

2. PRE-PLANNING:

When the Waltham Police Department has advanced knowledge of a planned mass demonstration within the agency's jurisdiction, the Chief of Police shall designate an officer in charge of de-escalation planning and

communication. The designated officer in charge shall diligently attempt in good faith to:

a. 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

b. 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 and ensure that participants are able to safely exercise their rights under the First Amendment and the Massachusetts Declaration of Rights.

3. USE OF WEAPONS AND CANINES:

When engaged in mass demonstration events, officers 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 an individual's behavior unless:

a. De-escalation tactics have been attempted and failed or are not feasible based on the totality of the circumstances;

b. The measures used are necessary to prevent imminent harm; and

c. 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. RESTRICTIONS:

a. CANINES:

Canines shall not be utilized for crowd control, restraint, or management of peaceful demonstrations, but may be deployed for crowd control, restraint, or 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 civilians.

b. KETTLING:

The use of kettling as a means of crowd control, crowd management, or crowd restraint is prohibited**.**

h. PROVIDING MEDICAL AID: [1.1.5]

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

2. Officers shall always provide an 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. This includes rendering first aid consistent with their annual in-service training, requesting emergency medical services, arranging transportation to a hospital or emergency medical facility, and monitoring the individual until transfer of care.

3. Officers shall be trained in the proper treatment procedures for individuals exposed to chemical sprays, electronic control weapons, kinetic impact devices, and other less-lethal force options. If treatment is offered and refused, the refusal shall be documented. Officers shall notify their supervisor as soon as practical treatment is rendered or refused. If warranted, the supervisor will ensure photographs of any visible injuries are taken, documented, and preserved.

i. DUTY TO INTERVENE:

1. An officer present and observing another officer using or attempting to use 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 or agency affiliation of the officer so observed, unless intervening would result in imminent harm to the observing officer or another identifiable individual.

2. The failure of an officer to intervene as required by 555 CMR 6.06 and this policy may subject the officer to discipline, up to and including termination, and potential action upon their certification by the Commission, up to and including decertification.

3. Officers and other agency personnel who observe an officer or other agency personnel, regardless of the rank or agency affiliation of the officer so observed, engaged in abuse, meaning excessive force, shall report such

abuse to their supervisor or other appropriate supervisor as soon as reasonably possible, but not later than the end of the officer's shift.

4. Any harassment, intimidation, or retaliation against any officer or other agency personnel who:

a. Intervened or attempted to intervene to prevent or stop an excessive force incident;

b. Made, attempted to make, or is required to make a report regarding the witnessed excessive force incident; or

c. Provided information or testimony to any investigating entity inside or outside the agency is prohibited.

Any such action may result in discipline, up to and including termination, and potential action upon their certification by the Commission, up to and including decertification.

j. RESPONSE TO OFFICER-INVOLVED INJURY OR DEATH:

See Chapter 1B – Shooting and Traumatic Incident Procedures for more information.

k. WEAPONS:

1. Officers in Massachusetts are authorized to carry and use a variety of weapons. M.G.L. c. 41, § 98, for example, permits officers to carry weapons as authorized by the Chief of Police or their designee. Officers that are assigned to the Northeast Massachusetts Law Enforcement Council (NEMLEC) are authorized to carry weapons issued by NEMLEC in the course of their NEMLEC duties, functions, and responsibilities. The training and qualification records of NEMLEC officers will be submitted annually to the Waltham Police Department Training Division. While no law addresses the possession and use of other weapons by officers, the Chief of Police or their designee of the Waltham Police Department may both authorize and regulate such activities. **[1.1.0, 1.1.9]**

2. Only authorized agency personnel may carry or use weapons in the performance of their designated duties. Authorization must be documented and approved by the Chief of Police or their designee. Authorization is contingent upon successful completion of all training, certification, and proficiency requirements. The Chief of Police may revoke or suspend authorization at any time. **[1.1.0]**

3. Only weapons and ammunition authorized by the agency may be used by authorized agency personnel in the performance of their designated duties. **[1.1.0]**

4. **SWORN OFFICERS:**

Officers are authorized to carry and use the following weapon(s) in the performance of their duties, subject to this Use of Force policy and applicable restrictions: **[1.1.0]**

a. Glock Model 19 GEN5, 9mm
b. Glock Model 43, 9mm
c. Colt LE Carbine, Caliber: Remington .223 (5.56mm)
d. Heckler & Koch, UMP 9mm
e. Mossberg 590-A1, 12 Gauge shotgun
f. ECW/Taser 7
g. Monadnock Autolock Baton
h. Sabre Red OC pepper spray **[1.1.9]**

5. **NON-SWORN AGENCY PERSONNEL:**

See Chapter 1C – Non-Sworn Civilian Use of Force for more information. **[1.1.0]**

6. **SECURITY, STORAGE, AND SAFE HANDLING OF WEAPONS:**

a. Authorized agency personnel shall be trained in accordance with agency guidelines and shall obey all safety rules when handling any firearm or any other weapon. No person other than authorized agency personnel shall be permitted access to any agency-owned firearm or any other agency-owned weapon, with the exception of officers from other jurisdictions in the official performance of their duties; licensed individuals performing repairs or maintenance as approved by the agency; or other circumstances with the express permission of the Chief of Police or their designee.

b. Authorized agency personnel shall secure and store firearms and other weapons, both on and off duty, in such a way as to ensure that no unauthorized person will have access to or gain control over the firearm or weapon. All agency firearms kept at home must be secured in a safe place inaccessible to family members and others, especially children, and conform with the requirements of M.G.L c. 140, §131L.

c. Whenever an authorized agency personnel member is at an agency facility and removes their handgun or other weapon, the item must

be secured so that it is not readily accessible to unauthorized individuals.

d. Authorized agency personnel shall not leave firearms or other weapons unsecured in vehicles, lockers, offices, or any other place where unauthorized access may occur.

e. Any loss or theft of a firearm or other agency weapon shall be immediately reported to the authorized agency personnel's supervisor for investigation.

7. WEAPONS RESTRICTIONS:

a. WARNING SHOTS PROHIBITED: [1.1.3]

Officers are prohibited from discharging their firearms as a means of warning, intimidating, or frightening an individual.

b. POINTING WEAPONS:

1. Officers are prohibited from pointing their firearms at or in the direction of an individual absent an objectively reasonable determination that the situation may escalate to the point where deadly force would be authorized under this policy.

2. Pointing a firearm or ECW/CED may be reasonable as a control measure when a threat is perceived, even if deadly force is not ultimately used.

3. When an officer determines that the use of deadly force is no longer justified, they shall secure or holster their firearm as soon as safe and practicable.

4. Pointing a firearm or an ECW/CED at an individual and using OC spray on or toward an individual are considered uses of force. Officers shall document in their report when a firearm or ECW/CED is pointed at or when OC spray is used on or toward an individual and explain the justification.

c. SURROUNDINGS:

Before discharging a firearm, ECW/CED, or other weapon, the officer shall, to the extent feasible, consider their surroundings and potential risks to other individuals before doing so.

d. DISCHARGING FIREARMS INTO MOVING MOTOR VEHICLES:

An 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 an individual, and proportionate to the threat of imminent harm; and only if the following conditions exist:

1. An individual in the vehicle is threatening the officer or another individual with deadly force by means other than the vehicle; or the vehicle is operated in a manner deliberately intended to strike an officer or another person, and all other reasonable means of defense have been exhausted or are not present or practical, including 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.

e. USE OF WEAPONS AGAINST ANIMALS:

1. Officers may use force, including deadly force, against an animal that represents an imminent threat of death or serious bodily injury to the officer or to the public. When time and circumstances reasonably permit, officers should consider utilizing less-lethal force in such circumstances. Whenever possible, officers should seek authorization from their supervisor prior to using deadly force.

2. Deadly force may also be used as a humanitarian measure when an animal is seriously injured or seriously ill and humaneness demand an immediate end to its suffering. Prior to the use of such force, officers should seek the authorization of their supervisor and, in the case of a domesticated animal, authorization from the animal's owner whenever practical. Whenever deadly force is used against

an animal, officers shall notify a supervisor and document the incident.

f. USE OF AGENCY WEAPONS FOR TRAINING AND OTHER PURPOSES:

Officers may discharge their agency-authorized firearms for the purpose of practice, firearms training, or when authorized by the Chief of Police to participate in law enforcement competition events or ceremonial events.

g. USE OF FIREARMS OR WEAPONS WHILE UNDER THE INFLUENCE OF ALCOHOL AND/OR CONTROLLED SUBSTANCES PROHIBITED:

Officers shall not carry or use any firearms or agency-authorized weapons on- or off-duty while under the influence of alcohol or controlled substances. Officers shall not carry or use any firearms or agency-authorized weapons on- or off-duty while impaired by any condition (medical or otherwise) that negatively impacts judgment, motor skills, or proficiency.

l. MAINTENANCE AND ACCOUNTABILITY FOR WEAPONS:

a. The Range Master and the Assistant Range Master shall maintain a list of all authorized weapons and ammunition that shall be made available to officers and authorized agency personnel. The Range Master and the Assistant Range Master shall also maintain inventory reports for all weapons authorized by the agency and update inventories at least annually to include the location of all firearms. This includes, but not limited too the following:

1. Glock Model 19 GEN5, 9mm
2. Glock Model 43, 9mm
3. Colt LE Carbine, Caliber: Remington .223 (5.56mm)
4. Heckler & Koch, UMP 9mm
5. Mossberg 590-A1, 12 Gauge shotgun
6. 9mm, 147 grain jacketed hollow point
7. .223 caliber, 55 grain, soft tip federal hi-shok
8. Various shot gun ammunition
9. Drag stabilized 12-gauge bean bag round

b. The Range Master and the Assistant Range Master shall maintain a record on each weapon, lethal and less-lethal, authorized for use by the agency. Such record shall include:

1. Serial number, if applicable;
2. Weapon description;
3. Date of issuance;
4. Officer receiving weapon;
5. Maintenance/repair information;
6. Date removed from service and reason; and
7. Other information as required by the Chief of Police or their designee.

c. All weapons shall be inspected by a qualified armorer or weapons instructor for proper functionality prior to issuance to an officer. Weapons failing inspection shall not be issued and shall be repaired or replaced before use.

d. At each training session for lethal or less-lethal weapons, the Firearms Instructor Unit shall conduct an inspection of all weapons assigned to each officer present and confirm that:

1. The weapons are properly assigned to the officer carrying the weapon.

2. That the weapons (lethal and less-lethal) are in working order; and

3. That inventory records accurately reflect weapons assigned to individual officers.

e. The procedures listed above shall also apply to any weapons, lethal and less-lethal, authorized by the agency for off-duty carry.

f. Whenever an authorized weapon is found to be unsafe or not functioning properly, it shall be immediately turned in or taken out of service by the officer. The Range Master and the Assistant Range Master shall maintain an inventory of replacement firearms and ensure that such firearms are available for issuance when needed.

g. The Range Master and the Assistant Range Master shall ensure that all agency weapons held in storage are secured to prevent damage, theft, or improper issuance. An access log shall be maintained for all entries into weapon storage areas.

m. <u>TRAINING AND QUALIFICATIONS</u>:

1. In addition to annual firearms qualification and skills training required by the MPTC and the Waltham Police Department Firearms Policy, officers shall be properly trained and certified in the use of any less-lethal weapons and control techniques before being authorized to carry or use them. Officers shall only carry and use weapons and control techniques for which

they have received agency-authorized training, and which are issued and/or approved by the agency.

2. As part of annual in-service training, all officers shall receive training on the Waltham Police Department use of force policies, reporting requirements, and relevant case law updates.

3. All officers shall complete annual training on all lethal and less-lethal weapons that require annual proficiency training, including ECWs. **[1.1.11]**

4. Weapons without an annual training requirement (e.g., impact weapons, kinetic impact devices, OC spray) shall require requalification at least every two years under a certified instructor. **[1.1.12]**

5. All officers shall receive annual agency-authorized use of force training designed to simulate actual conditions, including stressful and rapidly evolving situations, to strengthen discretion, judgment, and application of de-escalation tactics. Training shall also cover the topics required by 555 CMR 6.10.

6. All training, including remedial training, shall be documented in agency training files.

7. Training and proficiency results for any authorized weapon shall be monitored by an MPTC-certified weapons instructor and documented in the agency training files by the Chief of Police or their designee. Documentation for sworn officers shall also be uploaded into the MPTC Acadis system by the Chief of Police or their designee. Sworn officers must demonstrate proficiency with weapons in compliance with MPTC requirements.

8. Officers who fail to demonstrate the required proficiency with agency-issued weapons shall receive remedial training consistent with MPTC standards and relevant agency policy.

9. Any officer who fails to demonstrate proficiency with a weapon shall not return to duty with that weapon until such time as proficiency is demonstrated and documented.

10. Officers who seek to return to duty after an interruption in service shall first comply with all requirements set forth in 550 CMR 3.04 prior to being authorized to perform police duties and functions.

11. Only officers demonstrating proficiency in the use of agency-authorized weapons shall be approved to carry such weapons.

12. All officers, including newly hired and veteran officers being issued a new type of weapon, shall be issued copies of applicable policies and receive proficiency training on the weapons prior to being authorized to carry such weapons. The issuance, policy receipt, and training shall be documented. **[1.1.13]**

n. <u>USE OF FORCE REPORTING</u>: [1.1.6]

1. Any officer who uses force shall complete the Use of Force Reporting Form. Reports shall be completed by the end of the officer's shift/tour of duty unless an extension of time is granted by a supervisor not directly involved in the incident.

2. Discharge of a firearm during training, qualification exercises, or for recreational purposes does not need to be reported.

3. Physically escorting or handcuffing an individual who offers minimal or no resistance does not constitute a use of force and does not need to be reported.

4. The pointing of a firearm, ECW, CED, or CW at an individual and the use of OC spray on or toward an individual is a use of force that must be reported. Any accidental discharge of a firearm, or any action that results in or is alleged to have resulted in injury or death shall be reported.

5. The Waltham Police Department shall report, at least monthly, the following incidents to the National Use of Force Data Collection Database:

a. When an officer's actions result in death or serious bodily injury of an individual; or

b. When an officer discharges a firearm at or in the direction of an individual.

6. Any officer who observes an officer or other agency personnel, regardless of rank or agency affiliation, engaged in abuse (see Section I) shall report the incident to an appropriate supervisor as soon as reasonably possible, but not later than the end of the officer's shift/tour of duty unless an extension of time is granted by that supervisor.

7. Any harassment, intimidation, or retaliation against any officer or other agency personnel related to a duty to intervene under Section I shall be reported immediately to an appropriate supervisor.

8. The Waltham Police Department shall file a report with the Commission when any officer utilizes or orders the use of kinetic impact devices, rubber bullets, ECWs/CEDs, chemical weapons, or a dog against a crowd.

9. Any officer who knowingly makes an untruthful statement concerning a material fact or knowingly omits a material fact from a Use of Force Reporting Form may be subject to discipline, up to and including termination, and potential action upon their certification by the Commission, up to and including decertification.

10. The Waltham Police Department shall report the following incidents to the Commission:

a. Officer-involved injuries or death;

b. Excessive force;

c. Untruthful statements concerning a material fact regarding the use of force;

d. Knowing omission of a material fact regarding a use of force; or

e. Any harassment, retaliation, or intimidation of an individual related to the use of force.

11. All Use of Force Reporting Forms shall be retained and maintained by the agency consistent with 555 CMR 12 and are subject to discovery and access through the Massachusetts Public Records Law M.G.L. c. 66.

12. Records and evidence concerning the use of force and complaints shall be maintained consistent with the requirements of 555 CMR 6.07(8) and 12.04(1)(f).

o. REPORTING PROCEDURES: [1.1.14]

1. The Waltham Police Department shall establish a use of force reporting system that allows for the effective review and analysis of all agency's use of force incidents. The reporting system shall be designed to help identify trends, improve training and officer safety and provide timely and accurate information to the agency. Officers shall complete the appropriate reports and the Use of Force Reporting Form whenever they use force, whether deadly or non-deadly.

2. OFFICER'S RESPONSIBILITIES:

a. When an officer uses force for any law enforcement purpose, whether on duty or off duty, the officer shall:

1. Notify a supervisor of the incident as soon as circumstances allow.

2. Complete the Use of Force Reporting Form, which shall list all known or identifiable officers and other individuals present.

3. Preserve any body-worn camera footage in accordance with policy.

4. All Use of Force Reporting Forms must be completed and forwarded to a supervisor not directly involved in the incident by the end of the officer's shift/tour of duty unless an extension of time is granted by that supervisor.

b. Any officer who observes an officer or other agency personnel, regardless of rank or agency affiliation, engaged in abuse (see Section I) 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 agency reporting protocols.

c. Any officer who utilizes or orders the use of kinetic impact devices, rubber bullets, ECWs/CEDs, chemical weapons, or a dog against a crowd shall write a report detailing the facts and circumstances surrounding the use of force. including a detailed justification of why the use of said weapons was objectively reasonable.

d. If a use of force incident results in an injury or claim of injury, each officer utilizing force shall complete a separate supplemental report outlining their actions and/or observations in the incident. **[1.1.14]**

3. <u>SUPERVISOR NOT DIRECTLY INVOLVED IN THE USE OF FORCE INCIDENT RESPONSIBILITIES</u>: [1.1.7]

a. The Patrol Supervisor shall immediately respond to the scene of any police use of force incident where a detainee or person has a visible injury or complains of an injury or an officer is injured as a result of the officer's use of force.

b. When a use of force incident involves an officer assigned to patrol, a supervisor not directly involved in the use of force incident or The Officer in Charge has the primary responsibility to make certain that all necessary Use of Force Reporting Forms are properly completed

evidence in the custody of law enforcement is preserved and the report is submitted as required by officers under their command.

c. The supervisor who performs the initial review of the reporting forms shall identify and report any clear instances of violations of law or agency policy that necessitate immediate action by the reviewing supervisor, including actions related to the officer's fitness for duty or duty status, to the officer's Division Commander.

d. The supervisor shall sign the report and forward it to the Chief of Police or their designees.

e. If the use of force involves an officer who did not report to a Patrol Supervisor at that time, the officer's Unit Supervisor shall complete the steps as required in the preceding subsections. Supervisors involved in a use of force incident shall forward the Use of Force Reporting Form to the next level of command not involved in the incident.

f. In any use of force or incident resulting in death or serious bodily injury, or any firearm discharge at or in the direction of an individual, the Officer in Charge or the on-duty supervisor shall immediately notify the Chief of Police through the chain of command. The officer involved shall be removed from operational assignments pending administrative and potential criminal review, per the Waltham Police Department policy, Chapter 1B – Shooting and Traumatic Incident Procedures. **[1.1.8]**

g. When an officer has discharged a firearm, or when the use of force has resulted in serious injury, or when in the opinion of the Division Commander, the matter requires further action or investigation, copies of the report shall be forwarded to the Chief of Police. **[1.1.14]**

h. When an officer reports pursuant to a duty to intervene (see Section I), the Officer in Charge or the on-duty supervisor shall prepare a report and include the observing officer(s)'s detailed written statement describing the incident in that report. The report will be forwarded to the Division Commander prior to the end of the supervisor's shift.

4. OFFICE OF THE CHIEF OF POLICE OR THEIR DESIGNEE FOR ADMINISTRATIVE REVIEW: [1.1.14]

a. The Detective Division Commander or their designee shall review the Use of Force Reporting Form in a reasonable amount of time. This is to determine the following:

1. Whether the action was consistent with policy, training, and law;

2. Whether further administrative review or investigation is warranted;

3. Whether equipment, training, or policy changes should be considered;

4. Whether a referral to the District Attorney's Office is appropriate;

5. Whether the incident is required to be reported to the National Use of Force Data Collection Database (see Section N); and

6. Whether the incident is required to be reported to the Commission (see Section N).

b. The Chief of Police or their designee for administrative review may confer with the Training Supervisor, Waltham Police Department instructors or other qualified individuals who specialize in the field of force used as needed. The Chief of Police shall be informed about any incident that may not be consistent with policy and procedure or indicates the action warrants further administrative review/investigation.

c. Use of force reports that warrant further administrative review or investigation shall be referred to the Chief of Police or the head of Internal Affairs. Such review should include, but not be limited to, determining whether the use of force was consistent with this policy and training, as well as officer and public safety. The Chief of Police or the head of Internal Affairs shall be responsible for the prompt investigation of the matter including the collecting and preserving of evidence consistent with the requirements specified in 555 CMR 13.03(8) and the recommendation of discipline, if appropriate. **[1.1.14]**

d. Administrative/Training Division reviews shall identify officer actions that mitigated or escalated encounters and evaluate whether different actions could have reduced the likelihood of force or injury. The Training Division shall enter all reports into the Use of Force Data System and review each incident in order to identify and address any training needs. The Training Division shall then forward all reports to the Division Commander of the Administration Division for yearly analysis. If any Division Commander is involved in a use of force incident, the Chief of Police or their designee, shall designate a Superior Officer, not involved, to assume these responsibilities. **[1.1.14]**