



INTER-OFFICE MEMORANDUM

To: Chief of Police James E. Craig, Detroit Police Department
First Assistant Chief Lashinda Stair, Detroit Police Department
Assistant Chief James E. White, Detroit Police Department

Cc: Honorable Chairperson Lisa Carter, Board of Police Commissioners
Honorable Vice-Chairperson Commissioner Annie Mae Holt, Board of Police Commissioners
Honorable Commissioner Willie E. Bell, Immediate Past Chairperson, Board of Police Commissioners
Honorable Board of Police Commissioners

From: Honorable Commissioner Evette Griffie, Detroit Board of Police Commissioners
Melanie White, Interim Secretary to the Board, Detroit Board of Police Commissioners
D'Layne Richards, Legal Assistant, Detroit Board of Police Commissioners

Date: June 12, 2020

Re: **BOPC POLICY RECOMMENDATIONS FOR THE DETROIT POLICE DEPARTMENT USE OF FORCE MANUAL DIRECTIVE 304.2**

INTRODUCTION: As the independent oversight authority of the Detroit Police Department (hereinafter 'Department'), the Detroit Board of Police Commissioners (hereinafter 'Board') is empowered with supervisory control and oversight of the Department based on Article VII, Chapter 8. Therefore, the Board shall, in consultation with the Chief of Police, and with the approval of the Mayor, establish policies, procedures, and regulations for the Department to advance the safety and welfare of the community and the Department.

The Department's existing Use of Force Policy Manual Directive 304.2 is included along with the Board's policy recommendations, which are highlighted in yellow, indicating an addition to the policy or a strikethrough, referencing a replacement provision.

Commissioner Evette Griffie's Motion Made During Board Meeting Held Thursday, June 4, 2020: The Board mandates the Department to revise its Department Manual Directive System to accomplish the following:



1. Require De-escalation Continuum as part of the Department's Use of Force Policy;
2. Require Intervention for Members present to intervene immediately when police utilize inappropriate, unwarranted force; and
3. Extend reporting to mandate Members to report when threatening civilians with a weapon (i.e. otherwise drawing a weapon and acquiring a target).

Attachments / Documents Included:

1. Use of Force Manual Directive 304.2 including the Board's Policy Recommendations; pgs. 3-25
2. Use of Force Policy Recommendations at a Glance; pgs. 26-29
3. References Cited; pgs. 30-31



USE OF FORCE POLICY DIRECTIVE 304.2

304.2 - 1 PURPOSE

To establish policy, guidelines and limitations for the Detroit Police Department (DPD) concerning the appropriate and acceptable use of deadly and less lethal force.

I. RECOMMENDATION TO ADD “MEMBER’S RESPONSIBILITY AND COMPLIANCE”

All officers are responsible for knowing and complying with this policy and conducting themselves in a manner aligned with this mission. Any violation of this policy will subject the officer to disciplinary action, including and up to termination and criminal prosecution. Supervisors shall ensure that all personnel in their command know the content of this policy and operate in compliance with it.

Officers should make respecting and protecting the public and ensuring safety for all their highest priority in all enforcement actions, and departments should affirm this commitment in their use- of-force policies.

***Rationale:** Emphasizing the requirement for all Department Members to know and adhere to Department Policy would comport with national best practices and lessons learned. DPD would be a leader to this effect.*

304.2 - 2 POLICY

An improper use of authority and/or excessive or unjustified use of force undermine the legitimacy of an officer’s authority and hinders the department’s ability to provide effective law enforcement services to the community. Officers who use excessive force or an unauthorized use of force shall be subjected to discipline, possible criminal prosecution, and/or civil liability. Use of force is only authorized when it is objectively reasonable, [necessary], and [proportional] and for a lawful purpose.

***Rationale:** Implementing a requirement for all Department Members to use objectively, reasonable, necessary, and proportional use of force would comport with national best practices and lessons learned. DPD would be a leader to this effect.*

II. RECOMMENDATION TO ADD “MINIMAL RELIANCE ON FORCE”

“Law enforcement officers of the Detroit Police Department shall only use physical force when no other viable option is available and when all non-physical options are exhausted. In all cases where force is used, only the minimum degree of force which is necessary shall be employed. The minimum degree of



force is the lowest level of force within the range of **objectively reasonable force that is necessary** to affect an arrest or achieve a lawful objective. While the use of force is occasionally necessary to detain a suspect or protect others, every police officer must refrain from applying the unnecessary infliction of pain or suffering, and may never engage in cruel, degrading, or inhumane treatment of a person.”

Rationale: *Implementing a requirement for all Department Members to use only that force that is objectively reasonable, necessary, and proportional would comport with national best practices and lessons learned and serve to prevent fatalities and police brutality. DPD would be a leader to this effect.*

Research indicates that one of the most common factors found in both police excessive or unjustified use of force, and officer injuries and fatalities during force encounters, is an officer’s perceived compulsion to press forward rather than to disengage (e.g., “back off”) and explore other options. The most appropriate response choice to a situation often involves de-escalation, disengagement, area containment, surveillance, waiting out a subject, summoning reinforcements, or calling in specialized commands. Following any use of force resulting in a citizen’s injury, officers shall notify a supervisor and ensure that appropriate medical aid and/or emergency medical service is rendered as soon as possible.

304.2 - 3 Definitions

304.2 - 3.1 Command Investigation

Means an investigation conducted by a Detroit Police Department supervisor.

304.2 - 3.2 Control

Control is the ability to command or direct with or without voluntary compliance. Officers shall control with the subject's consent, if possible, but force the subject to comply if necessary.

304.2 - 3.3 Critical Discharge of a Firearm

Each discharge of a firearm by an officer with the exception of range and training discharges and discharges at animals.

III. RECOMMENDATION TO ADD 304.2 – 3.4 De-escalation Definitional Term

“De-escalation includes but is not limited to the following tactical methods: disengagement, area containment, surveillance, waiting out a subject, summoning reinforcements, calling in specialized commands, communication, verbal persuasion, clear instructions, time, distance, and shielding.”



Rationale: Adding a De-escalation Definition comports with comprehensive, robust policy development and provides clarity and significance. DPD would be a leader to this effect.

304.2 - 3.4 Discipline

A written reprimand, suspension, demotion, or dismissal.

304.2 - 3.5 Escorting

The use of light physical pressure to guide a person, or keep a person in place.

304.2 - 3.6 Force

The term “force” means the following actions by an officer: any physical strike or instrumental contact with a person; any intentional attempted physical strike or instrumental contact that does not take effect; or any significant physical contact that restricts the movement of a person. The term includes the discharge of a firearm; the use of chemical spray, chokeholds or hard hands; the taking of a subject to the ground; or the deployment of a canine. The term does not include escorting or handcuffing a person with no or minimal resistance. Use of force is lawful if it is **objectively reasonable** under the circumstances, and the minimum amount of force that is necessary to affect an arrest or protect the officer or other person is used.

304.2 - 3.7 Hard Hands

Using physical pressure to force a person against an object or the ground, or the use of physical strength or skill that causes pain or leaves a mark.

304.2 - 3.8 Imminent Threat

An imminent threat is an officer’s reasonable perception of impending danger of death or serious injury from any action or outcome that may occur during an encounter. Thus, a subject may pose an imminent or impending danger even if he/she is not at that very moment pointing a weapon at the officer. For example, he/she has a weapon within reach or is running for cover carrying a weapon or running to a place where the officer has reason to believe a weapon is available.

304.2 - 3.9 Injury

Any impairment of physical condition or pain.

304.2 - 3.10 Less Lethal Force

Any force used by an officer that would not reasonably be expected to cause death.

304.2 - 3.11 Objectively Reasonable

In determining the **necessity for force** and the appropriate level of force, officers shall evaluate each situation in light of the known circumstances, including, but



not limited to, the seriousness of the crime, the level of threat or resistance presented by the subject, and the danger to the community.

304.2 - 3.12 Detainee Injury

An injury or complaint of injury that occurs in the course of taking or after an individual was taken into DPD custody that is **not** attributed to a use of force by a DPD employee.

304.2 - 3.13 Proper Use of Force Decision Making

The use of reasonable force including proper tactics and de-escalation techniques.

IV. RECOMMENDATION TO ADD 304.2 – 3.14 Reportable Force

“Any use of force which is required to overcome subject resistance to gain compliance that results in death, injury, complaint of injury in the presence of an officer, or complaint of pain that persists beyond the use of a physical control hold. Any use of force involving the use of personal body weapons, chemical agents, impact weapons, extended range impact weapons, vehicle interventions, and firearms. Any intentional pointing of a firearm at a subject, drawing of a firearm and acquiring a target.

***Rationale:** Adding a Reportable Force Definition comports with comprehensive, robust policies and provides clarity and significance. This provision would also further align our policies with known best practices to avoid police brutality. DPD would be a leader to this effect.*

304.2 - 3.14 Serious Bodily Injury

Serious bodily injury is any injury that involves any of the following conditions: a loss of consciousness; extreme physical pain; disfigurement; prolonged loss or impairment of the function of a body part or organ; or a substantial risk of death.

304.2 - 3.15 Serious Use of Force

Any action by an officer that involves: the use of deadly force, including all critical firearm discharges; a use of force in which the person suffers serious bodily injury or requires hospital admission; a canine bite; and the use of chemical spray against a restrained person (**Note:** Members are prohibited from spraying a handcuffed individual in a police vehicle [Directive 304.3, Chemical Spray Device]).

304.2 - 4 Authorization and Limitations

304.2 - 4.1 Less Lethal Force

1. Sworn members are authorized to use DPD approved less lethal use of force techniques and DPD issued equipment where necessary to:



- a) Protect the officer or another person from physical harm;
 - b) Make a lawful arrest when a subject offers resistance;
 - c) Stop potentially dangerous and/or criminal behavior; or
 - d) Protect subjects from injuring themselves.
2. Where less lethal force is authorized, members shall assess the incident to determine which less lethal technique or weapon will best de-escalate the incident and bring the situation under control in a safe manner.
 3. Use of force restraints and/or weapons shall never be used as punishment or retaliation.

304.2 - 4.2 Deadly Force

1. Use of deadly force is only authorized:
 - a) Against a subject who poses an imminent threat of death or serious bodily injury to the officers or others, and only when bystanders are not in jeopardy;
 - b) To prevent a subject's escape from a violent felony crime and only if the officer has probable cause to believe that the subject poses a continuing threat of death or serious bodily injury to anyone should he or she successfully escape, Tennessee v. Garner, 471 U.S.1, 85 (1985).
2. Deadly force is not authorized if less lethal force could reasonably be used to prevent the escape of a dangerous fleeing subject, or a subject fleeing from a violent felony crime.
3. If feasible, officers shall identify themselves and state his/her intention to shoot before using a firearm.
4. A strike to the head of any person with an instrument constitutes a use of deadly force.
5. In addition to the above, the DPD further limits the use of deadly force to effect the arrest or to prevent the escape of a fleeing felon to the following felonies, and only if the officer has probable cause to believe the fleeing felon will pose a significant threat of death or serious physical injury to the officer or others should he/she successfully escape:
 - a) Murder or attempted murder;
 - b) Assault with intent to commit murder;
 - c) Criminal sexual conduct, first and third degree;
 - d) Armed robbery or attempted armed robbery, and
 - e) Assaults that result in life-threatening bodily injury.



304.2 - 4.3 Prohibited Holds

~~The following neck restraints are prohibited except where deadly force is authorized:~~

- ~~a) Carotid submission hold;~~
- ~~b) A hold which interrupts the blood's flow to the brain;~~
- ~~c) A "sleeper hold" that can result in a person losing consciousness and/or death;~~
- ~~d) Bent arm submission hold/hammer lock carotid hold. This hold restricts airflow to the trachea and can result in a loss of consciousness and/or death; and~~
- ~~e) All other chokeholds.~~

V. RECOMMENDATION TO REPLACE with "304.2 - 4.3 Prohibited Holds

NECK HOLDS PROHIBITED. Law enforcement officers shall not use chokeholds, strangleholds, Lateral Vascular Neck Restraints, Carotid Restraints, chest compressions, or any other tactics that restrict oxygen or blood flow to the head or neck."

Rationale: *This would strike language allowing neckholds when deadly force is authorized and would further align our policies with known best practices to avoid police brutality. DPD would be a leader to this effect.*

304.2 - 4.4 Unauthorized Use of Deadly Force

1. Deadly force shall not be used against persons whose conduct is injurious only to themselves.
2. Warning shots are strictly prohibited.
3. Under no circumstances can shooting a firearm be justified to make an arrest for a misdemeanor charge or to apprehend a person fleeing from such a charge.
4. An officer shall not shoot a firearm in an attempt to apprehend a person merely on suspicion that a crime has occurred, or if there is only a suspicion that the person being pursued committed the crime, regardless of the severity of the crime. An officer shall either have witnessed the crime, or shall have probable cause to believe that the person committed an offense that allows using deadly force.

304.2 - 4.5 Firing at a Moving Motor Vehicle

- ~~1. Firearms shall not be discharged at a moving vehicle unless a person in the vehicle is immediately threatening the officer or another person with deadly force or serious bodily injury.~~



VI. RECOMMENDATION TO REPLACE WITH 304.2 - 4.5 Firing at a Moving Vehicle

1. "Firearms shall not be discharged at a moving vehicle unless the occupants of the vehicle are using deadly force, other than the vehicle itself, against the officer or another person, and such action is necessary for self-defense or to protect the other person."

Rationale: Adding this provision would strike the existing statement and would further align our policies with known best practices to avoid police brutality and to prevent danger to innocent bystanders. DPD would be a leader to this effect.

2. Officers shall not knowingly place themselves into the path of a moving vehicle or into the likely path of a vehicle that is currently stopped but is under the immediate control of a driver. When feasible, officers should attempt to move out of the path of any moving vehicle to a position of cover. Officers shall not discharge his/her weapon except in instances where the officer's life or life of others is in immediate peril and there is no reasonable or apparent means of avoiding the threat.
3. Shooting at moving vehicles is generally not an effective means of immediately halting the progress of a closely approaching vehicle. Additionally, such action frequently produces unintended consequences.
4. A moving vehicle may become an uncontrolled deadly weapon that could seriously injure or kill the occupants of the vehicle and/or subjects in its path. The potential harm to others in the area may outweigh the need to immediately apprehend the suspect.
5. Bullets fired at a moving vehicle may miss the intended target or ricochet and cause injury to officers or other innocent persons.

304.2 - 4.6 Firing from a Moving Motor Vehicle

Officers must keep in mind that accuracy is adversely affected when shooting from a moving vehicle which increases the danger to the public and therefore officers shall shoot from a moving vehicle only as a last resort and when the safety of bystanders is not jeopardized.

VII. RECOMMENDATION TO ADD "PROHIBIT RETALIATORY AND PUNITIVE USES OF FORCE"

It shall be the policy of the Detroit Police Department that all law enforcement officers must respect and preserve human life at all times and in all situations. It shall be prohibited to physically restrain an individual once compliance is



established. Departments should explicitly prohibit retaliatory and punitive force, especially against people who are handcuffed or restrained and therefore pose no threat.

Rationale: *Adding this provision would ensure Department policies uphold and preserve the sanctity of life and humane treatment toward all and to avoid police brutality and civil and criminal liability. DPD would be a leader to this effect.*

304.2 - 4.7 Dangerous Animals

1. The use of physical force against any animal will be used only to the extent that such force is necessary to prevent harm or injury to another person(s) or animal(s). An officer shall not discharge a firearm at a dog or other animal, except to protect a member or person from imminent physical injury and there is no opportunity to retreat or other reasonable means to eliminate the threat.
2. Before using deadly force, every attempt will be made to use other reasonable means to contain the threat of a dangerous animal.
3. If the circumstances permit, when a member of the department has to shoot an animal suspected of being afflicted with rabies, the dog shall NOT be shot in the head. The carcass of the animal should be preserved for analysis of rabies.
4. The carcass of any animal that has been shot and that is believed to be afflicted with rabies shall be taken to the Animal Control Center. Immediate refrigeration of the carcass is of the utmost importance in the determination of rabid content.
5. When an officer comes in contact with a seriously injured or dangerous animal, the officer shall notify the proper agency (e.g., City of Detroit Animal Control, Michigan Humane Society, etc.).
6. In any instance where a member discharges a firearm at an animal with the intent to destroy, whether the animal is hit or missed, the officer's supervisor shall prepare a Destruction of Animal Report (DPD669).

VIII. RECOMMENDATION TO ADD "DE-ESCALATION CONTINUUM"

When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers shall use De-Escalation Tactics in order to reduce the need for force.

(a). Officers shall conduct a threat assessment so as not to precipitate an unnecessary, unreasonable, or disproportionate use of force by placing themselves or others in undue jeopardy.

(b). Team approaches to de-escalation are encouraged and should consider officer training and skill level, number of officers, and whether any officer has successfully established rapport with the subject. Where officers use a team



approach to de-escalation, each individual officer's obligation to de-escalate will be satisfied as long as the officer's actions complement the overall approach.

(c). Selection of de-escalation options should be guided by the totality of the circumstances with the goal of attaining voluntary compliance; considerations include:

Communication- Using communication intended to gain voluntary compliance, such as:

Verbal persuasion

- Advisements and warnings (including TASER spark display to explain/warn prior to TASER application), given in a calm and explanatory manner.
- Exception: Warnings given as a threat of force are not considered part of de-escalation.

Clear instructions

- Using verbal techniques, such as Listen and Explain with Equity and Dignity (LEED) to calm an agitated subject and promote rational decision making
- Avoiding language, such as taunting or insults, that could escalate the incident
- Considering whether any lack of compliance is a deliberate attempt to resist rather than an inability to comply based on factors including, but not limited to:
 - Medical conditions
 - Mental impairment
 - Developmental disability
 - Physical limitation
 - Language barrier
 - Drug interaction
 - Behavioral crisis
 - Fear or anxiety

Time-Attempt to slow down or stabilize the situation so that more time, options and resources are available for incident resolution.



- Scene stabilization assists in transitioning incidents from dynamic to static by limiting access to unsecured areas, limiting mobility and preventing the introduction of non- involved community members
 - Avoiding or minimizing physical confrontation, unless necessary (for example, to protect someone, or stop dangerous behavior)
 - Calling extra resources or officers to assist, such as CIT or Less-Lethal Certified officers

Distance-Maximizing tactical advantage by increasing distance to allow for greater reaction time.

Shielding-Utilizing cover and concealment for tactical advantage, such as:

- Placing barriers between an uncooperative subject and officers
- Using natural barriers in the immediate environment

Rationale: *Adding a De-escalation Continuum to the Department's Use of Force Policy would align with best practices, supporting a comprehensive and robust De-escalation Policy, the sanctity and preservation of life, and requiring the use of reasonable, proportional tactical methods to quell or avoid the use of excessive or inappropriate force. DPD would be a leader to this effect.*

304.2 - 5 Proper Use of Force Decision Making

304.2 - 5.1 General

When evaluating the force used by law enforcement, the U.S. Supreme Court, in the case of Graham v. Connor, 490 US 386 (1989), made clear that the determination requires a commonsense pragmatic approach stating that an officer's decision to use force occurs in "circumstances which are tense, uncertain, and rapidly evolving," and that there is no universal rule or "mechanical rule" that can be applied to all of the various situations encountered by a law enforcement officer.

IX. RECOMMENDATION TO EXPAND GRAHAM V. CONNOR STANDARD TO INCLUDE MOMENTS LEADING TO USE OF FORCE DECISION

"Department Force policies should go beyond the Graham v. Connor requirement and require "objectively reasonable" decisions not only during uses of force but also in the moments leading up to them, considering an officer's tactical conduct



and decisions leading to deadly use of force to determine whether it was reasonable.

Specifically, and in keeping with international standards, force policies should require that officers use only as much force as necessary to address threats. They should clearly state that the “objectively reasonable” standard may not compromise public or officer safety and that using the least amount of force necessary builds trust and confidence in police.”

Rationale: *Expanding the current use of force standard cited in Graham v. Connor would ensure 21st Century Policing and Community Standards, and the implementation of procedural justice and national best practices that serve to reduce implicit bias and racial injustices against people of color and all civilians. DPD would be a leader to this effect.*

304.2 - 5.2 Force Continuum

1. Just as officers must be prepared to respond appropriately to rising levels of resistance, they must likewise be prepared to immediately de-escalate and/or disengage from the use of force as the subject de-escalates or comes under the officer’s control. Often the most appropriate response option to a situation involves de-escalation, disengagement, area containment and/or surveillance, waiting out a subject, summoning reinforcements, or calling in specialized commands.
2. It is important for officers to remember that even at its lowest level; the use of force is a serious responsibility. The force continuum is a model developed for illustrative purposes, defining the various levels of resistance and force exercised during a use of force incident. [Refer to Training Directive 04-3 (Use of Force Continuum)]. The continuum is based on the concept that as the resistive individual(s) increases the level of resistance or threat to the officer, the officer may increase the level of force necessary to overcome the resistance and conversely de-escalate and/or disengage as compliance is attained. The levels of resistance include:
 - **Inactive Resistance:** Includes psychological intimidation (non-verbal cues indicating the subject’s attitude, appearance and physical readiness) and verbal non-compliance (verbal responses indicating the subject’s unwillingness to comply with direction may include verbal threats made by the subject).
 - **Passive Resistance:** Physical actions that do not directly prevent the member’s attempt of control.



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- **Active Resistance:** Means the subject is making physically evasive movements to defeat an officer's attempt at control, including bracing, tensing, pulling away, or pushing.
 - **Active Aggression:** Physical acts **that are hostile, injurious, or destructive;**
 - **Deadly Force:** Physical acts of aggression directed toward a member or another that are likely to cause serious bodily injury or death.
3. The levels of force are:
- **Officer Presence/Verbal Direction:** The identification of authority through the officer's presence in uniform, or by other means such as a badge and identification card or apparel clearly identifying the member as an officer, and/or communication directed toward controlling the actions of a subject. This may include direction, orders, or commands;
 - **Compliance Controls:** Physical techniques employed by officers (e.g., escorting, touch pressure, joint locks, etc.) and the PR-24 Collapsible Baton as a non-impact control device;
 - **Physical Controls:** (e.g., pain compliance, hard hands, etc.)
 - **Intermediate Weapons:** The use of authorized less lethal weapons including impact weapons, chemical agents, and canines; and
 - **Deadly Force:** A tactic or use of force that is likely to cause serious bodily injury or death.
4. When applying the concept of a force continuum, the totality of the circumstances involved in the incident must also be considered. Officers may initiate the use of force at any level of the force continuum that is appropriate under the circumstances. However, circumstances that may influence an officer or may **impact** an officer's decision to escalate or de-escalate the amount of force used include, but are not limited to:
- The nature of the offense;
 - Influence of drugs or alcohol;
 - Presence/proximity of weapons;
 - Officer/subject factors (e.g., age, size, strength, etc.);
 - The feasibility and availability of alternative responses; and/or
 - The availability of additional officers.



X. RECOMMENDATION TO ADD “VULNERABLE POPULATIONS”

“The use of force against vulnerable populations – including children, elderly persons, pregnant women, people with physical and mental disabilities and people with limited English proficiency – can undermine public trust and should be used as a last resort, when all other reasonable means have been exhausted.”

***Rationale:** Requiring specified standards involving our vulnerable populations would align with national best practices, lessons learned, and promote the safety and welfare for all civilians. DPD would be a leader to this effect.*

304.2 - 6 Training and Qualifications

304.2 - 6.1 General

1. All DPD members that are authorized to carry lethal and less than lethal weapons shall be issued a copy of this department’s Use of Force Policy (Directive 304.2), Use of Force Continuum (Training Directive 04-03) and any other policies or training directive that is specific to the weapon being trained on.
2. All members shall be trained by qualified instructors in any authorized lethal or less lethal weapon he/she carries.

XI. RECOMMENDATION TO ADD “PROVIDE CONTINUAL SCENARIO BASED TRAINING”

“The Department should require officers to receive scenario-based training in uses of force at regular intervals. Officers should practice, in interactive environments, de-escalation techniques and threat assessment strategies that account for implicit bias in decision-making. In addition to lecture-based review of written policies, training should be immersive, interactive, and reflect contemporary approaches to adult learning.

Departments should also develop training scenarios for officers that replicate real encounters and require supplemental training even for veteran officers with extensive field experience.¹⁹⁶ And supervisors should receive additional training on investigations into uses of force, strategies to direct officers to minimize uses of force, and managing force incidents.”

“All Department Members, upon approval of this policy, shall receive updated Use of Force Training / Duty to Intervene / Implicit Bias / Procedural Justice / Related Legal Updates during the following Department Trainings: Monthly Precinct Trainings; Daily Roll Call Reminders; Basic Academy; Daily Administrative Messages / Teletypes; Annual 40 Hour Block In-Service Training;



and Refresher / Remedial Courses as properly determined by Precinct Frontline Supervision and Commanding Officers.”

1. “In addition, training shall be provided on a regular and periodic basis and designed to
 1. provide techniques for the use of and reinforce the importance of de- escalation;
 2. simulate actual shooting situations and conditions; and
 3. enhance officers’ discretion and judgment in using less-lethal and deadly force in accordance with this policy.
2. All use-of-force training shall be documented.”

Rationale: *Adding additional, continuous, and consistent training requirements within the Department’s Policy would promote emphasis on proper police conduct and strengthen the expectations of appropriate and effective police actions. DPD would be a leader to this effect.*

304.2 - 6.2 Firearms

1. While on and off duty, officers shall carry only weapons and ammunition authorized and approved by this department.
2. Authorized weapons are those with which the officer has qualified and received departmental training on proper and safe usage, and that are registered and comply with department specifications.
3. Officers are required to attend regular use of force training and qualification sessions for duty and off-duty weapons (bi-annually). An off-duty weapon that is approved by DPD’s Firearms Training, and that the member has qualified with, may be carried by members as a secondary weapon while on-duty.
4. An officer who has suffered from an illness or injury that could affect his/her use of firearms ability shall be required to re-qualify prior to returning to enforcement duties.

304.2 - 6.3 Less Lethal Weapons and Methods

1. No department issued piece of equipment that is not designed or authorized to be used as a weapon (for example, flashlight, prep radio, handcuffs), shall be used as a weapon unless deadly force is authorized.
2. An officer is not permitted to use a less lethal weapon unless qualified in its proficient use as determined by Training.
3. Intermediate weapons shall be carried or used as issued and authorized by the department. No changes, alterations, or modifications are permitted.
4. Officers may use weaponless defense or arrest tactics in which departmental training has been given to control or arrest uncooperative suspects.



5. The use of a police canine to search for or apprehend suspects is considered a use of force under this policy. [Refer to Directive 201.4 (Canine)].
6. Chemical Spray: Is authorized for on-duty or off-duty use. Members, when assigned to patrol or investigative duties, shall carry the device. [Refer to Directive 304.3 (Chemical Spray Device)].
7. PR-24: Is a compliance control device that offers a less lethal method for apprehending and subduing actively resisting and/or violent subjects. Officers should target a subject's torso, arms, and legs (green areas) when using the PR-24 as an impact weapon (striking) for an actively aggressive subject. A PR-24 may also be used as a non-impact control device (come-along holds, escorts, etc.) for actively resistive subjects. Only members trained on the PR-24 baton may be equipped and/or carry the PR-24 baton. [Refer to Directive 304.4 (PR-24 Collapsible Baton)].
8. Weapons used for striking, other than the PR-24 side-handle baton, are strictly prohibited. Prohibited weapons include, but are not limited to: brass knuckles, blackjacks, nunchakus, saps, slapjacks, and other sticks or clubs.

XII. RECOMMENDATION "RETALIATION PROHIBITED"

The Department prohibits any form of retaliation against a Department member for:

1. reporting a use of force that is allegedly in violation of this directive, or
2. cooperating with any internal investigation of the complaint.

Rationale: Adding a "Retaliation Prohibited" requirement would serve to remind Department Members of their primary obligation to report violations misconduct, particularly when observing any inappropriate use of force and would protect Department Members for taking proper, appropriate action. DPD would be a leader to this effect.

304.2 - 7 Duty to Report/Render Aid

Whenever a DPD member employs any use of force as defined by this Directive, such member shall, unless physically incapacitated:

1. Ensure that the subject has been properly restrained or no longer poses an immediate threat to the safety of officers or others;
2. Render first aid and summon Emergency Medical Services (EMS) if needed; and
3. Provide assistance to persons subjected to the effects of a Chemical Spray Device, including:



- a) Immediately after spraying a suspect, officers shall be alert to any indications that the individual needs medical care. This includes, but is not limited to, breathing difficulties, gagging, profuse sweating, or loss of consciousness. Upon observing these or other medical problems, or if the suspect requests medical assistance, the officer shall immediately summon emergency medical aid;
- b) Provide an opportunity for decontamination to a sprayed subject within twenty (20) minutes of the application of the spray or the apprehension of the subject;
- c) Sprayed subject(s) shall be continuously monitored for signs of a medical complaint. If a person complains of continued effects after having been decontaminated or they indicate that they have a pre-existing medical condition (e.g., asthma, emphysema, bronchitis, or heart ailment) that may be aggravated by chemical spray, the subject shall immediately be conveyed to Detroit Receiving Hospital (DRH) for medical treatment; and
- d) Restrained subjects should be placed in an upright or seated position to avoid Positional Asphyxia which can lead to death, when a subject's body position interferes with breathing. [Refer to Training Directive 05-04 (Positional Asphyxia)].

XIII. RECOMMENDATION TO ADD "DUTY TO INTERCEDE AND REPORT"

"Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede either verbally or physically, to prevent the use of unreasonable force. An officer who observes another employee use any use of force incident shall promptly report these observations to a supervisor, and officers observing a level 2, 3 or 4 use of force shall write a Force Statement before the end of shift, which shall be included in the Use of Force Report."

Rationale: *Enacting a clear Duty to Intercede / Intervene and Reporting Measure requirement mandates every Department Member who observes an inappropriate, unwarranted, or egregious use of force to immediately intervene to preserve life and prevent unwarranted serious bodily injury and immediately report misconduct to supervisors for appropriate disciplinary action. DPD would be a leader to this effect. Additionally, this provision should be outlined in the Use of Force Manual Directive 304.2 for continuity purposes as well as Code of Conduct 102.3 Manual Directive Specifications for Disciplinary Charges.*



304.2 - 7.1 Use of Force Reporting

1. Officers shall notify his/her Zone Dispatcher following any use of force or a prisoner injury. The Zone Dispatcher shall notify a non-involved sworn supervisor.
2. A non-involved sworn supervisor shall respond to the scene following any use of force that involves a firearm discharge, a visible injury, or a complaint of injury.
3. A non-involved sworn supervisor shall respond to all other uses of force on a priority basis. For the purpose of this Directive a “priority basis” is defined by the current availability of supervisors and the nature of the situation (e.g., highly charged situations, agitated by-standers, potential for violence) whereas response to the scene may increase volatility or be impracticable.
4. Upon arrival at the scene, the supervisor shall interview the officer(s), canvass for witnesses and examine the subject(s) for injury, and ensure that the subject(s) receives, or has received, needed medical attention. No member shall delay rendering medical attention, requesting EMS or the conveyance of any subject to a medical treatment facility pending the arrival of a supervisor.
5. In the event an injured person has been conveyed for medical treatment prior to the supervisor’s arrival at the scene, the supervisor shall interview the subject at the medical facility provided the interview will not interfere with the subject’s medical treatment.
6. The supervisor responding to the scene shall notify Internal Affairs (IA) of all serious uses of force, uses of force that result in a visible injury, uses of force that a reasonable officer should have known were likely to result in injury, and uses of force where there is evidence of possible criminal misconduct by an officer.
7. Internal Affairs shall respond to the scene and investigate all incidents where there is evidence of possible criminal misconduct by an officer, where a prisoner dies, suffers serious bodily injury, or requires hospital admission, or where there is a serious use of force. Force Investigation may delegate all other use of force or prisoner injury investigations to the responding supervisor for a command investigation, if deemed appropriate by Force Investigation.

304.2 - 7.2 Use of Force Report

In all instances when officers use force, as defined in Section 3.8 of this Directive, each officer who has employed such force shall complete:

1. Any reports made necessary by the nature of the underlying incident;



2. Each member using force shall ensure that a declarative statement is included at the beginning of the narrative section of the arrest report indicating whether or not force was used during the incident;
3. Each individual officer who uses force in an incident shall submit a separate Use of Force Report (UF-002) documenting any force, and any prisoner injury. ~~and any instance in which an officer draws a firearm and acquires a target.~~

XIV. RECOMMENDATION TO REPLACE WITH “REPORTING FOR DRAWING WEAPON AND ACQUIRING A TARGET”

“When an officer intentionally points any firearm at a person [draws a weapon and acquires a target], it shall be considered a reportable use of force. Such use of force must be reasonable under the objective facts and circumstances.”

***Rationale:** This provision would strike the previous statement and replace with the highlighted portion. Adding such a reporting requirement would reinforce to Department Members the requirement to officially report when drawing a firearm and acquiring a target. This updated provision would also apply a best practices’ standard associated with this type of use of force, “objectively reasonable under the totality of the circumstances.” DPD would be a leader to this effect.*

1. Allegation of force shall only be taken by a supervisor. (reference 201.11 Use of Force and Detainee Injury Reporting/Investigation);
2. *All Use of Force Reports shall specify the actions of the subject that necessitated the use of force, the reasons why the officer used force, any subject complaints of injury, medical treatment received, or refusal of medical treatment;*
3. The Use of Force Report shall be submitted as soon as possible following the incident but prior to the end of the member’s tour of duty; and
4. All reports/forms completed as a result of an incident shall be reviewed and updated by a supervisor prior to the end of his/her tour of duty.

XV. RECOMMENDATION TO ADD “PROCEDURE: MEMBER’S RESPONSIBILITY”

“Any reportable use of force shall be documented in detail in an incident report, supplemental incident report, or statement form. Officers shall complete use of force reports fully and truthfully. Descriptions shall be in clear, precise and plain language and shall be as specific as possible. When the officer using force is preparing the incident report, the officer shall include the following information: •



The subject's action allegedly necessitating the use of force, including any threat presented by the subject; • Efforts to de-escalate prior to the use of force; and if not, why not; • Any warning given and if not, why not; • The type of force used; • Injury sustained by the subject; • Injury sustained by the officer or another person; • Information regarding medical assessment or evaluation, including whether the subject refused; • The supervisor's name, rank, star number and the time notified. Each law enforcement officer must submit a report without coaching or assistance from other law enforcement officers present during the incident.”

Rationale: *Adding the Member's Responsibility would ensure that Department Members engaged in a use-of-force incident provide a truthful and accurate statement at all times, detail the facts and circumstances of the incident including but not limited to listing efforts to de-escalate or use other appropriate alternative measures before resorting to the use of force reasonably, objective, necessary, and proportional to the totality of the circumstances. DPD would be a leader to this effect.*

XVI. RECOMMENDATION TO ADD “MONITOR HOW POLICE USE FORCE AND PROACTIVELY HOLD OFFICERS ACCOUNTABLE FOR EXCESSIVE FORCE”

A. Report all uses of force to a database with information on related injuries and demographics of the victims. (Ex: Seattle PD Policy; Indianapolis Metropolitan PD reporting website)

B. Establish and enforce an early intervention system to correct officers who use excessive force. *These systems have been shown to reduce the average number of complaints against officers in a police department by more than 50%.* This system should: report officers who receive two or more complaints in the past month report officers who have two or more use of force incidents or complaints in the past quarter require officers to attend re-training and be monitored by an immediate supervisor after their first quarterly report and terminate an officer following multiple reports

C. Require police departments to notify the state when an officer is found to have willfully violated department policy or the law, committed official misconduct, or resigned while under investigation for these offenses. Maintain this information in a database accessible to the public (Ex: Illinois Law) and prohibit these officers from serving as police officers, teachers or other governmental employees (Ex: Connecticut Law).”

Rationale: *Adding a requirement or reminder to monitor police use of force would reinforce Department Frontline Supervisors to take appropriate, immediate action to prevent police complaints and guard against liability against the City and the Detroit Police Department. DPD would be a leader to this effect.*



XVII. RECOMMENDATION TO ADD “DUTY TO PREVENT THROUGH EARLY INTERVENTION”

“The Detroit Police Department recognizes that through early intervention it **may be possible** to avoid the use of excessive force and prevent harm to the community. In this effort, the Department will implement early intervention systems to identify law enforcement officers who are at risk for engaging in the use of excessive force and to provide those law enforcement officers with re-training and appropriate behavioral interventions, re-assignments, or other appropriate consequences to eliminate that risk.”

Rationale: *Adding a requirement or reminder to monitor and evaluate police use of force would reinforce Department Frontline Supervisors to take appropriate action to prevent liability against the City and the Detroit Police Department and to increase public trust. DPD would be a leader to this effect.*

XVIII. RECOMMENDATION TO ADD “DATA COLLECTION AND ANALYSIS”

“The Department will collect and analyze information on use of force in its database and Early Intervention System. The Use of Force statistics and analysis will include at a minimum:

- The type of force
- The types and degree of injury to suspect and officer
- Date and time
- Location of the incident
- Officer's unit
- District station where the use of force occurred
- Officer's assignment
- Number of officers using force in the incident
- Officer's activity when force was used (ex. Handcuffing, search warrant, pursuit)
- Subject's activity allegedly requiring the officer to use force
- Officer's demographics (age, gender, race/ethnicity, rank, number of years with [Insert

Jurisdiction], number of years as a police officer)

- Subject demographics including race/ethnicity, age, gender, gender identity, primary language and other applicable factors.
- Outcome of any investigation regarding the use of force including any disciplinary actions that were taken as a result.”



Rationale: Adding a requirement / reminder to consistently monitor and evaluate police use of force would reinforce Department Frontline Supervisors and Supervisory Staff to take appropriate, immediate action that serve to prevent liability against the City and the Detroit Police Department and promote proactive and preventative measures. These reporting measures would also serve to create transparency and accountability to the community, increase public trust, and implement oversight measures. DPD would be a leader to this effect.

XIX. RECOMMENDATION TO ADD “REQUIREMENT TO REPORT TO NATIONAL AND STATE USE OF FORCE DATA COLLECTION”

“The Department shall participate in the National Use of Force Data Collection and the State of Michigan Data Collection on the use of force. Such reports shall also be made available to the Board of Police Commissioners for review and inspection.

UoF Data Elements

The National UoF Data Collection includes the following data elements.

Incident Information

- Date and time of the incident
- Total number of officers who applied actual force during the incident
- Number of officers from the reporting agency who applied actual force during the incident
- Location of the incident (address or latitude/longitude)
- Location type of the incident (street, business, residence, restaurant, school, etc.)
- Did the officer(s) approach the subject(s)?
- Was it an ambush incident?
- Was a supervisor or a senior officer acting in a supervisory capacity present or consulted at any point during the incident?
- What was the reason for initial contact between the subject and the officer? (Response to unlawful or suspicious activity, routine patrol, traffic stop, etc.)



- If it was due to “unlawful or criminal activity,” what were the most serious reported offenses allegedly committed by the subject prior to or at the time of the incident?
- If applicable, the reporting agency will enter the National Incident-Based Reporting System (or local) incident number of the report detailing criminal incident information on subject and/or assault or homicide of law enforcement officer.
- If the incident involved multiple law enforcement agencies, the agency will include case numbers for the local UoF reports at the other agencies.

Subject Information

- Age, sex, race, ethnicity, height, and weight
- Injury/death of subject(s) (gunshot wound, apparent broken bones, unconsciousness, etc.)
- Type(s) of force used connected to serious bodily injury or death (firearm, electronic control weapon, explosive device, blunt instrument, etc.)
- Did the subject(s) resist?
- Was the perceived threat by the subject(s) directed to the officer or to another party?
- Type(s) of subject resistance/weapon involvement
- Was there an apparent or known impairment in the physical condition of subject? (If yes, indicate: mental health/alcohol/drugs/unknown)
- At any time during the incident, was the subject(s) armed or believed to be armed with a weapon?

Officer Information

- Age, sex, race, ethnicity, height, and weight of the officer(s)
- Officer’s years of service as a law enforcement officer (total tenure)
- At the time of the incident, was the officer a full-time employee?
- Was the officer readily identifiable as law enforcement?
- Was the officer on duty at the time of the incident?
- Did the officer discharge a firearm?
- Was the officer injured?
- What was the officer’s injury type? (Gunshot wound, apparent broken bones, severe laceration, unconsciousness, etc.)”

Rationale: Adding a requirement / reminder to consistently monitor and evaluate police use of force would reinforce Department Frontline Supervisors and Supervisory Staff to take appropriate, immediate action to prevent liability against the City and the Detroit Police Department. These reporting measures would also serve to create transparency and accountability to the community, increase



public trust, and implement oversight measures. DPD would be a leader to this effect.

Related Procedures:

- Directive 201.11 - Use of Force and Detainee Injury Reporting/Investigation)
- Directive 201.4 - Canine (K-9) Operations
- Directive 202.1 – Arrests
- Directive 304.1 - Firearms
- Directive 304.3 - Chemical Spray Device
- Directive 304.4 - PR-24 Collapsible Baton
- Training Directive 05-04 - Positional Asphyxia
- Training Directive 04-03 - Use of Force Continuum

Form and Reports:

- Use of Force Report (UF-002)
- Destruction of Animal (DPD 669)



Board's Policy Recommendations at a Glance:

1. Ban Neckholds

- **Rationale:** This would strike language allowing neckholds when deadly force is authorized to further align our policies with known best practices to avoid police brutality. DPD would be a leader to this effect. (See pgs. 8)

2. Require De-escalation Continuum and Add Definitional Term

- **Rationale:** Adding a De-escalation Methods and Tactics to the Department's Use of Force Policy would align with best practices, supporting a comprehensive and robust De-escalation Policy, the sanctity and preservation of life, and requiring the use of reasonable, proportional tactical methods to quell or avoid the use of excessive or inappropriate force. DPD would be a leader to this effect. (See pgs. 4, 5, 10-12)

3. Add Requirement of Use Minimal Reliance on Force

- **Rationale:** Requiring Department Members to use only that force that is objectively reasonable, necessary, and proportional after all reasonable attempts to utilize de-escalation have been exhausted, which comport with national best practices, lessons learned, and practical approaches to prevent fatalities and police brutality. (See pgs. 3-4)

4. Require Reporting Measures for Threatened Use of a Weapon and Assign the Standard for Use and other Reportable Uses of Force

- **Rationale:** Adding such a reporting requirement would reinforce to Department Members the requirement to officially report when drawing a firearm and acquiring a target and the best practices' standard associated with such use of force, "objective reasonable." DPD would be a leader to this effect. (See p. 6)

5. Prohibit Firing at a Moving Vehicle Unless Deadly Force is Used Against the Member

- **Rationale:** Adding this provision would strike the existing statement and would further align our policies with known best practices to avoid police brutality and the potential for unwarranted use of deadly force. DPD would be a leader to this effect. (See pgs. 8-9)



6. Prohibit Retaliatory and Punitive Uses of Force Against Subjects / Civilians / Arrestees

- **Rationale:** Adding this provision would ensure Department policies uphold and preserve the sanctity of life and humane treatment toward all and avoid police brutality and civil and criminal liability as a result of the subject's failure to initially comply with lawful orders. Once a person is restrained, no longer actively resistant or posing a threat, or is complying, members shall be prohibited from using retaliation or punitive forms of force against any person. DPD would be a leader to this effect. (See pgs. 9-10)

7. Duty to Intervene / Intercede and Report

- **Rationale:** Enacting a Duty to Intercede / Intervene and Reporting Measure would mandate every Department Member who observes an inappropriate, egregious, or unreasonable use of force the responsibility and ownership to take immediate, appropriate action to intervene to preserve life and prevent bodily injury and to report misconduct immediately to a supervisor. DPD would be a leader to this effect. (See p. 18)

8. Include Vulnerable Populations Consideration

- **Rationale:** Requiring specified standards involving our vulnerable populations would align with national best practices, lessons learned, and promote the safety and welfare for all civilians. DPD would be a leader to this effect. (See p. 15)

9. Require Continual Scenario Based Training

- **Rationale:** Adding additional, continuous, and consistent training requirements within the Department's Policy would promote emphasis on proper police conduct and strengthen the expectations of proper and safe police activities. DPD would be a leader to this effect. (See pgs. 15-16)

10. Prohibit Retaliation for Reporting Misconduct and Cooperating with an Investigation

- **Rationale:** Adding a "Retaliation Prohibited" requirement would serve to remind Department Members of their obligation to prevent police abuse of authority, to report violations of this policy, and would protect Department Members for taking proper, appropriate action. DPD would be a leader to this effect. (See p. 17)



11. Reemphasize and add Procedure: Members Responsibility

- **Rationale:** Reemphasizing the Member's Responsibility would ensure that Department Members engaged in a use-of-force incident provide a truthful and accurate statement at all times, detail the facts and circumstances of the incident including but not limited to listing efforts to de-escalate or use other appropriate alternative measures before resorting to the use of force reasonably, objective, necessary, and proportional to the totality of the circumstances. DPD would be a leader to this effect. (See pgs. 20-21)

12. Require Monitoring and Evaluating How Police Use Force and Proactively Hold Officers Accountable for Excessive Force

- **Rationale:** Adding a requirement or reminder to monitor police use of force would reinforce that Department Frontline Supervision shall take appropriate, immediate action to prevent police complaints and prevent liability against the City or the Detroit Police Department and to increase public trust. DPD would be a leader to this effect. (See pgs. 21)

13. Mandate Duty to Prevent Excessive Use of Force Through Early Intervention

- **Rationale:** Adding a requirement / reminder to monitor and evaluate police use of force would reinforce Department Frontline Supervision to take appropriate, immediate action to prevent police complaints and prevent liability against the City or the Detroit Police Department and to increase public trust. DPD would be a leader to this effect. (See p. 22)

14. Add Data Collection and Analysis

- **Rationale:** Adding a requirement / reminder to consistently monitor and evaluate police use of force would reinforce Department Frontline Supervision to take appropriate, immediate action that serve to prevent liability against the City and the Detroit Police Department and promote proactive and preventative measures. These reporting measures would also serve to create transparency and accountability to the community, increase public trust, and implement proper oversight measures. DPD would be a leader to this effect. (See p. 21)



15. Add Member Responsibility and Compliance

- **Rationale:** Implementing a requirement for all Department Members to know and adhere to Department Policy would comport with national best practices and lessons learned. DPD would be a leader to this effect. (See p. 3)

16. Add Requirement to Report to National and State Use of Force Data Collection and to the BOPC for proper oversight measures.

- **Rationale:** Adding a requirement / reminder to consistently monitor and evaluate police use of force would reinforce Department Frontline Supervisors to take appropriate, immediate action to prevent liability against the City and the Detroit Police Department. These reporting measures would also serve to create transparency and accountability to the community, increase public trust, and implement proper oversight measures. DPD would be a leader to this effect. (See pgs. 23-25)

17. Expand *Graham v. Connor* Standard to Include Moments Leading to Use of Force to Include Moments Leading to Use of Force Decision

- **Rationale:** Expanding the current use of force standard cited in *Graham v. Connor* would ensure 21st Century Policing and Community Standards, and the implementation of procedural justice and national best practices that serve to reduce implicit bias and racial injustices against people of color and all civilians. DPD would be a leader to this effect. (pgs. 12-13)

18. Duty to Prevent Through Early Intervention

- **Rationale:** Adding a requirement or reminder to monitor and evaluate police use of force would reinforce Department Frontline Supervisors to take appropriate action to prevent liability against the City and the Detroit Police Department and to increase public trust. DPD would be a leader to this effect. (p. 22)

19. Prohibit Firing at a Moving Vehicle

- **Rationale:** Adding this provision would strike the existing statement and would further align our policies with known best practices to avoid police brutality and to prevent danger to innocent bystanders. DPD would be a leader to this effect. (p. 9)



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