



# Fitchburg State University

## Police Department

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| <b>Subject:</b> RESPONSE TO RESISTANCE  |  | <b>General Order</b><br><br><b>7.1</b> |
| Reference: <b>IACLEA:</b> 2.1.4, 7.1.7, 7.1.2, 7.1.3, 7.1.4, 7.1.5, 7.1.6, 7.1.7, 7.1.8, 7.1.9, 7.1.10, 7.1.11, 7.1.12, 7.1.13, 7.1.14, 7.2.1<br><br><b>MPAC:</b> 1.3.1, 1.3.2, 1.3.3, 1.3.4, 1.3.5, 1.3.6, 1.3.7, 1.3.8, 1.3.9 |  |  |
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| <b>By Order of:</b> Michael J. Cloutier, Chief of Police  |  |  |

### PURPOSE:

The purpose of this policy is to establish guidelines for the response to resistance by members of the Fitchburg State University Police Department. The Fitchburg State University Police Department recognizes and affirms the sanctity of human life. Officers shall use only the force that is objectively reasonable to accomplish lawful objectives in accordance with state law and apply de-escalation techniques when possible. This Response to Resistance policy is not limited to just firearms and for this reason; this General Order applies to all officers.

IACLEA 7.1.1

### POLICY:

- A. The policy of the Fitchburg State University Police Department is that officers shall only use the reasonable force necessary to effect lawful objectives per state law. Officers may be confronted with situations requiring the use of force to effect an arrest or to ensure public safety. The degree of force used depends on what the Officer perceives to be reasonable and necessary under the circumstances at the time he or she decides to use force. Except for deadly force, the application of any degree of force is only justified when the Officer believes that it is necessary to:
1. Prevent the escape from custody, effect an arrest or investigative detention of a person the officer believes has committed an offense; or
  2. Defend himself or herself or a third person while trying to arrest another, prevent his

- or her escape, or otherwise lawfully take the person into custody; or
3. Maintain order and control of prisoners; or
  4. Control persons who are mentally ill or dangerous to themselves or others, or are seriously disabled and in need of immediate care and treatment.
- B. Facts or circumstances unknown to the Officer shall not be considered in later determining whether the force was justified. The University Police Department expects Officers to observe the following two guidelines in all applications of force:
1. Employ the minimum force reasonably necessary to accomplish a legal and/or lawful purpose;
  2. Officers may resort to a higher level of force to overcome either increasing resistance or an increasingly dangerous threat to public safety.
- C. The escalation in the use of force typically follows a pattern: Verbal controls and commands, compliance techniques (control holds), chemical weapons, defensive tactics (i.e. baton), and finally deadly force. Officers must understand how to recognize increasing and decreasing levels of threat and respond appropriately.
- D. When applying deadly force, the officers' objective must be to stop the threat of violence or incapacitate the suspect, not to kill, unless no other choice presents itself. The objective of the use of any force is to overcome the suspect's resistance to an Officer's lawful purpose: Officers shall avoid unnecessary or excessive applications of force.
- E. In evaluating the reasonable application of force, Officers must consider their age, size, strength, skill level with department-issued weapons, state of health, and the number of Officers opposing the suspect.
- F. The use of force shall stop when the aggressor's force stops and/or it is no longer necessary to continue such force.

*IACLEA: 7.1.1 / MPAC 1.3.1*

#### **DEFINITIONS:**

**Chokehold:** The use of a lateral vascular neck restraint, carotid restraint or other action that involves the placement of any part of a law enforcement officer's body on or around a person's neck in a manner that limits the person's breathing or blood flow with the intent of or with the result of causing bodily injury, unconsciousness, or death.

**De-escalation:** Proactive actions and approaches used by an officer to stabilize a law enforcement situation so that more time, options and resources are available to gain a person's voluntary compliance and to reduce or eliminate the need to use force including, but not limited to, verbal persuasion, warnings, slowing down the pace of an incident, waiting out a person, 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 shall include, but is not limited to, issuing a summons instead of executing an arrest where feasible

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

**Excessive Force:** Force is excessive when the application is inappropriate to the circumstances, resulting in the serious injury or death of a suspect. The United States Supreme Court in *Graham v. Connor*, set forth guidelines for determining whether force has been excessively applied. The primary concern is reasonableness in its application, as judged by the on-scene Officer. Based on the reasonableness standard, the following considerations contribute to a determination of excessive force:

- The severity of the crime;
- The nature and extent of the threat posed by the suspect;
- The degree to which the suspect resists arrest or detention; and
- Any attempts by the suspect to evade arrest by flight.

**Electronic Control Weapon (ECW)/Conducted Energy Devices (CEDs):** 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 that is designed to incapacitate temporarily by causing neuromuscular incapacitation or pain so that an officer can regain and maintain control of the subject.

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

**Imminent:** The point when something is certain to occur.

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

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

**Officer-involved Injury or Death:** Any event during which an officer:

- a. discharges a weapon, or stun gun, as defined in M.G.L. c. 140, § 121, actually or proximately causing injury or death to another;
- b. discharges any stun gun as defined in said M.G.L. c. 140, § 121 actually or proximately causing injury or death to another;
- c. uses a chokehold, in violation of M.G.L. c. 6E, § 14(c), actually or proximately causing injury or death of another;
- d. discharges tear gas or other chemical weapons, actually or proximately causing injury or death of another;
- e. discharges rubber pellets from a propulsion device, actually or proximately causing injury or death of another;
- f. deploys a dog, actually or proximately causing injury or death of another;

- g. uses deadly force, actually or proximately causing injury or death of another;
- h. fails to intervene, as required by M.G.L. c. 6E, § 15, to prevent the use of excessive or prohibited force by another officer who actually or proximately causes injury or death of another; or
- i. engages in a physical altercation with a person who sustains serious bodily injury or requests or receives medical care as a result.

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

**Reasonable Belief:** When facts and circumstances the Officers know, or should know, are such to cause an ordinary and prudent person to act or think in a similar way under similar circumstances.

**Serious Physical Injury:** 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.

**Weaponless Physical Force:** Weaponless physical force includes, but is not limited to the MPTC Use of Force Model and Defensive Tactics areas of Contact Controls, Compliance Techniques, and Personal Weapon Techniques. Examples of Weaponless force include, but are not limited to: escorts, wrist locks, arm bars, head-butts, hand, elbow, feet, and knee strikes.

*555 CMR 6.03*

## **PROCEDURE:**

### **A. Use of Force Categories**

The use of force is divided into two categories, deadly and non-deadly force.

1. The use of deadly force by a Police Officer is limited to only those situations where the Officer has a reasonable belief that the action is in defense of human life or in defense of any person in imminent danger or facing a significant threat of serious physical injury and per state law. While an Officer's use of deadly force is usually associated with the use of a firearm, it is by no means limited just to such use. Any means of force, used by an Officer that is likely to result in the death or great serious injury to another is deadly force. The use of deadly force is permitted under the following circumstances;
  - a. To defend the officer or another person from what the officer reasonably believes to be the use or imminent use of deadly force;
  - b. To effect an arrest or prevent the escape from custody of a person whom he or she reasonably believes has committed or is attempting to commit a felony which involved the infliction or threatened infliction of serious bodily injury;
  - c. Where feasible, he or she has given warning of his or her intent to use deadly physical force; and

- d. The Officer reasonably believes this person still poses an imminent threat of serious bodily injury or deadly physical force to the officer or a third party.
  - e. To destroy an animal in self-defense, to prevent serious harm to the officer or another person, and when the animal is suffering so badly due to injury that humanity requires its relief from any further suffering.
    - 1) When possible, animal control services should be used to dispose of wild or injured animals. *IACLEA 7.1.13*
- IACLEA 7.1.2 / MPAC 1.3.2*
- 2. Non-deadly force is justified for use by a Police Officer under the following circumstances:
    - a. When necessary to preserve the peace, prevent the commission of offenses, prevent suicides or self-inflicted injury, or
    - b. When necessary to overcome resistance to lawful arrests, protective custody, mental health commitment orders, searches and seizures, and to prevent escapes from custody, or
    - c. When in self-defense or the defense of another against unlawful violence against persons or property.
  - 3. Restriction on Deadly Force
    - a. A law enforcement officer shall not use deadly force upon a person, unless de-escalation tactics have been attempted and failed or are not feasible based on the totality of the circumstances, and such force is necessary to prevent imminent harm to a person and the amount of force used is proportionate to the threat of imminent harm, and;
      - (1) The imminent harm poses an imminent danger of death or serious bodily injury to the officer or another person;
      - (2) The Officer attempts as many de-escalation tactics that are feasible under the circumstances, including utilizing barriers where feasible; and
      - (3) The Officer uses only the amount of force that is objectively reasonable.
    - b. An officer shall not use a chokehold or other tactics that restrict or obstruct an individual's breathing or oxygen or blood flow to an individual's head or neck. An officer shall not be trained to use a lateral vascular neck restraint, carotid restraint or other action that involves the placement of any part of an officer's body on or around a person's neck in a manner that limits the person's breathing or blood flow.
    - c. An officer may not use deadly force against a person who poses only a danger to themselves.

- d. 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, and necessary to prevent imminent harm to a person and the discharge is proportionate to the threat of imminent harm; and only if the following conditions exist:
  - (1) A person in the vehicle is threatening the officer or another person 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, which includes moving out of the path of the vehicle;
  - (2) Officers have not intentionally positioned themselves in such a way as to create a likelihood of being struck by an occupied vehicle (e.g., surrounding a vehicle at close proximity while dismounted);
  - (3) The officer is not firing strictly to disable the vehicle; and
  - (4) The circumstances provide a high probability of stopping or striking the intended target.
- e. 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.
- f. Where feasible based on the totality of the circumstances, officers shall verbally identify themselves as police officers and issue some warning before using deadly force.
- g. Officers shall always provide appropriate medical responses to an individual following the use of deadly force when safe and tactically feasible.

555 CMR 6.05

## B. Use of Force Model

The following Use of Force Model is intended to provide members of The Fitchburg State University Police Department with guidelines as to essential elements of force utilization. The model is composed of a tri-faced, five-tier color-enhanced structure encompassing the essential elements of force utilization in law enforcement. The five tiers or levels are as follows:

1. Use of Force Model (MPTC)
  - a. **Perceived Circumstances** - the situations that are perceived by the reasonable officer within a confrontational environment, which present a risk or potential risk to officer safety. Issues including the severity of the crime, degree of subject non-compliance, knowledge of the subject's previous actions, etc., can act as a test for reasonableness and a criterion for placement in one or more of the perception categories on the Model.
  - b. **Subject Action** - the action(s) perceived by the reasonable officer that places the subject in one or more of the Model's compliant/non-compliant categories.
  - c. **Officer Response** - the "balanced" response the reasonable officer could and/or would select from the Model's identified categories, to maintain or re-gain subject compliance and control.
  
2. **Risk Perception Categories**- As is readily apparent, the proper perception and assessment of risk is the core consideration in the decision-making process toward proper force utilization. It is the functional foundation for the two other major Model categories and integral to their understanding and application.
  - a. Assessment Categories
    - 1) **Strategic** – is the broad foundation of the Model. Here the officer is engaged in duties with an occupationally produced perception of responsibilities and risks. An officer must maintain the proper mindset and awareness level whenever working.
    - 2) **Tactical** - At this level, the officer perceives an increase of risk within the confrontational environment, and safety strategies are deployed. When an officer perceives this increased risk, he or she must deploy those base tactics that set the "stage" for a potential increase in the threat level.
    - 3) **Volatile** - the third category on the Model indicates an activated degree of alertness, where the officer identifies specific risks. The officer perceives that the situation that he or she has encountered has been elevated to the point where it could explode into a physical encounter. The officer must not only recognize this threat potential but also act upon it.
      - a) Many times this category represents the most critical intervening level or phase within a confrontation.
      - b) If the officer assesses the subject's actions properly he may be able to stabilize the degree of non-compliance at a resistant level before it

escalates to an actual assault on the officer or others.

- c) Here, a tactical plan of action must be developed and deployed to gain compliance and control. This advanced degree of risk potential should motivate the officer to increase the level of receptiveness more formally away from the actor and more directly toward the actions of the subject and others present.
  - 4) **Harmful** – this level denotes an accelerated perception of danger and a more directed focus on officer/citizen safety and defense. At this level, the officer perceives that this encounter has escalated to the point where he, she, or others are faced with a situation where a physical assault is imminent. The officer must take immediate steps to stop the attack and/or individual and gain or regain control.
  - 5) **Lethal** – is the highest category of risk on the Model. This potentially lethal category of risk is the most infrequent and yet the most crucial for officer/citizen safety. The officer perceives that he, she, or another is at risk for serious bodily harm and/or death.
- b. Subject Action Categories
- 1) This facet of the Model consists of five categories of perceived subject actions, potentially providing the additional foundational focus for an appropriate, "balanced" response of controlling force.
  - 2) All that the subject does or does not do, all that is said or not said, along with numerous other factors (i.e., size, age, prior knowledge, etc.) are considered when an officer is evaluating the type of subject they have encountered. The officer's perceptions will be based on these actions as they relate them to their personal experience, job experience, training, etc.
  - 3) The five categories of subject action include:
    - a) **Compliant** - within the normal realm of interaction, the vast majority of officer/subject encounters are positive and cooperative. The officer maintains or gains compliance with desired directives via options of tradition, time, communication skills, etc. The subject is perceived as being compliant because he or she has obeyed all of the lawful commands or orders of the officer.
    - b) **Resistant (Passive)** - in some confrontational contacts, the subject may offer a preliminary level of noncompliance. Here the subject's degree of noncompliance is free of physical or mechanical enhancement, other than sheer unresponsiveness. The subject is perceived as being uncooperative in that he or she is not obeying some or all of the lawful commands given by the officer. The subject is not using any physical or mechanical assistance to assist in the resistant effort.



- c) **Resistant (Active)** - at this level, the subject's noncompliance has become more active in scope and intensity. The indifference to control has increased to a level of energy-enhanced physical or mechanical defiance. The officer perceives that the subject's level of resistance has reached a level where there is a physical or mechanical effort associated with it. This effort to resist the arrest could be any physical effort that does not amount to an assault.
  - d) **Assaultive (Bodily Harm)** - the officer's attempt to gain lawful compliance has been met with active, non-compliance culminating in an actual attack upon the officer or others. The reasonable officer would assess that the scope and severity of the attack would amount to a level of bodily harm and would not reach the level of serious bodily harm or death, to the officer or others. From all that the subject does and says, along with any additional information gained, the officer perceives the risks associated with this particular situation to be a risk of bodily harm to himself, herself, or others.
  - e) **Assaultive (Serious Bodily Harm/Death)** - this category represents the least encountered yet the most serious risk to officer safety. Here the reasonable officer could conclude that the officer or another is subject to death or great bodily harm as a result of the subject's actions. The officer perceives that this subject(s) has the opportunity, ability, and intent to cause serious bodily harm and/or death to himself, herself, or others.
- c. Officer Response Categories
- 1) This facet of the Model consists of the five categories of officer-initiated responses, which must be "balanced" regarding the officer's reasonable assessment of risk and the subject's actions.
    - a) **Cooperative Controls** - includes the fundamentals of professional training capitalizing upon the acceptance of authority by the public at large. These cooperative controls would include communication skills, fundamental tactics, body language, officer presence, etc.
    - b) **Contact Controls** - This first instance of non-compliance that an officer is confronted with. The officer must deploy those fundamental tactics to proportionately gain control and cooperation through "hands-on" techniques designed primarily to guide or direct the subject. The primary force options at this level could be transitional tactics and non-pain compliance techniques (such as touch techniques and the basic Escort Position), etc.
    - c) **Compliance Techniques** - The tactical procedures used at this level now must address the non-compliant subject who has begun to use physical or mechanical energy to enhance noncompliance. The officer deploys "balanced" force to overcome this non-compliance while remaining increasingly vigilant for more aggressive behavior from the subject. At this stage, the force forms could include

elements of pain compliance, joint restraints, etc. Specific tactics include all of the empty hand and baton controlling techniques, distraction techniques (which includes Pressure Points, use of Pepper Spray as well as the TASER in the Drive Stun mode).

- d) **Defensive Tactics** - at this stage in the confrontation, the non-compliant subject now directs an assaultive act toward the officer or others. The officer is justified in taking appropriate steps to immediately cease the assaultive action and to gain compliance and maintain control of the subject. Forms of force could include empty hand and baton strikes, takedown techniques, and the firing of a TASER cartridge, etc.
- e) **Deadly Force** - the officer is now confronted with an assaultive situation that reaches the ultimate degree of danger. Absolute and immediate tactics must be deployed to stop the lethal risk and secure conclusive compliance and control. Force options could include those leading to permanent debilitation or even death.

**C. De-escalation (MGL 6E, §14)**

- 1. De-escalation tactics must be considered prior to the use of force when feasible. The term "feasible" is not defined in the law, but its normal meaning is "capable of being used successfully."
  - a. When an officer is confronted with a danger of imminent harm to himself or another person, de-escalation may not be feasible. At other times, officers will consider "slowing down the pace of an incident," "waiting out a person," and "verbal persuasion." Good officers have been doing this for a long time.
  - b. There are competing values, not set forth in the statute, inherent in a determination about whether de-escalation continues to be feasible. For example, at 3 a.m. the subject is drunk and screaming on the front porch of a stranger's house and insisting that he has arrived home. It may be possible to "wait the person out" in hopes that he will fall asleep or sober up, but is it societally acceptable to inflict on the home's occupants more fear and sleeplessness in order to wait for voluntary compliance?
  - c. The officer's report should include a description of the tactics used. If moving from de-escalation to force, the report must also evaluate the success or failure of de-escalation.

**d. Less Lethal Options**

- 1. Oleoresin Capsicum "OC":
  - a. All Officers of the Fitchburg State University Police Department shall be authorized to carry and use "OC" upon the successful completion of a Commonwealth of Massachusetts and Fitchburg State University Police Department-approved training program in its use.

- b. Only that brand and delivery system of OC authorized by the Chief of Police of the Department will be carried by its Officers. First Defense MK-3, .7% OC, 2, 000,000 SHU's, stream delivery.
- c. Before use, Officers must evaluate the situation and determine if the use is appropriate. The following factors should be considered:
  - 1) The age of the offender;
  - 2) The physical condition of the offender;
  - 3) Surroundings;
  - 4) The level of force being demonstrated by the offender. This includes active aggression or resistance. Examples include but are not limited to the following;
    - a) Clenched fists, fighting or aggressive body stance;
    - b) Fighting words
    - c) Lunging at the Officer or advancing on the Officer despite orders to stop;
    - d) Actively resisting arrest.
- e. OC should not be used against persons that the Officer reasonably believes to be a juvenile, elderly person, pregnant, or handicapped unless exigent circumstances exist. Those exigent circumstances must be detailed in the Use of force report.
- f. OC should be used at a distance of four to six feet. It should not be used at such a close distance that the force of the discharge would cause injury to the eyes unless exigent circumstances exist. The distance sprayed will be reported.

*IACLEA 7.2.1 / MPAC 1.3.4*

2. Baton:

- a. An expandable baton and holder will be issued to all appropriate patrol and plainclothes officers. The expandable baton will be used following all prescribed training techniques and methods. Officers will only carry that baton that the department has issued to them or approved for their use. Monadnock expandable batons 21".
- b. The baton shall normally be carried during all assigned duty hours, on special assignments, and overtime duty jobs. Exceptions to the carrying of the baton would be;
  - 1) Assignment to a plainclothes or special detail;
  - 2) During rescue operations or any other assignment in which the baton

would interfere with the timely and efficient execution of same:

- 3) Officer assigned to an Administrative role/assignment
- c. The baton should be carried away from public view and in a safe manner when un-holstered. The baton should not be openly displayed, outside of its holster, unless its use is imminent, during periods of public unrest, or unless directed by the Chief of Police or his/her designee.

*IACLEA 7.2.1 / MPAC 1.3.4*

2. Handcuffing:

- a. Under all normal circumstances, individuals placed under custodial arrest, protective custody, or prisoners in transport should be handcuffed with their hands behind them and the handcuffs double locked. The subject's belt or other similar devices may be employed to hold the hands to the rear and prevent a prisoner from stepping over his/her cuffed hands.
- b. The rules governing the use of handcuffs are to be tempered with good judgment and discretion of the officer concerning each situation. Exceptions to the handcuffing of prisoners are allowed, but limited to the following circumstances:
  - 1) A subject with a physical injury, handicap, or other medical condition which would make restraining the arms behind the back a source of pain and/or injury.
  - 2) A prisoner being transported by stretcher in an ambulance where the restraint device would jeopardize the health of the prisoner.
  - 3) Officer's discretion, taking into account a prisoner's previous history of compliance, the age of the subject, the nature of the offense, presence of other family members that may be affected by the sight of handcuffing, the officer's knowledge of the subject, or any other factors that lead an officer to believe that the subject does not pose a threat to the officer's safety, is not a threat to workers at headquarters and is not an escape risk.
- c. Only those handcuffs issued/authorized by the department shall be used by the officers of the department.
  - 1) Officers may carry additional sets of handcuffs. These handcuffs must have the ability to be double-locked and will be in good working order.
- d. In the event of large-scale arrests or exigent circumstances, Officers will be allowed to use department-issued flex cuffs.
- e. A prisoner will never be handcuffed to any part of a motor vehicle when being transported, while the vehicle is in motion.
- f. In the interest of preventing unnecessary injury and/or discomfort,

handcuffs and other temporary restraining devices should be removed as soon as practical and safe for everyone concerned.

- g. In all instances where a prisoner has been handcuffed, the Officer's report will note this occurrence in their report.
- h. Unless extreme exigent circumstances exist, handcuffs should never be used as a striking weapon against a person resisting arrest.

3. Electric Control Weapon (ECW)

- a. Sworn members of the department may be authorized to carry ECWs on patrol if they meet the authorization requirements specified in FSUPD's **General Order 7.3 Electric Control Weapon**.
- b. Only ECW authorized by the department shall be used while on duty, the make, model, and specifics are detailed in FSUPD's **General Order 7.2 Weapons Proficiency**. Any changes in specifications will be updated in G.O.7.2.
- c. The ECW shall never be left unattended in an unsecured location.
- d. The ECW should be carried in a position opposite on the body to the firearm. Further, the ECW should be color-coded to distinguish it from the firearm.
- e. An officer shall not draw or hold their ECW simultaneously with their firearm or other force option.
- f. See FSUPD's **General Order 7.3 Electric Control Weapon**, for full policy governing the use, deployment, and post-deployment requirements of ECWs

*IACLEA 7.1.7, 7.2.1 / MPAC 1.3.4*

**E. Choke Holds and Vascular Neck Restraint**

- 1. Officers shall not use a chokehold. Officers must not be trained to use chokeholds, regardless of what the technique is called.
  - a. The definition of "chokehold" appears in MGL Ch. 6E, § 1 as "the use of a lateral vascular neck restraint, carotid restraint or other action that involves the placement of any part of a law enforcement officer's body on or around a person's neck in a manner that limits the person's breathing or blood flow with the intent of or the result of causing bodily injury, unconsciousness, or death.

*IACLEA 7.1.5 & 7.1.6*

**F. Tools of Immediate Means**

1. In the event, that an officer is faced with a situation where there is a substantial risk of physical injury or death to themselves or another, and access to approved tools (those listed in General Order 7.2 Weapon Proficiency) and weapons is not available or tactically feasible, he or she may resort to using a tool of immediate means or opportunity.
2. When such tools of immediate means or opportunity are employed, the officer will document the use and situation in their report.

**G. Off Duty Weapons:**

1. At this time, the Officers of the Fitchburg State University Police Department are not authorized to carry any department-issued weapon off duty.
2. Officers using personally owned weapons for specialized assignments shall ensure they meet the same proficiency and qualification that is required by the department as their department-issued firearm.
3. Any exemption to 1 and 2, shall be requested in writing to the Chief of Police.

**H. Restrictions on Firearm Use:**

Fitchburg State University Police Officers will not use their firearms in the following circumstances:

- a. The use of firearms may only be utilized when the use of deadly force is justified and those actions are taken in conformance with this department's policy.
- b. Firearms will not be discharged as a bluff or warning shot;
  - 1) However, in exigent circumstances, which shall require supplemental documentation following the fact, a firearm may be used as a signaling device. Round accountability and muzzle awareness need to be the discharging officer's paramount responsibilities.
- c. To effect an arrest for a misdemeanor offense, unless the offense meets the criteria stated in this general order that meets the circumstances of deadly force.
- d. Officers shall not discharge a firearm from a moving vehicle except in articulable exigent circumstances, and firearms shall not be discharged at a moving or "fleeing" vehicle or except under the following circumstances:
  - (1) Shooting is necessary to prevent imminent harm and is proportionate to the threat;
  - (2) A person in the vehicle is threatening the officer or another person with deadly force by means other than the vehicle; or
  - (3) The vehicle is operated in a manner deliberately intended to strike an

*IACLEA 7.1.3 /MPAC 1.3.3*

officer or another person, and all other reasonable means of defense have been exhausted, which includes moving out of the path of the vehicle.

IACLEA 7.1.4.

- e. Officers should avoid all unnecessary un-holstering of firearms. Officers will not draw their firearm except under those circumstances where there is justification for its use to accomplish a lawful police objective or task. Officers will not point their firearms at persons in circumstances where such an action is not justifiable.

**I. Medical Attention:**

1. Officer(s) will provide or request appropriate medical aid as quickly as reasonably possible following any use of force action in which obvious injuries have been sustained, medical distress is apparent, or the individual is unconscious.
  - a. Not every use of force incident must result in the treatment of the subject at a medical facility. In cases where the verbal direction and soft-empty hand controls were used the subject may only need to be observed by agency personnel.
  - b. If a suspect requests medical attention or complains of pain, an officer shall evaluate the individual as first responders, and request an ambulance if necessary.
    - (1) If an arrest is required, an officer shall accompany the detained individual to the hospital.
  - c. If a subject refuses medical aid, this will be noted in the Officer's report as well as on the use of force reporting paperwork.
2. Officers are to closely monitor the medical condition of all persons who have significantly struggled or tried to run. Beginning at the time of handcuffing and continuing through the time the prisoner is in custody or is released. This means constant attention to the breathing and consciousness of the prisoner. If significant difficulty in breathing develops, or the prisoner appears to lose consciousness, the prisoner will be transported to the hospital by ambulance. This is for all prisoners, not just those that have been sprayed with OC.
3. For those individuals sprayed with OC, they should be moved into fresh air as soon as it is safe to do so. If practical, officers may use water to rinse off OC resin from the subject's face. Once in a controlled environment, the subject may be allowed to use soap and water to rinse off.
4. If in the case of the use of OC an offender's symptoms persist for more than 45 minutes, medical attention should be sought. Whenever a subject has been sprayed with OC and requests medical attention, an ambulance shall be requested.
5. Any injuries resulting from handcuffing, or claimed to have been caused by handcuffs will be clearly explained in the narrative section of the arresting

officer's report. Supervisors will be notified of any injuries or will document all observations. Photographs will be taken when appropriate.

IACLEA 7.1.9 / MPAC 1.3.5

**J. Responsibility of All On-Scene Officers**

1. Officers will attempt to de-escalate situations, where possible, by communicating with subjects and maintaining distance.
2. When possible officers should exhaust all other alternatives, including non-force and less lethal force options, before resorting to deadly force.
3. Officer(s) at any scene where physical force is being used "must stop, or attempt to stop, another officer when that force is being inappropriately applied or is no longer required for the safety of the officers or the public."
  - a. An officer present and observing another officer using physical force, including deadly force, beyond that which is necessary or objectively reasonable based on the totality of the circumstances, **shall** intervene to prevent the use of unreasonable force unless intervening would result in imminent harm to the officer or another identifiable individual.
  - b. The failure of a law enforcement officer to intervene as set forth in 555 CMR 6.06 may subject the officer to de-certification by the Commission.
4. Officers are required to intervene and stop excessive force used by other officers and report these incidents immediately to a supervisor or O.I.C. (MGL 6E, § 15 b)
  - a. Any retaliation against an officer for reporting unreasonable or excessive force will not be tolerated and may lead to additional disciplinary action in accordance with department policy and the current collective bargaining agreement.
5. Once a suspect is in custody or subdued, all officers present are duty-bound to provide and summon medical assistance if needed.

555 CMR 6.06

**K. Reporting the Use of Force:**

1. The Fitchburg State University Police Department requires a use of force report to be completed whenever an officer on or off duty and acting under color of employment with the department:
  - a. Discharges a firearm ( other than in training, recreation, or in an authorized instance to euthanize an animal);
  - b. Take an action that results in, or is alleged to have resulted in, injury or death of another person.
  - c. Applies force using lethal or less-lethal weapons; or



- d. Applies weaponless physical force at a level defined by this directive.
2. All officers involved in a use-of-force incident, whether or not they used force, shall complete a use-of-force report.
3. If an officer intervened in another officer's use of force as stated in section M above, shall submit a "To/From" to the Chief of Police, or designee which details the following:
  - a. In the report/incident, the alleged excessive use of force was used
  - b. The situation in which force was inappropriately used
  - c. The steps taken to intervene
  - d. Any post-incident medical care provided ( and by who)
  - e. Names of all department personnel present

IACLEA 7.1.11 / MPAC 1.3.6

4. Following an incident involving the use of force, the Officer(s) involved will file the following reports if applicable, with the Shift Supervisor;
  - a. Use of Force Report Form (*FS48 Use of Force Report*);
  - b. Copy of the case incident/arrest report.

**NOTE:** This will include any time that handcuffs are used as something other than a restraining device. Such as if used in striking.

5. The Shift Supervisor, having received the applicable forms, shall submit a review of the incident to the Chief of Police. The Shift Commander will also disseminate the appropriate forms to the following locations/persons:
  - a. Appropriate department file on the University Share Drive;
  - b. Incident Report; (copy);
  - c. The Chief of Police (copy).
    - 1) The Chief of Police or designee will receive and review all Use of Force reports and related case incident/arrest reports for compliance with department training standards, policy and procedure as well as State and Federal Statutes.
    - 2) On an annual basis, the Chief of Police, or designee will conduct a review/analysis of the Use of Force Reports for use in modifying policies, identifying training needs, identifying trends, and/or equipment upgrades.
      - a) Some factors to be considered in conducting the annual analysis of Use of Force Reports:

- i. Total number of use of force incidents for the year as well as previous year(s) comparisons (noting percentage increases or decreases)
    - ii. Breakdown of type of force used or type of weapons used in each incident
    - iii. Nature of the situation that required the use of force
    - iv. Suspect information
    - v. Day of the week, time of day, squad, shift schedule
    - vi. Information on the Officer(s) involved (number of years on the job, etc.)
    - vii. Whether the officer was in uniform or plainclothes
    - viii. Whether or not there were any injuries to the officer or the subject
    - ix. Summary breakdown of the dispositions of the administrative reviews (justified/not justified, compliance/non-compliance with agency policy, etc.)
  6. The Department shall report to the National Use of Force Data Collection Database when actions by a law enforcement officer resulted in the death or serious bodily injury of an individual, or when a law enforcement officer, in the absence of death or serious bodily injury, discharged a firearm at or in the direction of a person.
    - i. Law enforcement agencies are not required to report the discharge of a firearm during training or qualification exercises, or for the purposes of animal destruction/euthanasia where necessary.
- MPAC 1.3.13 / 555 CMR 6.07*
6. As soon as practical after the incident, the Shift supervisor, as long as they are a non-involved Supervisor, will contact based on the information they have, as outlined below.
    - a. If the Shift Supervisor or Officer-In-Charge is an involved party, the Chief of the Fitchburg State University Police Department, upon notification, will designate a Supervisor to be responsible for the preliminary investigation.
    - b. Once the use of force report is completed, the Chief of Police or Designee will review each reported use of force incident. Each use of force incident should be evaluated to determine whether the actions taken by the officer were reasonable and according to this order and MPTC Use of Force Standards.
  7. If the use of force involves death or serious physical injury, the following procedures will be followed;

- a. Notification by a Shift Supervisor or Officer-In-Charge to include;
  - 1) Chief of Police
  - 2) Lieutenants
    - a) Notifications will include all others at the direction of a Shift Supervisor and/or the Fitchburg State University Policy. This is to include but is not limited to the Massachusetts State Police, Fitchburg Police Department, and on-call University administrators.
    - b) All notifications and their corresponding times will be documented and placed into the shift log.
- b. If the use of force involves a weapon, the chief of police or their designee shall secure the weapon or weapons used for examination and maintain the appropriate chain of custody protocols.
- c. The department shall conduct an investigation according to its policies and protocols. (**4.2 Compliant Investigations**)

IACLEA 7.1.11 / MPAC 1.3.7 / 555 CMR 6.09

**L. Leave:**

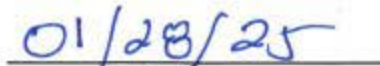
- 1. Any employee(s) involved in a Use of Force incident that results in the serious injury or death of another, **shall be** placed on administrative duties/leave until an investigation is complete. The employee(s) will not incur any loss of pay or benefits while on this modified duty.
  - a. The employee(s) should use this time to address any emotional and personal needs that resulted due to their involvement in the Use of Force incident which resulted in a death or serious injury.
  - b. Any employee placed on administrative duty/leave as a result of an involvement in a Use of Force incident, which resulted in the serious bodily harm or death of another shall make themselves available to all personnel involved in the investigation of the incident. The employee(s) will have their legal and union rights observed during the investigation period of this incident.

IACLEA 7.1.12

Approval:



Chief of Police



Date

