

USE OF FORCE REPORTING

EVERETT POLICE DEPARTMENT POLICY & PROCEDURE NO. 1.02	ISSUE DATE: 11 APR 2011
MASSACHUSETTS POLICE ACCREDITATION STANDARDS	EFFECTIVE DATE: 11 APR 2011
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I. GENERAL CONSIDERATIONS AND GUIDELINES

The manner in which police department members use force is an extremely critical issue that generates intense public scrutiny. When these incidents occur they demand a thorough and complete review into all aspects of the incident. Only through a review can the facts of the incident evolve and public confidence be maintained.

II. POLICY

Reportable Use of Force: It is the policy of this department to require a written report any time an employee:

1. Discharges a department issued or authorized firearm, for other than training or recreational purposes. The intentional discharge of firearms for ballistic testing, or firearms maintenance shall be excluded from the reporting requirement. [1.3.6(a)]
2. Takes action that results in, or is alleged to have resulted in, the injury or death of another person [1.3.6(b)];
3. Applies force through the use of a lethal or less-lethal weapons [1.3.6(c)]; or
4. Applies weaponless physical force which results in an injury, allegations of injury or death to either a department member or another person. [1.3.6(d)].

DUTY TO INTERVENE: Officers shall intervene when they believe another officer is about to use excessive or unreasonable force, or, when they witness colleagues using excessive or unreasonable force, or, engaging in other misconduct based on the totality of the circumstances, unless intervening would result in imminent harm to the officer or another identifiable individual

- a. An officer who observes another officer using force, including deadly force beyond that which is necessary or objectively reasonable based on the totality of the circumstance shall report the incident to a supervisor as soon as reasonably possible but no later than the end of the officer's shift.
- b. Any harassment, intimidation or retaliation against an officer who makes such a report regarding the witnessed excessive force shall be a violation of the policy and shall upon a sustained internal investigation shall be subject to departmental discipline up to and including termination.

Duty to Intervene Reporting: Officers shall notify their supervisor and shall use Blue Team (using the **Duty to Intervene** option) to complete the report, NLT the end of the officer's shift.

III. DEFINITIONS

- A. *Force:* Any physical effort used to compel, repel and/or control.
- B. *Weaponless Physical Force:* The application of force and hand control techniques that have little or no chance of producing injuries when gaining control over, or subduing non-compliant or resisting persons. These techniques include, but are not limited to: physical touching, gripping or holding, frisking, pain compliance measures, pressure point application, come-along hold, handcuffing or other custodial procedures.
- C. *Employee:* For the purposes of the application of this policy, any person officially affiliated with the department whether full or part time, sworn, civilian, special or auxiliary police, crossing guard, animal control officer, volunteer, or other.
- D. *Command Staff:* For the purposes of the application of this policy, the members of the Command Staff include the Chief of Police, the Division Commanders and the Internal Affairs Office.
- E. *Reportable Use of Force:* A level of force used by a member of this department which would trigger a report as directed under this policy.

Note: The use of handcuffs as a restraint; physical removal of peacefully resisting demonstrators; display of weapon (unholstering or handling of firearm, taser or other weapon); or the use of verbal commands are not considered a use of force for this policy. *For clarification; in the performance of duty, pointing a weapon (firearm or taser) at any person group or vehicle TO GAIN COMPLIANCE is a use of force and requires a report.*

IV. PROCEDURES

A. Employee Responsibilities

1. Each employee who used reportable force as defined in this policy shall:
 - a. Immediately following a reportable use of force incident, employees shall notify the Patrol Supervisor and the Officer-In-Charge.
 - b. Complete a Use of Force Report using BlueTeam software, unless the requirement of such report would violate the officer's Fifth Amendment protections and/or if transactional immunity for said officer(s) would be triggered. The officer's formal report (using crimetrack) will serve as the narrative portion. Officers will attach a copy of the report to BlueTeam. The officers narrative should "paint a picture" that clearly describes the actions and why.

At a minimum, the report shall include:

- 1) De-escalation tactics that have been attempted and failed or why the (de-escalation tactics) were not feasible based on the totality of the circumstances;¹
 - 2) Actions of the suspect that necessitated the use of force;
 - 3) Why the employee used force;
 - 4) What force was used by the employee;
 - 5) The effect of the force on the suspect;
 - 6) Injuries to the suspect, employees, or others;
 - 7) Complaints of injury by the suspect or others; and
 - 8) Medical treatment received or refused by the suspect or others.
- c. The Use of Force Report (BlueTeam) will be reviewed by the Officer in Charge, and upon review and approval forward to the Operations Division Commander.

- d. The Use of Force Report shall be used for internal statistical and analytical purposes only, and shall not be part of the incident or arrest file for the particular incident.
- e. A more detailed narrative report must be completed if ordered by a supervisor.
- f. An injured employee shall submit the required reports as soon as practical.
- g. Any employee, whose action(s) or use of force results in death or serious physical injury, shall be removed from line-duty assignment, and reassigned to administrative duties and/or placed on paid administrative leave pending an administrative review.
[1.3.8]

B. Supervisors/Investigators Responsibilities

1. RESPONSE AND INVESTIGATION

- a. A supervisor shall respond to and investigate any incident where force results in death or serious bodily injury.
- b. A supervisor directly involved in an incident shall not investigate the use of force in that same incident. [1.3.8] The Commander of the Criminal Investigations Division will assign investigative follow-up.
- c. In cases involving death or serious bodily injury where death is likely; the Chief of Police shall be notified and the Commander of the Criminal Investigations Division will assign personnel to conduct the investigation working with the Massachusetts State Police and the District Attorney's Office.
- d. In those instances where death has or is likely to occur, the District Attorney's office shall immediately be notified².
- e. In conducting the preliminary investigation, the OIC or Patrol Supervisor shall:
 - 1) document the suspect's statements;
 - 2) document injuries sustained by the employee, suspect, or others;
 - 3) arrange medical treatment needed or requested;
 - 4) identify and interview witnesses;
 - 5) document, as necessary, the scene of the incident, injuries, property damage, etc.; and
 - 6) When necessary interview the appropriate medical personnel (attending physician, medical examiner) concerning the injury.

2. EMPLOYEE STATEMENT/REPORTS

- a. The investigating personnel may:
 - 1) Request, through the employee(s) chain of command, that the involved employee(s) to submit a full and complete report of the incident in writing; or
 - 2) Schedule a time by which an employee involved in the incident must meet with department investigators and submit a written report of the incident.
- b. The investigating personnel conducting the investigation shall file a preliminary report prior to the conclusion of the tour of duty.
- c. The investigating personnel will complete a detailed investigative report and submit it to Commander of the Criminal Investigation Division as soon as practical upon completion of the investigation.
- d. For further information, see the department policies **4.01 Internal Affairs**, **2.20 Officer Involved Deadly Force Incident Investigations**, and **2.21 Post-Traumatic Stress Procedures**.

C. Administrative Review:

1. The Command Staff shall be responsible for the following:
 - a. Ensuring that a thorough investigation was conducted and that all reports were prepared and submitted;
 - b. Conducting an administrative review of all reports submitted along with any accompanying comments or recommendations to determine whether the use of force was in compliance with department policy and procedures. Such review may not be conducted by any person who was involved in the incident. [1.3.7]; and
 - c. The Command Staff shall prepare a report to the Chief regarding the incident, including any comments and recommendations for appropriate action.
2. The Chief of Police will conduct an administrative review of each report and shall take appropriate action.[1.3.7]

D. Use of Force Reports

1. The use of Force Reports shall be filed electronically into BlueTeam and IAPro and be the responsibility of the **Records Access Officer**.

2. ANNUAL ANALYSIS: The Command Staff shall conduct an annual analysis of all use of force reports and submit a written report to the Chief. Such analysis and conclusions may indicate the need for training, equipment upgrades, or policy modification. [1.3.13]

¹ M.G.L. c6E, §14

² M.G.L. c 38, §4