



**BROCKTON
POLICE**

BROCKTON POLICE DEPARTMENT POLICY AND PROCEDURE

Use of Force

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Chief Emanuel Gomes

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1.0
Policy
Statement

The Brockton Police department recognizes its legal duty to protect the rights of all individuals to due process of the law and fair trial. Its members are thereby bound to refrain from any use of force that unnecessarily tends to administer punishment at the hands of a police officer. The responsibility for punishment of criminal offenders rests solely with duly constituted courts of law penal institutions and is by no means extended to the police.

Police Officers are continually confronted with situations requiring or resulting in the use of various degrees of force to affect a lawful arrest, ensure public safety, or to protect persons from harm. The degree of force used, must be objectively reasonable and necessary, depending upon the facts and circumstances known to the officer at the time of the incident. The degree of force an Officer is required and permitted to use is dependent upon the amount of resistance or threat to safety the situation produces. All force used shall be held to the reasonable Officer standard.

The objective of the use of force is to maintain and/or establish control over the situation. Control is achieved when a person complies with the Officer's directions and/or the suspect is restrained or apprehended and no longer presents a threat to the officer or another.

Because there are an unlimited number of possibilities, allowing for a wide variety of circumstances, no written directive can offer definitive answers to every situation in which the use of force might be appropriate. Rather this directive will set certain guidelines and provide an Officer with a basis on which to utilize his or her judgment in making

reasonable and prudent decisions.

2.0
Policy
1.3.1

Personnel shall use reasonable force when force is used, based on the facts and circumstances known to the Officer at the time, to accomplish lawful objectives and effectively bring an incident under control, or to protect his/her life and/or the lives of others. [1.3.1] The amount and degree of force which may be employed will be determined by the facts and surrounding circumstances, and must be a “balanced” response appropriate for the reasonable Officer’s selection in order to gain subject compliance, control, and end the threat of use of force or use of force against another or themselves.

No policy or procedure for deadly or less lethal force can cover every situation Officers may encounter. Officers are expected to respond to all situations decisively and use proper judgment, restraint and competence, whatever the level of force required. The amount and degree of force which may be employed will be determined by the surrounding circumstances including, but not limited to:

- The seriousness of the offense/event and Officers’ perception of those circumstances;
- The behavior of the subject against whom force is to be used/ perceived subject action(s) as threatening to the Officer or persons present;
- Behavior of subject; resisting or attempting to evade arrest by flight.
- Actions by third parties who may be present;
- Physical odds against the Officer; and
- The feasibility or availability of alternative actions.
- The facts known to the Officer at the time of the incident;
- The need to make a decision in a tense, rapidly evolving situation.

3.0
Definitions

Deadly Force-As used in this policy is defined as that degree of force which a reasonable and prudent person would consider likely to cause death or serious physical injury.

Less Lethal Force- Force that is not likely to cause serious physical harm or death but has potential to. It includes the use of approved defensive/physical tactics, chemical substances, the baton, Specialty Impact Munitions (SIM; bean bag), and K-9, and electronic control weapon (taser).

Active Resistance- Advanced level of non-compliance, where a subject’s resistance is increased in scope or intensity, and includes energy-enhanced physical or mechanical defiance or verbal defiance.

Passive Resistance-The preliminary level of non-compliance, where a subject, although non-compliant, offers no physical or mechanical energy enhancement toward the resistant effort.

Assaultive-The officers attempt to gain compliance has culminated in the perception of an attack or the potential for such an attack on the officer or others which may result in serious bodily harm or death.

Probable Cause- Probable cause exists if, at the time of an arrest, the facts within the knowledge of the arresting officer (or within the collective knowledge of the police) are reasonably trustworthy and sufficient to warrant a person of reasonable caution and prudence to believe that the person being arrested has committed or is committing the crime for which the arrest is being made.

Reasonable Belief-The known facts and circumstances that would cause an ordinary and prudent person to act or think in a similar way under similar circumstances.

Serious Physical Injury- Injury that creates a substantial risk of death or serious permanent disfigurement, or results in long-term loss or impairment of any body part or organ.

Circumstances-The officer's perspective of the severity of any crime, the existence of an immediate safety threat to the officer or others, and the degree of compliance / non-compliance from the subject.

Subject(s) Action(s)-The subject(s) action(s) as perceived by the reasonable officer.

Officer(s) Response(s)-The response appropriate for the reasonable Officer's selection from the Use of Force Model's response categories, in order to maintain or gain subject compliance and control.

4.0
Parameters
for the
Use of
Less Lethal
Force
1.3.4

The application of less lethal force by an Officer in the performance of duty is generally limited to situations where it is necessary: [1.3.4]
-For self-defense or the defense of another against unlawful violence or attack to his/her person or property
-To overcome resistance to arrest, to conduct searches and seizures, and to prevent escapes from custody
-To preserve the peace, prevent the commission of offenses, or prevent suicide or self-inflicted injury, or
-To bring an unlawful situation safely and effectively under control.

5.0
Tools of
Immediate
Need

Only issued or approved equipment will be carried on duty and used when applying any level of force. In the event 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 and weapons is not available or tactically feasible, he or she may resort to using a tool of immediate opportunity.

In such cases an Officer may use a tool or object that is in-hand or readily accessible (i.e. flashlight, radio, ticket book, handcuffs) to fend off the immediate assault; however, as soon as is reasonable and practical, the Officer shall transition from the tool of immediate means to Department approved equipment to resolve the situation.

6.0
Handcuffing

Use of restraining devices shall be utilized on all prisoners, unless in the officer's judgment unusual circumstances exist which make the use of restraining devices impossible or unnecessary (prisoner is handicapped, etc.). The mere placing of handcuffs, physical contact to guide subject or empty hand contact controls to guide or remove subject from an area and handcuff will not be construed to be a use of physical force.

7.0
Less Lethal
Use of Force
Options
1.3.4

Presence/Appearance-The image that an Officer conveys may influence the outcome of the situation. The officer should be neat and well groomed, be mindful of body language, and maintain the highest level of vigilance.

Verbalization-Verbalization is verbal persuasion used by an Officer attempting to defuse a situation, or verbal commands to a subject. Verbalization is present in all subsequent force options.

Aerosol Control Spray-A Department issued or approved aerosol substance used to overcome resistance or an assault, deter riotous or violent behavior, or deal with armed and/or dangerous subjects in a barricaded situation. [1.3.4]

Taser (Drive Stun) - Direct contact of the ECW against the suspect's body. This can be done with the cartridge in place by using the Arc Switch. A drive stun is a pain compliance technique and may be used on actively resisting suspects.

Contact Controls-The level of force normally required to overcome passive resistance that is not intended as an act of overt aggression toward the officer when an individual refuses to comply with verbal

instructions.[1.3.4]

Restraint Techniques-Those techniques used to take down and control subjects who are exhibiting active resistance. These techniques may be applied by using the hands or the baton.[1.3.4]

Impact Weapons/Defensive Strikes-This includes the use of Taser (full probe deployment), canine, the baton as an impact weapon, approved striking techniques used by an officer to defend him/herself or others from the threat of physical injury.

Canine-A trained police dog utilized in conjunction with its handler. See Policy K-9 Canine.[1.3.4]

8.0

Deadly Force General Guidelines

The purpose of the following section is to set forth guidelines for members of this Department in making decisions regarding the use of Deadly Force. The guidelines have been developed with serious consideration for the safety of both the police officers and the public, and with the knowledge that police officers are often called upon to make split-second decisions in circumstances that are tense, uncertain, and rapidly evolving. The value of human life is immeasurable in our society.

This Department places its highest value on the life and safety of its Officers and the public. The Department's policies and procedures are designed to ensure that this value guides Officers in their use of deadly force.

9.0

Use of Deadly Force

Parameters

1.3.2

Officers shall not use deadly force except in situations where the Officer reasonably believes that the action is needed to protect himself/herself or another person from imminent death or serious physical injury. The officer will need the following factors: The individual must have the ability and opportunity to cause a person serious physical injury or death, a life is in jeopardy and there is no reasonable alternative[1.3.2]

Officers may discharge their firearms only when doing so will not unreasonably endanger innocent persons.

Officers encountering a situation where the use of deadly force is necessary shall, if circumstances and safety considerations allow, issue a verbal warning first and identify themselves as an Officer.

Officers shall not use deadly force to apprehend a fleeing felon unless:
-The felony involved the use or threatened use of deadly force, and
-The Officer reasonably believes that the force employed creates no substantial risk of injury to innocent persons; and
-The escape of the felon would result in imminent death or serious physical injury to the Officer, or another, if apprehension were delayed.

Officers shall not use deadly force in an attempt to threaten or subdue persons whose actions are only destructive of property or harmful to themselves not towards other persons.

10.0

Off Duty

On self-activation, the officer's actions are guided by all departmental rules and regulations.

11.0

Warning Shots and Signaling Device

1.3.3

Firearms shall not be used as signaling devices or to summons assistance, except in extreme circumstances where there is no other means to communicate and where Officer safety is jeopardized.[1.3.3]

12.0

Motor Vehicles and Discharging of Firearms

Officers shall not discharge their firearms at a moving vehicle, but may fire at the deadly force threat within the vehicle that presents an imminent threat of death or serious injury to the Officer or others and there is no apparent means of escape.

Firearms shall not be fired at a fleeing vehicle unless the Officer or another person is currently being threatened with deadly force by means other than the moving vehicle and there is no reasonable way to retreat or take safe cover.

13.0

Use of Force Model

Each encounter an Officer is involved in should be viewed as a dynamic and evolving event. This requires the Officer to continuously monitor both the situation and the actions of the subject(s) involved. Based on the Officer's assessments of the perceived subject actions and situation, he/she will determine to escalate, de-escalate or maintain the current force options.

The Use of Force Model was developed in 1991 by Dr. Franklin Graves, Federal Law Enforcement Training Center and Professor Gregory J. Connor, University of Illinois Police Training Institute and is used by the Municipal Police Training Committee. It provides basic subject classifications and potential officer responses. A subject may fit into more than one classification at a given time, and it is up to the Officer to reasonably apply the necessary and appropriate force options based on the situation faced at the time.

The potential responses listed may not include all force options open to the Officer at a point in time, based on his/her level of training and available equipment. It shall be stressed, as a part of this policy, that the Use of Force Model is a guideline and suggested courses of action but are not the only course of action.

Classification	Response Options
Compliant subject Level 1	<p>This person complies with officer requests/orders and offers no resistance either verbal or physical. The vast majority of persons an officer will encounter are in this classification.</p> <p>Potential responses: Communication skills; physical contact to guide subject; or compliant handcuffing techniques.</p>
Passive Resistant subject Level 2	<p>The preliminary level of non-compliance. While the subject does not comply with officer requests/orders and may issue verbal non-compliance, there is no physical resistance or flight.</p> <p>An example is a person that goes limp or lies on the ground, but offers no resistance to being handcuffed or moved by officers.</p> <p>Potential response: Empty hand contact controls to guide or remove subject from an area and handcuff. Electronic control weapon (taser) laser activation display.</p>
Active Resistant subject Level 3	<p>Non-compliance now includes physical effort or flight by the subject that is directed at avoiding the arrest, not at assaulting the officer.</p> <p>Examples include flight by either foot or conveyance, laying on ground and locking arms under body, holding on to other persons or objects, or tensing up, twisting or pulling away from the officer.</p> <p>Potential responses: Empty hand techniques to gain control (wristlock, arm-bar); distraction techniques (joint manipulation, pressure points); chemical irritants (OC), baton arm-lock, arm bar takedown, or electronic control weapon (taser) drive stun or spark activation display.</p>

<p>Assaultive / Bodily harm Level 4</p>	<p>The Officer perceives that a subject is preparing to assault, is currently assaulting, or has assaulted the officer or another person with force that will not cause serious injury or death.</p> <p>Examples include empty hand assaults such as pushing, shoving, punching, wrestling or grasping.</p> <p>Potential responses: Defensive tactics designed to cease the non-lethal assault such as empty hand strikes (elbow, knee, head-butt, kicks, punches, and blocks); or less-lethal weapons (baton strikes, blocks, or electronic control weapon (taser) probe deployment.</p>
<p>Assaultive / Serious Bodily Harm or Death Level 5</p>	<p>The Officer perceives that an assault on him/herself or another has risen, or is about to rise, to a level with the potential to cause serious injury or death.</p> <p>Examples include empty hand attacker trying to disarm an officer, strangling, and assaults with weapons.</p> <p>Potential responses: While a Department-issued or approved firearm is the preferred response in a lethal force encounter, it is recognized that a situation may arise where an officer has been disarmed or is caught unaware by a sudden and violent assault. If such occurs, the following options should also be considered: less-lethal weapons (baton strikes to red target areas, or electronic control weapon- taser); or empty hand strikes or holds to lethal target areas.</p>

14.0
 Medical Aid
 1.3.5

In an effort to minimize pain, suffering and further injuries, Officers shall, as soon as practical, render appropriate medical aid (based on officers training on level of care) to individuals after the use of lethal or less lethal weapons, less lethal force or other use of force incidents as defined by this policy, whenever a person: [1.3.5]

- Has a visible injury
- Is unconscious
- Complains of injury or requests medical attention

The Officer shall promptly notify his immediate Supervisor of the incident and as soon as practical. Officers shall attempt to locate and identify all witnesses, documenting their statements.

15.0

Duty to Report Use of Weapon or Physical Force

1.3.6 a-d

Department personnel shall submit a written report to the Chief of Police forthwith and in no event later than the completion of the current tour of duty whenever they:

-Apply force through the use of any lethal or less lethal weapon [1.3.6 c]

-Take actions that result in an injury or the death to another person.[1.3.6 b]

-Discharge, deliberately or unintentionally, of a firearm or less lethal weapon, whether on or off duty, other than for training, ballistic identification, weapon maintenance, legitimate firearms competition, euthanizing an animal for humane reasons or target practice at an approved range. [1.3.6 a]

In the event of the firearm discharge the report shall include:

-the names of the officer and other persons involved

-the circumstances under which the firearm was used

-the injury inflicted, if any, and the care given to the injured

-a detailed description of the technique used in discharging the weapon

These reports shall be reviewed and signed by the Shift Commander and submitted to the Chief of Police. A copy shall be forwarded to the Executive Officer.

16.0

Review of Reports

1.3.7

1.3.13

Copies of all reports concerning the discharge of firearms/weapons or use of physical force shall be forwarded to the Executive Officer, who shall review the incident to determine whether the use of force was consistent with Department policy, Department training, and Officer/Public safety. In cases where the Executive Officer is involved in the incident under review, the Chief of Police will assign a Supervisor not involved in the incident the review responsibilities. [1.3.7] The Executive Officer may also utilize the input from the Department Firearms instructor.

The Chief of Police with the assistance from the Executive Officer will conduct an annual analysis use of force reports. [1.3.13] Use of Force reports shall be stored and filed by the Executive Officer. Any information or reports released to the media shall be at the discretion and authorization of the Chief.

17.0

Investigation
When Use of
Force Results
in a Death or
Serious Injury

Whenever a Department member acting in an official capacity performs actions or uses force that results in death or serious physical injury, the Shift Commander shall immediately notify the District Commander and Chief of Police.

The Chief of Police will assign the Executive Officer to investigate the matter as an administrative internal investigation. If the Executive Officer is involved in the incident, the Chief of Police shall assign a Superior Officer to internally investigate the matter.

In all cases in which a police officer inflicts an injury to another by use of a firearm the Chief of Police and the District Commander shall be notified immediately. Upon such notification, the Chief or Officer in Charge, or police official designated by either of them, shall immediately institute an investigation and:

- impound the weapon involved
- interview all injured parties, if possible, to ascertain the circumstances involved in the shooting
- assign sufficient officers to secure the scene of the shooting, preserve physical evidence and request the assistance of crime scene technicians as appropriate
- ensure proper chain of custody of the impounded weapon until it is placed in the custody of State Police crime lab personnel
- make arrangements for stress unit or other psychological assistance for the officer, or members of their family, if appropriate, at his discretion the chief or officer in charge may relieve the officer from duty for the remainder of the tour of duty, or such period as he deems necessary, after the officer has completed their preliminary report of the incident with a full report to follow
- in the event that one or more deaths result from the officer involved shooting, the District Attorney's office is to be notified.

After all necessary reports are completed by the officer concerned, the Commanding officer shall require that the officer's firearms, shells, unspent cartridges, etc., be turned into the Evidence Technician.

The authority and responsibility for final Departmental disposition of the administrative internal investigation rests solely with the Chief of Police.

During the course of the investigation, no police personnel will give information concerning the incident to any members of the public or news media without the express authority of the Chief of Police.

19.0
Requirements for Issuing Departmental Weapons
1.3.9 e
1.3.10
1.3.12

Only Officers trained, demonstrating appropriate proficiency, and qualified with a particular weapon may be issued that type of weapon. This includes both new Officers receiving initial weapons and veteran Officers issued a new type of weapon. [1.3.10]

20.0
Weapons Lethal/Less Lethal Training and Qualification
1.3.11a-c

Training and qualifications shall include, use of force, safe handling and proficient marksmanship. The instructor shall document the officer's weapons, scores, and training information on the appropriate forms. The Department issued firearm will be used for this training and off duty weapons if applicable. [1.3.11 a b]

The Department firearms instructor(s) shall be certified by the MPTC (or approved MPTC agency) as a weapons proficiency trainer instructor and will develop and implement remedial training for any Officer who fails to qualify with their Department issued firearm. This should be addressed and remedied at the range on the day of training. If this cannot be accomplished the firearms instructor shall reschedule as soon as practical without unnecessary delay. [1.3.11 c]

21.0
Use of Personal Firearms

The carrying of personally owned firearms by members of the Police Department will be authorized subject to the approval of the Chief of Police and shall be consistent in size and caliber with the officers assignment and/or purpose. Firearms so authorized shall be recorded with the Department Armorer and the Records Division relative to serial number, manufacturer, model number and caliber.

22.0
Requirements
for Carrying
Departmental
Weapons
1.3.9 e f

Only weapons and ammunition that are authorized by the agency shall be used by agency personnel while in the performance of their responsibilities. Officers shall not alter or modify any weapon or firearm or authorized for use without the express permission of the Chief of Police.

All personnel assigned to the Uniformed Patrol Division shall wear the department issued pistol and holster. Officers not assigned to the Uniformed Patrol Division may request authorization to wear an alternate safety holster which must have prior approval from a certified Range Instructor. Officers given authorization to wear a holster other than department issued must be trained in same. In accordance with training, officers shall ensure that the pistol is carried with a round in the chamber and two fully loaded magazines. Supervisors shall ensure conformance with this policy.

23.0
Carrying Off-
duty Firearms
1.3.9
1.3.10
1.3.11

Within the Commonwealth, nothing in the Rules and Regulations of the Brockton Police Department is intended to either authorize or discourage authorized members from carrying firearms while off duty. Officers electing to service weapons while off duty will be governed by the Rules and Regulations, Policies and Procedures of the Brockton Police department.

24.0
Maintenance
and
Inspection of
Weapons
1.3.9 c d

A qualified weapons instructor or armorer will review, inspect and approve all weapons prior to them being issued and carried by an Officer or member of the Department. Any weapon returned to the Department Armory will be documented and inspected by the Armorer. All inspections will be documented. This will include taser, pepper spray and baton. [1.3.9 c]

A weapon that malfunctions or fails an inspection due to a mechanical defect will be returned to a Department armorer as soon as practical. [1.3.9 d]

Officers are responsible for the proper care and maintenance of all issued weapons and ammunition, including keeping issued firearms clean, lubricated and in good working order at all times.

No officer shall alter or modify any Department issued firearm, taser, impact weapon, aerosol control spray, baton, chemical munitions or ammunition without the express permission of the Chief of Police.

25.0
Weapons
Safety
1.3.9 d

Officers shall adhere to Department range safety rules at all times when handling an authorized firearm.

Any Officer possessing an unsafe weapon shall secure the weapon and report the problem to their immediate supervisor, who shall notify an armorer. The secured weapon will be turned over to the armorer, who will take remedial action and/or replace the weapon, as required.
[1.3.9 d]

Under no circumstances will an Officer be required to carry a malfunctioning weapon; such weapon will be examined and serviced/repared by an armorer (in the case of a firearm) or other qualified person before any further use.

26.0
Firearms and
Taser
Storage
1.3.9 f

Department members shall ensure the safe and proper storage of their Department issued firearms and Taser. Unsecured firearms and taser shall not be left unattended. [1.3.9 f] A Department issued firearm or Taser left at the station after a tour of duty, shall be maintained in a secure gun locker or properly secured in a locked personnel locker.
[1.3.9 f]

If an Officer takes a Department-issued firearm home, they shall follow all legal requirements in securing their weapon, including securing it in a locked gun case or with a gun lock when left unattended. [1.3.9 f]

27.0
Loss or Theft

An officer shall file a written report through established channels to the Chief of Police immediately following the loss, theft, or other disposition of a police firearm, and shall provide a complete description as to the circumstances and facts surrounding such disposition.