

 <p>Cambridge Police Department</p>	POLICY & PROCEDURES		No. 400.1
	Subject/Title: Use of Force		
	Issuing Authority:  Robert C. Haas Police Commissioner	Review Date: 8/20/ 2010 – 12/22/2010	Issue Date: July 1, 2011
		Effective Date: Sept. 5, 2011	Rescinds: Replaces Policy #400, issued July 1, 2008.
References/ Attachments: <i>Comm. v. Klein</i> , 372 Mass. 823, 363 N.E.2d 1313 (1977)	Accreditation Standards: 1.3.1; 1.3.2; 1.3.3; 1.3.4; 1.3.5; & 1.3.9(a).		

I. PURPOSE:

The purpose of this policy and set of procedures is to outline the protocols that must be followed whenever an officer exerts any degree of force in the performance of his or her duties. This directive describes the very narrow parameters under which deadly force is authorized; the circumstances when an officer may legally discharge a firearm in the performance of his/her duties; and the guidelines officers are to follow when exerting any degree of force in the performance of his or her duties.

Police officers have been entrusted with special powers and authority to achieve their mission of preserving the peace, providing protection and security to the public, and enforcing criminal laws. These powers are unique to the police, and are not possessed by the general public. With this grant of public trust, police officers are obligated to exercise their powers judicially, and with appropriate restraint.

Whenever a police officer exercises any degree of force in the execution of his or her duties, the burden is on the police department to prove that such force was used in the accordance with department policy and established state and federal law. Because the police department carries an affirmative burden to demonstrate that the exercise of force was necessary and appropriate, the department must conduct a complete and thorough review of all such incidents. Not only does such a review satisfy legal mandates, it also serves to validate the use of force as a legitimate exercise of police authority in the eyes of the public. To this end, the department has established a system of self-reporting and administrative evaluation. It is only through strict adherence to these guidelines that the department can adequately defend the actions of its officers and, at the same time, preserve public confidence.

II. POLICY:¹

- A. **Justification for the Use of Force:** Members of this Department are expected to use only that degree of force which is reasonably necessary to make a lawful arrest, to place a person into protective custody, to effectively bring an incident under control, or to protect the lives or safety of others or themselves.
- B. **Limitations on the Use of Force:** The lawful and proper use of force is limited to only that which is necessary to control and terminate unlawful resistance and/or to prevent any further physical attack against the officer or any other person. This would include deadly and/or non-deadly force, with lethal or non-lethal weapons.
- C. **Consequences for the Improper Use of Force:** Members of this Department are expected to justify any use of force in any criminal, civil or administrative proceedings that arise. Members who cannot or will not comply with this policy will subject themselves to disciplinary action, as well as the possibility of criminal and civil liability.

III. DEFINITION OF TERMS:

Throughout this directive, there are certain terms or phrases that are used to describe and/or define various aspects of non-deadly force and deadly force. For purposes of clarifying these terms and/or phrases, a glossary of terms has been established as follows:

- A. **Reasonable Belief:** Reasonable belief exists when the facts or circumstances known or reasonably should be known to an officer are such as to cause an ordinary and prudent person to act or think in a similar way under similar circumstances.
- B. **Probable Cause:** Probable cause for arrest exists if, at the time of arrest, the facts within the knowledge of the arresting officer (or within the collective knowledge of the police) are reasonably trustworthy and are 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.

¹ CALEA Std.: **1.3.1** – *A written directive states personnel will use only the force necessary to accomplish lawful objectives.*

- C. Resisting Arrest:** Refers to the act of a person who knowingly prevents or attempts to prevent a police officer, acting under the color of his/her official authority, from effectuating an arrest. To resist arrest includes such things as threatening to use physical force or violence against the law enforcement officer, or the use of any other means to create a substantial risk of physical injury to a police officer (M.G.L. c. 268, § 32B).
- D. Deadly Force:** Refers to the force used by an individual with the purpose of causing, or with the knowledge that it creates a substantial risk of causing death or serious bodily harm. Deadly force includes the act of purposely firing a firearm in the direction of another person or at a vehicle, building or structure in which another person is believed to be.
- E. Serious Bodily Harm:** Refers to bodily harm which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.
- F. Bodily Harm:** Refers to physical pain, or temporary disfigurement, or impairment of a physical condition.
- G. Non-Deadly Force:** Refers to any type of physical force used against another, other than deadly force, under circumstances in which death or serious bodily harm is neither likely nor intended.

IV. GENERAL GUIDELINES & CONSIDERATIONS:

Because of their law enforcement and peacekeeping role, police officers occasionally are required to resort to the use of physical force to fully carry out their responsibilities. Police officers are confronted regularly with situations that require them to use various degrees of force to effectuate a lawful arrest, to ensure public safety, or to protect themselves or others from harm. Whether the degree of force used is reasonable depends upon the specific facts surrounding the situation. Only a reasonable and necessary amount of force may be used. The degree of force that the officer may reasonably be expected to use depends upon the amount of resistance, or the threat to safety that the situation presents.

The reasonable use of force is intended to maintain and/or reestablish control over a situation. Control is reached when a person either complies with an officer's directions, or the suspect is restrained or apprehended and no longer presents a threat to the officer or others. Since officers will encounter a wide range of behaviors, they must be prepared

to utilize a range of force options to maintain and/or reestablish control by overcoming resistance to the officers' lawful authority while minimizing injuries, bearing in mind that the use of force must be reasonably necessary in the circumstances.

Because there are an unlimited number of varied circumstances that could arise, no written policy can offer definitive answers to every situation in which the use of force might be appropriate. Rather, the goal of this policy is to set forth specific guidelines for the exercise of sound judgment, and reasonable, prudent decision-making.

V. USE OF DEADLY FORCE:²

A. Justification for the Use of Deadly Force: A police officer may only use deadly force in under the following circumstances and is also bound by those limitations specified within this directive:

1. Officers are authorized to use deadly force to:
 - a. Protect the officer or others from what is reasonably believed to be a threat of death or serious bodily injury; and/or
 - b. To effect an arrest only if:³
 - 1) The arrest is for a felony;
 - 2) The officer reasonably believes that the force employed creates no substantial risk to innocent persons; and
 - 3) The officer reasonably believes (i.e. has "probable cause" to believe) that:
 - a) The crime for which the arrest is to be made involved conduct including the use or threatened use of deadly force; or
 - b) There is a substantial risk that the person to be arrested will cause death or serious bodily harm if such person's apprehension is delayed.
2. Where practical prior to discharging a firearm, officers shall identify themselves as law enforcement officers and state their intent to shoot.

² CALEA Std.: **1.3.2** – *A written directive states that an officer may use deadly force only when the officer reasonably believes that the action is in defense of human life, including the officer's own life, or in defense of any person in imminent danger of serious physical injury. Definitions of conditional terms, such as those for reasonable belief, serious physical injury, or similarly used terms that are used to qualify the directive should be included.*

³ *Com. v. Klein*, 372 Mass. 823, 363 N.E.2d 1313 (1977)

3. Officers may use deadly force to euthanize an animal that represents a threat to public safety or as a humanitarian measure where the animal is seriously injured when the officer reasonably believes that deadly force can be used without harm to the officer or others.

B. Use of Firearms:

1. *Use of Firearms & Weapons as it pertains to Deadly Force:* Whenever an officer discharges a firearm at another person either in self-defense or defense of others, or to prevent the escape of a felon, such action shall be construed as the use of deadly force. Purposely discharging a firearm in the direction of another person constitutes the use of deadly force.
2. *Pointing of a Firearm at Another Individual(s):* The mere production of a weapon or the pointing of a firearm, even if coupled with a threat to cause death or serious bodily harm, does not constitute the use of deadly force so long as its purpose is limited to creating an apprehension of harm, rather than actual harm. Although these actions are not specifically defined as an actual use of force, any officer who points a firearm at another individual shall be required to fully document the incident in a Use of Force Report, using reporting guidelines and review process set forth in Section IV of Policy #401 – *Use of Force Reporting*.
 - a. Whenever practical to do so, an officer will always identify him/herself as a “police officer” when pointing a firearm at another person and state his/her intentions to shoot prior to discharging a firearm.
 - b. *Exception:* Officers engaged in a controlled tactical operation (i.e., Special Response Team conducting the execution of a search warrant) will not be subject to the reporting requirements prescribed in Section V. B. 2. *Pointing of a Firearm at Another Individual(s)*, as these actions will later be documented by an involved officer(s) within the tactical operations in the form of an after-action report. Officers engaged in a controlled tactical operation will not be exempt from any other Use of Force reporting requirements.
3. *Use of Firearms in Performance of Duty:* An officer is only authorized to use a weapon that he/she has been authorized to carry, and only to the extent that is required in the lawful execution of his or her duties as defined by departmental policy and by law.
4. *Discharging of a Firearm:* Whenever an officer discharges a firearm, either accidentally or in the performance of police duty, whether on duty or off duty, the officer must notify the on-duty Shift Commander as soon as time and

circumstances permit. In such instances, the officer will be guided by the reporting requirements as established by this directive.

- a. Circumstances where officers are excused from the reporting requirements are expressly limited to the following circumstances, and *only* where the discharged firearm does not inflict injury to a person or cause property damage:

- 1) *Use of Firearms for Training or Recreational Purposes:* Officers who discharge firearms while engaged in training or for recreational purposes (recreational target shooting or hunting) are exempt from the requirements outlined within this section of the directive.

- 2) *Authorized Test Firing of Firearms:* Officers who have been authorized to test fire a firearm, whether is it part of the firearms maintenance program of department issued weapons, or as part of a court process to determine its operational capacity, will not be subject to the Use of Force Reporting guidelines. However, there are other types of records or reports that are normally required whenever performing either one of these functions.

5. *Destruction of Animals:* On occasion, an officer may be required to use his/her service weapon to destroy an animal for humane purposes, or to protect persons, other animals, or property. The use of deadly force under these circumstances is warranted when there is no other viable way of dealing with the animal (e.g., capture, transport to veterinarian, or disposal of the animal by other means). Before discharging a firearm for the purpose destroying an animal, the officer must consider the following factors:

- a. The officer must first confer with his/her supervisor, and provide the reasons why the officer feels it is necessary to destroy the animal in this fashion.
- b. The officer must exercise extreme caution so as not to pose any risk to surrounding persons or property.
- c. If an officer uses a firearm to destroy an injured animal, the officer is required to submit a police report, along with the Use of Force Report. The police report should address the reasons for using this method of destruction, as well as any issues or circumstances that may have arisen, and address how the animal was disposed of once it had been destroyed.

6. *Discharging Warning Shots:* Under no circumstances may an officer discharge his/her weapon for the purpose of providing a warning, or to threaten another.⁴
7. *Signaling Devices:* Firearms shall not be used as a signaling device or for the purpose of summoning assistance.
8. *Firing at or from moving vehicles:*
 - a. As a general rule, officers shall not discharge a firearm from within a moving vehicle.
 - b. Officers are also prohibited from discharging a firearm at a moving vehicle, except when the occupants of the vehicle are using it to employ/exert deadly force against the officer or another victim. In such cases, the officer may discharge a firearm if (1) there is probable cause to believe the use of the vehicle poses an immediate threat of death or serious bodily harm; and (2) there is reason to believe that his/her use of deadly force will not endanger innocent persons.

Note: Therefore, due to the risk of injury to innocent bystanders, it is strictly prohibited to shoot at a fleeing vehicle or at a vehicle that is going away from the officer and is no longer an immediate threat. Officers must be mindful that a bullet may be unable to penetrate the metal or glass surfaces of an automobile, resulting in ricocheting bullets causing injury to innocent persons.
 - c. Firing strictly to disable a vehicle is prohibited.
 - d. In every incident, the officer shall take into account the location of vehicular and pedestrian traffic and the potential hazard to innocent persons.
 - e. Firearms shall not be discharged when the circumstances do not provide a high probability of striking the intended target, or when there is substantial risk to the safety of other persons, including risks associated with vehicle accidents.
 - f. Every precaution shall be taken to ensure the safety of the general public in the vicinity.

⁴ CALEA Std.: 1.3.3 – A written directive governs the discharge of “warning” shots.

VI. USE OF LESS THAN LETHAL FORCE:⁵

- A. Use of Non-Deadly Force by Officers of this Agency:** As duly sworn law enforcement officers within the Commonwealth of Massachusetts, an officer of this agency has legal authority to use force and deadly force in certain situations subject to specific limitations. Notwithstanding this authorization, police officers have a duty to employ extraordinary care in the handling of firearms and other weapons. It is essential that officers exercise sound judgment and act reasonably under all circumstances where any force is applied. An officer should resort to deadly force only when immediately necessary and only after less drastic alternatives have been exhausted, or when probable cause exists to believe any lesser degree of force will be ineffective in light of the prevailing circumstances.
- B. Justification in the Use of Less than Deadly Force:** Officers are justified in using non-deadly force in the performance of their duties only when they reasonably believe the force employed is immediately necessary to:
1. Protect themselves or others against the use of unlawful force, violence, or an attack by another person.
 2. Prevent another from committing suicide or inflicting serious bodily harm upon him/her.
 3. Thwart the commission of a crime involving or threatening bodily harm, damage to or loss of property, or a breach of the peace.
 4. Prevent an escape; or
 5. Effectuate a lawful arrest (where resistance is offered) for any offense or crime under the laws that the officer has been empowered to enforce.
- C. Use of Less than Deadly Force to Effectuate an Arrest:** The use of less than deadly force to effectuate an arrest is justifiable under the following circumstances:
1. Prior to the use of non-deadly force in effectuating an arrest, officers must make the purpose of the arrest known to the suspect unless the officer reasonably believes that his or her identity and purpose are known to the suspect, or extenuating and exigent circumstances exist.
 2. When a suspect physically resists the officer's attempt to effectuate a lawful arrest, or attempts to cause injury or harm to an officer, threatens to use any

⁵ CALEA Std.: 1.3.4 – *A written directive governs the use of authorized less lethal weapons by agency personnel.*

physical force, attempts to escape, or takes any other action intended to prevent an officer from effecting a lawful arrest; or

3. The level of force to be used by an officer effectuating a lawful arrest is limited to only that which is necessary to overcome any resistance or force being used by the perpetrator.

Note: An officer must immediately cease the use of non-deadly force to effectuate an arrest once the suspect's resistance or physical force against the officer has ceased.

4. *Clarification:* Merely placing handcuffs on a prisoner will not be construed to be a use of physical force. Use of restraining devices is mandatory on all prisoners, unless in the officer's judgment unusual circumstances exist that make the use of restraining devices impossible or unnecessary (e.g., very young juvenile, handicapped, injured person, etc.).

- D. Limitations on the Use of Less than Deadly Force:** An officer is justified in the use of force only when necessary to effectuate lawful objectives and may use only such force that is reasonable in relation to the harm that the officer seeks to prevent.

Note: Police officers while acting under the color of their official duties are not obliged to desist from making a lawful arrest because resistance may be encountered or threatened. They may not only stand their ground, but may also press forward to achieve a lawful objective, overcoming force with force.

VII. INTERMEDIATE NON-DEADLY WEAPONS AUTHORIZED:⁶

- A. Using Weapons Consistent with Training:** All authorized personal defensive weapons will be used in the manner prescribed during training (also refer to *Policy #403 – Issuance and Use of Firearms*). Further, no officer will be permitted to employ any department issued weapon prior to successfully completing department training courses or other courses of training provided or approved by the Municipal Police Training Committee (MPTC, formerly the Massachusetts Criminal Justice Training Council).

⁶ CALEA Std.: 1.3.9 – A written directive requires that only weapons and ammunition authorized by the agency be used by agency personnel in law enforcement responsibilities. The directive shall apply to weapons and ammunition carried both on and off duty, and must address: a. the types and specifications of all lethal and less lethal weapons approved for use, including those weapons used by members of tactical teams or other specialized personnel;

- B. Unauthorized Use of Weapons:** Under no circumstances will an officer of this department carry or use blackjacks, saps, nunchakus, kempo sticks, brass knuckles, weighted gloves, or any other weapon that has not been authorized by this department.
- C. Prohibited Manual Holds:** Officers will not employ carotid control or choke holds. Further, officers will not use any other type of manual holds that are intended or designed to inflict pain or injury. This does not include those types of manual holds for which a police officer has been specifically trained in gaining control or maintain control of a detainee.
- D. Approved Less-Than-Lethal Weapons:** In addition to the department issued sidearm, officers are permitted to possess the following less-than-lethal weapons, once they have been trained and deemed proficient in their use:
1. Oleoresin Capsicum O.C. Spray
 2. Approved PR 24 control device

VIII. PROCEDURES TO FOLLOW WHENEVER FORCE IS USED:

- A. Providing Medical Attention:** After **any level of force** is used, the officer shall immediately evaluate the need for medical attention or treatment for the person upon whom the force was used and arrange for appropriate medical treatment or intervention when:⁷
1. That person has visible injury or manifests the signs of injury; or
 2. Where an officer has used pepper spray upon an individual, immediately thereafter, officers shall be alert to any indications that the individual needs medical care. Observations that would suggest the need for care include, but are not limited to: breathing difficulties, gagging, profuse sweating, and loss of consciousness; or
 3. That person complains of injury or discomfort and requests medical attention.
Note: Any person requesting and/or deemed in need of immediate medical attention shall be transported or evaluated by EMS (in accordance with departmental policy entitled, **#650 – Transportation of Prisoners**) to the

⁷ CALEA Std.: **1.3.5** – A written directive specifies procedures for ensuring that provision of appropriate medical aid after the use of lethal or less lethal weapons, and other use of force incidents as defined by the agency.

nearest available emergency medical treatment center or hospital. All medical treatment received by the detainee shall be noted in the officer's police report.

- B. Notifying the Sector Sergeant:** The officer shall promptly notify a Sector Sergeant whenever an officer has resorted to the use of force, regardless of whether or not any injury was sustained. The Sector Sergeant will then notify the Patrol Supervisor or Shift Commander of the incident.
- C. Attempt to Locate Witnesses:** The officer shall attempt to locate and identify all witnesses, and obtain and document their statements within a police report.
- D. Submission of Reports:** The officer shall prepare and submit all required police reports, documenting that force was used and under what circumstances. If more than one officer was involved in the use of force incident resulting in an injury, each officer shall complete a detailed police report, outlining his/her actions and observations in the incident.
- E. Supervisor's Responsibilities:** The Sector Sergeant shall immediately respond to the scene of any incident where, as the result of the application of physical force, an officer is injured, a prisoner has a visible injury or complains of injury or discomfort, or requests medical attention. The on-scene supervisor is responsible for making sure the following steps are taken, as may be deemed appropriate for the situation:
1. Ensure that officers receive any necessary assistance, including medical treatment (and those interventions outlined within policy, *#402 – Post Shooting Incident Guidelines*, if applicable) and that any injuries to officers are properly documented.
 - a. Determine whether the Police Commissioner should be notified.
 2. Ensure that the need for medical treatment for the prisoner is properly evaluated and provided.
 3. Determine if a detective should respond to the scene and evaluate the level of investigative services to be utilized (including photographs, measurements and diagrams). If an individual involved in the incident complains of an injury or of pain, supervisors are encouraged to obtain photographic documentation.

NOTE: A photograph showing no injury may be as important as one that illustrates an injury.

4. File a supplemental report on the incident and detail any observations and factors that are pertinent to the case.