





POLICIES AND PROCEDURES MANUAL

	USE OF FORCE	
	POLICY NUMBER: 4-1	ISSUING AUTHORITY 
	EFFECTIVE DATE: September 1, 2021	Michael A. Davis Chief of Police

I. GENERAL CONSIDERATIONS AND GUIDELINES

Because of their law enforcement and peacekeeping roles, law enforcement personnel are required at times to use physical force to enable them to fully carry out their duties.

The objective of the use of force is to maintain and/or reestablish control over a situation. Control is reached when a person complies with an officer's directions and/or the subject is restrained or apprehended and no longer presents a threat to the officer or others. NUPD officers should always use the minimum amount of force that is reasonable and necessary to accomplish their lawful objectives.

This policy will set specific guidelines and provide officers with a concrete basis on which to make reasonable and prudent decisions.

*Note: In this policy, any reference to Officer includes both Sworn Police Officers and Non-Sworn Community Service Officers

II. POLICY

It is the policy of the department that: [4.1.1]

- A. Officers apply de-escalation techniques when possible and use only the force that is reasonable to accomplish lawful objectives.
- B. Non-sworn officers who are authorized to carry batons and aerosol sprays may use them in defense of themselves, fellow officers, or others who are threatened with serious bodily injury or death.
- C. Reasonable force may be used to overcome and control unlawful resistance and to prevent any attack against the officer or another person. This includes the use of lethal and/or less lethal force with lethal and/or less lethal weapons.
- D. The degree of force that may be used will be determined by the facts and circumstances of the incident including but not limited to: the nature of the offense, the degree of resistance of the subject, and the threat to the safety of the officer or others.

- E. Officers are expected to display proper judgment, restraint and competence, whatever the level of force required.

III. DEFINITIONS

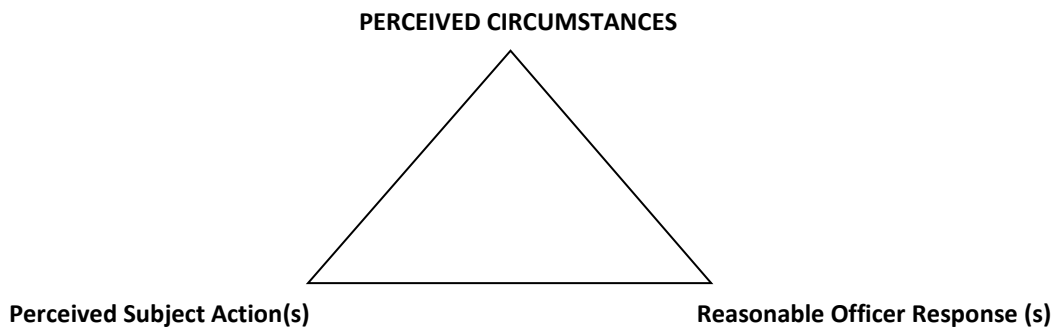
- A. *Lethal Force*: Any use of force that is reasonably likely to cause serious bodily injury or death.
- B. *Less Lethal Force*: Any use of force that is not likely to cause serious bodily injury or death. It includes the use of approved defensive/physical tactics, aerosol sprays, electronic control weapons, batons, Specialty Impact Munitions (SIMS) and K9s.
- C. *Weaponless Physical Force*: The application of force to a resisting subject using hand control techniques that have less chance of producing injuries. The use of custodial procedures with compliant subjects, such as physical touching, holding, frisking, or handcuffing, are not included.
- D. *Passive Resistance*: The preliminary level of non-compliance, where a subject, although non-compliant, offers no physical or mechanical energy enhancement towards the resistance effort.
- E. *Active Resistance*: Advanced level of non-compliance, where a subject's resistance is increased in scope and intensity, and includes energy enhanced physical or mechanical defiance.
- F. *Assaultive/Bodily Harm*: The officer's attempt to gain lawful compliance has been met with active, hostile, non-compliance, culminating in a perceived or actual attack upon the officers or others. The scope and severity of the attack would support the reasonable assumption that the actions of the attacker would not result in anyone's death or serious bodily injury.
- G. *Serious Bodily Injury*: Bodily injury that results in: (i) permanent disfigurement; (ii) protracted loss of impairment of a bodily function, limb or organ; or (iii) a substantial risk of death.
- H. *Reasonable Belief*: The known facts and circumstances that would cause an ordinary and prudent officer to act or think in a similar way under similar circumstances.
- I. *Probable Cause*: Probable cause exists if, at the time of an arrest, the facts within the knowledge of the involved officer (or within the collective knowledge of the police) are reasonably trustworthy and sufficient to warrant an officer of reasonable caution and prudence to believe that the person being arrested has committed, is committing or is about to commit the crime for which the arrest is being made.
- J. *Chokehold*: The use of a lateral vascular neck restraint, carotid restraint or other action that involves the placement of any part of 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.
- K. *De-escalation Tactics*: 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, creating distance between the officer and a threat and requesting additional resources to

resolve the incident, including, but not limited to, calling in medical or licensed mental health professionals to address a potential medical or mental health crisis.

- L. *Retaliation*: is any actual or attempted adverse or negative act against a person who in good faith makes a report, serves as a witness, or participates in an investigation or adjudication process regarding an alleged violation of a university or department policy. Retaliation includes, but is not limited to, threatening, intimidating, harassing, coercing or any other conduct that would discourage a reasonable person from engaging in activity protected under this policy. Retaliation does not include good faith actions lawfully pursued in response to a report of an alleged violation of a university or department policy.

- M. Use of Force Model:

MPTC USE OF FORCE REFERENCE GUIDE

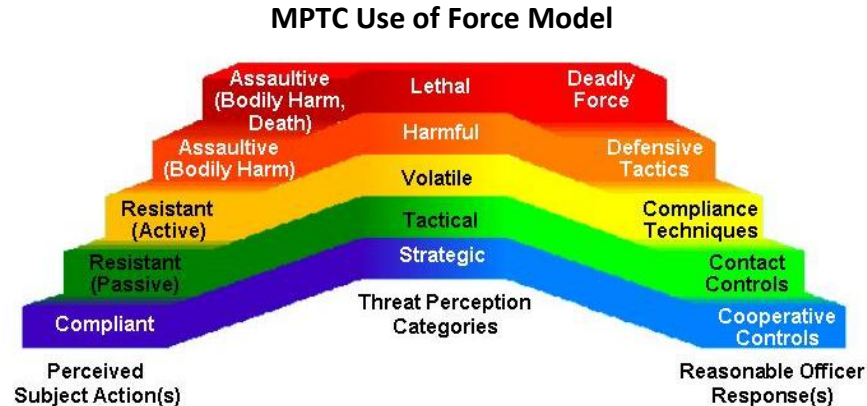


The **Totality Triangle** © depicts the three elements which must be considered in determining whether an application of force was objectively reasonable.

Perceived 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 culminating in its identification on the Use of Force Model.

Perceived Subject Action (s) - the subject action(s) as perceived by the reasonable officer that designate the subject at one or more of the Use of Force Model’s compliant/non-compliant categories.

Reasonable Officer Response (s) - the “balanced” response(s) appropriate for the reasonable officer’s selection from the Use of Force Model’s identified response categories, in order to maintain or gain subject compliance and control.



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. TM 1998, G. Connor. All rights reserved.

Threat Perception Color Code - the tactically applied and color adapted correlation of the Threat Perception Categories on the Use of Force Model.

Control Superiority Principle © - the understanding and visualization method utilized to reinforce the inherent principle of officer force superiority over the subject's degree of compliance/non-compliance.

Assessment/Selection Arrows - the mechanism utilized to indicate the dynamic nature of an officer's decision-making process of Tactical Transition © during the enforcement encounter.

Threat Perception Categories

Strategic - the broad "mind set" of the officer, represented by the blue baseline on the Threat Perception Color Code©. The contemporary officer must maintain this functional foundation, centered upon strategies designed to enhance the status of safety.

Tactical - the second level on the Use of Force Model, depicted by the color green. Here the officer perceives an increase in threat potential within the confrontational environment and tactical procedures are designated and deployed.

Volatile - the third level on the Use of Force Model utilizing the color yellow to indicate an activated level of alertness and threat potential. Here the officer is confronted with the presence or potential of critical dynamics, including threat intensity and severity within the enforcement encounter.

Harmful - at this level on the Use of Force Model the color orange denotes an accelerated perception of threat directed upon the officer or others. In this regard the officer must deploy initial defensive force in the effort toward eventual subject compliance and control.

Lethal - the highest level on the Use of Force Model correlates to the most intense color in the Threat Perception Color Code©, red. Although this potentially lethal degree of threat is most infrequent, it remains most crucial for the continuation of officer safety and security.

Perceived Subject Action (s) Categories

Compliant - represents the vast majority of officer/citizen confrontations in the form of cooperation and control. Such cooperation is generally established and maintained via cultural acceptance and verbalization skills.

Resistant (*Passive*) - the preliminary level of citizen non-compliance. Here, the citizen, although non-compliant, offers no physical or mechanical energy enhancement toward the resistant effort.

Resistant (*Active*) - the subject's non-compliance is increased in scope and/or intensity. The subject's non-compliance now includes energy enhanced physical or mechanical defiance.

Assaultive (*Bodily Harm*) - the officer's attempt to gain lawful compliance has culminated in a perceived or actual attack on the officer or others. The officer makes the reasonable assessment that such actions by the subject would not result in the officer's or other's death or serious bodily harm.

Assaultive (*Serious Bodily Harm / Death*) - the officer's attempt to gain lawful compliance has culminated in the perception of an attack or the potential for such an attack on the officer or others. The officer makes the reasonable assessment that such actions by the subject could result in serious bodily harm or death to the officer or others.

Officer Response(s) Categories

Cooperative Controls - includes controls developed to preserve officer safety and security, including: communication skills, restraint applications, etc.

Contact Controls - includes countermeasures designed to guide or direct the non-compliant subject. These "hands on" tactics could include the elbow/wrist grasp, Hand Rotation Position©, etc.

Compliance Techniques - includes countermeasures designed to counter the subject's enhanced degree of resistance. These tactics could include the Hand Rotation Technique©, aerosol irritants, canine bark, and ECW in drive stun mode.

Defensive Tactics - includes countermeasures designed to cease the subject's non-lethal assault on the officer or others, regain control, and assure continued compliance. These tactics could include baton strikes, kicking techniques, canine bite, and ECW in full probe deployment.

Deadly Force - includes immediate and conclusive countermeasures designed to cease an assault which is lethal or could cause great bodily harm to the officer or others. These tactics could include the use of a firearm, lethal strikes, or tools of available means.

IV. PROCEDURES

A. Use of Reasonable Force [4.1.1]

1. The policy of the Northeastern University Police Department requires that officers apply de-escalation techniques when possible and use only the force that is reasonable to accomplish lawful objectives.
 2. All training sessions related to use of force shall review at a minimum the two landmark cases regarding search and seizure and use of force:
 - a. Terry v Ohio (1968): "Would the facts available to the officer at the moment of the seizure or the search warrant a man (*person*) of reasonable caution in the belief that the action taken was appropriate."
 - b. Graham v Connor (1989): "...the reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than the 20/20 vision of hindsight." It is important to note that this case refers to the perspective of a reasonable officer on the scene rather than a reasonable person who may not have been at the scene.
- B. Use of Deadly Force [4.1.2]
1. The use of deadly force is authorized when a subject is assaultive (serious bodily harm/death) or when "...the officer's attempt to gain lawful compliance has culminated in the perception of an attack or the potential for such an attack on the officer or others. The officer makes the reasonable assessment that such actions by the subject *could* result in serious bodily harm or death to the officer or others."
 2. 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.
 3. Officers are authorized to use deadly force to:
 - a. protect the officer or others from what is reasonably believed to be an imminent threat of death or serious bodily harm; and/or
 - b. to effect an arrest only if:
 - (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 (has *probable cause*) that:
 - (i) the crime for which the arrest is to be made involved conduct including the use or threatened use of deadly force, or
 - (ii) 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.
 4. Where practicable prior to discharging a firearm, officers shall identify themselves as law enforcement officers followed by appropriate compliance commands.

5. 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 means or opportunity.

C. Deadly Force Restrictions

1. Officers may use deadly force to destroy an animal only if that animal represents an imminent threat to public safety and when the officer reasonably believes that deadly force can be used without harm to the officer or others. Patrol rifles shall not be used to destroy animals. Officers should notify a supervisor prior to discharging a firearm for this purpose when practicable.
2. Firearms shall not be discharged as a bluff, warning, or signal shot. [4.1.3]
3. A law enforcement officer shall not discharge any firearm into or at a fleeing motor vehicle unless, based on the totality of the circumstances, such discharge is necessary to prevent imminent harm to a person and the discharge is proportionate to the threat of imminent harm to a person.
4. The use of deadly force shall not be used in the process of arresting a fleeing felon solely because the suspect is fleeing.

D. Use of Less Lethal Force [4.1.4]

1. Where deadly force is not authorized, officers may use only the level of force that is reasonable to bring an incident under control.
2. Officers are authorized to use department-approved, less lethal force techniques and issued equipment to:
 - a. protect the officer or others from physical harm;
 - b. restrain or subdue a resistant individual, while making a lawful arrest or placing a person in protective custody;
 - c. bring an unlawful situation safely and effectively under control;
 - d. Non-sworn officers are limited in the use of less lethal weapons for defense of themselves, fellow officers, or others who are threatened with serious bodily injury or death.
3. Baton:
 - a. All officers authorized to carry a tactical baton will be trained in its use by a certified defensive tactics instructor.
4. Oleoresin Capsicum Spray
 - a. All officers authorized to carry OC spray will be trained in its use by a certified defensive tactics instructor.
 - b. Decontamination should be undertaken as soon as practicable.

- c. OC spray shall not be used on passively resisting subjects.
 - d. See *Medical Attention* below.
 5. The mere placing of handcuffs on a subject 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 which make the use of restraining devices impossible or unnecessary, such as on a young juvenile or on a subject who is handicapped or injured.
- E. Medical Attention
 1. After any level of force is used, the officer shall immediately evaluate the need for medical attention or treatment for that person upon whom the force was used and arrange for such treatment when: [4.1.5]
 - a. that person has a visible injury; or
 - b. in the case of use of pepper spray, after spraying a subject and when safe to do so, officers shall be alert to any indications that the subject needs medical care. This includes, but is not limited to breathing difficulties, gagging, profuse sweating, and loss of consciousness; or
 - c. that person complains of injury or discomfort and requests medical attention.
 2. Any person requesting and/or deemed in need of immediate medical attention shall be transported in accordance with Policy 70-1 *Transporting and Processing Detainees* to the appropriate hospital or medical facility. All medical treatment received shall be noted in the officer's report.
 3. Injury to Prisoner
 - a. The officer shall promptly notify his/her immediate supervisor of the incident.
 - b. The officer shall attempt to locate and identify all witnesses, and obtain and document their statements.
 - c. The officer shall prepare and submit all required reports. If more than one officer is involved in a use of force incident resulting in an injury, each officer shall complete a supplemental report to the original report outlining his/her actions and observations in the incident.
- F. Duty to Intervene [1.2.10]
 1. The Northeastern Police Department requires employees to intervene and notify appropriate supervisory authority if they observe another agency employee or public safety associate engage in any unreasonable use of force or if they become aware of any violation of departmental policy, state/provincial or federal law, or local ordinance.
 2. 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.

3. An officer who observes another officer using physical force, including deadly force, beyond that which is necessary or objectively reasonable based on the totality of the circumstances shall report the incident to an appropriate supervisor as soon as reasonably possible but not later than the end of the officer's shift. The officer shall prepare a detailed written statement describing the incident consistent with uniform protocols. The officer's written statement shall be included in the supervisor's report.
 4. This policy and applicable law prohibits retaliation against personnel who intervene or report any unreasonable use of force, violation of departmental policy, state/provincial or federal law, or local ordinance.
- G. Choke Holds and Vascular Neck Restrictions [4.1.6 and 4.1.7]
1. NUPD Officers shall not use a chokehold. 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 law enforcement officer's body on or around a person's neck in a manner that limits the person's breathing or blood flow."
- H. Reporting Use of Force [4.2.1]
1. A Use of Force Report is required to be entered into Guardian Tracking whenever an officer of the department:
 - a. discharges a department firearm, for other than training or department-approved recreational purposes; or displays a firearm as a means of gaining subject compliance; [4.2.1(a)]
 - b. takes an action that results in or is alleged to have resulted in injury or death of another person; [4.2.1(b)]
 - c. applies force through the use of lethal or less lethal weapons; or [4.2.1(c)]
 - d. applies weaponless physical force as a means to defend themselves or another or to overcome continued or persistent resistance; [4.2.1(d)]
 - e. displays or directs a firearm at a subject;
 - f. the use of custodial procedures with compliant subjects, such as physical touching, holding, frisking, or handcuffing, are not included as reportable use of force incidents.
 2. Use of Force Reports shall be completed and submitted to the shift supervisor prior to the end of the officer's tour of duty unless, at the discretion of the Lieutenant of Patrol circumstances dictate otherwise. Shift supervisors shall review the Use of Force Reports and submit them to the Lieutenant Commander of Patrol who will forward the final report to the Deputy Chief and Lieutenant of Administration and Professional Standards.
 3. Patrol Supervisor
 - a. The patrol supervisor shall immediately respond to the scene of any incident where force has been used to ascertain the facts and circumstances surrounding the incident.
 - b. The patrol supervisor shall:

- (1) facilitate activities so that officers receive any necessary assistance, including medical treatment, and that any injuries to officers are properly documented;
 - (2) determine that the need for medical treatment for the prisoner is properly evaluated and provided;
 - (3) determine if an officer of a higher rank should respond to the scene and the level of investigative services to be utilized including photos, measurements, and diagrams. If an injury or complaint of pain exists, supervisors are encouraged to obtain photographs;
 - (4) review the Use of Force Report and submit it to the Lieutenant Commander of Patrol prior to the end of the tour of duty unless circumstances dictate otherwise.
- (NOTE: A photograph showing no injury may be as important as one that shows injury. Also, officers are advised to protect the privacy and confidentiality of all subjects.)

I. Administrative Review of Use of Force [4.2.2]

- a. A supervisor shall respond to any incident where force was used.
- b. The supervisor shall create a use of force incident in Guardian Tracking indicating:
 - (1) whether the officer's use of force was reasonable and within department policy;
 - (2) whether de-escalation techniques were used; and
 - (3) that the officer included a narrative in the report regarding de-escalation techniques and their effectiveness.
- c. The Lieutenant of Patrol shall review the report to determine if the use of force was in compliance with department policy and procedures.
- d. The Deputy Chief of Police shall review the report to determine if the use of force was in compliance with department policy and procedures.
- e. The Lieutenant of Professional Standards shall review the report to determine the need for any policy or training changes or enhancements.

J. Removal from Line of Duty Assignment [4.2.3]

1. Any employee whose actions or use of force in an official capacity results in a death or serious physical injury of another, shall be reassigned from any line function to administrative duties until the completion of an administrative review has occurred. This may include being placed on paid administrative leave.
2. For actions resulting in death or serious physical injury an administrative review will be conducted by the Lieutenant of Professional Standards.
3. Any action by an officer that results in death will also be referred to the District Attorney's office. The Chief of Police or designee shall maintain liaison with the District Attorney's office.

4. Any firearm and/or other relevant equipment used in the incident shall be confiscated and a replacement weapon shall be issued if appropriate.
 5. Officers removed from line functions due to use of force involvement shall attend post-incident debriefing or counseling.
- K. Annual Analysis [4.2.4]
1. Annually, the Lieutenant of Administration and Professional Standards shall conduct a review all use of force incidents and submit a final analysis the Chief of Police.
 - a. This review will attempt to identify trends, improve training, enhance officer safety, and evaluate weapon and equipment needs/upgrades; and
 - b. will summarize the actions taken by PSU regarding individual instances of force during the course of the calendar year.
- L. Assault on Sworn Officer Review [4.2.5]
1. Annually, the Lieutenant of Administration and Professional Standards shall conduct a review of all assaults on law enforcement officers to determine trends or patterns, with recommendations to enhance officer safety, revise policy, or address training issues.
- M. Mass Demonstrations
1. When a police department has advance knowledge of a planned mass demonstration, it shall attempt in good faith to communicate with organizers of the event to discuss logistical plans, strategies to avoid conflict and potential communication needs between police and event participants. The department shall make plans to avoid and de-escalate potential conflicts and designate an officer in charge of de-escalation planning and communication about the plans within the department.