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**AN INVESTIGATION OF THE USE OF FORCE BY  
THE FAIRFAX COUNTY POLICE DEPARTMENT**

**FINAL REPORT  
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## Executive Summary

This research project, conducted by researchers from the University of Texas at San Antonio (UTSA) and the University of Cincinnati, analyzed three years (2016-2018) of use of force and related data from the Fairfax County Police Department (FCPD) to investigate the influence of civilian race, ethnicity, and other factors on force used by FCPD officers. The UTSA-led research team also was charged with providing recommendations for reducing potential bias in officer decision-making and improving use of force data collection methods and processes to facilitate future analyses. Over the three-year study period, the data included 1,360 cases of force used by an FCPD officer against at least one civilian. These data were supplemented with a variety of other data provided by the FCPD or Fairfax County that allowed for a detailed investigation of the characteristics of those involved (civilians and officers) in the incidents, and the situational contexts in which they occurred. Rates of force used against members of identifiable racial and/or ethnic groups were compared to non-Hispanic Whites and to relevant external data sources (benchmarks) that serve as estimates for the *risk* of force that could be expected by those groups based on their suspected criminal involvement and rates of arrest. Additional multivariate analyses were conducted to examine factors associated with the level or severity of force experienced by civilians, including the influence (if any) of civilian race and/or ethnicity on the severity of force used by the FCPD and whether similar factors impacted the likelihood of force used during arrests. Where appropriate within the limitations of the data, analyses were conducted at the individual civilian, incident, and FCPD district station levels.

### Findings

Broken down by race and ethnicity, the FCPD used force against 576 Black persons (42%), 519 White persons (38%), 218 Hispanic persons (16%), and 45 Asian persons (3%) that took place between January 1, 2016 and December 31, 2018. Average force levels were slightly higher for Blacks (2.4 on a 4.0 scale) than for other racial groups (2.1 for Whites, 2.2 of Hispanics, 2.0 for Asians), while resistance levels were essentially equal across the racial and ethnic groups. With the exception of an elevated risk of force by Hispanic officers in one of the incident-level models, there were no meaningful differences in the levels of force used by officers of different races or ethnicities against minority civilians.

We used benchmarks to compare the rate of force used against racial and ethnic subgroups to the *expected risk* of force across those groups based on their proportionate representation as criminal suspects and arrestees in Fairfax County. Six benchmark comparisons were used: (1) All criminal suspects, (2) Part I violent crime suspects, (3) Part I violent crime suspects plus those involved in weapons offenses and simple assault, (4) All arrestees, (5) Part I violent crime arrestees, (6) Part I violent crime arrestees plus those involved in weapons offenses and simple assault. Across Fairfax County, force was used against White civilians at rates that exceeded their representation in all six suspect or arrestee benchmarks, and in some cases, by a substantial margin. Similarly, the rate of force used against Black civilians exceeded their benchmarks in four out of the six benchmarks, including all arrestee benchmarks. The FCPD used force against Hispanic persons at lower rates than their representation in all benchmarks and against Asian individuals at rates that exceeded the suspect but not arrestee benchmarks. Comparing rates of force used against minorities *relative* to Whites utilizing these same benchmarks showed that in

all but one case, the rates of force used against minorities was *lower* than the rate used against Whites. These disproportionality ratios should be interpreted with caution, however, because of the high rate at which Whites experienced force across all benchmarks examined. Finally, the rate at which civilians detained for mental illness reasons experienced force varied slightly by race/ethnicity and by mental health benchmark (voluntary vs. involuntary detentions), but Black civilians experienced lower rates of force compared to their representation among all those detained under temporary detention orders in the county.

Examining the benchmarking data by district station revealed some differences from the county-wide findings. For example, in Mt. Vernon, the rates of force used against Black civilians exceeded all benchmarks, and force was used disproportionately against Blacks relative to Whites in four of the six benchmarks examined. Blacks also experienced force at rates that consistently exceeded the benchmark comparisons in Franconia, McLean, and West Springfield. Hispanic civilians were overrepresented as the subjects of force in the Sully (3 of 6 benchmarks) and Mason (3 of 6 benchmarks) district stations. Finally, the rates of force used against Asian civilians notably exceeded the chosen benchmarks in Mt. Vernon (all suspect benchmarks), Reston (4 of 6 benchmarks), West Springfield (all benchmarks), and Fair Oaks (all benchmarks). Some disproportionality ratios were elevated for minority civilians relative to Whites in Sully (Hispanics), Mt. Vernon (Blacks and Asians), McLean (Blacks and Asians), Mason (Hispanics), Reston (Asians), Franconia (Blacks), West Springfield (Blacks and Asians), and Fair Oaks (Asians). The consistency of the elevated disproportionality ratios varied by district and by race/ethnicity; some district stations showed only one or two elevated ratios while others (e.g., Asians in Fair Oaks) showed consistent overrepresentation of certain minority groups.

The research team also examined the *level* or *severity* of force used against civilians in Fairfax County using multivariate regression models that allow for an assessment of factors associated with the level of force used while controlling for (or holding constant) a variety of other relevant indicators. While a number of factors proved to be predictive of higher levels of force, race and ethnicity – Black, and to a lesser degree Hispanic, individuals – were positively related to increased levels or severity of force. These findings were consistent across four of six models for Blacks and one of six models for Hispanics. In addition, Black, but not Hispanic, civilians also were more likely to have force used against them during arrests compared to Whites, while Asian civilians were less likely to have force against them in arrest situations. At the district station level, Mt. Vernon, Franconia, and McLean showed higher levels of force against Black civilians after controlling for a variety of other relevant factors, including suspect resistance. Mt. Vernon also showed an elevated severity of force used against Hispanic civilians.

In sum, force was used County-wide more often than expected against White and Black civilians based on the benchmark comparisons and generally less often than expected against Hispanic civilians. The findings for Asians were mixed with some benchmarks showing overrepresentation and others not. The benchmark findings varied by district station with Mt. Vernon showing the most consistent disparities for Blacks while Asian disparities were consistently found in Mt. Vernon, West Springfield, and Fair Oaks. Some disparities also were identified for Hispanic civilians in the Sully and Mason district stations. Multivariate analyses examining racial and ethnic differences in the *severity* of force and force used during arrests found that Black civilians experienced more severe force relative to Whites in four of the six

models while Hispanics experienced higher levels of force in one of the models. In arrest situations, Black civilians (but not Asian or Hispanic civilians) again were more likely to have force used against them compared to Whites.

Based on these findings, the research team advises the FCPD to consider implementation of the following data collection, policy, and training recommendations.

## **Data Collection Recommendations**

- Capture all instances of force and resistance sequentially during each encounter involving the use of force. Each force tactic or weapon used by each officer and each resistance action taken by each civilian should be documented in the order in which they occurred.
- Adjust some of the drop-down fields in Blue Team to allow for “Other” entries when the most accurate choice does not neatly fit within one of the available options
- Simplify the available lighting and weather selections and add fields for location (indoors or outdoors) and estimated temperature
- Improve the capture of medical and injury data for civilians and officers by adding treatment (medical treatment refused, treated and released on-scene, transported to hospital) and injury fields. Consider using the Abbreviated Injury Scale (or similar) from the medical literature to more accurately categorize the nature and severity of injuries (if any) sustained
- Add officer and civilian age, race/ethnicity, and gender fields to the use of force data collection environment
  - In the case of officers, include their rank, years of service, assignment, education level, and veteran status
- Add fields for the number of civilians involved in the incident and the distance between the officer and civilian when a police weapon was used
- Add a field to capture civilian demeanor at the time force initially was used
- Adjust the Force Type field to clearly distinguish force used against animals and vehicles from force used against persons
- Align Force Type field with General Order 540.4 (defining levels and types of force) and add additional options as recommended
- Capture the pointing, threatened use, or use of all weapon types, not just firearms, by civilians and officers
- Add an “Effectiveness” field for all control type options to identify when a control tactic

or weapon was effective, ineffective, or of limited effectiveness

- Align Citizen Resistance levels with General Order 540.4 (outlining levels of resistance) and incorporate the recommended four item scale
- Begin capturing all instances when deadly force would have been authorized by law and policy but *was not* used

## **Use of Force Policy Recommendations**

- Re-define the use of force reporting threshold to include any significant physical contact *beyond a firm grip*, including the use or threatened use of any weapon
- Add time, distance, cover, and patience to the definition of *de-escalation*
- Refine the policy preference for de-escalation by emphasizing the use of de-escalation to reduce the need for and the level of force required and to emphasize that officers must use only the *minimum* amount of force reasonably needed to overcome resistance
- Further define and provide examples of suspect resistance within the specified levels of resistance
- Incorporate a use of force continuum that clearly links levels of force to levels of resistance while allowing officers to escalate quickly if reasonably required under the circumstances
- Amend the policies requiring use of force documentation to include injury scales for officers and civilians. All injuries should be documented.
- Amend General Order 540.8 to allow for the use of deadly force to apprehend a felon fleeing from a crime of violence *only if* the suspect poses an *imminent* risk of death or serious injury to the officer or a third party, or consider eliminating the fleeing felon provision entirely and adopt a single, clear standard for the use of deadly force – Deadly force is permissible only if the suspect poses an imminent risk of death or serious injury to the officer or others.
- Review FCPD policies on the use of patrol dogs and consider limiting canine bites only to certain types of crimes or other narrowly-defined conditions
- Consider adopting a foot pursuit policy to help reduce force and injuries to officers and suspects

## **Training and Organizational Recommendations**

- Conduct a review of FCPD training to determine adherence with the following recently

released recommendations from the Council of Criminal Justice (2021):

- Include more time teaching communication skills, de-escalation tactics, principles of procedural justice, and handling situations that officers are most likely to encounter
- Adopt a resiliency-based approach rather than stress-oriented military training
- Include periodic recertification beyond firearms training
- Substantially increase the amount of training hours provided annually for de-escalation skills and tactics. Several years ago, the FCPD provided all officers with 4-hours of initial T3 de-escalation training and since has provided periodic 4-hour updates during in-service training in combination with other topics. Recent studies have demonstrated the need for increased dosage of de-escalation training to reduce training decay (Engel et al., 2020a; Engel et al., 2021a)
- Consider adoption of Integrating Communication Assessment and Tactics (ICAT) training, developed by the Police Executive Research Forum (PERF), to supplement the de-escalation training currently provided. This 16-hour training is the only police de-escalation training supported by empirical evidence demonstrating reductions in police use of force.
- If not already in place, consider adoption of a collaborative responder model for handling incidents with persons with behavioral health (BH) issues and/or intellectual/developmental disabilities (IDD). Ensure that officers have received adequate crisis intervention training (CIT), typically a 40-hour training curriculum.
- Ensure that any training designed to reduce the use and severity of force is supported through comprehensive changes to policies, and also through supervisory activities and oversight designed to encourage subordinates' use of de-escalation tactics and skills in the field. Focus on changing the culture to one that prioritizes, rewards, and incentivizes de-escalation first and the use of force as a last resort.
- Consider rotating officers out of high crime patrol areas and district stations on a regular basis to help reduce officer stress and the potential influence of implicit bias on decision-making
- Conduct annual or biannual follow-up analyses with improved force data to evaluate whether observed disparities diminish or change over time
- Utilize body-worn camera footage to evaluate racial/ethnic disparities in treatment by the FCPD, force escalation or de-escalation, and to improve training and accountability

## I. Introduction

In January 2020, Fairfax County, Virginia, through its Office of the Independent Police Auditor (OIPA), sought outside research assistance to investigate whether the Fairfax County Police Department used force in racially or ethnically disparate ways. Eighteen months earlier, the OIPA published *A Review of the Disparity in FCPD Use of Force Incidents in 2015* in which it found no discernable differences in the amount of force used against African-Americans compared to Whites who engaged in similar conduct.<sup>1</sup> Notably, however, the OIPA stated that it was unable to conclusively rule out the existence of racial bias and noted the limitations of the available FCPD data, including the OIPA's inability to determine whether force *was not* used against similarly-situated persons of different races or ethnicities.

Subsequently, the County issued a Request for Proposals (RFP) to conduct a scientifically rigorous evaluation of physical force used by the FCPD, with the overarching goal of determining whether such force was used disparately against members of minority groups, especially African-Americans. The RFP noted that in 2016 and 2017, African-Americans comprised about 40% of those against whom force was used by the FCPD, but that Blacks made up only about 9% of the County's residential population. This apparent disparity led the Board of Supervisors to direct the OIPA to identify an appropriate academic or research institution to conduct a more comprehensive analysis of FCPD use of force data.

Ultimately, the OIPA selected a research team led by experienced researchers from the University of Texas at San Antonio (UTSA) and the University of Cincinnati (UC) to conduct the analysis. The team is led by Dr. Michael R. Smith and includes Dr. Rob Tillyer (UTSA) and Dr. Robin Engel (UC) as co-principal investigators. Together, and separately, these researchers have conducted many similar studies of racial disparities in police activities, including the use of force, traffic stops, and pedestrian stops. Their work has been supported by the National Institute of Justice, the Laura and John Arnold Foundation, and many states, counties, and municipalities over the last two decades.

As outlined in their proposal, the research team was tasked with addressing the following research questions:

1. What factors or combination of factors contribute to the use of force by FCPD officers? Specifically, what role does civilian race, ethnicity, gender, or similar personal characteristics play in the decision to use force?
2. Does the rate of force experienced by persons of different races and/or ethnicities align with those groups' representation among persons at risk for having force used against them by the police? Do disparities exist in rates of force experienced by different racial and/or ethnic groups relative to risk?
3. Is civilian race, ethnicity, or gender related to the level of force used by the police while accounting for resistance and other relevant individual, situational, and environmental

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<sup>1</sup> The OIPA also completed a subsequent report (*A Review of the Disparity in FCPD Use of Force Incidents by Race in 2016*), which highlighted observed disparities in how force was experienced by Blacks and Whites in the county but did not make any conclusions about the causes.

factors?

4. How can the FCPD improve its use of force data collection processes to help facilitate future analyses?
5. What steps can the FCPD take to help reduce bias in use of force incidents?

This report serves as the culmination of their research and analysis, which began in early 2020, and it includes their methods, findings and recommendations. It covers data collected by the FCPD between January 1, 2016 and December 31, 2018 and is divided into seven sections, including this introduction.

Section II provides an overview of the academic literature guiding the empirical examination of police use of force. This literature review identifies the current issues, major research findings and limitations, and the remaining gaps in knowledge regarding police use of force. It also details the current evidence regarding the impact of various police trainings designed to reduce the use of force. Section III describes both the data sources and specific methodologies used in this assessment of FCPD use of force. The quantitative findings – including descriptive statistics, bivariate analyses, benchmarking analyses, and multivariate regression modeling – are presented in Section IV. Section V provides a series of recommendations to enhance the FCPD’s data collection efforts, while Section VI outlines a series of recommendations related to the FCPD’s use of force policies. The report concludes in Section VII with a summary of these data and policy recommendations, along with considerations regarding use of force training based on best practices and emerging evidence in the field.

## **II. Literature Review**

The ability and need to use force to make arrests, prevent crime, and maintain public safety is central to the police function. Yet collecting data on use of force has proven to be challenging, resulting in the use of a wide-range of data sources that have differing limitations. Especially challenging is the examination of racial/ethnic disparities in use of force due, in part, to the lack of easy-to-collect comparisons or benchmark data. Several studies have found that minority civilians experience more force than whites, although these findings are not universal. These reported disparities have been attributed to a range of causes, including individual officer bias, differential offending/resistance across racial/ethnic groups, and other explanations related to organizational and societal structures. Studies also have consistently demonstrated that police use of force is influenced by situational, civilian, officer, organizational, and community factors. Finally, several reform efforts have been proposed to reduce the occurrence of police use of force and racial/ethnic disparities in these events. This section of the report reviews the empirical evidence for each of these key topical areas, specifically: 1) measuring use of force, 2) factors that lead to the use of force, 3) racial/ethnic disparities in the use of force, and 4) the impact of police trainings designed to reduce the use of force.

### **Measuring Police Use of Force**

Police use of force is police action that threatens, attempts, or employs physical force to compel compliance from an unwilling subject (Garner et al., 1995). Force is used rarely, occurring in approximately 1-5% of all police-civilian encounters, but a higher rate of force and more serious force is reported for samples based on only arrestees (Davis et al., 2018; Garner et al., 2018; Hickman et al., 2008). Further, prevalence estimates can differ dramatically depending on how police agencies conceptualize, measure, and report use of force (Fridell, 2017a). Recently, researchers have questioned whether the inconsistent findings of the body of literature examining the predictors of force reflect actual differences in agencies' use of force or are simply a product of methodological variation across studies (Fridell, 2017a; Hollis, 2018).

Historically, force was measured as a simple dichotomous variable (e.g., force/no force, deadly force/nondeadly force), making no distinctions based on severity of force (Garner et al., 1995, 2002). Additional research then emerged indicating that the majority of use of force incidents involve low levels of hands-on force only (Stroshine & Brandl, 2019). Despite being the most common type of force used, weaponless physical force is the least empirically studied, which is problematic given that this type falls on the lower end of a force continuum and has the most potential for abuse due to greater officer discretion during these incidents (Lawton, 2007). Over time, studies began to measure and analyze police force using a severity continuum, which better captures the requirement for officers to use force that is proportionate to the force used against them or when necessary to obtain compliance. These studies, however, often only captured the most severe type of force used during an encounter, failing to capture multiple types of force that may occur as the situation evolves (Alpert & Dunham, 1999; Terrill et al., 2018). To better disentangle the micro-level interactions between officers and civilians, a number of researchers are exploring content-rich data sources like observations, report narratives, body-worn camera footage, and officer and civilian interviews to examine the "force factor" (i.e., the level of

civilian resistance subtracted from the officer level of force), time to force, and duration of force (Alpert & Dunham, 1999; Rojek et al., 2012).

## **Factors that Predict Police Use of Force**

Understanding what factors increase or decrease the likelihood of police use of force is critical to enhance agency policies, training, and supervision designed to make police-citizen encounters safer for both parties (PERF, 2021). Research in this area has significantly advanced in the last several decades, with increased empirical attention given to advanced statistical techniques, varied study designs, better data sources, and greater focus on the sequential actions and reactions between officers and civilians during use of force encounters. This body of research has examined the impact of specific factors (generally categorized as situational, individual, community, and organizational characteristics) that predict the likelihood of police use of force, as summarized below.

### **Situational and Legal Characteristics**

Consistently, across diverse methodological study designs and numerous police agencies, there is extensive evidence that the strongest predictors of police use of force (and the severity of force) are legally relevant variables, including citizen resistance, the presence of a weapon, and evidence of criminal behavior (PERF, 2021). Of these, *citizen resistance, in particular, is the strongest factor explaining both whether force is used and the level of force employed* (Engel & Swartz, 2014; Fridell & Lim, 2016; Gau et al, 2010; Morgan et al., 2020; Strohshine & Brandl, 2019). For example, Rossler and Terrill (2017) found that civilians who were non-resistant or who failed to comply experienced significantly lower levels of force compared to those who were defensively resistant; likewise, civilians who displayed aggressive physical resistance or deadly resistance were significantly more likely to experience more serious levels of force than those who were engaged in defensive resistance alone.

Other situational variables that embody threat also are consistently found to be strong predictors of police use of force; for example, the presence or use of a weapon, evidence of criminal behavior (particularly violent crime), and incidents involving arrests or pursuits, are all positively and significantly associated with the use of force and level of force used (Engel & Swartz, 2014; Strohshine & Brandl, 2019).

### **Individual Characteristics (Civilian and Officer)**

Beyond legal and situational considerations, research has also explored the influence of civilian and officer characteristics on the use of force by police. The body of evidence for these characteristics is generally mixed and not as strong as the research on legally relevant factors; some civilian and officer characteristics show consistent relationships with use of force, but most are inconsistent or relatively weak predictors of force. Given its importance to the current work, the literature examining the impact of citizen race on police use of force is considered separately in the following section.

Citizen sex is one of the most consistent civilian-level predictors of the use of force—males are more likely than females to experience police use of force and more severe forms of force (e.g., Gau et al., 2010; Kaminski et al., 2004; Stroshine & Brandl, 2019). The impact of civilian age, while a weaker predictor than gender, is generally negatively and significantly related to use of force, with younger civilians more likely to experience force than their older counterparts (e.g., Hickman et al., 2008; Terrill & Mastrofski, 2002).

Scholars also have explored the relationship between police use of force and various types of civilian impairment; the findings, however, do not provide a clear picture of their impact (Kaminski et al., 2004). Some studies found that drug and alcohol impairment were positively and significantly related to force, while others found no significant differences or mixed results depending on the type of force (Crawford & Burns, 1998; Rossler & Terrill, 2017). Similarly, some studies indicate that officers use force more frequently and at higher levels against civilians with mental health issues, while others find the opposite or no relationship (Brandl & Stroshine, 2017; Gill et al., 2018). Morabito and colleagues (2017) found that civilians with comorbid issues were more likely to experience police use of force than individuals with a single impairment, suggesting that the combination of multiple impairments may increase perceptions of threat and be most salient for predicting the use of force.

Some research also shows that citizen demeanor predicts use of force; that is, citizens who are more disrespectful are more likely to experience force and more severe types of force compared to those who are civil or respectful (for review, see Engel et al., 2012). For example, Crawford and Burns (1998) found that suspects who had an angry or aggressive demeanor were more than nine times as likely to have chemical agents used against them and almost six times as likely to have physical control tactics or nonlethal weapons employed against them. Nix and colleagues (2017b) found that officers perceive disrespectful suspects as a greater threat. It is important to note, however, that civilian demeanor often changes during the course of a police-civilian interaction and is one of the most difficult characteristics to reliably measure (Donovan et al., 2018; Klahm & Tillyer, 2010; Reisig et al., 2004).

Significant scholarly attention has also been paid to examining the influence of individual officer characteristics, but most research suggests these factors either weakly or inconsistently influence the likelihood of police use of force (Klahm & Tillyer, 2010). More highly educated and experienced officers are generally less likely to use force (Lim & Fridell, 2014; Paoline & Terrill, 2004, 2007; Rydberg & Terrill, 2010). The influence of officer sex and race/ethnicity are generally inconsistent across studies or not statistically significant (Hollis & Jennings, 2018; Rossler & Terrill, 2017), although some studies report that Black officers are significantly more likely to be involved in shootings than White officers (Donner et al., 2017; Ridgeway, 2016; 2020), others suggest that White officers were more likely to shoot than Hispanic officers (McElvain & Kposowa, 2008). Recent studies have also reported that patrol workgroups impact officers' likelihood of use of force and the likelihood of being subject to a use of force complaint (Ingram et al., 2018; Ouellet et al., 2019).

In the most recent comprehensive study examining the impact of officer characteristics on policing outcomes, Ba and colleagues (2021) reported that Black, Hispanic, and female officers

in Chicago were significantly less likely to use force against all citizens, and in particular Black citizens, compared to their White, male counterparts. They examined 2.9 million patrol assignments of Chicago Police Department officers who worked in similar conditions (i.e., same month and year, day of week, shift, assigned beat) to control for variation in patrol assignments across officers. Black, Hispanic, and female officers used force 0.10, 0.04, and 0.09 fewer times, respectively, compared to White and male officers, per 100 shifts (Ba et al., 2021). These are statistically significant reductions in the use of force that were driven primarily by the treatment of Black civilians. Black officers also reduced their focus on discretionary enforcement and made fewer stops for “suspicious behavior” and drug arrests than White officers. The findings reported by Ba et al., though, are not consistently reflected in the literature to date and may be a product of the unique policing environment in Chicago at the present time.

### **Community Characteristics**

Criminologists have long known that the environment in which police-civilian interactions take place can influence the decisions that officers make, including the decision to use force (Smith, 1986; Terrill & Reisig, 2003). Criminologists have proposed that officers are more likely to use force (including more severe force) when they perceive greater threats to their safety, which may be related to community characteristics (Lee et al., 2014; Lersch et al., 2008). There is some evidence that use of force is more likely to occur in neighborhoods characterized by economic disadvantage, racial heterogeneity, and violent crime, but community characteristics have not proven to be *consistent* predictors of officer decisions to use force (Arnio, 2021; Klinger et al., 2016). Recent research also suggests that the effects of community characteristics vary depending on how force is measured. Specifically, Lautenschlager & Omori (2019) found that as racial and ethnic heterogeneity increases, the *frequency* of use of force incidents decreases but the *severity* of force increases; conversely, concentrated disadvantage and crime rate were positively related to the incidence of police use of force but negatively related to force severity. Some scholars suggest that differences across studies in the level of geographic aggregation for community characteristics could be obscuring real neighborhood differences and contribute to mixed findings in the literature (Lee et al., 2014; Shjarback, 2018).

### **Organizational Characteristics**

Despite the large literature base examining police use of force, there have been a limited number of studies examining how use of force is influenced by organizational characteristics, including agency policy, supervision, technology, and training (Lim & Lee, 2015; Nowacki, 2015; Willits & Nowacki, 2014). The existing evidence suggests that these characteristics do influence use of force, particularly those that regulate police discretion and set clear expectations. However, further research is needed to better understand the impact of these factors, particularly across different types and severity of force.

For example, one of the most heavily promoted reforms is the adoption of body-worn cameras. The body of research examining the impact of this technology on police use of force is characterized by strong methodological rigor, and although the findings are not uniform (Huff et al., 2020; Lum et al., 2019, White et al., 2019), there is at least some evidence that the adoption

and use of body-worn cameras is associated with reductions in police use of force. In their examination of 19 studies, White and colleagues (2019) noted that 11 reported statistically significant reductions in use of force after body-worn camera usage began (e.g., Ariel et al., 2015; Braga et al., 2018; Jennings et al., 2017).

Another organizational characteristic, first-line supervision, plays an active role in the implementation of use of force policies and for setting subordinate officer expectations. Although not widely explored, the few studies that have examined supervisors' impact on officers' use of force suggest they influence both how officers view use of force policies and the likelihood of their use of less lethal force (Ingram et al., 2014; Lim & Lee, 2015; Van Craen & Skogan, 2017). Prior research has also demonstrated that the supervisory style of sergeants and lieutenants influenced subordinates' use of force (Engel, 2001). In more recent research, Lim & Lee (2015) found that the amount of use of force training supervisors received and their level of education were associated with a decreased likelihood of officers using more severe levels of force.

Advocates for police reform have also demanded changes in use of force policies based on the presumption that policy modifications will help reduce police use of force. Although few studies have systematically examined the impact of changes to use of force policies on the prevalence or severity of use of force, two recent studies are promising. Jennings & Rubado (2017) examined the impact of the various organizational policies and characteristics on fatal police shooting rates nationally and found that one agency policy – requiring officers to document every time they displayed their firearm – resulted in significantly lower levels of fatal police shootings. Likewise, Shjarback et al. (2021) recently reported significant reductions in fatal shootings within the Dallas Police Department after the implementation of a "point and report" policy (requiring documentation of pointing of firearms, even when not discharged). There was also a significant decrease in the proportion of cases involving a "threat perception failure" (i.e., an officer perceived a gun, but there was no gun) and no significant increase in officer injuries. A more in-depth review of how agency policies impact use of force accompanies the policy recommendations for the FCPD provided in Section VI of this report.

### **Summary**

In summary, police use of force is most consistently predicted by the level of resistance that officers encounter. The research on police use of force identifies a number of other important factors (e.g., civilian, officer, community, and organizational characteristics) that influence use of force and the severity of force employed. Studies that fail to fully consider these situational and contextual variables are limited in their ability to explain police decisions to use force and should be interpreted cautiously.

## **Measuring Racial/Ethnic Disparities in Use of Force**

The broad political and public debate that has followed high profile, controversial use of force incidents involving racial/ethnic minorities is reflective of the concern that some racial/ethnic groups are disproportionately at risk of experiencing police use of force. Many examinations of police use of force seek to determine the level of these disparities across racial/ethnic groups. However, the challenges inherent in measuring use of force are more problematic when

measuring racial/ethnic disparities. One comparison that is often used to determine the presence or amount of racial/ethnic disparities in the use of force is to compare the percent of various racial/ethnic groups who experience force against the percent of these groups who are at risk of having force used against them. These “benchmark” comparisons, as they are known, are designed to utilize a comparison group of “similarly-situated people” at risk of experiencing force, assuming no officer bias exists (Engel & Calnon, 2004a; Geller et al., 2020).

It is well established, however, that the selection of a benchmark can substantially alter the level of reported racial/ethnic disparities in police practice (Engel & Calnon, 2004; Geller et al., 2020). The difficulty with this type of comparison is that the most readily accessible benchmark (and therefore most frequently used) is residential Census data (Cesario et al., 2019; Geller et al., 2020; MacDonald & Braga, 2019). Census data, however, does not take into account a number of factors that actually impact individuals’ risk of being involved in a use of force incident with police. For example, the research summarized above demonstrates that individuals’ risk of experiencing police use of force is highly dependent upon legal factors, including the amount of resistance that individuals show to police, the presence of weapons, the seriousness of the offenses, past criminal histories, and the location of the encounter. As noted by Geller et al. (2020) “it is largely understood that if racial disparities in police activity reflect, even in small part, racial disparities in suspicious behavior, population benchmarks are likely to provide an overestimate of racial bias in police practices.”

Alternative benchmarks that more accurately measure the population at risk of having force used against them have varying strengths and weaknesses. Data sources for these alternative benchmarks include calls for service, suspect descriptions, arrests, area arrests rates, area crime rates, and use of higher-level force versus lower-level force (Geller et al., 2020). Exploring comparison data that more closely approximates those at risk of experiencing use of force provides an opportunity to better understand the differences in situations that lead (or do not lead) to use of force; however, the data needed to make these comparisons are not always readily available, or even collected. A few studies that have compared use of force benchmarks to one another show that comparisons based on population statistics nearly always demonstrate racial/ethnic disparities in use of force, while benchmarks based on traffic stops, street stops, arrests, and arrests for violent or weapons-related offenses show reduced or eliminated racial/ethnic disparities (Cesario et al., 2019; Fryer, 2016, 2019; Geller et al., 2020; Goff et al. 2016; Ross et al., 2020; Smith et al., 2019; Smith et al., forthcoming; Tregle et al., 2019).

To better explore the impact of citizen race on police force and to eliminate the methodological limitations associated with the use of benchmarks, many studies use multivariate models to statistically control for factors other than citizen race that may influence police decision making. When examined in this manner, the larger body of research has not found consistent support for officer racial bias in police shootings (Engel & Swartz, 2014; Nix et al., 2017a). Rather, the findings regarding the impact of citizen race on police use of force generally show a weak or non-significant relationship. For example, a recent study by Worrall and colleagues (2020) found no significant racial differences in the likelihood of a suspect having a weapon drawn on them. Similar mixed results are evident for the influence of citizen race in non-lethal force events (Klahm & Tillyer, 2010; Hollis & Jennings, 2018; Smith et al., 2017). For example, a number of studies find no significant racial or ethnic differences on police use of force across a variety of

measures and types of force (Brandl & Stroschine, 2017; Garner et al., 2002; Jennings et al., 2019; Terrill, 2005). Yet other studies have found that minority suspects are more likely than Whites to experience any type of police use of force or more serious types of force (Alpert et al., 2004; Fridell & Lim, 2016; Fryer, 2019; Kramer & Remster, 2018; Terrill & Mastrofski, 2002; Terrill & Paoline, 2017). Finally, Lawton (2007) suggested that racial differences may be more prevalent at lower levels of force when officers have higher discretion, and some empirical evidence supports this proposition (Crawford & Burns, 2008; Kaminski et al., 2004; Morrow et al., 2017).

Other studies find racial/ethnic differences in experiencing use of force for certain minority groups, but not others (Engel & Calnon, 2004b; Lee, 2016). For example, Gau and colleagues (2010) found that officers were more than twice as likely to use Conductive Energy Weapons (CEW) on Hispanic suspects compared to White suspects, but there was no significant difference for Black suspects. These findings highlight the need to separately examine racial and ethnic groups whenever possible, as simple White/non-White dichotomies may mask between-group differences among racial and ethnic minorities.

While the impact of the main effect of citizens' race on police use of force is unclear, it is made even more complex by its relationships with other citizen characteristics or behaviors, as well as officer and neighborhood characteristics. For example, Engel and colleagues (2012), found that citizens' demeanor varied by race. Garner and colleagues (2002) found that the relationship between citizen race and use of force was no longer significant once citizen resistance was controlled; in contrast, Kahn and her colleagues (2017) found that Black and Latino suspects were more likely than Whites to receive a higher increase in force for an equivalent increase in resistant behavior. Research has also explored how the interactions of citizen and officer race influence police use of force (Jetelina et al., 2017; Paoline et al., 2018). This line of research suggests that when other factors related to citizen characteristics or behaviors indicate a threat, these may disproportionately affect minorities' likelihood of experiencing force because they are consistent with established stereotypes.

Finally, several studies found interactions between citizen race/ethnicity and the neighborhood racial/ethnic composition, crime rate, and other measures of disadvantage, whereby minority civilians may experience more force simply because of the types of neighborhoods in which they encounter police (Terrill & Reisig, 2003; Lee, 2016). In contrast, Fridell and Lim (2016) found no racial differences in the use of CEWs in high violent crime areas, but they did find Blacks were more likely to experience the use of CEWs in non-high violent crime areas (see also Correll et al., 2011). These findings underscore the importance of examining police use of force with multilevel statistical models, when possible, to explore cross-level interactions between neighborhood measures and individual or situational characteristics, and to better understand what independent impact, if any, citizen race/ethnicity has on police decisions to use force.

When racial/ethnic disparities in police use of force are reported, it is imperative to further explore the true influence of extralegal factors on police use of force (Fridell, 2017a). Four potential explanations that could operate in isolation or combination have been advanced to explain identified racial/ethnic disparities in use of force, including: 1) implicit police officer bias, 2) police deployment patterns, 3) differential offending, and 4) explicit bias and structural

racism (Lum, 2021). First, officer bias can be either explicit (the officer recognizes their bias) or implicit (the officer does not recognize bias), with different implications for identifying or measuring each type of bias. In the case of implicit bias, it is also expected that the effect of civilian race/ethnicity on officer decision making will be less influential in situations that are perceived as dangerous (Fridell & Lim, 2016). Counter to implicit bias, it is also possible that the police could be less forceful during interactions with minority civilians due to fear of appearing biased, an explanation sometimes referred to as counter bias (Fridell & Lim, 2016) or reverse racism (James et al., 2016).

Although officer bias is one of the most commonly promoted explanations of observed racial disparities in police use of force, assessing racial disparities in the use of force requires accounting for spatial differences in police enforcement across neighborhoods and organizational units within a police agency (Kramer & Remster, 2018). Examining police deployment patterns is especially important because the likelihood of police use of force increases based on the number and type of police contacts in which citizens are engaged. If police are more frequently assigned to patrol in neighborhoods with higher concentrations of Black and Hispanic populations, the risk of encountering police to begin with is disproportionate. Therefore, deployment patterns and the racial/ethnic composition of neighborhoods or police organizational geographies (e.g. districts or precincts) should be considered when assessing racial/ethnic disparities in police use of force.

Another commonly promoted explanation of racial/ethnic disparities in police use of force is the proposition that minorities commit more crime, leading to more interactions with police that sometimes necessitate more forceful police responses (Engel & Swartz, 2014; Kramer & Remster, 2018). Similarly, some studies have identified racial/ethnic disparities in the amount of resistance shown to police during encounters. Testing this explanation requires accounting for engagement in crime and levels of resistance during encounters, as well as police deployment patterns to isolate the impact of race/ethnicity on use of force and levels of resistance (Kramer & Remster, 2018).

### **Summary**

In summary, the available evidence demonstrates mixed findings regarding the impact of citizen race on police use of force. Further, when citizen race is found to predict police use of force, the impact is often mitigated once other factors (e.g., citizen resistance, neighborhood characteristics, etc.) are considered (Engel & Swartz, 2014; Kramer & Remster, 2018). Accurately isolating racial/ethnic disparities in the use of force requires accounting for area-level deployment and population differences as well as differences in crime rates and group offending rates, among other factors. The existence of consistent, observed disparities after such factors have been controlled or otherwise accounted for suggests the possible influence of bias, which in modern police organizations today is most likely the result of implicit or unconscious bias mechanisms (Fridell & Lim, 2016; Smith & Alpert, 2007).

### **Police Trainings**

Several police organizational reforms have been proposed to reduce the use of force. Given that the characteristics of police agency policies and practices are more amenable to change than

civilian reactions to the police or police officer characteristics that contribute to use of force (Worden, 2015), proposed organizational reforms are likely the most promising. These organizational reforms increasing include calls for additional and enhanced police training.

Previously, the impact of police training has received minimal research attention. As Lum and colleagues (2016) specifically noted in their review of the evidence supporting the *President's 21<sup>st</sup> Century Task Force on Policing* recommendations:

Additional research is needed in every area of training discussed in the Task Force recommendations. In most cases, we know little about the impact of these training programs on officer knowledge, attitudes, and behavior. Particularly important is understanding the extent to which improvement or changes in attitudes and knowledge as a result of training corresponds to behavioral change in interactions with the public (p.38).

In addition to the general lack of research on the impact of training, identifying best practices is further challenged by the wide variation in training curricula, techniques, content, duration, and delivery methods (Engel et al., 2020b), due in large part to the decentralized nature of policing in the US.

Others recognize that police training is outdated and needs to include evidence-based, theory-informed curricula and delivery, which will ultimately improve learning and skill retention (Birzer, 2003; Mugford, et al., 2011). However, a comprehensive review of the police training literature base has found that there is very little evidence around police training modalities (Lum et al., 2016), and the existing literature is mostly hypothetical and/or based on other study populations. However, several of these studies point toward the utility of repeated content exposure and practice (Kang, 2016; Mugford et al., 2011) or booster trainings (Wolfe et al., 2019).

The Council of Criminal Justice (CCJ) Task Force on Policing (2021) recently conducted an in-depth assessment of the effectiveness of training in the United States by examining the current practice and available research on training duration, content, and delivery, along with certification and national training standards. Based on this review, they provided guidance regarding best practices, identifying the differences between a “resiliency-based” approach to training, which teaches officers to “recognize stress and regulate their responses to it,” and the more typical “stress-oriented” military training approach, which involves “intensive physical demands and psychological pressure.” In this comprehensive review, they recommend that police training should: 1) be delivered through a mixture of lecture, real world video examples, scenario-based role playing, and group discussion, 2) devote more time to teaching communication skills, de-escalation tactics, principles of procedural justice, and handling situations that officers are most likely to encounter, 3) adopt a resiliency-based approach rather than stress-oriented military training, 4) include periodic recertification beyond firearms training, and 5) develop national training and certification standards.

As noted however, few forms of police training have been subject to scientific review. Of greatest relevance to our work with the FCPD are findings from the limited body of research

examining the impact of police trainings specifically designed to reduce use of force and/or racial/ethnic disparities in policing, including trainings in de-escalation, peer-intervention, crisis intervention, procedural justice, and implicit bias. Some of these trainings have been correlated with positive outcomes, such as reductions in use of force incidents, reductions in injuries, and increases in officer knowledge and skills. A survey conducted by the Police Executive Research Forum (2015) found that on average, however, officers do not spend a lot of time on these topics. Specifically, academies designate most of their training hours on weapons and defensive tactics (more than 120 hours per year), and less on de-escalation, communication skills, or crisis intervention (roughly 26 hours per year) (PERF, 2015). As such, many argue the focus of police training needs to be adjusted. The specific evaluation findings for each of these types of trainings – de-escalation, peer-intervention, crisis intervention, procedural justice, and implicit bias – are detailed below.

### **De-escalation training**

Despite support from experts, very little is actually known about the effects of de-escalation training on police-citizen interactions (Engel et al., 2020b, 2020c). Even the term "de-escalation" lacks an evidence-based definition in the policing field (Engel et al., 2020b; Todak & James, 2018). Broadly speaking, nursing and psychiatry fields refer to de-escalation as a process used to prevent, reduce, or manage aggressive behavior during an interaction between two or more persons (Engel et al., 2020b). The *National Consensus Policy and Discussion Paper on Use of Force*, initially released in October 2017 and revised in 2020, was one of the first documents to define de-escalation as it relates to policing and proposed the following definition:

Taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary. De-escalation may include the use of such techniques as command presence, advisements, warnings, verbal persuasion, and tactical repositioning (p. 2).

Rather than a description of the tactics or process, others have recommended a more succinct definition. For example, based on feedback gathered during focus groups with police officers, Todak and White (2019, p. 842) define de-escalation as “bringing a situation or citizen in crisis back to a calm state, using the least amount of force possible.”

Proponents of de-escalation training argue that this type of training provides officers with enhanced skills to resolve conflicts in highly confrontational situations without the use of force (Oliva et al., 2010). Critics of de-escalation training, however, suggest these tactics contradict traditional policing operational responses, possibly increasing officers' risk of injury by encouraging slow responses to potentially volatile situations (Blake, 2017; Jackman, 2016).

Similar to other police training, de-escalation has not been the subject of substantial empirical evaluation (Lum et al., 2016; National Research Council, 2004). Illustrating this gap in research, a recent multidisciplinary systematic review of de-escalation training evaluations showed that although a limited number of de-escalation trainings were evaluated across professions (N = 64),

most studies appeared in the fields of nursing and psychiatry; *no evaluations* were conducted with police or other criminal justice actors (Engel et al., 2020b).

In the time since this systematic review was conducted, results from several new studies have emerged. For example, research using a randomized control trial (RCT) design to assess the impact of Polis Solutions' Tact, Tactics, and Trust (T3) training in two police departments (Fayetteville, NC, and Tucson, AZ) showed that, although officers' attitudes improved, there were no discernable changes in actual officer behavior in the field (McLean et al., 2020; Wolfe et al., 2020). Additional research is currently underway to evaluate a customized de-escalation training program designed by the Tempe (AZ) Police Department (White, 2021; White et al., 2021). Using a RCT design, findings show that both treatment and control group officers had positive attitudes toward de-escalation tactics and self-reported frequently using them, trained officers reported greater importance of compromise in encounters with citizens and reported using more de-escalation tactics based on compromise, maintaining officer safety, and knowing when to disengage. Results regarding the impact of de-escalation training on officer use of force behavior, however, are less promising, with no detectable reductions in use of force that corresponds directly with the training (White, 2021).

A final study evaluating the impact of de-escalation training implemented by the Louisville Metro Police Department (LMPD) has demonstrated significant changes in both officer attitudes and behavior (Engel et al., 2020a; 2021a; 2021b). Using a stepped-wedge RCT design, this study examined the impact of *Integrating Communication, Assessment, and Tactics (ICAT)* training. The ICAT training, initially developed by the Police Executive Research Forum (PERF) and adapted by the LMPD Training Division, instructs police officers in de-escalation tactics and critical thinking skills to manage potentially volatile police-citizen encounters by encouraging the integration of crisis recognition and intervention, communication skills, and operational tactics in police responses. Training was delivered during two consecutive eight-hour training days to all sworn officers, from Feb - Nov 2019, training a total of 1,049 officers across ranks. An initial report released to the LMPD in September 2020 documented: 1) a vast majority of officers (80%) report positive perceptions and receptivity of training; 2) a majority of officers (> 60-70%) self-reported use of de-escalation tactics in the field; 3) significant and positive changes in officer and supervisor attitudes including views on: interactions with the public, persons in crisis, use of force; and 4) the randomly assigned timing of de-escalation training was associated with statistically significant declines in uses of force (-28.1%), citizen injuries (26.3%), and officer injuries (36.0%). These reductions occurred above and beyond observed changes in arrests. This work remains the only known independent empirical study demonstrating reductions in police use of force related to de-escalation training.

### **Peer Intervention Training**

Peer intervention trainings are now also being added to some police use of force training programs. One of the first peer intervention trainings, *Ethical Policing Is Courageous (EPIC)*, was designed to prevent and mitigate police officer mistakes and misconduct. Developed and implemented by the New Orleans Police Department (NOPD) in 2016, EPIC is built upon the social science research regarding “bystanderism.” A bystander is any witness who is in a position to understand what is occurring and is also able to take action—a *passive* bystander is

one who fails to intervene when the circumstances warrant action and an *active* bystander is one who does (Staub, 2007). EPIC aims to increase active bystandership to promote peer intervention by officers, who will intervene in another's action to prevent or reduce misconduct and/or mistakes, particularly in use-of-force situations (Aronie & Lopez, 2017).

The NOPD developed this department-wide program due to an explicit provision contained in a Consent Decree with the U.S. Department of Justice, which required developing a use-of-force training that emphasized ethical decision making and peer intervention. EPIC teaches officers how to intervene safely and effectively with learnable skills. Scholars note that for a program like EPIC to succeed in a police department, a culture change is required through the involvement and support of superior officers (Staub, 2019). EPIC has not yet been subject to formal evaluation, but the NOPD reported preliminary program success through significant reductions in citizen complaints and through several officer anecdotal accounts of program success in the field (Jackman, 2019). Command staff from nearly 100 police departments have traveled to New Orleans to learn more about EPIC in order to adopt a similar program.

Building on EPIC, the NOPD and the Innovative Policing Department developed another training resource called project ABLE (Active Bystandership for Law Enforcement) that helps “prepare officers to successfully intervene to prevent harm and to create a law enforcement culture that supports peer intervention” (ABLE, 2021). Project ABLE offers training, technical assistance, and research available at no cost for all departments in the nation to teach the importance of and allow for the facilitation of officer intervention. Several large departments, including Baltimore, Philadelphia, Boston, and the WSCJTC are already participating (Business Wire, 2020). The ABLE training is now being offered in over 100 police agencies across the country and will become part of the state-mandated training for all police agencies in New Jersey. However, it is important to note that the effectiveness of officer intervention trainings have not been empirically examined. While they are based on strong conceptual frameworks, it is unknown if they achieve their intended effects of: (1) changing police culture, and (2) reducing excessive use of force or other problematic behaviors.

### **Crisis Intervention Training**

One of the most commonly implemented and evaluated approaches for addressing mental health crises occurring in the community is the crisis intervention team (CIT) model. CIT is a police-based response model for crisis intervention and diversion founded upon specialized training for officers and law enforcement partnerships with community, health care, and advocacy groups (CIT International, 2020; Watson et al., 2019). Originally based on the Memphis model, generally CIT programs are intended to accomplish two primary goals: (1) to ensure safe interactions between police officers and individuals experiencing behavioral health crises, and (2) to divert individuals in crisis away from the criminal justice system and into behavioral health services when possible (Canada et al., 2012).

The training of police personnel is central to developing and sustaining CIT programs (Dupont et al., 2007). CIT is a generalist-specialist model, in which a portion of patrol officers within an agency participate in CIT-specific training to become specialists in responding to behavioral health crises (Thompson & Borum, 2006). Specialized CIT training typically involves the

delivery of a 40-hour curriculum focusing on three primary areas: (1) behavioral health awareness and stigma reduction; (2) knowledge of available behavioral health resources in a community, and; (3) crisis de-escalation techniques (Bahora et al., 2008; Morabito et al., 2012; Taheri, 2016). As such, CIT training is designed to educate officers on behavioral health topics (e.g., mental health, substance use) and to provide officers the skills to effectively manage crisis situations, encouraging the diversion of individuals in crisis to appropriate treatment and services, when possible.

The available research suggests that CIT training is effective in improving officer knowledge on behavioral health topics, officer perceptions of their ability to effectively intervene in a crisis situation, and officer support for the use of de-escalation tactics (Compton et al., 2014a; Herrington & Pope, 2014; Watson et al., 2017). Comparatively less research has examined the influence of CIT training on crisis de-escalation, including consideration of outcomes such as arrests, use of force, and injuries. Further, this research is largely descriptive in nature, relying on officer self-report data and responses to vignettes, as opposed to administrative data. Still, the available empirical literature suggests CIT programs may reduce the frequency and/or severity of officer use of force in crisis situations (see Bower & Pettit, 2001; Vickers, 2000), with CIT-trained officers observed to be significantly less likely to use force than non-CIT officers (see Compton et al., 2014; Morabito et al., 2012). These findings are not universal, however (see Herrington & Pope, 2014; Taheri, 2016). Similarly, although some studies have reported reductions in the rates of civilian and officer injuries in crisis incidents following the implementation of CIT programs (Bower & Pettit, 2001; Reuland & Cheney, 2005; Vickers, 2000), others have not observed these effects (Herrington & Pope, 2014; Kerr et al., 2010). Given that the studies examining the impact of CIT training and programs on crisis de-escalation have been largely descriptive in nature, more rigorous evaluation is needed to understand the effects of this training on officers' interactions with individuals in crisis.

### **Procedural Justice Training**

Procedural justice is an additional training believed to possibly reduce police use of force and other coercive police actions. The concepts of procedural justice traditionally revolve around giving civilians a voice, treating them with dignity/respect, treating them neutrally, and trusting civilians to do the right thing. This idea rests on the assumption that individuals who perceive authorities to be legitimate and who are treated in a procedurally just manner will be more likely to comply with the law (Tyler, 1990) and, therefore, less likely to resist police, which could result in use of force. Although reviews indicate that perceptions of procedural justice are related to perceptions of legitimacy, and that perceptions of legitimacy are related to compliance with authorities (Donner et al., 2015; Tyler et al., 2015), scholars caution that research has yet to fully establish whether procedurally just treatment directly results in increased legal compliance and perceptions of legitimacy (Nagin & Telep, 2017). Nevertheless, bolstered by recommendations from the President's Task Force on 21<sup>st</sup> Century Policing (2015), police agencies are increasingly turning to procedural justice training to improve police-community relations, despite the relatively limited empirical research that has assessed the effects of these trainings on policing outcomes.

A handful of studies have examined the impact of procedural justice training on police officer attitudes and behaviors during role play scenarios, with somewhat mixed findings. For instance, a randomized controlled trial of a *Quality Interaction Program* implemented in Chicago indicated that officers who received the training displayed more procedurally just behaviors during role play scenarios, though there were no significant attitudinal differences between trained officers and untrained officers (Rosenbaum & Lawrence, 2013). A quasi-experimental evaluation of a separate procedural justice training in Chicago found that officers had more favorable perceptions of each element of the procedural justice model – voice, dignity/respect, neutrality, and trust – immediately following training, though a long-term follow up indicated that trained officers were no more likely to endorse trust than those who did not receive training (Skogan et al., 2015). Though improved officer perceptions of procedural justice have been identified pursuant to training administered in Louisville (Schaefer & Hughes, 2016), a small randomized controlled trial of procedural justice training in Manchester, UK, again identified mixed impacts of training on officer perceptions (Wheller et al., 2013).

Only a couple of studies have examined the impact of procedural justice training on officer behavioral outcomes, generally reporting positive findings. A study examining the impact of randomly assigned supervisor meetings to promote officer use of procedural justice in Seattle indicated that officers assigned to these meetings were 26% less likely to resolve incidents using arrests in the week following the intervention and were 60% less likely to be involved in a use of force incident in the six weeks following the meeting than control officers, even though there were no significant differences in their likelihood of contacting civilians (Owens et al., 2016). Another study in Chicago found that procedural justice training reduced use of force by 6% and civilian complaints by 10% in the two years following the training (Wood et al., 2020). However, as previously noted, a randomized controlled trial of a de-escalation training encompassing elements of procedural justice in Fayetteville (NC) and Tucson (AZ) did not identify significant reductions in police use of force following the training (McLean et al., 2020).

### **Implicit Bias Training**

In an effort to reduce racial/ethnic disparities in policing outcomes, including use of force, many experts have called for implicit bias training for police (e.g., *President's Task Force on 21<sup>st</sup> Century Policing*, 2015). Compared to addressing explicit bias or racism, implicit bias refers to unconscious prejudices that could arise due to heuristics developed through an individual's life experience to facilitate quick decision-making (Devine 1989; see also Kahneman, 2011). Everyone is subject to these implicit biases, which could result in discriminatory decision-making (Dovidio et al., 2002). Given that police officers have high rates of contact with racial/ethnic minority civilians, the development of these implicit biases among police officers could be particularly noteworthy. Prior research has indeed identified implicit bias among police officers (Correll et al., 2007; James et al., 2016; Payne, 2001). However, no studies have identified direct links between implicit bias and differential police treatment of minorities, including the use of force (Engel et al., 2020c; National Academies of Sciences, Engineering, and Medicine, 2017).

A meta-analysis including almost five hundred studies across disciplines found that while individuals' implicit biases are malleable, changes associated with interventions to reduce

implicit bias were generally small and might not translate to direct changes in behavioral outcomes (Forscher et al. 2018; see also Monteith et al., 2010; Pettigrew & Tropp, 2005). As a result, scholars have promoted both raising awareness about implicit bias and providing tangible strategies to reduce and manage implicit biases (Atewologun et al., 2018). For example, in the policing context, implicit bias training traditionally involves educating participants about implicit bias and promoting strategies to reduce these biases (Fridell, 2017b). However, some studies have identified unintended consequences associated with the use of implicit bias training, even including increased bias. For instance, some research indicates stereotyping could become normalized as a result of increased awareness of stereotyping processes (Duguid & Thomas-Hunt 2015). A “rebound effect”, in which individuals who attempt to suppress stereotypical thoughts later have the same thoughts with greater intensity, has also been identified in some studies (Macrae et al., 1994). It is unclear how these mixed results could influence the outcomes of implicit bias training for police officers. Further, despite the heavy promotion of these trainings, there have been no randomized controlled trials of the impact of these trainings (Mitchell & James 2018), with the exception of a recent study conducted with the New York City Police Department (NYPD).

The first known randomized evaluation of implicit bias training was conducted with the NYPD between 2018 and 2019, where researchers employed a stepped-wedge randomized control trial to evaluate training impacts on patrol officer attitudes and behaviors (Worden et al., 2020). Specifically, researchers identified the impacts of the single-day *Fair and Impartial Policing* (FIP) curriculum on officer attitudes, perceptions, and knowledge; self-reported application of skills; supervisory practices; and officer enforcement actions, including stops, arrests, summonses, frisks/searches, and use of force (both at the precinct level and individual level). The research team found evidence that immediately following the FIP training, officers’ self-reported knowledge and awareness of implicit biases was enhanced, reported motivation to act without prejudice increased, and officers reported greater concern about discrimination. Additionally, officers’ self-reported use of the bias management strategies they were trained in was moderately high, and supervisors reported engaging in field activities to monitor and intervene in subordinates’ bias-related performance. Researchers also reported no evidence of a “backfire” effect on police enforcement actions, a concern raised by some (Kaste, 2015). Notably however, *the research team concluded that there was insufficient evidence that FIP reduced racial/ethnic disparities in police enforcement actions, including the use of force*. Overall, the research team concluded that it is unlikely that implicit bias training could reduce disparities in policing by itself, for these disparities stem from many societal and economic sources.

### **Summary**

Despite strong endorsements by expert panels and commissions, changes to police training designed to reduce racial/ethnic disparities in police outcomes, and reduce the use and severity of force are supported by relatively limited empirical research. This thin evidence base has demonstrated that police trainings are more likely to impact officers’ reported attitudes and knowledge than their actual behavior in the field, and it underscores the need for agencies to implement a comprehensive approach to support appropriate adjustments to policies and field supervision that reinforce training tenants (Engel et al., 2020a; 2021a). Based on the evaluation research available, CIT and ICAT de-escalation training appear to be the most promising of the

trainings available to reduce the use and severity of force. Ultimately, any changes in training, policies, and practices require the adoption of holistic approaches to challenge existing agency culture regarding the use of force, promote concepts such as the sanctity of human life, and support widespread understanding and use of the critical decision-making skills during interactions with persons in crisis.

### **III. Data & Methodology**

As reflected in the agreed-upon scope of work with the OIPA, the UTSA-led research team was contracted to address the following research questions in its analysis of FCPD use of force and related data between January 1, 2016 and December 31, 2018:

1. What factors or combination of factors contribute to the use of force by FCPD officers? Specifically, what role does civilian race, ethnicity, gender, or similar personal characteristics play in the decision to use force?
2. Does the rate of force experienced by persons of different races and/or ethnicities align with those groups' representation among persons at risk for having force used against them by the police? Do disparities exist in rates of force experienced by different racial and/or ethnic groups relative to risk?
3. Is civilian race, ethnicity, or gender related to the level of force used by the police while accounting for resistance and other relevant individual, situational, and environmental factors?
4. How can the FCPD improve its use of force data collection processes to help facilitate future analyses?
5. What steps can the FCPD take to help reduce bias in use of force incidents?

#### **Data**

Data were supplied by the Fairfax County Police Department and transmitted to the research team by the OIPA. Data files included use of force records, arrest records, calls for service records, reported offense records, mental health records, police geographies (e.g., district station and patrol area boundaries), and county level characteristics. All police records and mental health data were supplied in Excel format; the police geographies and county level characteristics were supplied via Geographic Information System (GIS) data files. These files were subsequently transferred to statistical analysis software, linked together to create comprehensive datasets, and analyzed. Data files encompass activity occurring between January 1, 2016 and December 31, 2018. These data files contained multiple fields (hereafter referred to as variables) as requested by the research team. In some cases, variables listed in the project proposal were unavailable and could not be analyzed. Please see Section V for a comprehensive review of the FCPD's use of force data collection protocols and systems, and recommendations for future improvement.

The primary data file provided by the IA, which originated from the FCPD, contained 4,953 records of individual uses of force by FCPD officers against civilians regardless of how many civilians or officers were involved in the incident. This data file contained records from the entire three-year study period, but some important variables were not captured in this data file. A second data file provided contained supplemental information from the first seven months of 2017, while a third file contained relevant information for the final months of 2017 and all of 2018. The 4,953 records were used as the foundation to build a single comprehensive data file, with the other two data files adding missing information as necessary.

Given the purpose of the study and related research questions, the primary unit of analysis examined is the *individual civilian*. We use the term *civilian* to describe individuals against whom force was used by FCPD officers. This term is preferable to *citizen* because persons represented in the data may not be “citizens” of the U.S. or Fairfax County as that term is commonly understood. In focusing on civilians as the unit of analysis, we aggregated FCPD force actions (e.g., use of a TASER or baton) to the civilian level. Unfortunately, due to data limitations, some variables were not available for every civilian (i.e., drugs and/or alcohol involvement). To overcome this limitation, we conducted some analyses at the *incident* level to make full use of important data fields that were only available at the incident level rather than at the individual level. Again, in Section V we provide recommendations for how to improve future data collection to capture all relevant variables at the appropriate levels.

In sum, 4,953 records of force actions were used against 1,668 civilians across 1,476 incidents during the study period.<sup>2</sup> However, some of those cases involved the use of vehicles by officers and/or civilians during the incident, and it was unclear from the data whether those vehicles were used as *instruments* of force against another person. After discussions with the FCPD and IA, we removed the vehicle-related cases, leaving 1,360 cases of force used by an FCPD officer against at least one civilian.

## **Variables**

Key variables included levels of force and civilian resistance in all incidents, the date and time of the incidents, and their geographic location. Relevant civilian data included age, race/ethnicity, and gender. At the incident level, data were available regarding the presence of a mental health concern and/or whether a civilian appeared to be under the influence of drugs or alcohol. Again, the mental health and drug/alcohol data could not be attributed to unique individuals but rather only to the incident; thus, these variables were not available to be analyzed at the individual civilian level. The FCPD also supplied a series of officer characteristics for those involved in use of force and arrest incidents, including their age, race, gender, years of service, rank, and assignment.

Other data files provided relevant contextual information including calls for service and offense reports received by the FCPD across their organizational units. Contextual characteristics such as the percentage of the minority population and a social vulnerability index within an FCPD organization unit were either directly provided by the county or calculated from the supplied data. Table 2 below includes for a comprehensive list of all variables and their measurements.

For analytical purposes, use of force actions by officers were categorized on a four-point, hierarchal scale with lower values reflecting less serious actions and higher values representing more serious levels of force. A similar approach was used to categorize resistance actions by civilians. These scales were developed from normative practices in previous research studies and in consultation with the FCPD and the IA. Once this categorization was complete, the four-category force scale was used to create four distinct force variables: (1) the number of force

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<sup>2</sup> A single civilian may appear multiple times if they experienced force in different incidents during the study period.

actions used against the civilian, (2) the maximum level of force applied against the civilian, (3) the average level of force applied against the civilian, and (4) the sum total of force levels used against the civilian. Table 1 below describes this categorization.

**Table 1: Force & Resistance Levels**

	<b>Levels</b>	<b>Actions</b>
Force	Level 1-Restraint, soft hand	Carried, Force to Cuff, Force to Hobble, Force to Hold/Restrict, Hands On Escort/Guide, Pressure Points by Hand, Pressure Points w/instrument, Spit Mask
	Level 2-Hard hand control/OC, etc.	Lit with Taser, OC, Pepper Fogger, Pepper Ball, Pointed Taser, Strike w/Foot/Knee/Hands/Fist/Elbow, Take Down
	Level 3-Impact weapon, Taser, Canine, etc.	40 mm OC Impact Round, 40 mm Sponge Round, Asp/Baton, ASP/Baton, Bean Bag Round, Canine, Pointed Firearm, Strike w/Baton/Flashlight, Taser
	Level 4-Firearm use	Shoot Firearm (whether hit or miss)
Resistance	Level 1-No resistance/Non-compliant	No Resistance, Passive Resistance, Passive Resisting, Refuse Commands, Refuse to Exit Vehicle, Refuse to Keep Hands Up, Refusing Commands
	Level 2-Defensive resistance	Attempt to Flee/Pull Away, Attempt to Flee (Pulling Away), Attempt to Remove Handcuffs, Bodily Fluids, Flee, Flee (foot pursuit), Flight, Flight/Concealment, Hands (grab), Kick – Vehicle, Pull Away, Resisting, Saliva, Spit, Spitting, Stiffening Body, Tensed Body/Active Resisting
	Level 3-Active resistance	Active, Active Resistance, Advanced at Officer, Biting/Mouth, Elbow, Feet, Feet/Kick, Fighting, Hands, Hands and Feet, Hands and Feet/Spitting, Hands/Feet/Mouth, Hands/Feet/Physical, Hands/Strike, Hands/Strike (no contact), Harm to Self, Head Butt, History Armed and Dangerous, Kick, Kick - no contact, Kick – object, Kick – Officer, Large Crowd, Lunge, Lunge (at officer), Lunge/Kicking, Self-inflicted Injury, Shoulder Hit, Strike (elbows), Unarmed/Hands/Feet, Warrant
	Level 4-Lethal resistance	Blunt Object, Cutting Instrument, Fighting/Knife, Firearm, Handgun, Knife, Knife/Cutting Instrument, Pipe, Reach Towards Waistband, Shiny Object In Pocket, Unidentified Item In Hand

Vehicle-related activities captured by the FCPD (e.g., intentional vehicle contact, stop sticks, fleeing in a vehicle) were excluded from the force scale as they did not involve force intentionally applied to a person and were conceptually distinct from force incidents.

**Table 2: Variables & Measurement**

<b>Variables</b>	<b>Measurement</b>
<i>Situational Characteristics</i>	
Number of Force Actions	Count of force actions occurring
Maximum Force Level	The maximum level of force based on the 1-4 force scale
Average Force Level	The average level of force used based on the 1-4 force scale
Total Force Level	A summed total of force applied based on the 1-4 force scale
Maximum Resistance Level	No resistance Level 1-4
Year	Years: Yes/No for each year
Season	Season: Yes/No for each season
Weekend	Weekend: Yes/No for Sat & Sun
Nighttime	Nighttime: Yes/No for 7PM-7AM
Station	Yes/No for each station
Seriousness	Part I Violent Crime (homicides, sex offenses, robbery, and aggravated assault): Yes/No Weapon or Simple Assault Crime: Yes/No Property Crime: Yes/No
<i>Civilian Characteristics</i>	
Gender	Male: Yes/No
Race/Ethnicity	White, Black, Hispanic, Asian: Yes/No
Age	Age in years
Mental Health Concern	Yes/No for indicator of mental health (incident-level only)
Alcohol/Drugs (Incident Level)	Yes/No for presence of alcohol and/or drugs (incident-level only)
<i>Officer Characteristics</i>	
Gender	Male ONLY, Female ONLY, Mixed gender: Yes/No
Race/Ethnicity	White ONLY, Black ONLY, Hispanic ONLY, Asian ONLY, Other Race/Ethnicity, Mixed race/ethnicity: Yes/No
Age	Age in years
Number	Number of Officers
Rank	Patrol Officers ONLY, Mix of officers/supervisors, Supervisors ONLY, Mix of Officers and Trainees: Yes/No
Assignment	Categorical Measure: Station, Special Divisions
<i>Contextual Characteristics (Available at the County and Station levels)</i>	
Calls for Service	Priority 1, 2, 3, 4-9: Yes/No Average Priority Level Criminal, Service, Traffic: Yes/No
Violent Crime Rate	Violent Crime Rate per 100,000 population
Population	% Black, % Hispanic, % Asian, % Other
Vulnerability Index	An index ranging from 1-5

## Analytic Plan

Our analytic strategy involved multiple steps. First, we undertook a thorough review of the data (see below for the results of this data audit) to identify missing and/or inconsistent data across all variables. Next, we examined the variables descriptively using simple percentages and counts.

This preliminary analytic step allows the analyst and reader to understand the scope and distribution of each variable independently from the others (e.g., percent of force cases involving Black civilians or the average level of force used). While informative, these descriptive statistics are limited to describing the variables in a stand-alone fashion without reference to other variables within the same incident.

The next step was to conduct bivariate analyses. Bivariate analyses simultaneously consider the intersection between two variables within the same incident. For example, when considering the level of force applied within an incident, it is also important to evaluate the level of civilian resistance. Bivariate analyses require an identification of a dependent variable (the variable of key interest to explain or understand) and an independent variable (the variable that determines the value of the dependent variable). In these analyses, use of force is the primary dependent variable or variable to be explained. Given our research questions and purpose in examining how force was experienced by different population groups (e.g., Blacks compared to Whites) in Fairfax County, specific analyses were undertaken to explore this key issue. One particularly useful bivariate analysis compares the rates of force experienced by different racial/ethnic groups to their risk of having force used against them. A similar analysis examines the level of force experienced by such groups relative to their resistance.

Identifying the appropriate “benchmark” (or risk set) in police disparity analyses has been the subject of considerable attention and debate among researchers. As noted in Section II, the use of Census-derived population percentages for benchmarking purposes is not scientifically valid (Alpert et al., 2004; Fridell, 2004; Ridgeway, 2007; Smith et al., forthcoming). Instead, we used three benchmarks to compare against the racial and ethnic composition of persons against whom force was used by the FCPD. Those benchmarks include: (1) crime suspects, (2) arrestees, and for the subset of persons with mental disorders against whom force was used, and (3) persons subject to mental detention orders.

Benchmarking analyses begin by calculating disproportionality ratios for each benchmark. Disproportionality ratios are a useful and easily interpretable technique for comparing the racial/ethnic composition of groups of persons against whom force was used (i.e., minority groups) to the rates of force used against the non-Hispanic, White population, which serves as the referent or comparison group (Smith et al., 2019). While bivariate analyses do not offer conclusive evidence of discrimination or other wrongdoing, they are a critical first step in evaluating racial disparities in the use of force, and they enable subsequent inferential analyses (i.e., multivariate modeling) that consider other factors in addition to race/ethnicity.

Thus, the final analytic strategy used to examine the data involved the estimation of several different multivariate models. Multivariate analysis is a key technique for observing the effects of each independent variable (Hanushek & Jackson, 1977) on the outcome of interest (e.g., maximum level of force) while considering the effect of all other variables simultaneously. In each of these analyses, the use of force was the key variable of interest, and it was measured in several ways across several different multivariate models (described in more detail in Section IV).

For example, some models examined all use of force incidents and explored factors associated with the level of force used, including civilian race. Such a model provides an assessment of which specific variables are related to the likelihood of higher levels of force while simultaneously considering the impact of all other variables on the level of force. In a different model, all arrests are examined to identify variables that predict the use of force in arrest incidents. This statistical approach is particularly helpful in identifying whether a specific variable (e.g., civilian race or ethnicity) is related to the outcome of interest. While such models do not allow for definitive conclusions to be drawn about the influence of a particular variable on the outcome examined, they do offer valuable insight into patterns of activity and assist in highlighting potential areas of concern in the application of force. Critically, the results of these models (and all other statistical analyses undertaken in this study) cannot definitively prove racial bias or discrimination, only that patterns of disparity may be evident and the degree to which those observed patterns are likely to be the result of chance.

## **Data Audit**

Once the final data were obtained and joined in a master dataset, an audit was undertaken to evaluate whether any data was missing. The final dataset contained 1,668 records of use of force with associated situational, civilian, and officer characteristics. Each variable was assessed for missing information, and the number and percentage of missing data for each variable are reported below in Table 3. Overall, the vast majority of records contained all relevant information. Among the variables missing small amounts of information, the level of civilian resistance was missing in 105 (6.3%) records, and 235 records (14.1%) did not include a time of day indicator. The patrol area in which the incident occurred was not available in 35 records (2.1%). Civilian characteristics were present in virtually all records with a few missing information on gender (0.2%), race/ethnicity (0.2%), and age (1.1%). Finally, one record did not contain officer rank (0.1%), and two records did not include officer assignment (0.1%).

While it is preferable to have all relevant information on all records, it is not uncommon or overly concerning when a small number of records are missing data. Moreover, adjustments to the data in preparation for analysis further reduced the impact of the missing data on the overall analysis and conclusions. As shown below in Table 3, there was very limited missing data across the 1,360 use of force encounters in which civilians had forced used against them by at least one officer between January 1, 2016 and December 31, 2018.

**Table 3: Missing Data**

<b>Variables</b>	<b># of Records</b>	<b># of Missing Records</b>	<b>% Missing Records</b>
<i>Situational Characteristics</i>			
Force	1,360	0	0.0%
Resistance (Max)	1,178	0	0.0%
Year	1,360	0	0.0%
Month/Season	1,360	0	0.0%
Day of Week/Weekend	1,360	0	0.0%
Hour/Nighttime	1,360	19	1.4%
Station	1,360	0	0.0%
Patrol Area	1,360	32	2.4%
<i>Civilian Characteristics</i>			
Gender	1,360	3	0.2%
Race/Ethnicity	1,360	2	0.2%
Age	1,360	17	1.3%
Mental Health	1,360	0	0.0%
<i>Officer Characteristics</i>			
Gender	1,360	0	0.0%
Race/Ethnicity	1,360	0	0.0%
Age	1,360	0	0.0%
Number	1,360	0	0.0%
Rank	1,360	1	0.1%
Assignment	1,360	2	0.1%

## IV. Findings

This section summarizes the results of all data analysis. Of note, this section of the report uses the term “cases”, as opposed to records, when referring to a civilian-involved use of force incident. The term “case” does not reflect common police vernacular indicating the opening of an administrative or criminal investigation; rather, it reflects a situation in which force was used against a civilian (see Section III for specific descriptions of how variables were measured).

### Descriptive Statistics

Descriptive summaries of the 1,360 use of force cases and their characteristics are provided in Table 4. Variables measured with multiple categories (e.g., maximum level of force) are summarized using the percentage of cases falling into each category, while variables reflecting a continuous scale are assessed for their minimum and maximum levels, their average or mean value, and their standard deviation.<sup>32</sup> The number of force actions within the 1,360 force encounters ranged from a single action to a maximum of 28 force actions used against a single civilian. The average number of actions per case was 3.3, with a standard deviation of 3.0. The maximum level of force used within a case was most frequently Level 3 (42.6%), followed closely by Level 2 (36.1%). The use of Level 1 force as the maximum was relatively infrequent (21.2%) and Level 4 force (0.1%) was rare. The average force level was 1.87 with a range of 0.8 to 4.0, and the final measure of force activity, totality, produced an average force score of 5.62 with a range from one to 45.

The highest level of civilian resistance was Level 3 (42.4%) with Level 2 (29.5%) also relatively common. Level 1 (14.2%) and Level 4 (8.1%) resistance was less common; of note, only 5.9% of all cases involved no civilian resistance. Force cases were relatively evenly spread across the three years with a slight uptick in 2018 (36.2%). Similarly, there was limited seasonal variation with winter accounting for the highest number of cases (27.4%). Slightly less than one-third of the cases occurred on a weekend (30.4%) and nearly two-thirds of all cases occurred between 7PM and 7AM (63.2%). Finally, there was considerable variability in the number of cases across FCPD stations. Most commonly, force was used in the Mt. Vernon (18.4%), Mason (16.8%), and McLean (16.5%) stations. Finally, a measure of crime seriousness was available. This information was drawn from the incident data file and reflects whether the force incident involved a Part I violent crime, a weapon or simple assault offense, or a property offense. Weapon or simple assault crimes characterized 26.9% of all force incidents, property crimes accounted for 11.5% of force cases, while Part I violent crimes were present in 6.0% of force cases. With respect to civilian characteristics (see Table 5), males made up the significant majority of those against whom force was used (82.7%). Black civilians accounted for the largest percentage of cases (42.4%), with White civilians comprising a nearly equal amount (38.2%) of cases. Hispanic civilians were involved in 16.0% of cases and Asian civilians in 3.3% of the force cases. Civilians were 30 years of age on average, and 9.5% of all cases involved a mental health consideration.

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<sup>3</sup> Standard deviation is a measure of how, on average, cases are different from one another; larger values indicate a variable with greater difference between cases.

**Table 4: Situational Characteristics**

Variables	N	% Cases	Min	Max	Mean	S.D.
Force	1,360	--	--	--	--	--
Number	1,360	--	1.0	28.0	3.32	2.95
Maximum	--	--	--	--	--	--
L1-Restraint, soft hand	288	21.2	--	--	--	--
L2-Hard hand control	491	36.1	--	--	--	--
L3-Taser use, canine, etc.	579	42.6	--	--	--	--
L4-Firearm use	2	0.1	--	--	--	--
Mean	1,360	--	0.8	4.0	1.87	0.75
Totality	1,360	--	1.0	45.0	5.62	4.91
Resistance (Max)	1,178	--	--	--	--	--
No resistance	69	5.9	--	--	--	--
L1-Non-compliant	167	14.2	--	--	--	--
L2-Defensive resistance	348	29.5	--	--	--	--
L3-Active resistance	499	42.4	--	--	--	--
L4-Lethal resistance	95	8.1	--	--	--	--
Year	1,360	--	--	--	--	--
2016	427	31.4	--	--	--	--
2017	441	32.4	--	--	--	--
2018	492	36.2	--	--	--	--
Season	1,360	--	--	--	--	--
Spring	353	26.0	--	--	--	--
Summer	329	24.2	--	--	--	--
Fall	305	22.4	--	--	--	--
Winter	373	27.4	--	--	--	--
Weekend	414	30.4	--	--	--	--
Nighttime <sup>4</sup>	847	63.2	--	--	--	--
Station	1,360	--	--	--	--	--
Sully	115	8.5	--	--	--	--
Mt. Vernon	250	18.4	--	--	--	--
McLean	225	16.5	--	--	--	--
Mason	228	16.8	--	--	--	--
Reston	105	7.7	--	--	--	--
Franconia	166	12.2	--	--	--	--
West Springfield	112	8.2	--	--	--	--
Fair Oaks	139	10.2	--	--	--	--
Other	21	1.4	--	--	--	--
Crime Seriousness						
Part I Violent Crime	81	6.0	--	--	--	--
Weapon or Assault Crime	366	26.9	--	--	--	--
Property Crime	156	11.5	--	--	--	--

Describing the characteristics of officers involved in the force cases is complex given the decision to use individual civilians as the primary unit of analysis; many use of force cases involved more than one officer, but only one civilian. As such, the reporting of these characteristics involves categories that reflect the appearance of only a specific characteristic or a mixed set of attributes. For example, force cases involving only male officers were most common (82.7%), with female

<sup>4</sup> Nighttime missing information on 19 incidents.

officer only cases occurring in 2.9% of all cases, and mixed officer gender situations occurring in 12.4% of all cases. White officer only cases were most common (69.3%), but a noticeable number of cases involved officers of mixed races/ethnicities (17.7%). The average officer age was 33, and, on average, two officers were involved in these force cases. Finally, the majority of these cases involved only officers holding patrol officer ranks<sup>5</sup> (87.9%) (see Table 5).

**Table 5: Civilian and Officer Characteristics**

<b>Variables</b>	<b>N</b>	<b>% Cases</b>	<b>Min</b>	<b>Max</b>	<b>Mean</b>	<b>S.D.</b>
<i>Civilian Characteristics</i>						
Gender <sup>6</sup>	1,357	--	--	--	--	--
Male	1,122	82.7	--	--	--	--
Female	235	17.3	--	--	--	--
Race/Ethnicity <sup>7</sup>	1,358	--	--	--	--	--
White	519	38.2	--	--	--	--
Black	576	42.4	--	--	--	--
Hispanic	218	16.0	--	--	--	--
Asian	45	3.3	--	--	--	--
Age <sup>8</sup>	1,343	--	9.0	118.0	30.00	12.52
Mental Health Concern	1,360	9.5	--	--	--	--
<i>Officer Characteristics</i>						
Gender	1,360	--	--	--	--	--
Male ONLY	1,151	84.6	--	--	--	--
Female ONLY	40	2.9	--	--	--	--
Mixed gender	169	12.4	--	--	--	--
Race/Ethnicity	1,360	--	--	--	--	--
White ONLY	942	69.3	--	--	--	--
Black ONLY	94	6.9	--	--	--	--
Hispanic ONLY	50	3.7	--	--	--	--
Asian ONLY	32	2.4	--	--	--	--
Other Race/Ethnicity	1	0.1	--	--	--	--
Mixed race/ethnicity	241	17.7	--	--	--	--
Age	1,360	--	21.0	62.0	33.29	7.11
Number	1,360	--	1.0	8.0	1.96	1.23
Rank <sup>9</sup>	1,359	--	--	--	--	--
Patrol Officers ONLY	1,195	87.9	--	--	--	--
Mix of officers/supervisors	117	8.6	--	--	--	--
Supervisors ONLY	36	2.6	--	--	--	--
Mix of Sworn and Recruit	11	0.8	--	--	--	--

Table 6 summarizes the context within which the use of force encounters occurred. Initially, all contextual measures are summarized at the county level using data provided by the FCPD, and thereafter, Table 7 provides more specific information on these measures at the station level.

The FCPD provided calls for service data categorized into Priority Levels 1-9 for the study's three-year period. Lower priority numbers reflect more serious types of situations. Given the lesser

<sup>5</sup> Patrol officers in the FCPD can hold the ranks of P1, P2, or P3 (master patrol officer).

<sup>6</sup> Civilian Gender missing information on 3 incidents.

<sup>7</sup> Civilian Race/Ethnicity missing information on 2 incidents.

<sup>8</sup> Civilian Age missing information on 16 incidents.

<sup>9</sup> Officer Rank missing information on 1 incident.

seriousness of Priority Levels 4-9, they were collapsed together for these summary statistics. During the study period, roughly 1.5 million calls were logged, and these calls largely reflect Priority Level 3 requests (68.7%). Additionally, an average Priority level was calculated and confirms that the most common type of call was a Priority 3 request. Calls for service were also categorized by the FCPD as criminal, service, or traffic, and summary statistics revealed that service calls were most frequent (49.4%) with traffic requests also quite prevalent (37.6%).

The violent crime rate was calculated using the reported crime data supplied by the FCPD. This measure reflects the number of violent crime incidents occurring throughout the county per 100,000 population. Using three years of data, the average violent crime rate across this period was 156.6 violent crimes per 100,000 population.

**Table 6: Contextual Characteristics**

<b>Variables</b>	<b>N</b>	<b>% Cases</b>	<b>Min</b>	<b>Max</b>	<b>Mean</b>	<b>S.D.</b>
Calls for Service <sup>10</sup>	1,587,037	--	1.0	9.0	3.94	1.95
Priority 1	2,577	0.2	--	--	--	--
Priority 2	66,056	4.2	--	--	--	--
Priority 3	1,090,984	68.7	--	--	--	--
Priority 4-9	427,420	26.9	--	--	--	--
Priority Average <sup>11</sup>	1,587,037	--	1.0	4.0	3.22	0.52
Calls for Service: Call Type	1,587,037	--	--	--	--	--
Criminal	205,724	13.0	--	--	--	--
Service	784,268	49.4	--	--	--	--
Traffic	597,045	37.6	--	--	--	--
Violent Crime Rate <sup>12</sup>	5,124	--	93.8	337.6	156.6	93.26
% White	675,102	61.9%	--	--	--	--
% Black	106,153	9.7%	--	--	--	--
% Hispanic	174,009	16.0%	--	--	--	--
% Asian	209,541	19.2%	--	--	--	--
% Other	99,655	9.1%	--	--	--	--
Vulnerability Index	8	--	2.3	4.3	3.0	0.64

Table does not include Patrol Area, Officer Assignment.

Finally, Fairfax County provided Census-based estimates of the racial composition of the county and a county-calculated social vulnerability index. The majority of Fairfax County was populated with White civilians (61.9%), with Asian (19.2%), Black (9.7%), and all Other races/ethnicities (9.1%) as noticeably smaller portions of the total population. Hispanic civilians comprised 16.0% of the total population; the totals do not equal 100% because the U.S. Census captures race and ethnicity in separate categories. The Social Vulnerability Index shows which areas of the county are more vulnerable based on race, language, income, education, housing, transportation, and health insurance. To create a score for each indicator, the data were classified into 5 classes using natural breaks. A score of 1 - 5 was given to each census tract for each indicator, with 5 representing the most vulnerable. The index was calculated by adding all scores together and dividing by 8 to reflect the number of FCPD stations.

<sup>10</sup> Calls for Service (Priority 0) were excluded; 4,061 incidents.

<sup>11</sup> CFS for reclassified to 4 groups based on the definitions of categories 1-9; Categories 4-9 were grouped together into a single category.

<sup>12</sup> The violent crime rate is based on a three-year average of violent crimes per year and is standardized by 100,000 population. A total of 5,124 violent crimes occurred during this time period. The population is drawn from the 2014-18 American Fact Finder (US Census) database which indicates 1,090,454 individuals within the 8 stations.

Table 7 summarizes these same contextual variables at the station level. As expected, there was variation across stations in all measures. For example, Priority 3 calls for service comprised 74.1% of all calls in the Mason District, but 66.3% of all calls in West Springfield District. Of note, the violent crime rate ranged considerably from a low of 93.8 in West Springfield to a high of 337.6 in Mt. Vernon and 312.6 in Mason. Likewise, the racial composition of these districts varied. Mt. Vernon (16.9%) and Franconia (16.8%) have the highest percentage of Black individuals, and the Mt. Vernon (26.5%) and Mason (26.4%) districts contain the highest percentage of Hispanics. Finally, the vulnerability index was highest in the Mason district (4.3) and lowest in Reston (2.3).

**Table 7: Station Characteristics**

Variables	County-Wide	Sully	Mt. Vernon	McLean	Mason	Reston	Franconia	West Springfield	Fair Oaks	Other
CFS – Priority 1	0.2%	0.2%	0.3%	0.1%	0.2%	0.2%	0.2%	0.1%	0.1%	0.1%
CFS – Priority 2	4.2%	4.5%	5.2%	4.3%	4.4%	5.0%	4.5%	4.4%	4.0%	1.6%
CFS – Priority 3	68.7%	73.1%	71.9%	73.5%	74.1%	70.1%	73.3%	66.3%	67.3%	73.6%
CFS – Priority 4-9	26.9%	22.3%	22.6%	22.1%	21.2%	24.8%	22.0%	29.2%	28.6%	24.7%
CFS – Average	3.22	3.18	3.17	3.18	3.16	3.20	3.17	3.25	3.24	3.23
CFS – Criminal	13.0%	9.8%	16.7%	13.7%	14.3%	12.9%	14.0%	10.6%	9.8%	2.9%
CFS – Service	49.4%	42.2%	49.5%	48.6%	45.9%	54.0%	46.0%	49.0%	51.5%	81.3%
CFS – Traffic	37.6%	48.0%	33.8%	37.7%	39.8%	33.1%	40.0%	40.4%	38.7%	15.8%
Violent Crime Rate	156.6	112.2	337.6	110.0	312.6	118.6	163.6	93.8	94.9	--
% White	61.9%	58.4%	62.9%	64.3%	56.7%	67.2%	56.7%	66.2%	59.8%	--
% Black	9.7%	7.3%	16.9%	4.7%	10.8%	8.2%	16.8%	8.1%	7.2%	--
% Hispanic	16.0%	13.9%	26.5%	11.0%	26.4%	11.4%	18.7%	14.8%	9.6%	--
% Asian	19.2%	26.4%	7.7%	22.2%	17.6%	17.8%	16.9%	17.7%	26.4%	--
% Other	9.1%	7.9%	12.5%	8.8%	14.9%	6.7%	9.7%	8.1%	6.6%	--
Vulnerability Index <sup>13</sup>	3.0	2.9	3.5	2.5	4.3	2.3	3.5	2.6	2.5	--

Station percentages were based on 1,472,392 calls for service with information missing on 114,645 calls.

<sup>13</sup> The violent crime rate and vulnerability index are correlated at .84 across the 8 stations.

## Bivariate Analyses

The summary statistics provide an overall description of the data and identify initial trends in the data. Moving beyond this initial assessment, it is critical to assess how variables intersect with one another. This is useful for understanding simple bivariate relationships between use of force actions and civilian race/ethnicity, and more complicated multivariate relationships between civilian race/ethnicity and officer race/ethnicity (i.e., civilian/officer dyads), and maximum force levels. Importantly, these statistics are not directly testing hypotheses; they are simply describing the intersection between variables. This section reports on these relationships and creates a foundation for the multivariate analyses to follow.

### Force, Resistance, and Civilian Race/Ethnicity

Rates of force usage were initially calculated for White, Black, Hispanic, and Asian civilians. As reported in Table 4, 1,358 force cases contained a measure of the civilian's race/ethnicity. As previously reported, the breakdown of force cases by the race and/or ethnicity of the civilians involved was as follows:

- Black civilians (576 cases) 42.4%
- White civilians (519 cases) 38.2%
- Hispanic civilians (218 cases) 16.0%
- Asian civilians (45 cases) 3.3%

Using the four-point force scale, average levels of force were calculated for each group. **Black civilians experienced a 2.4 level of force on average, while Hispanic, White, and Asian civilians averaged 2.2, 2.1., and 2.0, respectively.** Further analyses examined the percentage of cases within each racial/ethnic group that comprised each level of force. Direct comparisons within level across groups are possible by examining Table 8. For example, 26.4% of all White civilians experienced Level 1 force as the maximum. This can be compared directly to Black civilians who experienced Level 1 force as the maximum in 16.5% of all cases involving that group. **Of note, over half of the cases involving Black civilians resulted in a maximum force of Level 3 (51.2%) compared to 36.2% of cases involving White civilians, 38.5% of cases involving Hispanic civilians, and 24.4% of cases involving Asian civilians.**

An identical analytic approach was used to evaluate civilian resistance. Of note, 69 cases that involved no resistance were removed from this particular analysis to create equal four-point scales of force and resistance. As a result, 1,108 cases with a maximum level of resistance were retained for analysis. **On average, the level of resistance exerted by all racial/ethnic groups was statistically indistinguishable**, as White and Asian civilians averaged a 2.5 on the four-point scale and Black and Hispanic civilians averaged a 2.4 on the same scale. Further assessment of the percentage of cases within group that experienced Levels 1-4 of resistance reinforce a similar pattern with some minor variation. For example, Level 1 resistance was the maximum level in 13.9% of cases involving White civilians and 13.7% of cases involving Black civilians; Hispanic civilians had a slightly higher percentage at 21.9%. When considering the highest level of resistance, White civilians exerted this level of resistance in 10.5% of all cases, Hispanic civilians demonstrated this level of resistance in 8.2% of all encounters, Black civilians exercised this level of resistance in 7.2% of all cases, and Asian civilians applied Level 4

resistance in 5.0% of all encounters.

**Table 8: Use of Force and Civilian Resistance by Civilian Race/Ethnicity**

<b>Variables</b>	<b>White</b>	<b>Black</b>	<b>Hispanic</b>	<b>Asian</b>
<b>Force (N=1,358)</b>	<b>N=519</b>	<b>N=576</b>	<b>N=218</b>	<b>N=45</b>
<i>Average Max Force (Scale 1-4)</i>	2.1	2.4	2.2	2.0
Level 1: Restraint, Soft Hand Control	26.4	16.5	19.7	28.9
Level 2: Hard Hand Control	37.2	32.1	41.7	46.7
Level 3: Taser, Pepper Ball, Canine, Etc.	36.2	51.2	38.5	24.4
Level 4: Use of Firearm	0.2	0.2	0.0	0.0
	<b>White</b>	<b>Black</b>	<b>Hispanic</b>	<b>Asian</b>
<b>Resistance (N=1,108)</b>	<b>N=439</b>	<b>N=446</b>	<b>N=183</b>	<b>N=40</b>
<i>Average Resistance Force (Scale 1-4)</i>	2.5	2.4	2.4	2.5
Level 1: Non-compliant, Passive Resistance	13.9	13.7	21.9	12.5
Level 2: Defensive Resistance	29.2	37.2	23.5	27.5
Level 3: Active/Assaultive Resistance	46.5	41.9	46.4	55.0
Level 4: Lethal/Potentially Lethal Resistance	10.5	7.2	8.2	5.0

**Force, Civilian Race/Ethnicity, and Officer Race/Ethnicity**

Beyond the intersection of force level, resistance level, and civilian race/ethnicity, it is instructive to evaluate whether the experience of civilians varies by officer race/ethnicity. Table 9 summarizes the experience of civilian racial/ethnic groups across levels of force. In the case of White civilians, 362 of the 519 force cases involved a White officer (only) with an average level of force of 2.1. The White officer/White civilian dyad included 25.7% of cases of Level 1 force, 37.8% of cases of Level 2 force, and 36.2% cases of Level 3 force. These percentages can be directly compared to cases involving officers of other races/ethnicities. For example, dyads involving Black officers and White civilians resulted in a lower average level of force (1.9) compared to White officer/Black civilian dyads (2.3).

Evaluating force across all civilian groups reveals interesting results. For example, Black civilians experienced higher levels of maximum force (Level 3) when a Black officer was involved (65.9%) compared to any White officers (49.2%). Conversely, Hispanic officers appeared to use Level 3 force less often against Hispanic civilians (31.3%) compared to White (39.9%) or Black (41.7%) officers. Two important caveats need to be considered when evaluating these results. First, none of these statistics consider the impact of other variables including level of civilian resistance, which has shown to be impactful in previous studies. Second, some of the cells are based on a low number of cases, and in those situations, the percentages should be taken with a degree of caution. For example, Black officers appeared to use lower levels of maximum force against Asian civilians compared to other officer groups; however, there were only four instances of this dyad.

**Table 9: Use of Force by Civilian-Officer Dyad**

<b>Variables</b>	<b>Average Level of Force</b>	<b>L1: Restraint, Soft Hand Control</b>	<b>L2: Hard Hand Control</b>	<b>L3: Taser, Pepper Ball, Canine</b>	<b>L4: Use of Firearm</b>
White Civilian (N=519)	2.1	26.4	37.2	36.2	0.2
White Officer (N=362)	2.1	25.7	37.8	36.2	0.3
Black Officer (N=37)	1.9	37.8	32.4	29.7	0.0
Hispanic Officer (N=15)	2.1	20.0	46.7	33.3	0.0
Asian Officer (N=14)	2.1	35.7	21.4	42.9	0.0
Other Race/Eth Officer (N=0)	--	--	--	--	--
Mixed Race/Ethnicity (N=91)	2.1	24.2	37.4	38.5	0.0
Black Civilian (N=576)	2.4	16.5	32.1	51.2	0.2
White Officer (N=398)	2.3	18.1	32.4	49.2	0.3
Black Officer (N=41)	2.5	12.2	22.0	65.9	0.0
Hispanic Officer (N=19)	2.4	15.8	31.6	52.6	0.0
Asian Officer (N=10)	2.6	0.0	40.0	60.0	0.0
Other Race/Eth Officer (N=1)	3.0	0.0	0.0	100.0	0.0
Mixed Race/Ethnicity (N=107)	2.4	14.0	34.6	51.4	0.0
Hispanic Civilian (N=218)	2.2	19.7	41.7	38.5	0.0
White Officer (N=148)	2.2	18.9	41.2	39.9	--
Black Officer (N=12)	2.1	33.3	25.0	41.7	--
Hispanic Officer (N=16)	2.1	25.0	43.8	31.3	--
Asian Officer (N=6)	2.2	16.7	50.0	33.3	--
Other Race/Eth Officer (N=0)	--	--	--	--	--
Mixed Race/Ethnicity (N=36)	2.2	16.7	47.2	36.1	--
Asian Civilian (N=45)	2.0	28.9	46.7	24.4	0.0
White Officer (N=33)	2.0	24.2	48.5	27.3	--
Black Officer (N=4)	1.8	50.0	25.0	25.0	--
Hispanic Officer (N=0)	--	--	--	--	--
Asian Officer (N=2)	2.5	0.0	50.0	50.0	--
Other Race/Eth Officer (N=0)	--	--	--	--	--
Mixed Race/Ethnicity (N=6)	1.5	50.0	50.0	0.0	--

## Benchmarking

A key consideration in this research project was to investigate how the FCPD used force against minority civilians and whether force was used against minorities in disparate ways compared to Whites. One approach is to directly compare the rates of force used against different civilian groups (see previous analyses); however, this approach is limited in its utility because it does not account for possible differences across racial/ethnic groups in the *risk* of force being used against them by the police. Imagine a hypothetical scenario where 100 percent of bias-free violent crime-related arrests involved a single racial or ethnic group. The risk to members of that group of having force used against them clearly would be higher than for members of any other racial group because of the group's differential involvement in violent crime. Thus, under conditions of no discrimination, the rate of force experienced by different racial/ethnic groups may vary according to the rates at which those groups come into contact with the police and/or their known or suspected involvement in criminal activity, particularly violent crime, since those are relevant indicators of risk (Geller et al., 2020). Moreover, appropriately accounting for risk requires an external source of data to operate as a proxy for the risk of force usage. Commonly referred to as a benchmark, this external data source provides a rate of “expected” force usage to compare against the actual rate of force usage for each civilian group.

We use several benchmarks to compare against the rates of force experienced by civilian groups in their encounters with the FCPD. As described in the study proposal, three sources of data were used as benchmarks: (1) crime suspects, (2) arrestees, and (3) for the subset of persons with mental disorders against whom force was used, persons subject to mental detention orders (discussed further below). Crime suspects are persons described by victims to the police when making a police report, and we obtained these data from the FCPD records management system for the time period covered by the study. In addition to using suspect descriptions as a benchmark against force, we also compare the race and ethnicity of arrestees (where race and ethnicity is usually known) to the population of persons against whom force was used by the FCPD. Finally, in cases where force was used against persons with mental disorders, we use mental detention order data (where race and/or ethnicity are also known) obtained from the county as a comparator for that unique subset of force cases. As described below, the crime suspect and arrest data<sup>14</sup> were further disaggregated to produce additional benchmarks based on crime type:

- Crime suspects data
  - All crime suspects regardless of offense
  - Part 1 violent crime<sup>15</sup> suspects: homicides, sex offenses, robbery, and aggravated assault
  - Part 1+ violent crime suspects: homicides, sex offenses, robbery, aggravated assault, simple assault, and weapons offenses

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<sup>14</sup> The arrest data reflect custodial arrests (i.e., on-view or warrant) with each record reflecting a charge against a civilian.

<sup>15</sup> Under the FBI Uniform Crime Reporting system, Part 1 violent crimes include murder and non-negligent manslaughter, forcible rape, robbery, and aggravated assault.

- Arrest data
  - All custodial arrests regardless of offense
  - Part 1 custodial arrests: homicides, sex offenses, robbery, and aggravated assault
  - Part 1+ custodial arrests: homicides, sex offenses, robbery, aggravated assault, simple assault and weapons offenses

For all six benchmarks, a percentage for White, Black, Hispanic, and Asian groups was created (see Table 10).

These benchmarks represent the percentage of each group that is represented in the six data sources. For example, 29.6% of ‘all crime suspects’ were identified as White, whereas 38.7% of ‘all suspects’ were identified as Black. Alternatively, Whites represented 16.7% and 24.6% respectively of ‘Part I violent crime suspects’ and ‘Part 1+ violent crime suspects’, while Black civilians comprised 48.0% and 42.6% and of these benchmarks, respectively.

These benchmarks can then be compared to the rate of force for White civilians (38.2%) and Black civilians (42.4%). A simple comparison demonstrates that force was used more frequently against White civilians (38.2%) than what would be expected based on all suspect and arrestee benchmarks, whereas Black civilians experienced a rate of force (42.4%) that was higher than what would be expected in four out of the six benchmarks utilized. Force used against Hispanic civilians was generally lower than expected based on all benchmarks examined while the findings were mixed for Asian civilians with a force rate that exceeded the suspect benchmarks but which was less than the arrestee benchmarks (see Table 10). Note that benchmark percentages for racial/ethnic groups that are *lower than* the force rates experienced by those groups are **highlighted in red** in Table 10. This color coding indicates instances when actual force rates exceeded expected benchmark rates.

**Overall, based on these benchmark comparisons, Whites, and to a somewhat lesser extent Blacks, consistently experienced force at rates that exceeded their representation in the benchmarks, while force was used against Hispanics at rates lower than expected. The benchmark findings for Asians were mixed with half the comparisons showing force used against this group at rates lower than expected and half at higher rates.** These relationships are visually displayed in Figure 1; the red bar indicates the rate of force and the vertical bars represent the six benchmarks for each group. For example, it is clear from the graph that the rate of force (horizontal bar) experienced by Whites was greater than expected based on all benchmarks (vertical bars) examined, while Black civilians also experienced force at rates higher than four of the six benchmark comparators. Benchmark comparisons such as these are useful first steps in examining potential disparities in the rates at which different racial and ethnic groups experience force compared to their relative risk for force given their representation among crime suspects and arrestees. However, they are most useful when considered in conjunction with other potential indicators of disparity as further described below.

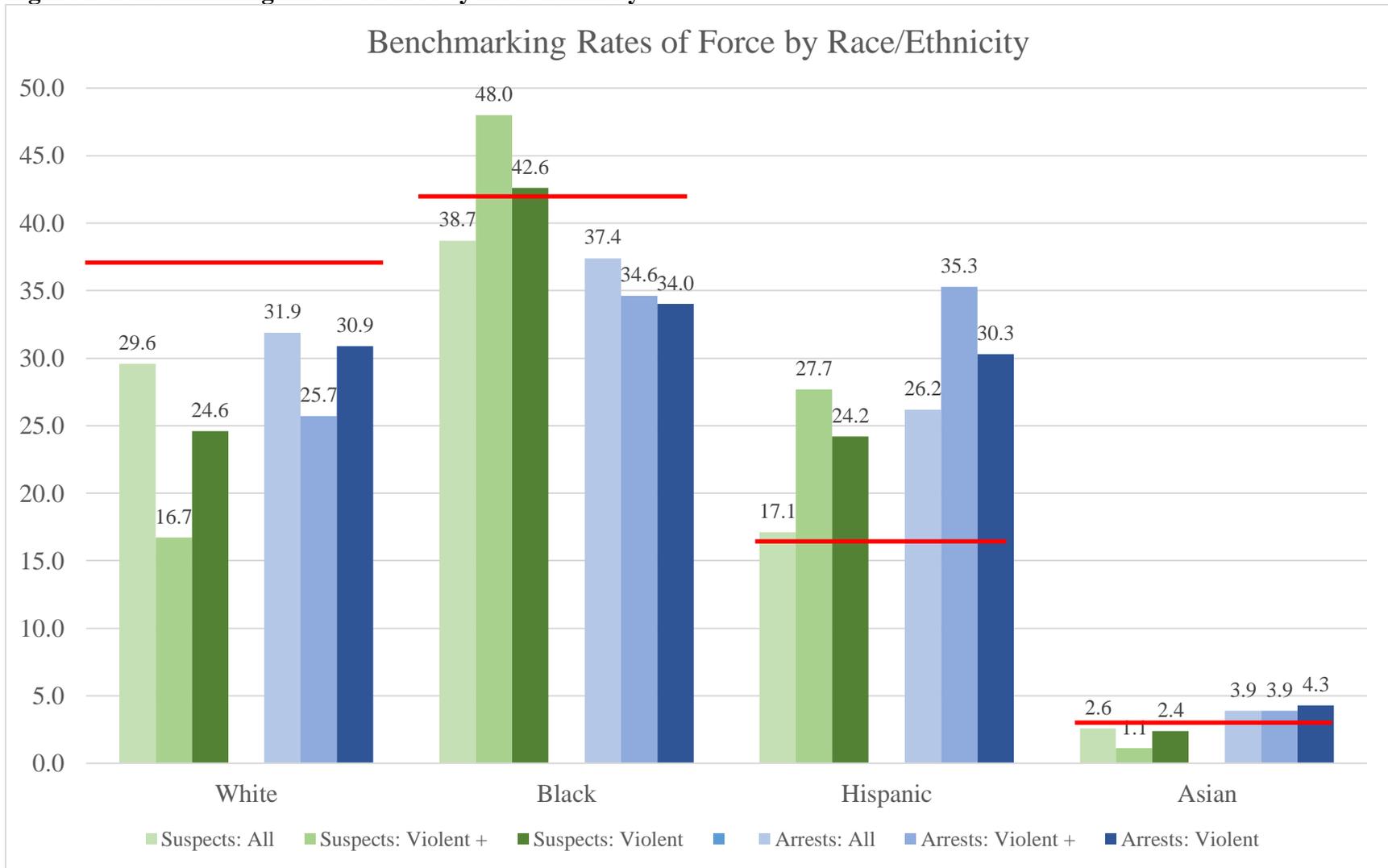
**Table 10: Use of Force Benchmarking by Civilian Race/Ethnicity**

Variables	Percentages				Disproportionality Ratios		
	White	Black	Hispanic	Asian	Black	Hispanic	Asian
Force (N=1,358)	N=519	N=576	N=218	N=45	--	--	--
% Force	38.2	42.4	16.1	3.3	--	--	--
All Suspects (N=27,539)	29.6	38.7	17.1	2.6	0.8	0.8	1.0
Part I Violent Suspects	16.7	48.0	27.7	1.1	0.4	0.3	1.3
Part I+ Violent Suspects	24.6	42.6	24.2	2.4	0.6	0.4	0.9
All On-View and Custody Arrests (N=84,647)	31.9	37.4	26.2	3.9	0.9	0.5	0.7
Part I Violent On-View and Custody Arrests	25.7	34.6	35.3	3.9	0.8	0.3	0.6
Part I+ Violent On-View and Custody Arrests	30.9	34.0	30.3	4.3	1.0	0.4	0.6

Benchmarking percentages do not sum to 100 because other civilian race/ethnicity groups are included in these data.

Disproportionality Ratio provides a comparison of selected groups to White civilians. A value of 1.0 indicates no statistical difference between the minority and White groups. A value above 1 represents a higher likelihood of use of force for the minority group compared to White civilians.

**Figure 1: Benchmarking Rates of Force by Race/Ethnicity**



While benchmark comparisons are useful for *within* group comparisons, it is also instructive to examine how minority groups experienced force used against them compared to White civilians (i.e., *between* group comparisons). Disproportionality ratios are a useful and easily interpretable technique for comparing the racial/ethnic composition of groups of persons against whom force was used (i.e., minority groups) to the rates of force used against the non-Hispanic White population using a pre-determined benchmark (Smith et al., 2019). A DR is calculated by considering the *within* group disproportionality index (DI) (force rate of group/benchmark) and then dividing the DI of the minority group by the DI of the majority group (i.e., White civilians). This produces a value that when hovering around 1.0 indicates that there is no difference in the experience of the minority group relative to the majority group. DR values above 1.0 (shown in red) represent how many times more likely a minority group member is likely to experience force compared to a member of the majority group. DR values below 1.0 indicate that the minority group is less likely than the majority group to experience force.

Table 10 (second panel) summarizes the DRs for Black, Hispanic, and Asian civilians (White DRs are not reported because they are used as the reference group). Black civilian DRs did not exceed 1.0 for any of the benchmarks examined. Practically this means that **Black civilians had equal or lower rates of force used against them relative to White civilians when compared against all benchmarks.** Similarly, **Hispanic civilians had lower DRs in all six benchmark comparisons, while Asian civilians had a DR above 1.0 only when using the ‘Part I violent crime suspects’ benchmark.** Overall, when comparing the rates at which minority civilians experienced force at the hands of the FCPD relative to Whites, the DRs showed equal or lower rates of force used against minority groups compared to Whites in all but one (Asian violent crime suspects) of the benchmarks utilized. Please also see Figure 2 for a graphic depiction of the disproportionality ratios for all groups.

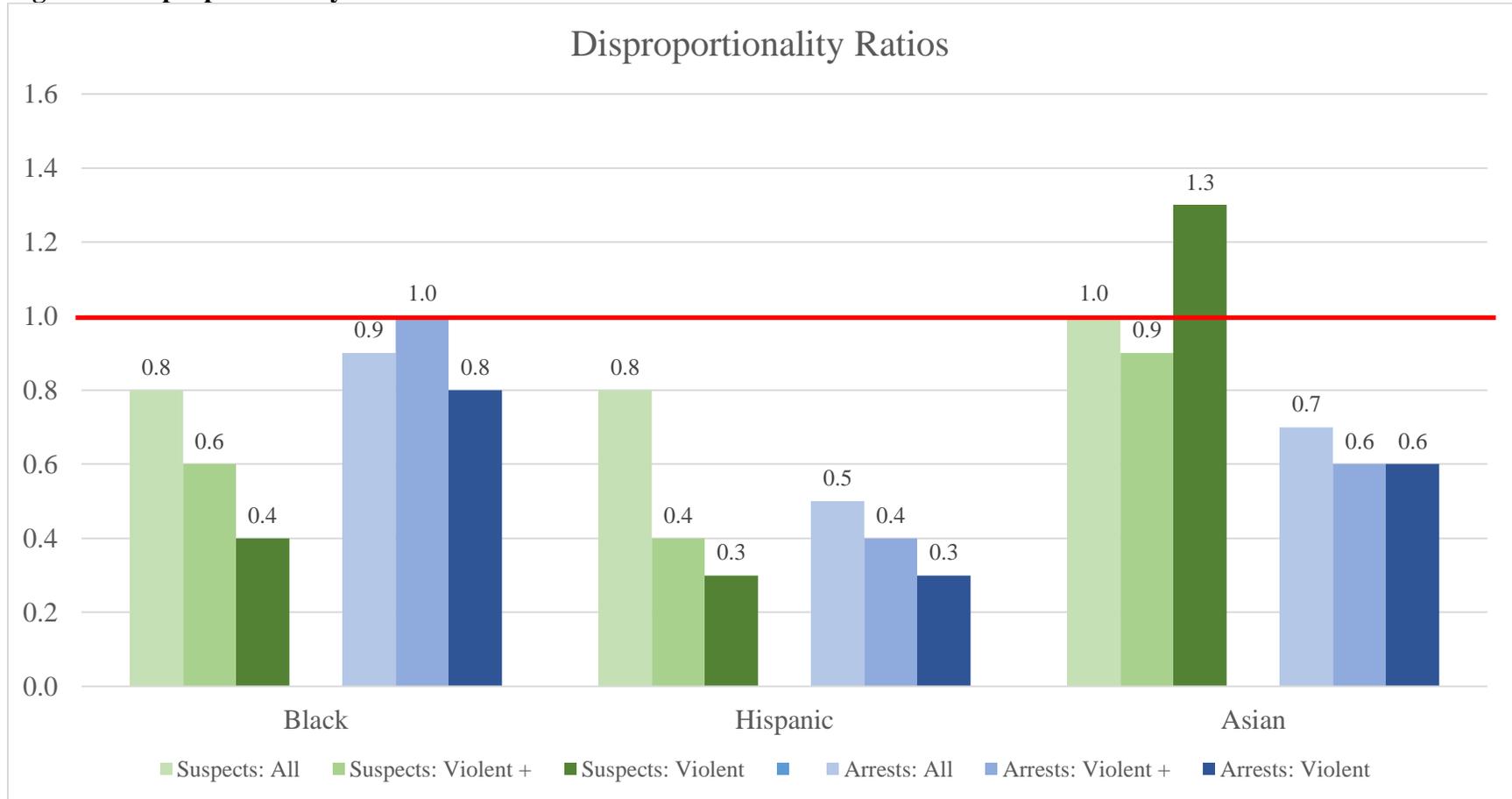
Importantly, a minority group may experience higher rates of force based on a *within* group comparison and still possess a DR below 1.0. Thus, it is critical to remember that a DR is a comparison statistic *between* groups and not an overall measure of whether a minority group experiences more or less force relative to the benchmark.

**In sum, the benchmarking analyses provide two comparisons. First, the rate of *within* group experience with force actions can be evaluated against relevant external proxies for the risk of force (e.g., criminal involvement by groups as reported crime suspects or arrestees). Second, the rate of minority groups’ experiences with force can be measured against the majority group (typically non-Hispanic Whites) to determine the relative risk of force (i.e., *between* group) experienced by minority groups compared to that of Whites. In no case is it methodologically appropriate to compare rates of force experienced by racial/ethnic groups to their representation in the residential census population because such comparisons fail to adequately take into account legitimate differences across racial ethnic groups in the *risk* of experiencing force used by the police.<sup>16</sup>**

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<sup>16</sup> See Geller et al. (2020) for a recent discussion of benchmarking in the force-related context, Cesario, Johnson & Terrill (2018) for a benchmarking discussion involving deadly force, and Smith and colleagues (forthcoming) for an analogous discussion of benchmarking in the traffic stop context; see also Ridgeway (2007) (crime suspect and arrestee benchmarking in New York City) and Smith, Tillyer, Smith, & Lloyd (forthcoming in *Urban Affairs Review*) (analogous benchmarking techniques for pedestrian stops).

**Figure 2: Disproportionality Ratios for All Benchmarks**



Using the same benchmarks, we also examined force activity at each FCPD district station (see Tables 11-14). Each Table reports on two stations and their rates of force in relation to all six benchmarks and also shows disproportionality ratios for each racial/ethnic group by benchmark. Importantly, these percentages become less stable in some stations based on the low number of force encounters, so these results should be considered in light of this limitation.

An examination of the benchmarks and disproportionality ratios reveals mixed findings depending on station, race/ethnicity, and the comparison examined. For example, consistent with the county-wide findings, **Whites are consistently overrepresented in force cases compared to their benchmarks. Similarly, Black civilians in Mt. Vernon, McLean, Franconia, and West Springfield also are consistently overrepresented compared to external benchmarks. Hispanics, however, are generally underrepresented in force cases compared to the external benchmarks except in Sully and McLean where the pattern reverses and they are overrepresented. The external benchmark findings for Asians show a mixed pattern with some district stations showing overrepresentation in force used against Asians with some benchmarks but not others (Mt. Vernon and Reston) and others stations showing consistent overrepresentation in all benchmarks examined (West Springfield and Fair Oaks). An examination of the disparity ratios by district station shows consistent overrepresentation of force used against Blacks and Asians in Mt. Vernon relative to Whites and consistent overrepresentation among Asians in Fair Oaks. Disparity ratios for Blacks are higher than 1.0 in other stations as well, notably Franconia, depending upon the benchmark used for comparative purposes.**

**Table 11: Use of Force Benchmarking by Civilian Race/Ethnicity & Stations (Part 1)**

Station	Variables	Percentages				Disproportionality Ratios		
		White	Black	Hispanic	Asian	Black	Hispanic	Asian
Sully	Force (N=115)	N=53	N=37	N=25	--			
	% Force	46.1	32.2	21.7	--			
	All Suspects (N=1,949)	37.4	30.0	14.8	3.0	0.9	1.2	--
	Part I Violent Suspects	22.2	51.9	17.8	1.5	0.3	0.6	--
	Part I+ Violent Suspects	30.0	41.6	17.8	3.5	0.5	0.8	--
	All On-View and Custody Arrests (N=52,138)	31.4	35.3	28.6	4.2	0.6	0.5	--
	Part I Violent On-View and Custody Arrests	26.5	36.5	32.9	3.3	0.5	0.5	--
	Part I+ Violent On-View and Custody Arrests	32.2	32.9	29.8	4.5	0.7	0.5	--
	Force (N=250)	N=48	N=167	N=32	N=3			
	% Force	19.2	66.8	12.8	1.2			
Mt. Vernon	All Suspects (N=4,468)	18.8	56.3	17.1	0.3	1.2	0.7	3.9
	Part I Violent Suspects	9.3	65.2	20.6	0.0	0.5	0.3	--
	Part I+ Violent Suspects	12.7	63.0	20.2	0.1	0.7	0.4	7.9
	All On-View and Custody Arrests (N=54,942)	30.4	36.5	28.7	4.0	2.9	0.7	0.5
	Part I Violent On-View and Custody Arrests	22.5	38.6	35.5	2.8	2.0	0.4	0.5
	Part I+ Violent On-View and Custody Arrests	29.9	35.1	30.4	4.1	3.0	0.7	0.5

Benchmarking percentages do not sum to 100 because other civilian race/ethnicity groups are included in these data.

Disproportionality Ratio provides a comparison of selected groups to White civilians. A value of 1.0 indicates no statistical difference between the minority and White groups. A value above 1 represents a higher likelihood of use of force for the minority group compared to White civilians.

**Table 12: Use of Force Benchmarking by Civilian Race/Ethnicity & Stations (Part 2)**

Station	Variables	Percentages				Disproportionality Ratios			
		White	Black	Hispanic	Asian	Black	Hispanic	Asian	
McLean	Force (N=224)	N=97	N=103	N=17	N=7				
	% Force	43.1	45.8	7.6	3.1				
	All Suspects (N=4,350)	32.6	37.9	11.6	3.0	0.9	0.5	0.8	
	Part I Violent Suspects	20.6	49.0	20.0	0.6	0.4	0.2	2.5	
	Part I+ Violent Suspects	36.3	34.0	19.4	1.9	1.1	0.3	1.4	
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	All On-View and Custody Arrests (N=52,481)	31.2	35.3	28.8	4.2	0.9	0.2	0.5	
	Part I Violent On-View and Custody Arrests	25.3	36.5	34.3	3.2	0.7	0.1	0.6	
	Part I+ Violent On-View and Custody Arrests	31.9	35.3	30.4	4.5	1.0	0.2	0.5	
	<hr/>								
Mason	Force (N=228)	N=74	N=65	N=81	N=8				
	% Force	32.5	28.5	35.5	3.5				
	All Suspects (N=4,382)	22.2	37.0	28.9	3.1	0.5	0.8	0.8	
	Part I Violent Suspects	11.6	36.5	46.9	1.7	0.3	0.3	0.7	
	Part I+ Violent Suspects	17.5	34.6	40.3	4.1	0.4	0.5	0.5	
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	All On-View and Custody Arrests (N=54,186)	30.6	35.1	29.6	4.1	0.8	1.1	0.8	
	Part I Violent On-View and Custody Arrests	22.8	36.0	37.1	3.5	0.6	0.7	0.7	
Part I+ Violent On-View and Custody Arrests	30.5	32.6	32.0	4.4	0.8	1.0	0.7		

Benchmarking percentages do not sum to 100 because other civilian race/ethnicity groups are included in these data.

Disproportionality Ratio provides a comparison of selected groups to White civilians. A value of 1.0 indicates no statistical difference between the minority and White groups. A value above 1 represents a higher likelihood of use of force for the minority group compared to White civilians.

**Table 13: Use of Force Benchmarking by Civilian Race/Ethnicity & Stations (Part 3)**

Station	Variables	Percentages				Disproportionality Ratios			
		White	Black	Hispanic	Asian	Black	Hispanic	Asian	
Reston	Force (N=105)	N=54	N=27	N=20	N=4				
	% Force	51.4	25.7	19.0	3.8				
	All Suspects (N=2,287)	34.5	35.7	17.7	1.1	0.5	0.7	2.3	
	Part I Violent Suspects	17.0	42.6	35.2	0.0	0.2	0.2	--	
	Part I+ Violent Suspects	28.3	41.9	24.5	0.2	0.3	0.4	10.5	
	<hr/>								
	All On-View and Custody Arrests (N=52,184)	31.2	35.5	28.6	4.1	0.4	0.4	0.6	
	Part I Violent On-View and Custody Arrests	26.1	37.4	32.9	3.1	0.3	0.3	0.6	
	Part I+ Violent On-View and Custody Arrests	32.0	33.2	30.0	4.3	0.5	0.4	0.6	
	<hr/>								
Franconia	Force (N=166)	N=58	N=84	N=22	N=2				
	% Force	34.9	50.6	13.3	1.2				
	All Suspects (N=4,266)	25.6	43.3	14.7	2.5	0.9	0.7	0.4	
	Part I Violent Suspects	13.1	56.6	20.7	1.2	0.3	0.2	0.4	
	Part I+ Violent Suspects	21.1	49.2	19.3	2.5	0.6	0.4	0.3	
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	All On-View and Custody Arrests (N=53,497)	31.3	35.5	28.6	4.1	1.3	0.4	0.3	
	Part I Violent On-View and Custody Arrests	24.4	38.5	33.2	3.3	0.9	0.3	0.3	
Part I+ Violent On-View and Custody Arrests	31.5	33.5	30.1	4.3	1.4	0.4	0.3		

Benchmarking percentages do not sum to 100 because other civilian race/ethnicity groups are included in these data.

Disproportionality Ratio provides a comparison of selected groups to White civilians. A value of 1.0 indicates no statistical difference between the minority and White groups. A value above 1 represents a higher likelihood of use of force for the minority group compared to White civilians.

**Table 14: Use of Force Benchmarking by Civilian Race/Ethnicity & Stations (Part 4)**

Station	Variables	Percentages				Disproportionality Ratios			
		White	Black	Hispanic	Asian	Black	Hispanic	Asian	
West Springfield	Force (N=111)	N=55	N=41	N=9	N=6				
	% Force	49.5	36.9	8.1	5.4				
	All Suspects (N=2,568)	37.9	26.8	17.5	4.4	1.1	0.4	0.9	
	Part I Violent Suspects	27.2	36.4	26.6	2.2	0.6	0.2	1.3	
	Part I+ Violent Suspects	34.3	32.0	21.1	3.7	0.8	0.3	1.0	
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	All On-View and Custody Arrests (N=52,802)	31.6	35.0	28.6	4.2	0.7	0.2	0.8	
	Part I Violent On-View and Custody Arrests	26.3	35.7	33.1	4.1	0.5	0.1	0.7	
	Part I+ Violent On-View and Custody Arrests	32.1	32.6	29.9	4.7	0.7	0.2	0.7	
	<hr/>								
Fair Oaks	Force (N=139)	N=78	N=40	N=9	N=12				
	% Force	56.1	28.8	6.5	8.6				
	All Suspects (N=2,972)	42.0	29.0	12.1	3.5	0.7	0.4	1.8	
	Part I Violent Suspects	34.1	34.8	13.8	2.2	0.5	0.3	2.4	
	Part I+ Violent Suspects	37.8	33.4	15.6	2.5	0.6	0.3	2.3	
	<hr/>								
	All On-View and Custody Arrests (N=64,857)	31.9	37.4	26.1	4.1	0.4	0.1	1.2	
	Part I Violent On-View and Custody Arrests	28.7	34.5	32.6	3.6	0.4	0.1	1.2	
Part I+ Violent On-View and Custody Arrests	32.4	33.6	29.0	4.4	0.5	0.1	1.1		

Benchmarking percentages do not sum to 100 because other civilian race/ethnicity groups are included in these data.

Disproportionality Ratio provides a comparison of selected groups to White civilians. A value of 1.0 indicates no statistical difference between the minority and White groups. A value above 1 represents a higher likelihood of use of force for the minority group compared to White civilians.

The final benchmark utilized was drawn from reports of encounters involving persons with mental disorders. Table 15 summarizes the comparison of force within racial/ethnic group when mental health was identified as a component in the encounter against the benchmark of voluntary and involuntary mental health involved encounters by racial/ethnic group. This assessment reveals that Black civilians were underrepresented in use of force encounters (23.3%) compared to their representation in the two benchmarks (26.9% and 25.5%, respectively). Hispanic civilians' rate of force (i.e., 7.0%) was below the voluntary mental health benchmark (i.e., 8.4%) and slightly above the involuntary mental health benchmark (i.e., 6.7%). Finally, Asian civilians exhibiting a mental health concern were involved in a higher rate of force incidents (i.e., 10.9%) compared to the two benchmarks (i.e., 4.7% and 8.0%, respectively).

**Table 15: Use of Force Benchmarking for Mental Ill Civilians**

<b>Variables</b>	<b>White</b>	<b>Black</b>	<b>Hispanic</b>	<b>Asian</b>
Force (N=129)	N=76	N=30	N=9	N=14
% Force	58.9	23.3	7.0	10.9
Voluntary Mental Health (N=320)	58.8	26.9	8.4	4.7
Involuntary Mental Health (N=686)	59.6	25.5	6.7	8.0

### **Multivariate Analyses**

The final set of analyses involve the estimation of several multivariate models that identify key variables that are either positively (increase the likelihood or level) or negatively (decrease the likelihood or level) related to force. This modeling approach is particularly powerful for examining each variable while simultaneously considering other variables. In other words, the results of these models provide a clear assessment of each relationship between the key variables and force.

As previously described, there are four measures of force (all using the three-level<sup>17</sup> scale) examined using multivariate modeling:

- The maximum<sup>18</sup> level of force applied against each civilian
- The maximum level of force applied in an incident against civilian(s)
- The average level of force applied against each civilian
- The total<sup>19</sup> sum of force applied against each civilian

Examining these four force measures resulted in six multivariate modeling estimates reported below. The maximum force outcome, at both the civilian and incident levels, was examined using a multinomial regression model in which the lowest level of force is excluded and the relationships for Levels 2 & 3 of force are reported and compared against the excluded category (i.e., Level 1). Multinomial regression is an appropriate modeling technique when the dependent variable (i.e., use of force) is measured as a multi-category, ordered variable. In this case, force actions are grouped in an increasing level of seriousness across three categories.

<sup>17</sup> Force was originally measured on a four-point scale. For the multivariate analyses, the highest level of force (i.e., Level 4) was removed due to a low number of cases (e.g., N=2).

<sup>18</sup> The highest level of the three-level scale.

<sup>19</sup> A sum of all force actions within the encounter.

Robust standard errors are estimated to ensure accuracy in model estimates; in other words, we adopt a conservative approach to identifying variables that are statistically associated with force actions to increase our level of confidence in the results. The average level of force and totality of force were modeled using ordinary least squares (OLS) regression. Additional models were also estimated for the maximum force outcome at the station level to assess whether patterns across the entire organization were consistent at the station level.<sup>20</sup>

Two key pieces of information are produced from these models. First, a measure of statistical significance is identified. This represents the degree of confidence associated with the relationship or the extent to which the relationship is not due to chance. If a statistically significant relationship is represented by more asterisks, this suggests a greater level of confidence in the relationship. For example, a positive relationship between male civilians and higher levels of force with three asterisks indicates that we should be confident this result is accurate (unlikely to be the result of chance) 999 times out of 1,000. A relationship with two asterisks indicates a relationship that is accurate 99 times out of 100, and a relationship with a single asterisk suggests a relationship that is accurate 95 times out of 100. In the social sciences, a relationship with a confidence level of 95% is the minimum considered to be *statistically significant* and thus highly unlikely to be the result of chance alone. In short, the greater the number of asterisks associated with any relationship, the more confident we should feel that the observed relationship between the variable and force is accurate.

The second piece of information produced by the models is the degree of strength or power of the observed relationship. Depending on the model estimated, different statistics are presented. For example, a relative risk ratio (RRR) is presented for all statistically significant findings estimating the maximum level of force based on the multinomial regression models. For the average and total level of force, a beta value is reported. The interpretation of these statistics is provided below when discussing the specific results.

All four models were estimated by including situational<sup>21</sup>, civilian<sup>22</sup>, officer<sup>23</sup>, and environmental<sup>24</sup> characteristics. Of note, all models included the number of force actions within each encounter and a measure of civilian resistance. Station models included only selected situational and civilian characteristics due to the limited number of force cases in some stations. Abbreviated results for all models are presented below to highlight the critical relationships (based on statistical significance) and their substantive importance to force. Full models detailing all coefficients and standard errors are provided in Appendix A.

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<sup>20</sup> All models were estimated using robust standard errors.

<sup>21</sup> Situational characteristics include: number of force actions, year of encounter, season of encounter, whether the encounter occurred on a weekend or at night (7PM-7AM), and the level of crime seriousness associated with that encounter (i.e., a violent crime, a weapons or simple assault crime, or a property crime).

<sup>22</sup> Civilian characteristics include: gender, race/ethnicity, age, presence of a mental health concern, and for the incident level model, a measure of whether or not drugs and/or alcohol was present.

<sup>23</sup> Officer characteristics include: gender, race/ethnicity, age (a proxy for experience), and rank.

<sup>24</sup> Environmental characteristics were measured at the station level and include: the average priority level for calls for service, the percent Black population, and the violent crime rate. Initial analyses included the social vulnerability index, but this was discarded from further consideration due to a high correlation with the violent crime rate.

Results from the model examining maximum force on civilians revealed several key relationships. They are presented as relative risk ratios (RRR) in Figures 3 & 4 to reflect the likelihood of receiving a Level 2 Force action or a Level 3 Force action, relative to Level 1. RRRs are interpreted with respect to a value of 1.0; findings above that threshold suggest an increased likelihood of force, and those below reflect a negative or reduced likelihood of force.

Below is a summary of the key relationships that were associated with a Level 2 force action instead of a Level 1 force action (see Figure 3 for a graphical display):

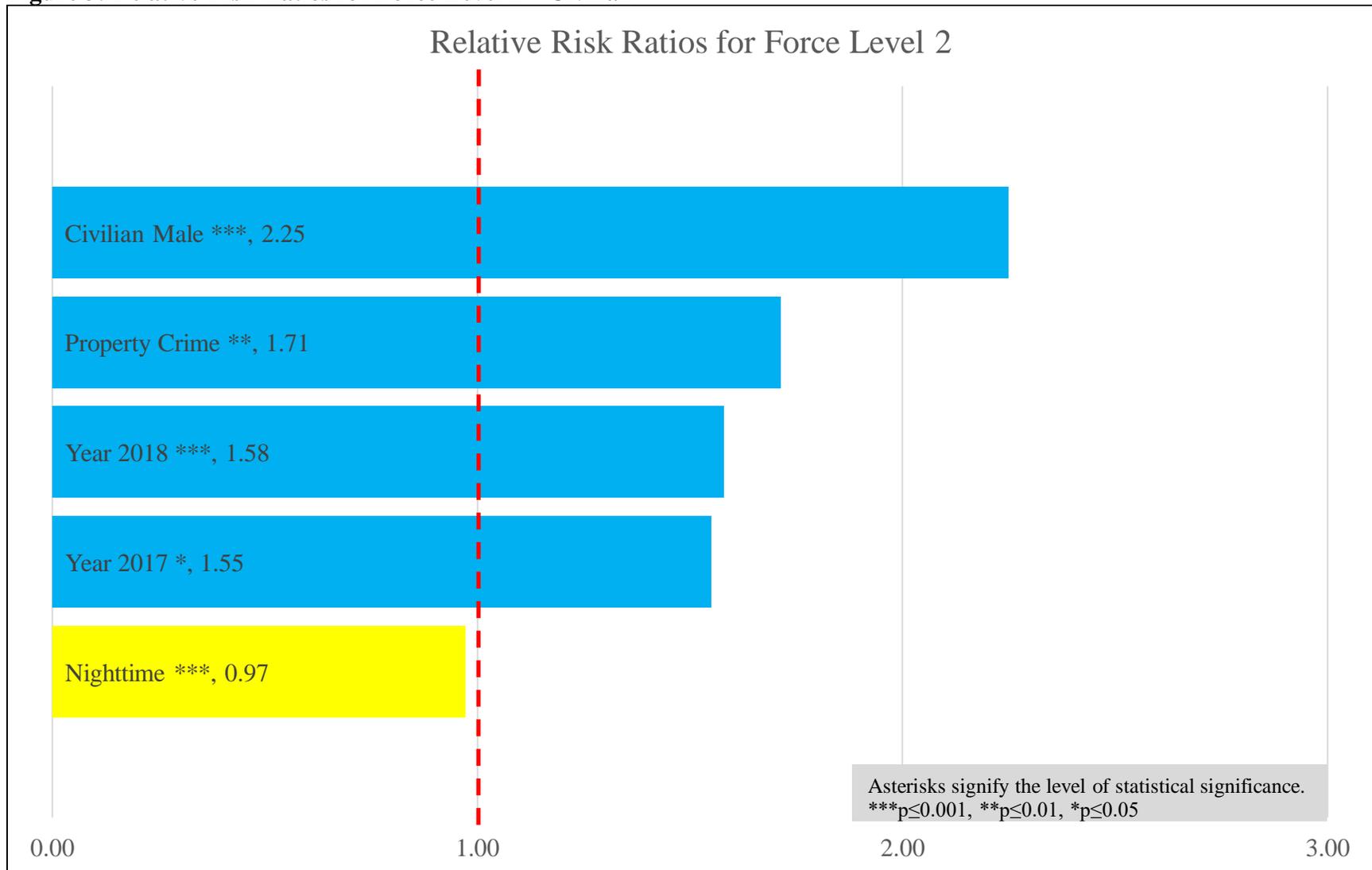
- Male civilians were 2.3 times more likely compared to female civilians
- Encounters associated with a property crime were 1.7 times more likely compared to non-property crime encounters
- Actions undertaken in 2018 and 2017 were 1.6 and 1.5 times more likely compared to encounters in 2016
- Nighttime encounters were slightly less likely to involve a Level 2 force action compared to daytime situations

Figure 4 summarizes the statistically significant relationships that were associated with a Level 3 force action instead of a Level 1 force action, here are a few key findings:

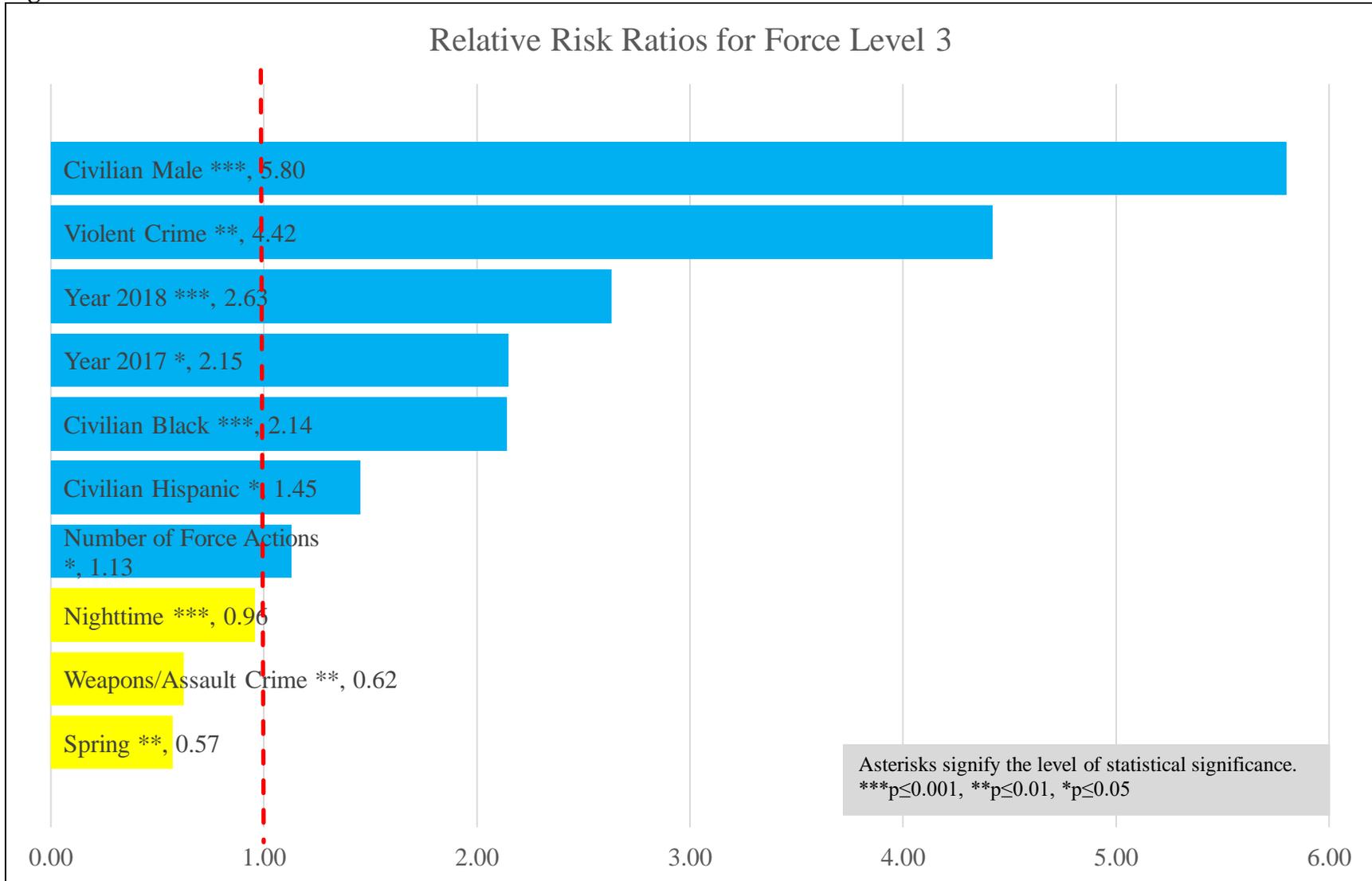
- Male civilians were 5.8 times more likely compared to female civilians
- Violent crime encounters increased the likelihood of a Level 3 force action by 4.4 times
- Black civilians were 2.1 times more likely compared to White civilians
- Hispanic civilians were 1.4 times more likely compared to White civilians
- Other relationships include encounters in 2018 and 2017 increasing the likelihood of a Level 3 action
- Nighttime encounters, those involving weapons or simple assault, and situations occurring in the spring exerted a negative relationship with a Level 3 force action

**Importantly, civilian resistance was non-significant in the models and hence is not shown in Figures 2 and 3. In most previous studies, suspect resistance was found to be the strongest predictor of force or the level of force used by the police (Fridell & Lim, 2016; Garner et al., 2002; Gau et al., 2010; Lawton, 2007; Stroshine & Brandl, 2019; Terrill & Mastrofski, 2002). However, in a recent study conducted by the UTSA-led research team in Tulsa and Cincinnati, the authors also documented either a weakly negative or non-significant relationship between suspect resistance and force utilized (Smith, Tillyer, Engel, & Shoulberg, 2020). A similar result was found here in Fairfax County, which suggests a possible shift in how police respond to resistance encountered from suspects. With respect to the influence of race and ethnicity on force levels, the FCPD models summarized in Figures 3 and 4 controlled for civilian resistance, which was itself not significant, but the models still showed an increased risk of Level 3 force experienced by Blacks and Hispanics even after resistance was taken into account.**

**Figure 3: Relative Risk Ratios for Force Level 2 – Civilian**

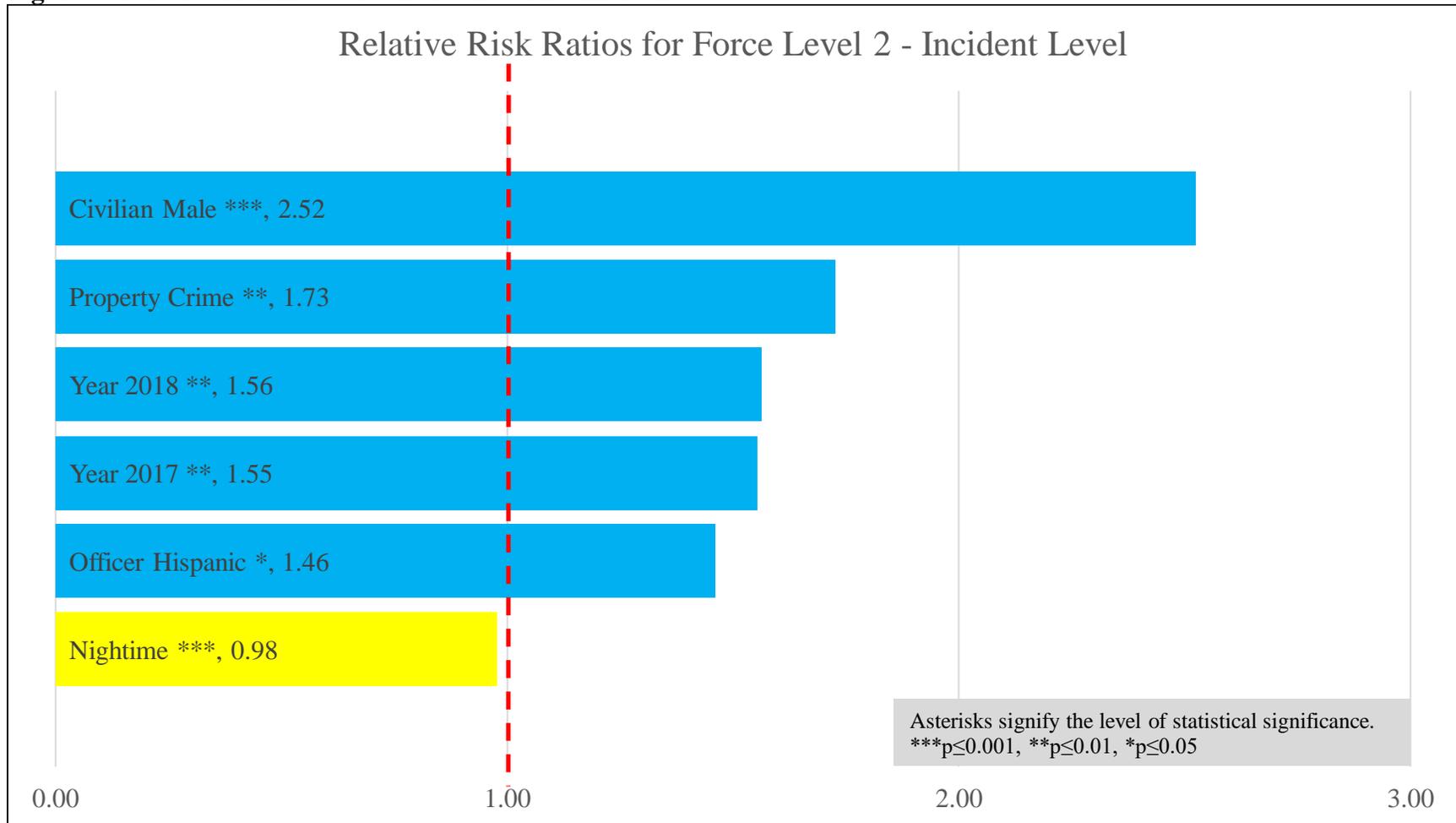


**Figure 4: Relative Risk Ratios for Force Level 3 – Civilian**

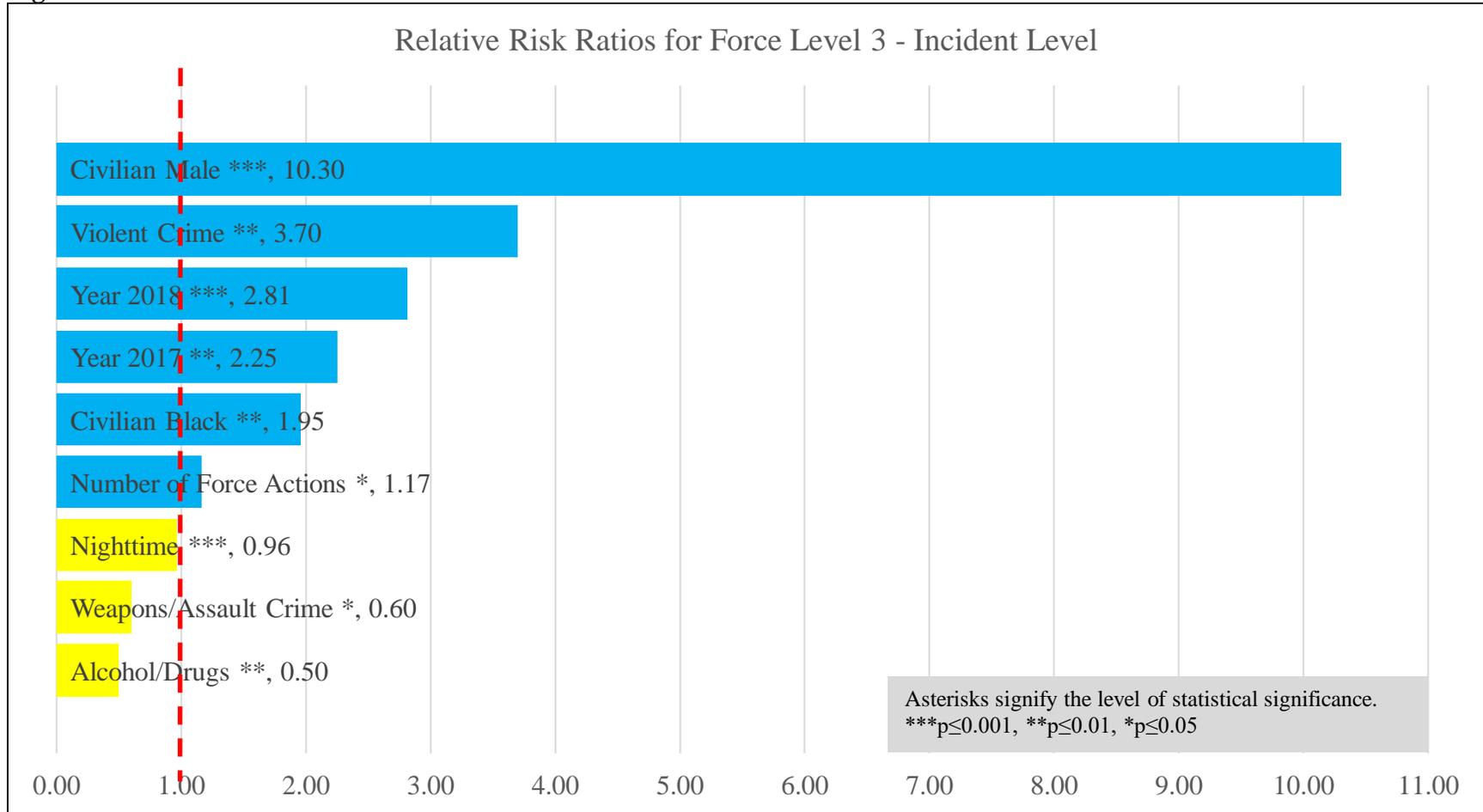


The third and fourth models examine the same outcome, maximum force, but results are based on analyzing force actions at the incident, instead of civilian, level. This was necessary due to our interest in understanding the impact of civilian alcohol and/or drug use on the force level applied. The findings are largely congruent with the models examining maximum force at the civilian level with a few exceptions. Figures 5 & 6 visually display the statistically significant relationships with Level 2 and Level 3 force actions in comparison to Level 1 force actions, respectively. A number of key findings emerge from these analyses. First, the presence of alcohol and/or drugs had no statistically significant relationship with Level 2 force, and it reduced the likelihood of a Level 3 force action relative to a Level 1 force action. Second, the male civilian variable was the predominate factor in understanding the risk of Levels 2 and 3 force occurring. Third, Black civilians were almost twice as likely as non-Hispanic Whites (the referent group) to experience Level 3 force compared to Level 1 force. Fourth, as in the maximum resistance models reported above at the civilian level, suspect resistance was not a significant contributor to the level of force experienced by civilians. Finally, an officer-related variable, namely the involvement of Hispanic officers, was associated with an increased risk of Level 2 force.

**Figure 5: Relative Risk Ratios for Force Level 2 – Incident**



**Figure 6: Relative Risk Ratios for Force Level 3 – Incident**

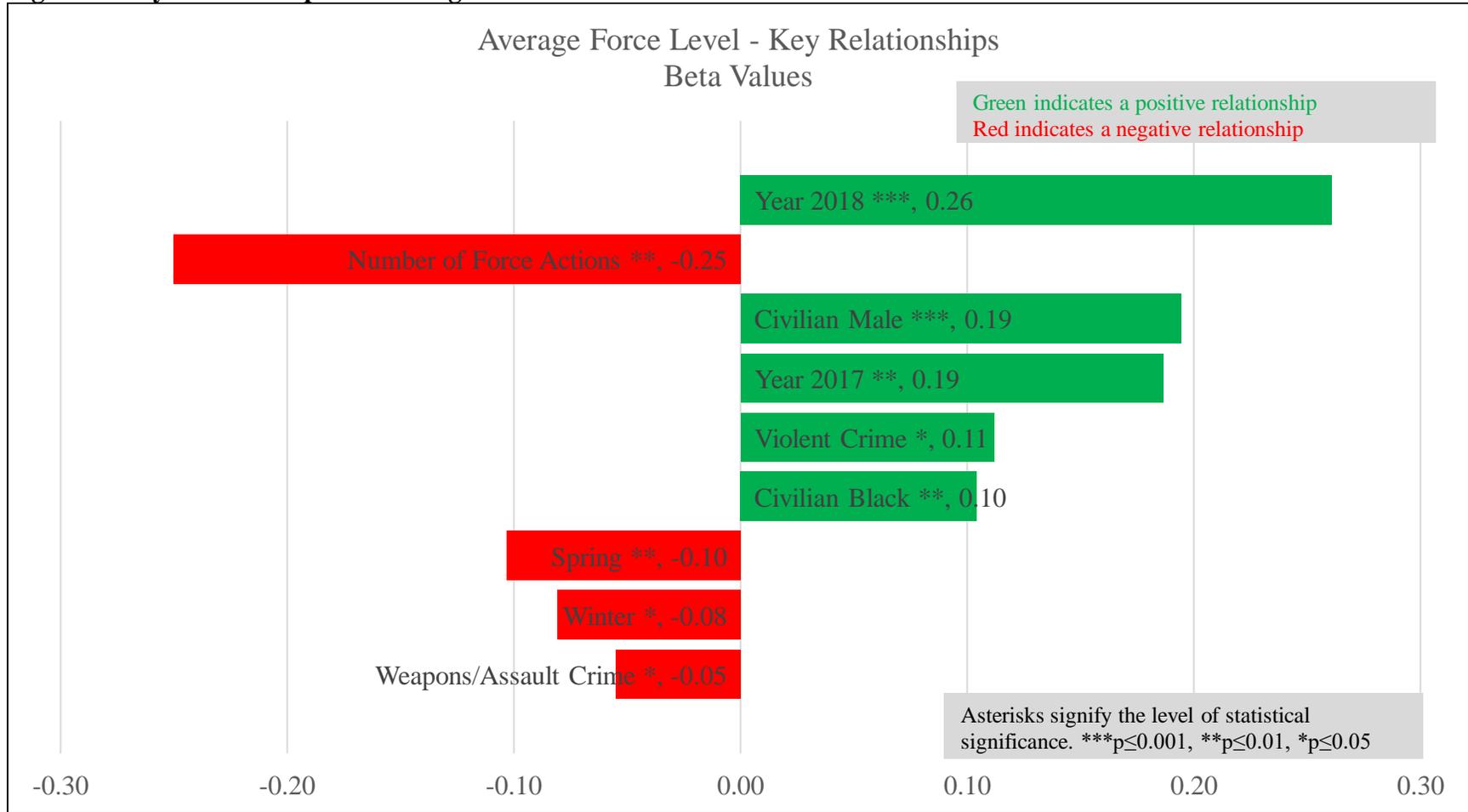


The fifth model examining the average force level and the sixth model assessing totality of force were both estimated using an OLS regression technique that produces beta values as a measure of substantive interpretation. Beta weights provide an indicator of the relative strength of the relationships between the independent variables and the dependent variable. Thus, they reveal which variables were the most impactful for increasing or decreasing the average or total level of force. In Figures 7 & 8 below, these results are presented. Green colored bars reflect a positive relationship and red bars indicate a negative relationship.

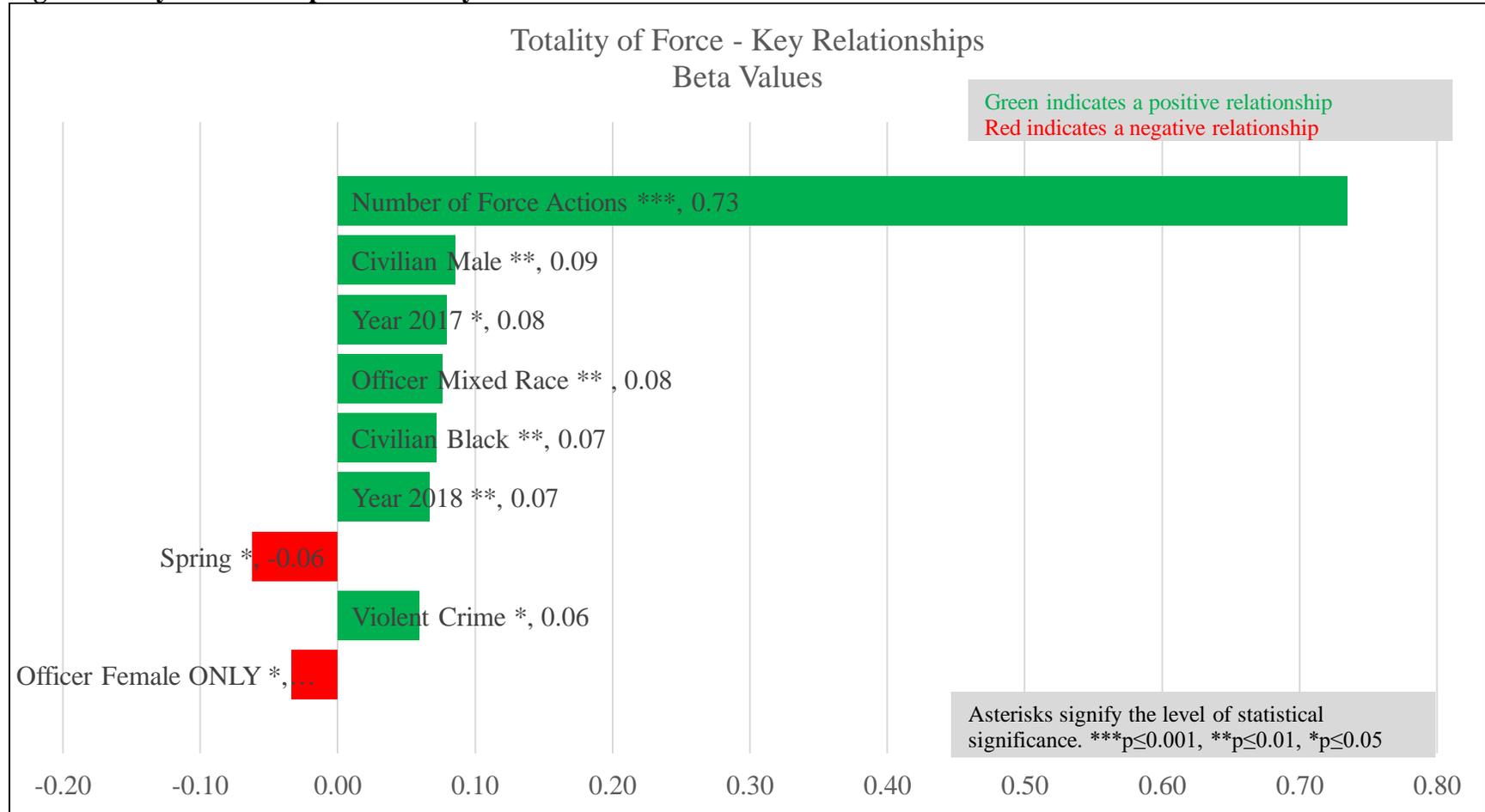
Below is a summary of some key findings:

- Encounters in 2018 increased the level of force compared to 2016
- The greater the number of force actions that occurred, the lower the level of force applied
- Male civilians and Black civilians were associated with higher levels of force
- With respect to the totality of force, the largest influencer of force totality was the number of force actions; this is unsurprising given the outcome of interest (i.e., more actions, a higher totality measure).
- Other key relationships with force totality were relatively inconsequential, although Black civilians were positively related to a higher level of total force.

**Figure 7: Key Relationships for Average Force Level: Beta Values**



**Figure 8: Key Relationships for Totality of Force: Beta Values**



## Stations

The previous four models evaluated force actions across the entire agency. The models shown below disaggregate these findings to the station level to assess if these relationships are consistent throughout the agency or are clustered within specific districts. Initially, Table 16 summarizes the number of force encounters (at the civilian level) that occurred within each station. Accompanying this information is the distribution of force actions across the three-level scale within each station. While there is relative consistency across stations, Level 3 force actions comprised roughly two-thirds (i.e., 63.8%) of force actions undertaken in Sully but roughly a quarter (i.e., 28.9%) of the force actions in Mason; correspondingly, Level 2 force actions were most common in Mason (i.e., 50.2%) and least frequent in Sully (i.e., 21.3%). These differences in force levels across stations may bear further examination by FCPD leadership to assess whether they are the product of leadership or cultural differences between district stations or whether they are the result of actual differences in the policing environments across districts.

Modeling of key relationships within stations required the estimation of station specific models with a reduced number of variables due to the limited number of force actions within each unit. The station models included crime seriousness and civilian characteristics, while temporal, officer, and environmental characteristics were not included. Table 17 reports on the key relationships within each station. Relative risk ratios are reported for each statistically significant relationship.

The pattern observed in the agency-level results was concentrated in several district stations. For example, male civilians had a higher likelihood of experiencing both Level 2 and Level 3 force actions (compared to Level 1 force actions) in Mt. Vernon and McLean and Level 3 force actions only in Mason and Fair Oaks. Black civilians had elevated likelihoods of experiencing Level 2 and 3 force actions in Mt. Vernon and Level 3 force actions only in McLean and Franconia. Similarly, Hispanic civilians had an elevated likelihood of experiencing Level 3 force in Mt. Vernon. Other key findings include a higher likelihood of Level 3 force in Mason when the encounter involved a violent crime, while the likelihood of Level 3 force was *reduced* in Franconia for encounters involving a weapon or simple assault. In West Springfield, older civilians had a slightly higher likelihood of experiencing Level 3 force compared to Level 1, and no statistically significant relationships were discovered in Sully or Reston stations.

**Table 16: Force Use at Station Level**

Variables	Sully	Mt. Vernon	McLean	Mason	Reston	Franconia	West Springfield	Fair Oaks
Force Counts (with resistance)	94	222	189	211	90	137	98	119
Level 1: Restraint, Soft Hand Control	14.9	25.7	22.2	20.9	31.1	24.8	22.4	24.4
Level 2: Hard Hand Control	21.3	38.3	44.4	50.2	36.7	38.7	38.8	45.4
Level 3: Taser, Pepper Ball, Canine, Etc.	63.8	36.0	33.3	28.9	32.2	36.5	38.8	30.3

**Table 17: Relative Risk Ratios for Maximum Force at Station Level**

Variables	Mt. Vernon		McLean		Mason		Franconia		West Springfield		Fair Oaks	
	L2	L3	L2	L3	L2	L3	L2	L3	L2	L3	L2	L3
Crime Seriousness												
Violent Crime						10.30*						
Weapon/Assault Crime								0.30*				
Property Crime												
Civilian Characteristics												
Resistance												
Male	3.66**	8.56**	3.78**	11.40***		13.40**						16.02*
Black	2.39*	5.25**		3.11*				5.73**				
Hispanic		4.11*										
Asian												
Age										1.08*		
Mental Health Concern												

No relationships in Sully, Reston

\*\*\*p<0.001, \*\*p<0.01, \*p<0.05

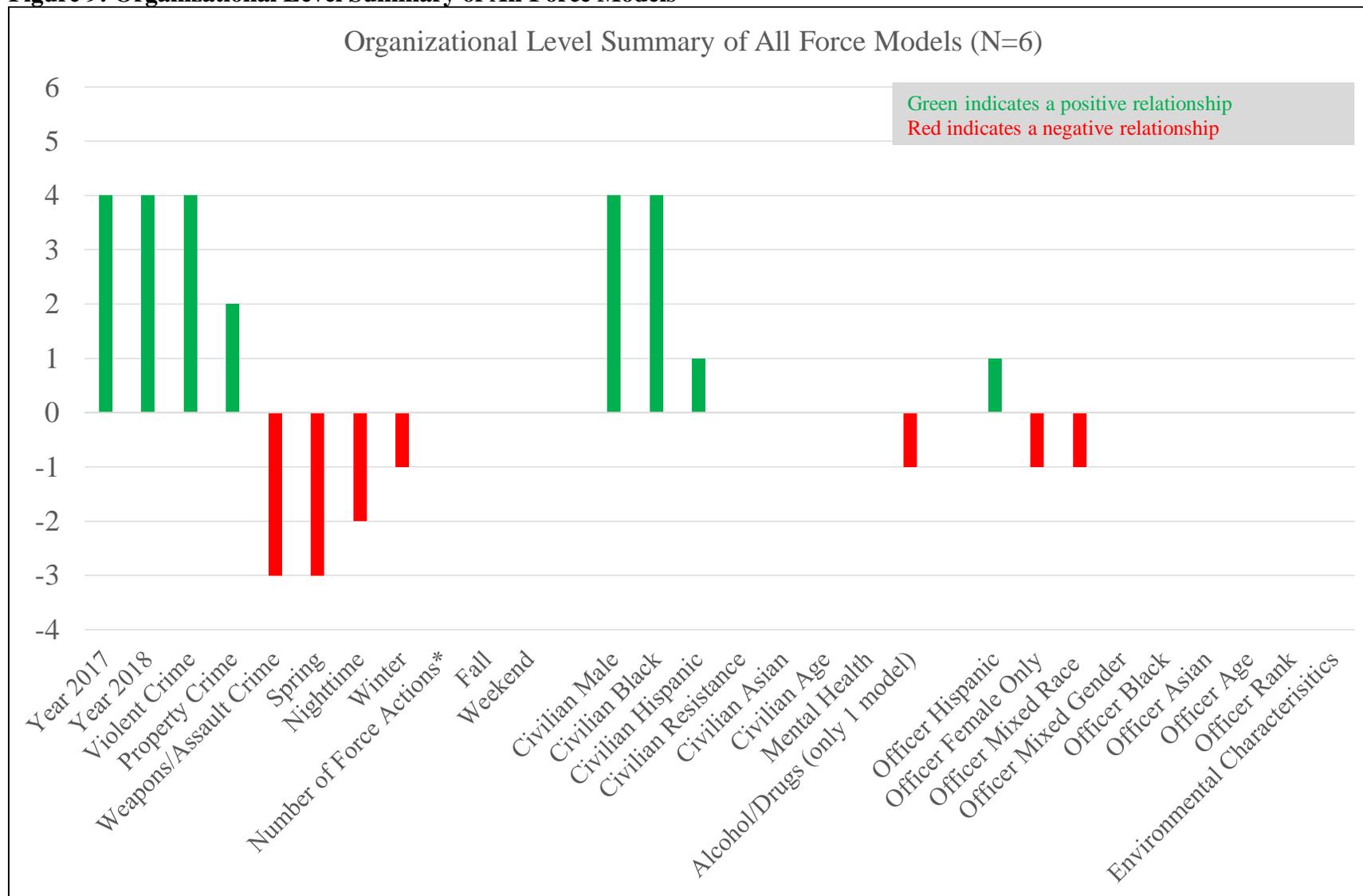
## Summary

The six analytic models estimated at the agency level provided different perspectives on key variables related to force used by the FCPD. While the individual models offer substantive information, there is also value in taking a step back to evaluate the overall pattern of findings demonstrated by these analyses. Results from the six models can be assessed by variable to identify the consistent findings regardless of how force was measured and analyzed. Figure 9 visually summarizes this assessment, with green bars indicating positive relationships, red representing negative relationships, and orange bars reflecting mixed relationships depending on the model.

Below is a list of the key findings:

- More recent encounters (i.e., 2018 and 2017), encounters linked to a violent crime and those involving male civilians were statistical related to *higher* levels of force in four of six models
- Black civilians experienced an increased risk of force in four of six models
- Hispanic civilians were at increased risk of higher levels of force in the civilian-level model, a result that was driven primarily by the Mt. Vernon district station
- Encounters involving weapons and/or simple assault crimes and those occurring in the Spring *reduced* the level of force in three of six models
- Property crime also *increased* the risk of higher level of force in two models, while nighttime encounters *reduced* the level of force in two models

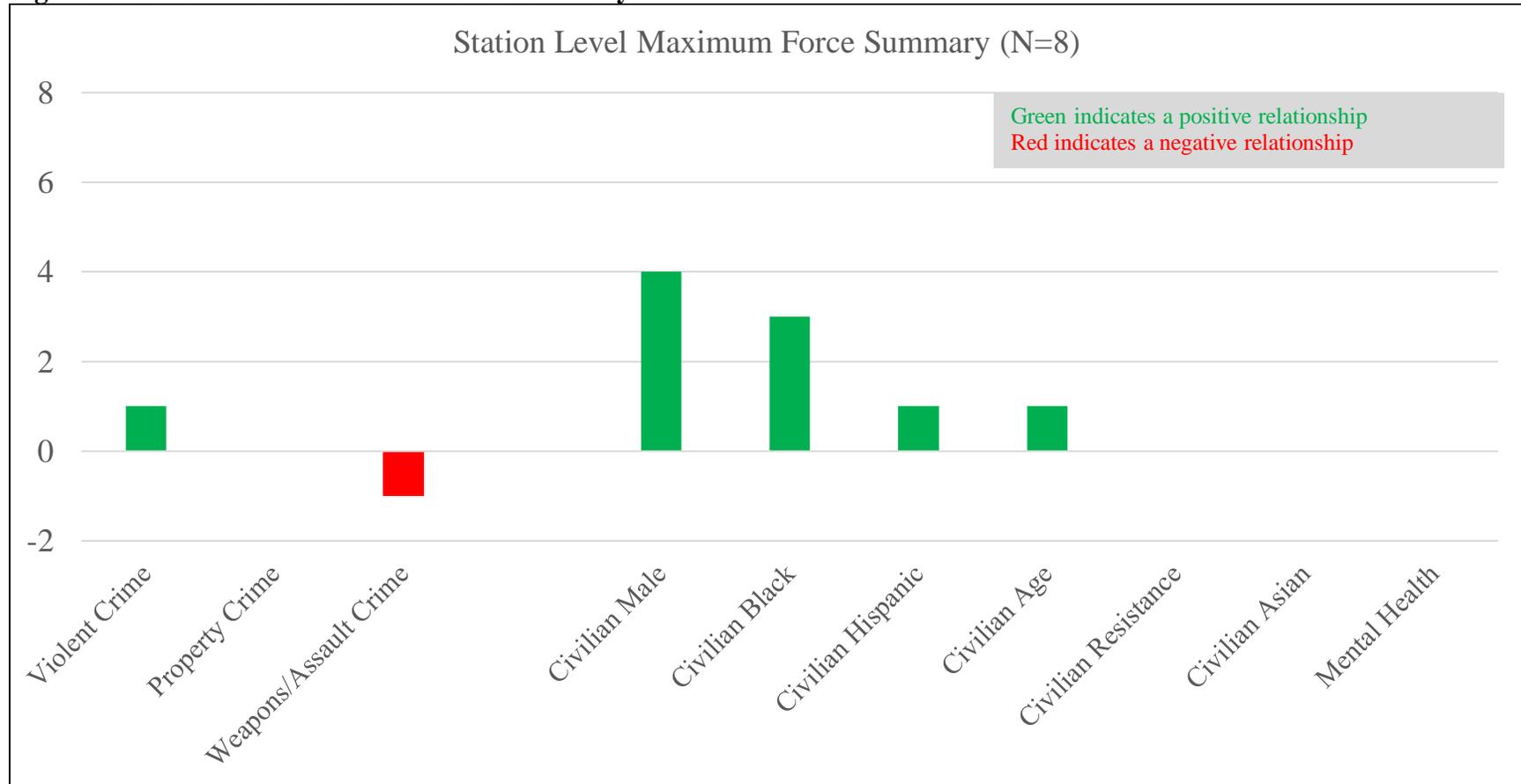
**Figure 9: Organizational Level Summary of All Force Models**



\*Number of force actions had mixed findings (i.e., positive and negative) across the four models.

Similar to the agency level summary, Figure 10 visually summarizes the results at the station level. Out of eight stations, key relationships (green = positive; red = negative) are summed to indicated the most impactful predictors of higher levels of force at the local level. Controlling for crime seriousness and civilian characteristics only, male civilians were statistically related to higher levels of force in four of the eight stations, Black civilians were associated with higher levels of force in three of eight stations, and Hispanic civilians experienced an increased risk of Level 3 force in Mt. Vernon.

**Figure 10: Station Level Maximum Force Summary**



## Arrests

The final component of analysis involved a separate modelling of force within arrest encounters. In the previous models, the *level of force* served as the dependent variable, and situational, civilian, and officer characteristics were assessed in relation to the severity or sum of all force actions. The assessment of arrests changes the focus to identifying the key predictors of *whether force occurred or not*. The appropriate modeling technique for this outcome is logistic regression as the outcome is binary (force used or not used during an arrest), and the results reported below reflect odds ratios for key relationships. Similar to the relative risk ratios reported previously, odds ratios are interpreted as a change in the likelihood of force occurring as a result of a specific variable present in the encounter.

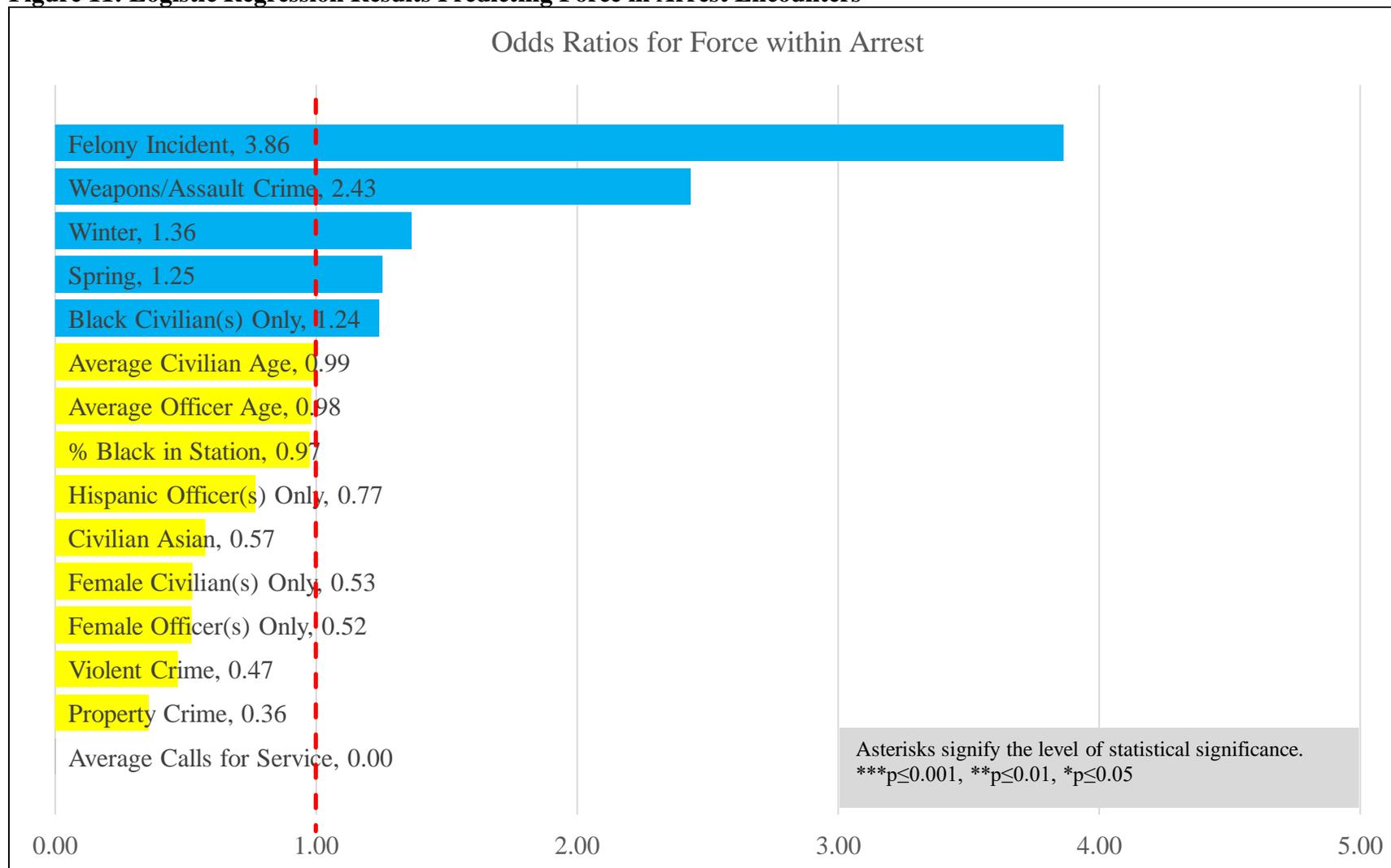
The process of building a dataset that allowed for this analysis required several data merges and revealed some limitations in the current data collection and storage protocols of the FCPD (discussed in greater detail in Section V). These limitations included an inability to examine arrests and use of force at the civilian level; as a result, the arrest model represents arrest incidents, not individual civilian arrests. There was also a poor initial matching rate between the arrest data and the use of force database. Subsequently, and as a result of the limitations identified, a separate dataset of force linked to arrests was provided by the IA, and this was used to estimate the logistic regression model.

Figure 11 visually summarizes the key statistically significant relationships:

- Arrest incidents involving felony arrests were nearly 4 times more likely to result in force activity than non-felony arrests, and those involving weapons and/or simple assault were 2.4 times more likely to result in the use of force
- Seasonal patterns emerged with arrests in the winter and spring increasing the likelihood of force activity
- Arrests involving Black civilians only were 1.2 times more likely than arrests involving White civilians only to result in the use of force

**Several characteristics also *reduced* the likelihood of force, including incidents involving only Hispanic or only female officers, incidents involving Asian or female civilians only, and incidents involving violent or property crime compared to weapons or simple assault incidents**

**Figure 11: Logistic Regression Results Predicting Force in Arrest Encounters**



## V. Data Collection Recommendations

As part of its overall engagement with the OIPA, the UTSA research team was tasked with making recommendations for how the FCPD can improve its use of force data collection processes to facilitate future analyses, reduce potential bias, and enhance transparency and accountability. Since July 2017, the FCPD has been capturing use of force data in the BlueTeam module of the commercially-available IAPro software package. BlueTeam/IAPro is a popular off-the-shelf solution used by many law enforcement agencies to track use of force, citizen complaint, and internal investigation information. FCPD supervisors are responsible for conducting preliminary investigations of reportable force events and then entering the information resulting from their investigations into BlueTeam using the available fields and drop-down menu options. Prior to adopting BlueTeam, the FCPD collected use of force information in its records management system (RMS).

Properly capturing use of force data to facilitate analysis requires consideration of *how* and *what* data elements are collected. Many use of force data collection systems only capture static measures of force and resistance. Officers (or their supervisors) are limited to selecting a single level of force and a single level of resistance, which often are captured at the highest levels used at any point during the encounter according to the department's use of force policy. In other cases, data systems are able to accommodate more than one force or resistance option in a "select all that apply" fashion, but the data are not sequentially ordered. This is how BlueTeam currently functions and how force and resistance are captured in Fairfax County.

### Capturing Sequential Force and Resistance Data

As noted, the FCPD uses BlueTeam to capture all force and resistance levels utilized in a particular encounter, but the data are not sequenced. FCPD supervisors enter all force types used by an officer (e.g., force to hold/restrict, takedown) during an encounter, but those use of force tactics are not captured in a sequential manner that allows for an analysis of which tactic was used in what order or in response to potentially differing levels of civilian resistance. In the use of force data provided to the UTSA research team, citizen resistance was captured inconsistently, and in some years, resistance was captured only as a static measure – one type of resistance per encounter (e.g., tensed body, flee, advanced at officer) – even though suspects often escalate and de-escalate their resistance throughout encounters with the police.

In fact, previous research (Kahn et al., 2017; Alpert et al., 2004) has established that police-citizen use of force encounters often escalate and de-escalate over the course of the encounter, and FCPD policies on the use of force require officers to use only reasonable levels of force to overcome resistance and to de-escalate force if civilian resistance diminishes. During any given police-civilian encounter involving force, officers may use multiple force tactics in an attempt to control a resistant civilian, and likewise, the civilian may offer different levels of resistance as the encounter unfolds. Ideally, a use of force data collection system should accommodate this reality and allow for the *capture* and *sequencing* of all levels of force and resistance. Likewise, in encounters that involve multiple officers and/or civilians, the system should allow for the identification of which civilians exhibited which levels of resistance in approximately which order and what different levels of force were used in response by which officers and against

whom.

Untangling the sequential nature of use of force events can be challenging in complex cases involving protracted events and multiple officers and civilians, but in the significant majority of cases, it is not difficult. FCPD supervisors already conduct preliminary investigations into use of force events and have primary responsibility for entering data into BlueTeam. With appropriate training and data systems that allow for the capture of sequential information, the FCPD can capture better and more precise data on the use of force.

Ideally, an improved use of force data collection system would allow supervisors to assign levels of resistance and levels of control to civilians and officers in the order they transpired during use of force events. Below is a visual representation of how these data should be captured in a single officer-single subject encounter. The numbers in the cells represent the order in which the resistance levels and control responses occurred.

Supervisors would replicate data entry in a similar fashion for multiple officer, multiple subject encounters – Officer 1/Subject 2, Officer 2/Subject 1, Officer 2/Subject 2 and so forth – until all resistance and control responses have been captured sequentially across all officer/subject combinations. Collecting use of force data in this manner allows for greater accuracy and precision in documenting how levels of resistance and control may escalate and de-escalate during force-involved encounters. Combined with other data captured in an improved data collection system (see recommendations below), sequential force and control data allow analysts to investigate factors that predict escalation and de-escalation and correlate with injuries. With this approach, and over time, the FCPD will develop a more realistic understanding of how use of force encounters unfold, which will allow for improvements in training, policy-making, or supervision with the ultimate goal of reducing the need for force, levels of force within encounters, and injuries to officers and civilians.

**Table 18: Officer 1/Subject 1**

Levels of Control	Subject Resistance			
	Passive Resistance	Defensive Resistance	Aggressive Resistance	Lethal Resistance
Soft empty-hand control		1		
Hard empty-hand control			2	
Impact weapons				
OC spray				
Taser			3	
PepperBall				
Patrol dog				
Kinetic impact systems				
Deadly force				

## Changes to BlueTeam Fields

Below are five tables that show the use of force-related data elements currently being captured in BlueTeam (left-hand columns) and our recommendations, if any, for modifications or additions to those data elements (right-hand columns). We would encourage the FCPD to explore with its vendors how BlueTeam could be modified to incorporate these changes or how the FCPD might use its new RMS to capture these data in the alternative.

**Table 19: Incident-Related Variables**

<b>Current BlueTeam Fields</b>	<b>Recommended Changes</b>
Incident Type <ul style="list-style-type: none"> <li>• Cruiser Crash</li> <li>• Dissatisfaction/Inquiry</li> <li>• External Complaint</li> <li>• K9 Utilization</li> <li>• Use of Force</li> <li>• Veh Pursuit/Veh Stop Tech</li> </ul>	<b>No changes</b>
Case #	
Date Received	
Date of Occurrence	
Time of Occurrence	
Address of Occurrence	
Reason for Use of Force <ul style="list-style-type: none"> <li>• Assault on LEO</li> <li>• Assault on Other</li> <li>• Attempt Escape</li> <li>• Committing a Criminal Act</li> <li>• Resisting Arrest</li> <li>• Threat to Self or Others</li> </ul>	<b>Add “Other” option in the drop-down list; provide text field to describe “Other”</b>
Service Being Rendered <ul style="list-style-type: none"> <li>• Criminal Arrest</li> <li>• Investigative Stop</li> <li>• Mental Health Crisis</li> <li>• Service Call</li> <li>• Traffic Stop</li> <li>• Warrant</li> </ul>	<b>Add “Other” option in the drop-down list; provide separate text field to describe “Other”</b>
Lighting Condition <ul style="list-style-type: none"> <li>• Dark</li> <li>• Dawn</li> <li>• Day</li> <li>• Head lights</li> <li>• Indoor lighting</li> <li>• Road lighted</li> <li>• Spot Light</li> </ul>	<b>Replace <u>Lighting Condition</u> drop-down list with the following:</b> <ul style="list-style-type: none"> <li>• Well-lighted</li> <li>• Dimly-lighted</li> <li>• Dark</li> </ul> <b>Add field for <u>Location</u>:</b> <ul style="list-style-type: none"> <li>• Indoors</li> <li>• Outdoors</li> </ul>

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Weather Condition

- Clear/Dark - Road Lighted
- Clear/Dark - Road Not Lighted
- Clear/Dawn
- Clear/Daylight
- Clear/Dusk
- Cloudy/Dark - Road Lighted
- Cloudy/Dark - Road Not Lighted
- Cloudy/Dawn
- Cloudy/Daylight
- Cloudy/Dusk
- Fog/Dark - Road Lighted
- Fog/Dark - Road Not Lighted
- Fog/Dawn
- Fog/Daylight
- Fog/Dusk
- Mist/Dark - Road Lighted
- Mist/Dark - Road Not Lighted
- Mist/Dawn
- Mist/Daylight
- Mist/Dusk
- Other
- Rain/Dark - Road Lighted
- Rain/Dark - Road Not Lighted
- Rain/Dawn
- Rain/Daylight
- Rain/Dusk
- Snow/Dark - Road Not Lighted
- Snow/Dark - Street Lighted
- Snow/Dawn
- Snow/Daylight
- Snow/Dusk

**Replace Weather Condition drop-down list with the following:**

- Clear
- Cloudy
- Foggy
- Mist
- Rain
- Snow

---

**Add field for Wind**

- None
- Light
- Moderate
- Strong

---

**Add a text field for Estimated Temperature**

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Incident-related data from BlueTeam are shown in Table 19 above. The preliminary data fields available (incident type, case number, date, time, and location) are standard and do not require modification. The FCPD case number is key to linking case report data from the RMS to the BlueTeam data for all force-involved cases. We recommend adding an “Other” option in the drop-down menus for “Reason for Force” and “Service being Rendered.” This will improve the accuracy of these data fields, which now force supervisors to pick from a finite list of options. If a situation arises that does not fit the pre-defined drop-down options, supervisors have no choice but to assign the event to the one of the available options, thereby reducing the accuracy and specificity of the data. The “Other” option should allow for text entry so that supervisors can succinctly describe the event. Eventually, additional drop-down options can be added to incorporate repeated “Other” events.

The “Lighting” and “Weather” condition options available in BlueTeam are voluminous and unnecessarily complex from an analytic standpoint. A meaningful analysis would require collapsing many of these categories; therefore, we recommend that the “Lighting Condition” and “Weather Condition” drop-downs be simplified as shown in the table. The location of the event is conflated with lighting and weather conditions in the currently available BlueTeam options. We recommend the creation of a separate “Location” field that would simply denote “indoors” or “outdoors” to supplement the lighting and weather options. We also recommend adding a field for “Wind” since wind can affect the performance of a number of less-lethal weapons and should be accounted for in any analysis of weapon effectiveness. Likewise, temperature can affect weapon performance (particularly cold temperatures), so we recommend adding a new field to capture “Estimated Temperature” in standard Fahrenheit degrees.

**Table 20: Citizen-Related Variables**

<b>Current BlueTeam Fields</b>	<b>Recommended Changes</b>
Citizen Injured <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> </ul>	No changes
Citizen Taken to Hospital <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> </ul>	No changes to <b><u>Citizen Taken to Hospital</u></b>
	<b>Add field <u>Refused Medical Attention</u></b> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• N/A</li> </ul> <b>Add field <u>EMS Treated and Released</u></b> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• N/A</li> </ul>
Citizen Injury <ul style="list-style-type: none"> <li>• EMS-Trans Not Force Related</li> <li>• EMS-Transported</li> <li>• EMS-Treated and Released</li> <li>• Fatal</li> <li>• Injury not Force-Related</li> <li>• Pre-existing injury</li> <li>• Refused Medical Attention</li> </ul>	<b>Replace drop-down for <u>Citizen Injury</u> with the following (see accompanying text for explanation):</b> <ul style="list-style-type: none"> <li>• Minor</li> <li>• Moderate</li> <li>• Severe</li> <li>• Critical – survival uncertain</li> <li>• Fatal</li> </ul>
More than 1 Citizen Involved <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> </ul>	<b>Replace with text field: <u>Number of Citizens Involved</u></b>
Citizen Arrested <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> </ul>	No changes
Add Charges to Citizen	
Citizen’s Height	No changes
	<b>Add field <u>Citizen’s Weight</u></b>

Citizen's Build	No changes
Distance to citizen	<b>This is not a static measure during a use of force encounter. Recommend that distance be captured when each type of stand-off weapon is <u>initially</u> deployed (e.g. firearm, OC spray, Taser, less lethal projectile weapon)</b>
Citizen Role <ul style="list-style-type: none"> <li>• Guardian</li> <li>• Involved Citizen</li> <li>• Other</li> <li>• Parent</li> <li>• Spouse/Partner</li> </ul>	No changes
Employee Assessment of Citizen Condition <ul style="list-style-type: none"> <li>• Alcohol and/or Drugs</li> <li>• Medical Condition</li> <li>• Mental Health Crisis</li> <li>• None Detected</li> <li>• Unknown</li> </ul>	No Changes
Citizen Demographics	<u>Age</u> <ul style="list-style-type: none"> <li>• Text field for age in years</li> </ul> <u>Gender</u> <ul style="list-style-type: none"> <li>• Male</li> <li>• Female</li> </ul> <u>Race*</u> <ul style="list-style-type: none"> <li>• White</li> <li>• Black/African-American</li> <li>• Asian</li> <li>• American Indian or Alaska Native</li> </ul> <u>Hispanic, Latino, or Spanish origin*</u> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> </ul>

\*Follows 2020 Census categories

Table 20 above shows the citizen-related data fields available in BlueTeam. No changes are needed to the “Citizen Injured” or “Citizen Taken to Hospital” variables, which are both captured as Yes/No responses. However, the addition of fields for “Refused Medical Attention” and “EMS Treated and Released” are recommended. Currently, these are captured under “Citizen Injury.” They are not injuries but rather potential *responses* to injuries that may be useful for documentation purposes. Simple Yes/No and N/A responses are all that is needed for these new data fields.

The “Citizen Injury” field needs to be re-designed to capture actual injuries by category. We recommend that the injury categories from the widely-used Abbreviated Injury Scale (Baker et al., 1974; Greenspan et al., 1985) be used for categorical injury capture and that FCPD general orders related to the use of force be amended to provide definitions and examples from the trauma literature under each category to guide supervisory data input. The FCPD could consider

engaging the high-quality emergency medical community in the region to help refine its injury classification schema and training protocols to better capture use of force-related injury data. Here are some examples of injury classifications from the AIS:

- Minor
  - Abrasion/contusion
  - Superficial laceration
  - Acute strain with no fracture or dislocation
  - Sprain
  - Nose fracture
  - Loosened teeth
- Moderate
  - Major abrasion
  - Deep laceration
  - Trauma induced unconsciousness <15 minutes
  - Concussion
  - Bone fracture
  - Joint dislocation
  - Ligament or muscle rupture
  - Corneal laceration
- Severe
  - Trauma-induced unconsciousness >15 minutes
  - Compound fracture
  - Internal injuries to organs
  - Laceration of genitals
  - Spinal compression fracture involving two or more vertebrae
  - Crushed extremity or pelvis
  - Eye avulsion
- Critical – survival uncertain
  - Trauma-induced unconsciousness > 1 hour
  - Trachea/larynx rupture
  - Laceration of aorta, coronary artery, or major abdominal vessel
  - Crush/laceration of spinal cord
  - Crushed torso
- Fatal

Classifying injuries using the AIS scale will facilitate a fulsome analysis of injuries to officers and civilians. Based on previous studies, the vast majority of injuries will be minor in nature (MacDonald et al., 2009; Smith et al., 2010; Smith, et al., 2007), but the scale provides a widely-used external referent point for injury classification from minor to fatal.

Currently, BlueTeam captures the number of civilians involved in an incident as a simple “More than 1,” Yes/No variable. We recommend changing categorical response to a text field that will allow supervisors to enter the actual number of civilians involved. No changes are needed to the “Citizen Arrested” or “Citizen Build” fields, but we recommend adding a “Citizen Weight” field to provide for an analysis of injuries or effectiveness by size differences. For example, a 6’0” tall, 130 lb. male may pose a different challenge to police than a 6’0”, 240 lb. male. Having

weight data will be a useful piece of information for a range of future analyses.

“Distance to Citizen” is currently captured as a static, categorical measure (in three-foot increments) in BlueTeam. The reality of many use of force encounters, though, is that the distance between the officer and the civilian often changes during the encounter. What is important to understand from an analytic standpoint is how far apart the officer and civilian were when a firearm or less lethal weapon (e.g. OC spray, Taser, PepperBall) was deployed. Therefore, we recommend the creation of a new data field to capture the distance (in feet) between an officer and civilian at the time any less lethal weapon was deployed. Supervisors should capture the usage of all firearms and less lethal weapons, the distance involved, and their observed effectiveness (See Table 22 and related discussion below).

No changes are recommended to the “Citizen Role” or “Employee Assessment of Citizen Condition” fields, but we note the importance of capturing and analyzing information on suspected drug/alcohol intoxication or mental health concerns. Relatedly, we recommend adding a field on “Citizen Demeanor” to BlueTeam. Demeanor has been shown to be an important predictor of police outcomes, including the use of force (Lersch & Mieczkowski, 2005; Engel et al., 2000; Engel et al., 2012), and should be captured on an ordinal scale at the time force initially was used using a scale similar to this:

- Calm/cooperative
- Non-compliant
- Angry/agitated
- Belligerent/verbally abusive

Finally, we recommend new data fields to capture important civilian demographic characteristics: Age, Gender, Race, and Ethnicity. The 2020 U.S. Census categories provide useful options to consider for these fields as shown above in Table 20. Age should be captured in years, while gender, race, and ethnicity should be captured using the Census categories for later comparative purposes. The race, ethnicity, and gender categories can be supplemented with additional options (e.g. Middle Eastern or Transgender) based on local community concerns.

**Table 21: Employee-Related Variables**

Current BlueTeam Fields	Recommended Changes
Employee Injured <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> </ul>	No changes
Employee Taken to Hospital <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> </ul>	No changes to <b><u>Employee Taken to Hospital</u></b>
	<b>Add field <u>Refused Medical Attention</u></b> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• N/A</li> </ul>
	<b>Add field <u>EMS Treated and Released</u></b> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• N/A</li> </ul>

---

Employee Injury

- Complaint of pain
- EMS – Hospitalized
- EMS – Transported
- EMS – Treated and Released
- Fatal
- Minor Injury

Replace drop-down for **Employee Injury** with the following (see accompanying text for explanation):

- **Minor**
- **Moderate**
- **Severe**
- **Critical – survival uncertain**
- **Fatal**

---

According to FCPD staff (email dated 11/9/20), BlueTeam and IAPro are connected to the department’s TeleStaff system. When involved employees are added to a BlueTeam case, their names and EINs are populated in BlueTeam. For ease of data analysis, we recommend capturing in BlueTeam or the new RMS (if used to collect use of force data) the following information for every employee involved in a use of force event – see next column.

Add the following fields:

**Age**

- Text field for age in years

**Gender\***

- Male
- Female

**Race\***

- White
- Black/African-American
- Asian
- American Indian or Alaska Native

**Hispanic, Latino, or Spanish origin\***

- Yes
- No

**Years of Service**

- Text field for years of service with FCPD

**Rank**

- Drop down list of rank at time of incident

**Assignment**

- Drop down list of applicable assignments (e.g. Patrol, Investigator, Special Operations, etc.)

**Education**

- H.S. diploma or GED
- Some college
- Associate’s Degree
- Bachelor’s Degree
- Graduate Degree

**Military Veteran**

- Yes
  - No
- 

\*Follows 2020 Census categories

Table 21 reviews employee-related data fields currently being captured and makes a number of recommendations for changes and/or additions. Employee injury, hospital transport, and EMS treatment-related variables should be adjusted match the data collected for civilians. Specifically, we recommend adding data fields for “Refused Medical Attention” and “EMS Treated and Released.” Injury fields should mirror the AIS categories recommended for civilians. Data analysis is easier to accomplish if all (or most) of the data needed are housed in a single system.

While it is our understanding that BlueTeam connects with the FCPD’s TeleStaff system, that system does not contain some of the employee-related data elements useful for analysis. Thus, we recommend adding employee demographic and background characteristic fields within the use of force data collection system itself. Previous research has shown these fields to be relevant correlates of force and/or resistance that should be considered as part of a fulsome analysis (Bolger, 2015; Brandl & Strohshine, 2013; Terrill & Mastrofski, 2002). In addition to demographic fields (age, race, gender, ethnicity), which should match those for civilians, we recommend adding fields for “Rank,” “Assignment,” “Education,” and “Military Veteran.”

Education and veteran status are important because research has shown them to be correlated with the use of force by police (Reingle-Gonzales et al., 2018; Paoline & Terrill, 2007; Rydberg & Terrill, 2010), and they may be relevant for how the FCPD utilizes education as a factor in recruiting or in how it supports its military veteran officers. By law, the FCPD cannot and should not discriminate against military veterans, but if the use of force is found to be correlated with veteran status, the department may consider providing additional support options to its military veterans, particularly those who have deployed in combat (Reingle-Gonzales et al., 2018).

**Table 22: Force-Related Variables**

Current BlueTeam Fields	Recommended Changes
<p>Force Type</p> <ul style="list-style-type: none"> <li>• 40 mm OC Impact Round</li> <li>• 40 mm Sponge Round</li> <li>• ASP/Baton</li> <li>• Bean Bag Round</li> <li>• Canine</li> <li>• Carried</li> <li>• Deadly Force Against Animal</li> <li>• Force to Cuff</li> <li>• Force to Hobble</li> <li>• Force to Hold/Restrict</li> <li>• Hands On Escort/Guide</li> <li>• Intentional Vehicle Contact</li> <li>• OC</li> <li>• OC Defend Animal</li> <li>• Pepper Fogger</li> <li>• PepperBall</li> <li>• Pointed Firearm</li> <li>• Pressure Points by Hand</li> <li>• Pressure Points w/instru</li> <li>• Shoot Defend Animal</li> <li>• Shoot Firearm MissPer</li> <li>• Shoot Firearm Person</li> <li>• Spit Mask</li> <li>• Strike w/Baton/Flashlight</li> <li>• Strike w/Foot/Knee</li> <li>• Strike w/Gun</li> <li>• Strike w/Hand/Fist</li> </ul>	<p><b><u>In Force Type field, change <u>Intentional Vehicle Contact</u> to <u>Intentional Vehicle Contact with Person</u></u></b></p> <p><b><u>Remove <u>Tactical Vehicle Intercept</u> from Force Type field</u></b></p> <p><b><u>Remove <u>Deadly Force Against Animal</u> and <u>OC Defend Animal</u> from Force Type field</u></b></p> <p><b><u>Add field for <u>Vehicle Involvement</u></u></b></p> <ul style="list-style-type: none"> <li>• <b>Intentional vehicle-to-vehicle contact</b></li> <li>• <b>Tactical Vehicle Intercept</b></li> </ul> <p><b><u>Add field for <u>Animal Involvement</u></u></b></p> <ul style="list-style-type: none"> <li>• <b>OC defend against animal</b></li> <li>• <b>Deadly force against animal</b></li> </ul> <p><b><u>Re-label Force Type field as <u>Level of Control</u> and align with GO 540.4. Add the following drop down options:</u></b></p> <ul style="list-style-type: none"> <li>• <b>Soft empty-hand control</b></li> <li>• <b>Hard empty-hand control</b></li> <li>• <b>Impact Weapons</b></li> <li>• <b>OC Spray</b></li> <li>• <b>Electronic Control Weapon</b></li> <li>• <b>PepperBall System</b></li> <li>• <b>Patrol Dog</b></li> <li>• <b>Kinetic Energy Impact System</b></li> <li>• <b>Deadly Force</b></li> </ul>

- Strike with Taser
- Tactical Vehicle Int.
- Take Down
- Taser
- Taser Animal

**Add new field for Weapon Type (OC spray, Baton, Taser, Projectile Weapons, Firearms), add the following drop-down options under each weapon type:**

- Point/Threaten
- Used

**Add Force was Effective field for all Level of Control options (soft empty-hand control, hard empty-hand control, OC spray, etc.)**

- Yes
- No
- Limited

---

**Citizen Resistance**

- Active Resistance
- Aggressive Resistance
- Automatic Weapon
- Blunt Object
- Brass Knuckles
- Flight/Concealment
- Handgun
- Knife/Cutting Instrument
- None
- Other
- Passive Resistance
- Rifle
- Shotgun
- Spitting
- Vehicle

**Align Citizen Resistance levels with GO 540.4**

- Passive Resistance
- Defensive Resistance
- Aggressive Resistance
- Lethal/Potentially Lethal Resistance (recommended revision to 540.4)

**Add new field for every Weapon Type listed (Automatic Weapon, Handgun, Knife/Cutting Instrument, etc.), and add the following drop-down options:**

- Point/Threaten
- Used

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**Add Injurious Thrown Object to weapon types**

As shown above in Table 22, we recommend a number of changes to how the FCPD currently captures use of force and resistance data in Blue Team. The FCPD uses BlueTeam to collect data on incidents involving the use of vehicles as force and/or blocking instruments. “Tactical vehicle intercepts” involve using police vehicles to block or “box-in” a civilian’s vehicle. Our discussions with FCPD personnel revealed a lack of clarity in how the “intentional vehicle contact” field is used and whether it is applied only to vehicle-to-vehicle contacts or whether it also includes vehicle-to-person contacts. To streamline and clarify how these fields are used, we recommend limiting Force Types to those involving force intentionally applied to individuals. Thus, we recommend removing drop-down force options for the use of vehicles against other vehicles and the use of force against animals. Concurrently, we recommend adding a drop-down option for the use of a vehicle to intentionally strike a person and adding fields for “Vehicle

Involvement” and “Animal Involvement” with appropriate drop-downs so that the use of force against vehicles or animals does not get lost.

Regarding the “Force Type” field, we recommend relabeling it and re-aligning it to match the levels of control reflected in FCPD General Order 540.4. Specifically, this field should include drop-down options for the levels of control shown in GO 540.4 to include our suggested revisions to those levels. When less-lethal weapons are used, we recommend adding a new field for “Weapon Type” that would allow supervisors to separately record the pointing/threatening or use of any of the less-lethal weapons available. Finally, we recommend adding a new field labeled “Force was Effective” for all control options utilized during an encounter. Effectiveness would be captured categorically with “yes,” “no,” or “limited” options available.

Likewise, we recommend aligning Citizen Resistance options with GO 540.4 to include our suggested revisions to the categories of resistance in the General Order itself. As with the police use of weapons, we recommend adding a new field for civilian “Weapon Type” that would allow supervisors to identify the weapon and whether it was pointed/threatened or used by the civilian. “Injurious thrown object” (bottle, rock, brick, etc.) should be added to this list of weapons.

**Table 23: Miscellaneous**

<b>Current BlueTeam Fields</b>	<b>Recommended Changes</b>
CIT Details (all)	<b>No changes</b>
Taser Usage (all)	<b>Eliminate <u>Force was Effective</u> field (see recommendation in Table 4)</b>

BlueTeam allows for the detailed capture of data when a suspected mentally ill subject is involved (CIT Details) or when a Taser is deployed. No changes are recommended to the CIT fields. For the Taser fields, we recommend eliminating the “Force was Effective” field in favor of an expanded field that would allow effectiveness to be assessed for all control options employed, including Tasers (see Table 22 and discussion above).

## **Developing a Benchmark for Deadly Force**

Nationally, data on the use of deadly force is quite limited and almost never includes information on cases where deadly force was authorized by law and policy but where police chose not to use it. Yet these “counterfactual” cases are crucial to properly estimating rates of deadly force across populations. The use of static Census population counts of identifiable racial and ethnic groups as a benchmark for police shootings is methodologically unsound and depends upon untenable assumptions (Cesario et al., 2019; Tregle et al., 2019). Instead, researchers need an estimate of those *at risk* for deadly force to compare against the population of persons against whom deadly force was used. Risk is not evenly distributed in society but rather is dependent on criminal involvement and exposure to the police among other factors (Cesario et al. 2019; Worrall et al., 2020).

Researchers have attempted to address the limitations of population-based benchmarks by examining the decision by officers to draw their weapons but not shoot (Wheeler et al., 2018; Worrall et al., 2018; Worrall et al., 2020). Comparing actual uses of deadly force to cases where officers pointed their weapons at suspects but did not fire provides a better gauge of possible racial/ethnic disparities in the use of deadly force by the police than Census-based benchmarks because the comparator population is limited to those most *at risk* for being shot (engaged in conduct that resulted in policing point weapons at them), which likely differs from the population at large. Of course, the decision to point a weapon at a suspect may itself be subject to racial bias. Worrall et al. (2020) explored this possibility in Dallas by comparing the racial composition of arrested suspects who had weapons pointed at them to those who did not and found no evidence of racial bias across a large sample of arrests.

While an improvement over population-based benchmarks, even the weapon pointing benchmark has its limitations. Police point weapons at people for a variety of reasons: (1) to gain compliance, (2) to be in a position to react quickly to the use or threatened use of deadly force against themselves or a third party, (3) to deter the use or threat of deadly force by a suspect, and (4) as a necessary predicate to actually firing their weapons at a suspect. Because police point their weapons at far more people than they actually shoot (categories 1-3 above), the population of persons who have weapons pointed at them is not necessarily representative of those who actually get shot. Arguably, the best benchmark for deadly force cases is to compare the racial and ethnic composition of those shot by the police to those who came into contact with the police under similar conditions where they, too, could have been shot but were not.

Many seasoned officers can recount instances when they could have used deadly force but chose not to. Unfortunately, empirical data is lacking on cases where police *desist* from the use of deadly force when law and policy would have allowed for it. Yet this group of cases – the ones where police would have been legally justified in using deadly force but refrained from shooting – are the closest we have to those where deadly force was actually used.

Consequently, the risk for deadly force across racial and ethnic groups is best estimated by knowing the characteristics of those who might have been shot by the police but were not. The FCPD, and most other law enforcement agencies nationwide, do not systematically collect this information, but it is vital and should be routinely collected as part of a comprehensive use of force data collection, analysis, and management program. Thus, we recommend that the FCPD modify and expand its use of force data collection protocols to capture instances when the use of deadly force was authorized by law and FCPD policy but was not used. We recommend that officers involved in “close case” shooting events immediately notify their supervisors who should respond to the scene, conduct a preliminary investigation, and document that deadly force likely was justified but not used. In this way, the proper inclusion of the case in a counterfactual dataset will be independently verified, and thus, the validity of the data will be enhanced. Over time, this data collection strategy promises to produce a reliable data source against which FCPD deadly force cases can be compared for evidence of racial and ethnic disparities. Moreover, documenting and studying deadly force desistance cases may yield valuable information for improving officer safety and reducing the need for deadly force through improved training and decision-making.

## Summary and Conclusion

Taken together, these recommendations will put the FCPD on the leading edge of law enforcement agencies nationally when it comes to collecting data on civilian resistance and the use of force by police. More importantly, they will provide the FCPD with significantly improved data and the ability drill down into the data in sophisticated new ways to improve training and enhance transparency and accountability.

One final element critical to a useful data collection system bears mentioning. In some cases, the UTSA research team was unable to link together data provided by the FCPD in ways that would have improved the analysis of those data. For example, the presence of drugs and/or alcohol was not recorded in a manner that allowed it to be associated with civilians; it was indicated at the incident level only. This inhibited our ability to link those data to *individuals* involved in use of force encounters with the FCPD and restricted their consideration to outcomes only at the *incident* level. Because drug/alcohol intoxication is a known contributor to erratic behavior, it would have been preferable if we could have linked that variable to individual people rather than simply to incidents. Similarly, while we were able to link arrest data to the use of force data from Blue Team, the match rate was quite low indicating some disjuncture between the unique identifiers in Blue Team and those contained in the arrest data. Due to the low match rate, arrests involving force actions were ultimately identified by accessing a different database supplied by the FCPD.

Moving forward, the FCPD should ensure that its use of force data is captured at the *individual-level* (all variables assigned to unique persons) and that the data are linkable to other data sources (e.g., RMS and arrest data, officer demographics and training records) through incident numbers, arrest numbers, and/or employee identification numbers. Future analysts should be able to readily join the use of force data with related incident, arrest, suspect criminal history, and employee data to create a detailed picture of all subject behaviors and characteristics (including arrest charges), all officer behaviors and characteristics, and all relevant situational variables drawn from linked incident reports. Careful attention should be paid to the linking variables (i.e., incident numbers, EINs) that are used to connect these various sources of data to ensure they can be linked correctly at the *individual level* and supplemented with related *incident-level* data.

## **VI. Policy Recommendations**

The FCPD has adopted a comprehensive set of policies (General Orders) that define, guide, and constrain the use of force by its officers. These policies contain important provisions recognizing the sanctity of human life, the dignity and liberty of all persons, access to medical treatment for injured persons, a requirement for de-escalation and patience to prevent situations from escalating or deteriorating, and a duty to intervene to prevent excessive force or violations of law or policy by other officers and to report such conduct to a supervisor. Together, these policies suggest the FCPD takes the use of force seriously and has endeavored to create a regulatory environment that seeks to guide officer discretion, control the use of force, document and investigate instances of force, and hold officers accountable for violations of use of force policy.

With this backdrop in mind, the UTSA Research Team has reviewed the FCPD use of force policies and has developed a number of recommendations for consideration by the OIPA and FCPD leadership. Before we get to those recommendations, we offer a brief review of the literature on use of force policies, their influence on officer behavior, and recent scholarship and suggestions for policy reform from legal scholars and public interest groups.

### **The Influence of Use of Force Policies on Police Behavior**

In the wake of George Floyd's death at the hands of Minneapolis police officers, public interest in use of force decision-making and the rules that guide and constrain police behavior has been heightened and greater demands for adherence to "best practices" in administrative policy-making (among other things) are being placed on police leaders and elected officials. Considerable evidence suggests that administrative policies can affect use of force behavior by line-level officers either positively or negatively (Ferdik et al., 2014; Fyfe, 1979; Fyfe, 1981; Fyfe, 1982; Gellar & Scott, 1992; Jennings & Rubado, 2017; Morabito & Doener, 1997; Sinyangwe, 2016; Terrill & Paoline, 2017; Thomas et al., 2012; Walker & Archbold, 2014, White, 2001). This research is grounded in more than 40 years of theoretical and empirical scholarship on factors that influence the behavior of "street-level bureaucrats" (Jewel & Glaser, 2006; Lipsky, 2010; Meyers & Vorsanger, 2007). Researchers have consistently found that the discretionary decisions of line-level personnel are influenced by a variety of organizational and individual factors and that street-level workers often resist or reinterpret policy directives for a variety of altruistic and not so altruistic motives (Lipsky, 2010; Maynard-Moody & Musheno, 2003). Within the paramilitary and rule-bound context of police organizations, however, use of force policies play an important role in guiding the street-level behavior of police officers. Thus, it is imperative that such policies reflect current laws, organizational values, and community priorities.

In the late 1970s, research by Fyfe (1979) demonstrated that the adoption of a more restrictive deadly force policy by the NYPD was correlated with a significant reduction in the use of deadly force, officer injuries, and officer death, and variations in shooting rates across two agencies – the NYPD and Memphis Police Department - were likely the result of policy differences between them, particularly the greater frequency with which Memphis officers engaged in elective shootings of persons fleeing from property crimes under MPD deadly force policy at the time (Fyfe, 1982). It was the propensity of Memphis police to shoot fleeing property crime offenders

that led to the seminal case of *Tennessee v. Garner* (1985) in which the Supreme Court outlawed the use of deadly force against fleeing felons who do not pose a significant risk of death or serious injury to others.

Subsequently, Fyfe's work has been extended to examining the impact of administrative policies on the use of non-deadly force by police. For example, Thomas et al.'s (2012) analysis of survey and policy data from 210 municipal law enforcement agencies found that agencies which placed conducted energy devices (i.e., TASERs) higher on the use of force continuum experienced fewer uses of those weapons than agencies with less restrictive CED policies. The correlation between CED policies and CED deployments was confirmed by Ferdik et al. (2014) who also analyzed national police survey data on CED policy restrictiveness, compared them to CED uses across agencies, and found a significant correlation between less restrictive policy approaches and more uses of the TASER. Similarly, Morabito & Doener (1997) demonstrated that loosening use of force rules can lead to more force when they found that Tallahassee, FL police officers used pepper spray more frequently when the agency policy governing its use was relaxed. Thus, the extant research indicates that agency use of force policies impact the street-level behavior of officers who conform their practices to the dictates of policy, either for better or for worse.

Most recently, Terrill & Paoline (2017) examined 3,409 use of force incidents across three agencies with differing levels of policy restrictiveness on the use of less lethal force. Conceptualizing force in three separate ways, these researchers found that officers in agencies with less restrictive use of force policies used higher levels of force, more cumulative force, and were more likely to use TASERs against defensively resistant subjects (as permitted by one agency but not the other two) than officers in the agency with the more restrictive set of force policies. The non-profit police reform organization, Campaign Zero<sup>25</sup>, reported results consistent with the peer-reviewed literature when it analyzed the use of force policies of 91 of the nation's 100 largest police departments found an inverse relationship between the restrictiveness of use of force policies and the number of civilians killed by those agencies over an 18-month period (Sinyangwe, 2016). Their analysis also showed a negative relationship between the restrictiveness of use of force policies and the number officers killed and assaulted in the line of duty (Use of Force Project, 2020), suggesting that more restrictive policies are not associated with an increased risk of death, assault, or injuries to police officers. This latter finding echoes that of Fyfe (1979) 40 years earlier in New York City.

## **Best Practices in Use of Force Policy-Making**

In an effort to provide guidance on the use of force and thereby assist U.S. law enforcement agencies in reducing its use and severity, several leading law enforcement organizations have, in recent years, undertaken efforts to produce model policies, practices, or standards relating to the use of force by police. In 2017 (updated in 2020), the International Association of Chiefs of Police (IACP) and other leading law enforcement organizations released a *National Consensus Policy and Discussion Paper on Use of Force* that addressed, among other things, the use of

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<sup>25</sup> Campaign Zero is a non-profit organization dedicated to the analysis of best policing practices, research on effective solutions to end police violence, and providing technical assistances to advocates of police accountability. See <https://www.joincampaignzero.org>.

force against persons in restraints, the provision of medical care to persons injured during force-related events, the duty of officers to intervene and stop excessive force by other officers, and the requirement for de-escalation whenever possible (IACP, 2020). Regarding deadly force, the *Consensus Policy* requires officers to provide warnings, if feasible, before using deadly force and restricts the use of warning shots and deadly force directed at a moving vehicle. The Policy's deadly force provisions prohibit the use of deadly force to prevent self-harm or defend property, and they authorize the use of deadly force only to protect the officer or other persons from what is reasonably believed to be an *immediate* threat of death or serious injury to the officer or others. Importantly, the Model Policy allows for the use of deadly force to prevent escape only in cases of felonies involving serious bodily injury or death and only if the subject poses an *imminent* risk of the same to the officer or a third party.

The Police Executive Research Forum's (PERF) *Guiding Principles on Use of Force* released in 2016 has been both influential and controversial in police policy-making circles. For example, the meetings convened among leading law enforcement organizations that led to the development of the Consensus Model Policy were, in part, a reaction to the PERF *Principles*. Among PERF's 30 principles, 13 address use of force policy matters, 11 relate to training and tactics, four pertain to equipment and less lethal weapons, and two involve call-takers and dispatchers. Overlaid on the *Principles* is a new Critical Decision-Making Model that emphasizes collecting information, assessing risks and options, acting and re-assessing, and continually reflecting on the key values of proportionality and the sanctity of human life.

Placing the sanctity of human life at the center of force-related decision-making is PERF's first principle and in this vein, PERF urges law enforcement agencies to develop policies, practices, and training that go beyond the requirements of *Graham v. Connor* (1989). *Graham* was the Supreme Court's landmark decision articulating an objective, Fourth Amendment-based standard for evaluating claims of excessive force by the police. *Graham* requires that claims of excessive force be judged according to a standard of objective reasonableness and from the perspective of a "reasonable" officer on the scene who must often react to rapidly unfolding and ambiguous events. The actions of the police are to be judged according to this objective reasonableness standard and not with the benefit of cool reflection and 20/20 hindsight according to the Court.

While recognizing the centrality of the *Graham* decision to the formulation of police use of force policies, PERF encourages agencies to go beyond the minimum standards imposed by *Graham* and consider policies and training that emphasize de-escalation, discourage officer-caused jeopardy, require intervention by other officers in the face of excessive force, and prohibit shooting at moving vehicles, among others. PERF's Proportionality standard (Principle #3) articulates that proportionality should be evaluated not simply at the moment force was used by the police but during the events leading up to the force, including the *nature and severity* of the underlying crime or event. A commentary in the *Principles* document by former Philadelphia police commissioner John Timoney specifically discusses officer-caused jeopardy (what Fyfe (1989) referred to as the "split-second" syndrome) and the need to train officers not to create exigencies that then require or justify the use of lethal force and to back up such training with policies that reinforce the message.

A final principle highlighted here is PERF's suggestion to properly document use of force incidents and review the resulting data to ensure force was used fairly and non-discriminatorily. Principle #10 specifically mentions the need to document the pointing of firearms or TASERs at individuals, a recommendation later borne out by Jennings & Rubado (2017) whose research using 15 years of police-involved shooting data combined with LEMAS data found that agencies with policies requiring the documentation of pointing firearms at civilians exhibited lower rates of civilian firearms deaths at the hands of the police than those without such policies. While the PERF *Principles* have not been without their critics in policing circles, they have been important in driving the conversation and policy-making forward regarding the use of force by police, a conversation that has taken on dramatically increased importance in the wake of George Floyd's death and a summer of protests not seen since the summer of 1967 when scores of riots sparked by violent police-civilian encounters roiled America's cities (Smith, 1995).

## **Legal Scholarship on Use of Force Policies**

Over the last 50 years, U.S. public opinion, media coverage, and police and policy-makers' perceptions of the use of force by police have been shaped by a number of watershed moments. Among these are the 1967 riots that led to the appointment of a National Advisory Commission on Civil Disorders and its resulting Kerner Report (1967), the beating of Rodney King by LAPD officers and the ensuing riot that destroyed much of South Central Los Angeles (Sastry & Gates, 2017), the 2014 shooting of Michael Brown in Ferguson, MO that led to riots and destruction in Ferguson and demonstrations throughout the country (USDOJ, 2015), and most recently, the May 2020 death of George Floyd following his arrest by Minneapolis police officers and the ensuing protests and demonstrations across many cities in the U.S. that served as major campaign issue in the 2020 presidential election (Altman, 2020). It was Floyd's death that led the advocacy group Campaign Zero to launch its 8 Can't Wait project advocating eight use of force policy reforms<sup>26</sup> that have garnered significant national attention and helped spur a recent wave of legal scholarship focusing on policy reform. This section reviews that recent scholarship but begins with a focus on deadly force legal analysis and policy recommendations from 20 years ago.

### **Deadly Force Law and Policy**

A 1998 law review article by Smith analyzed legal and policy responses to *Tennessee v. Garner* (1985) that remains relevant to today's national conversation regarding deadly force by police. In this article, Smith analyzed all reported court decisions that had interpreted and applied *Garner* in police-involved shooting litigation. He also reviewed the legal and policy landscape that shaped deadly force policies in American law enforcement agencies at the time. It turns out that not much has changed in the ensuing 20 years.

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<sup>26</sup> 8 Can't Wait policy recommendations: (1) require de-escalation, (2) utilize a use-of-force continuum, (3) ban chokeholds and strangleholds, (4) require a warning before shooting, (5) ban shooting at moving vehicles, (6) exhaust all alternatives before using deadly force, (7) create a duty to intervene, (8) require comprehensive reporting and data collection.

Despite *Garner's* narrow holding that police may no longer use deadly force to apprehend a fleeing felon who does not pose a significant risk of death serious injury, Smith found that some police agencies and even state laws had seized on language from the *Garner* opinion and constructed deadly force policies that seemingly permitted officers to use deadly force to apprehend individuals fleeing from certain forcible felonies or other crimes involving the use or threatened use of deadly force without a requirement that the suspect pose an *imminent* threat of death or serious injury to the officer or others. These policies can set police up to be street-level executioners of persons for whom the death penalty would not be an option even after a fair trial and a finding of guilt beyond a reasonable doubt. Police shootings under circumstances where the subject did not, when shot, pose an immediate risk of death or serious injury to the officer or a third party are also those most likely to result in negative outcomes, including community unrest and civil or criminal liability (Smith, 1998).

The social science on the impact of restrictive deadly force policies was briefly reviewed above and succinctly summarized by Gellar and Scott (1992) in their seminal book *Deadly Force: What We Know*: The “adoption of restrictive policies usually has been followed by marked decreases in shootings by the police, increases in the proportion of shootings in response to serious criminal activity, greater or unchanged officer safety, and no adverse impact on crime levels or arrest aggressiveness” (p. 267). In 2020 then, it is surprising to find agencies with deadly force policies that extend beyond the strict defense of life approach found in the *National Consensus Model Policy* and in the CALEA<sup>27</sup> standards on deadly force, among others often viewed as a best practice in limiting the use of deadly force by police.<sup>28</sup> We will return to this theme in the Recommendation section below and our discussion of FCPD General Order 540.8. For now, we simply note that 35 years after *Tennessee v. Garner* (1985) was decided some U.S. law enforcement agencies continue to promulgate deadly force policies that extend well beyond the Court’s actual holding in the case and permit extrajudicial killings of suspects who do not pose an imminent threat of death or serious injury to officers or others (Marcus, 2016). This policy approach is antiquated, and it has been rejected by professional law enforcement organizations as unnecessary for police and public safety and inconsistent with the rule of law.

### **Use of Force Policy Features and Recommendations**

In addition to the 8 Can’t Wait recommendations, a series of legal scholars have recently weighed-in with their analyses and recommendations for improvements to police use of force policy-making (Garrett & Stoughton, 2017; Goode, 2018; Obasogie & Newman, 2019). The general thrust of this newer scholarship is that police use of force policies are often inadequate to

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<sup>27</sup> The Commission on Accreditation for Law Enforcement Agencies (CALEA) was created in 1979 as a law enforcement credentialing authority by the nation’s major law enforcement executive associations (<https://www.calea.org/about-us>). Its standards are frequently cited as “best practices” for U.S. law enforcement. CALEA standard 4.1.2 states that deadly force may only be used when an officer reasonably believes that the action is in defense of any human life in *imminent* danger of death or serious bodily injury.

<sup>28</sup> The FBI policy similarly restricts the use of deadly force to situations where the agent has a reasonable belief that the subject poses an imminent danger of death or serious injury to the agent or another person (<https://www.fbi.gov/about/faqs/what-is-the-fbis-policy-on-the-use-of-deadly-force-by-its-special-agents>).

the task of controlling the use of force by police, courts are unduly deferential to police policies and decisions ostensibly made under them, and the constitutional rules established by the Supreme Court governing the use of force are too vague to provide meaningful guidance to the police. This body of scholarship is briefly discussed below, which includes a summary of what these authors view as best practices in use of force policy-making. To begin, Goode (2018) notes that the use of excessive force or force used in violation of policy is commonplace in large agencies. In his review of Chicago use of force policies and a DOJ investigation of the Chicago Police Department (CPD) he catalogs numerous instances where CPD officers violated the department's policies on the use of force. They fired into moving vehicles and used Tasers against low-level resisters, for example. According to Goode and other legal scholars (Garrett & Stoughton, 2017; Obasogie & Newman, 2019) a good deal of the problem lies with the vague "objective reasonableness" standard set forth in *Graham v. Connor* (1989), which provides little meaningful guidance to police officers and which can immunize the use of force by officers even when it violates their own policies. The authors agree that better rules are needed both from the courts and from law enforcement agencies to help guide use of force decision-making by officers.

Similar to Campaign Zero's analysis of policies from the nation's 100 largest law enforcement agencies, Obasogie and Newman (2019) content-analyzed the use of force policies from the nation's 75 largest cities and found that almost every one of them referenced the *Graham* standard of objective reasonableness without much discussion of its actual application in the real world. One way to operationalize the *Graham* standard and the factors listed by the Court as relevant considerations in its application<sup>29</sup> is to utilize a use-of-force continuum that links officer force levels with suspect resistance and thus helps provide concrete guidance on force options to be considered when differing levels of resistance are encountered. With NIJ funding in 2006, Terrill and Paoline (2012) obtained the use of force policies from a stratified random sample of more than 1,000 U.S. law enforcement agencies and found that approximately 80% utilized some kind of use of force continuum in their policies but that such continua varied considerably in their design and specificity. Force ranged from three to nine levels in the continua analyzed by Terrill and Paoline, while citizen resistance ranged across three to seven levels. Importantly, 336 (71%) of the responding agencies that used a continuum in their policies linked specific force types or levels with specific resistance levels, thus providing officers with guidance regarding what types of force were permissible given differing levels of resistance. Agencies that took this approach all provided an "out clause" in their policies indicating that officers were not required to progress linearly through the continuum and could "jump" levels, if necessary, depending upon the resistance offered by the suspect.

Obasogie's and Newman's (2019) more recent analysis of use of force policies from the nation's 75 largest cities found what they characterized as three tiers of policies: (1) those that provided only a foundational level of guidance to officers by reference to the reasonableness standard from *Graham*, (2) a middle tier that made some effort to define levels of officer force and/or suspect resistance (although they were not always linked) and that prohibited certain actions by officers (e.g. shooting at moving vehicles), and (3) those that provided substantive protections to

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<sup>29</sup> The factors listed by the Supreme Court to help determine the reasonableness of force include (1) the severity of the crime at issue, (2) whether the suspect poses an immediate threat to the safety of the officers or others, (3) whether the suspect is actively resisting arrest or attempting to flee.

civilians and placed obligations on officers. These latter policy types were relatively uncommon (less than half of the policies analyzed fell into this tier) but contained provisions relating to de-escalation, proportionality, reassessment, the exhaustion of alternatives, and force continuums. Obasogie and Newman cite the Charlotte, North Carolina policy's continuum as one that provides substantive guidance to officers by offering a graphic that contains defined levels of resistance clearly linked with permitted levels of force. Examples of similar graphics linking levels of force to levels of resistance within a continuum can be found sprinkled throughout the policies of these 75 large agencies (see, e.g., use of force policies from Charlotte, Chicago, Washington, D.C., San Diego, and Las Vegas in Appendix B).

Adding to the recent literature on use of force policies, Garrett and Stoughton (2017) content analyzed the policies of the nation's 49 largest law enforcement agencies. Of the policies they obtained and analyzed, a majority (63%) included some type of continuum, but only six policies contained a visual representation of it. Other notable features of the policies included provisions regarding the use of only the minimum amount of force necessary (49%), verbal warnings when feasible before using deadly force (65%), de-escalation (49%), and tactical approaches to consider before using force (55%), including at least one agency (Philadelphia) that prohibited officers from taking unnecessary actions that might precipitate the need for deadly force (officer-induced jeopardy).

Beyond a baseline reference to standards of objective reasonableness drawn from *Graham v. Connor* (1989), these analyses show wide variation in use of force policy approaches across agencies. However, the most thorough and useful policies provide concrete guidance to officers on how to use force legally, ethically, and in accordance with community expectations in the modern policing environment. These policies include the following features and provisions:

- Strong admonishments on the use of only minimal force and only as a last resort after all other feasible alternatives have been attempted
- The prohibition of certain types of force under specified conditions<sup>30</sup>
  - Banning chokeholds or lateral vascular neck restraints
  - Prohibiting shooting at or from moving vehicles
  - Prohibiting warning shots
  - Prohibition against shooting fleeing felons unless necessary to prevent imminent death or serious injury
- A requirement for de-escalation and the use of sound tactics (time, distance, cover) to avoid the need for force
- Verbal warnings, if feasible, prior to the use of force
- Requirements for proportionality and reassessment
- Use of force continuums, including clear graphical illustrations, that link permissible force options to well-defined levels of suspect resistance
- Statements asserting that force may not be used in a biased or prejudiced manner
- Instructions regarding mental illness and the utilization of specially trained officers if available or feasible in dealing with the mentally ill
- Duty to intervene to prevent excessive or unlawful force

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<sup>30</sup> Rather than an outright ban, some policies limit chokeholds to instances where deadly force would be authorized and permit shooting at a moving vehicle as a last resort to prevent death or serious bodily injury.

- Duty to report excessive force
- Rendering medical aid to persons against whom force was used

This list provides a good starting point for professional law enforcement agencies seeking to improve their use of force policies and align them with best practices. Policies that contain these provisions are best positioned to convey the values and commitment of the agency to the preservation of human life and dignity while also providing meaningful guidance to officers on how, when, and under what conditions force is permitted.

## Fairfax County Recommendations

This section analyzes FCPD use of force policies in light of the recent scholarship and policy recommendations from national police organizations discussed above. Where the FCPD policies deviate from these recommended best practices, we suggest alternative approaches and/or present an excerpt from the relevant FCPD policy and our suggested revisions. Our suggestions are presented in numerical order across the 24 force-related General Orders (540.0-540.23) that we reviewed.

### General Order 540.1

We suggest revising the definition of “Force” found in GO 540.1 I.G. to include any force beyond a firm grip. This revision clarifies that reportable force is anything beyond a firm grip and that it is reportable whether used to restrict an individual’s movement *or* to overcome resistance. The reporting threshold of a “firm grip” recognizes that handcuffing or escorting an individual in custody often requires the application of a “firm grip.” Any force beyond this threshold should be documented and reported.

**Table 24: Definition of Force**

<b>Current</b>	<b>Suggested</b>
540.1 I.G. Force: Any physical strike or instrumental contact with an individual, or any significant physical contact that restricts an individual's movement. Force does not include escorting or handcuffing an individual who is exhibiting minimal or no resistance. Merely placing an individual in handcuffs as a restraint in arrest or transport activities, simple presence of officers or patrol dogs, or police issuance of tactical commands does not constitute a reportable action.	<b>Any physical strike or instrumental contact with an individual, or any significant physical contact beyond a firm grip used to overcome resistance or restrict an individual’s movement. Force does not include escorting or handcuffing an individual who is exhibiting minimal or no resistance. Merely placing an individual in handcuffs as a restraint in arrest or transport activities, simple presence of officers or patrol dogs, or police issuance of tactical commands does not constitute a reportable action.</b>

### General Order 540.2

Notably, General Order 540.2 addresses de-escalation, and the FCPD is to be commended for including a de-escalation provision in its use of force general orders. We recommend expanding

GO 540.2 I.A. to add sound tactical approaches to the definition of de-escalation – *patience, time, distance, and cover* – as tactics officers should consider when feasible. Furthermore, we recommend amending GO 540.1 I.B. to stress that de-escalation is the preferred approach to prevent situations from *escalating* as well as deteriorating and to emphasize that de-escalation is useful not only to reduce the level of force but potentially *the need* for force altogether. Our suggestions emphasize patience and recognize that communication is often *non-verbal* in nature. Finally, we suggest making clear that officers are expected to use *only the minimum* amount of force *reasonably necessary* to overcome resistance and gain control. Emphasizing *minimum force* to overcome resistance reinforces to officers that force (either in frequency or degree) exceeding the minimum amount necessary is inconsistent with de-escalation.

**Table 25: De-escalation**

<b>Current</b>	<b>Suggested</b>
<p>540.2 I.A. De-escalation is the result of a combination of communication, tact, empathy, instinct, and sound officer safety tactics. The ultimate goal is to help achieve a positive outcome by reducing the need for force.</p>	<p><b>De-escalation is the result of a combination of communication, tact, empathy, patience time, distance, cover, and other sound officer safety tactics. The ultimate goal is to help achieve a positive outcome by reducing the need for force.</b></p>
<p>540.2 I.B. When possible, officers should seek to utilize de-escalation strategies to prevent situations from deteriorating to the point where they would need to use force. Officers should attempt to gain voluntary compliance and reduce the level of force required in a situation through verbal communication efforts. When force is applied, officers will adjust the amount of force used to overcome an individual's resistance and to gain control.</p>	<p><b>When possible, officers should seek to utilize de-escalation strategies to prevent situations from escalating or deteriorating to the point where they would need to use force. Officers should attempt to gain voluntary compliance and reduce the need for and the level of force required in a situation through patience and non-confrontational verbal and non-verbal communication efforts. If force is required, officers will use only the minimum amount of force reasonably needed to overcome an individual's resistance and to gain control.</b></p>

**General Order 540.4**

In its current form, GO 540.4 Resistance and Levels of Control falls within a “middle tier” of policies (Obasogie & Newman, 2019) that articulate force and resistance levels but without a clear continuum framework and without linking them in a way that provides useful guidance to officers. The policy would benefit from expanding the levels of resistance to distinguish aggressive or assaultive resistance not intended to cause death or serious injury from aggravated resistance clearly intended to bring about that result. There is a big difference between a suspect throwing a punch at an officer and attempting to stab the officer with a knife or threatening to shoot the officer. Officer responses to those very different threats should necessarily be different, at least at the outset, but the current three-level resistance scheme lumps a punch into the same

category as a firearm under the heading of “aggressive resistance.”<sup>31</sup> Similarly, “police empty-hand tactics” could be divided between soft empty-hand techniques (joint locks, pressure points, come-along holds) and hard empty-hand tactics (strikes, kicks, takedowns), which could then be tied to different resistance levels. Finally, threats of self-harm should be eliminated from the definition of aggressive resistance. While force may be a legitimate option to prevent self-harm under some circumstances, threats of self-harm are not “aggressive resistance.”

The lower-level subject resistance categories – passive resistance and defensive resistance – are appropriate, but the FCPD should consider providing examples of actions that typically fall within these resistance levels to provide further guidance to officers. Examples might include:

- Passive resistance
  - Suspect refuses commands
  - Suspect goes limp or lies down
- Defensive resistance
  - Suspect flees or attempts to flee
  - Suspect tenses or pushes/pulls against officer to resist control or in an attempt to escape control
  - Suspect grasps onto a fixed object to avoid control

In addition, the FCPD should consider incorporating a use of force continuum into this policy that clearly links levels of suspect resistance to suggested levels of force. Examples of these continua are abundant, but we have provided several examples in Appendix B. The Charlotte-Mecklenburg Response to Resistance policy (600-019) is a narrative-driven policy that defines four levels of subject resistance (passive resistance, defensive resistance, active aggression, and death or serious bodily injury) and provides examples of subject behaviors within each level. The policy emphasizes de-escalation and dialogue when feasible before force is used, and it provides a detailed list of factors that officers should take into account when deciding whether to increase or decrease their level of control. Importantly, the policy links force options (e.g., OC spray or CEWs (Tasers)) to levels of resistance and prohibits or limits their use in certain situations (e.g., non-violent protests or passive resistance).

The Las Vegas Metropolitan Police Department likewise defines levels of subject resistance and police levels of control and makes a clear distinction between assaultive subject behavior intended to cause harm and obstructive behavior intended to avoid control. The LVMP policy (PO-035-20) also includes a Use of Force Model<sup>32</sup> that depicts increasing levels of resistance and ties them to increasing levels of control in a visual model. Whether this is done graphically or in narrative form, the idea is to clearly define differing levels of resistance in concrete, behavioral terms and then link those resistance levels to permissible levels of control, which are themselves clearly defined in tactical terms tied to training (e.g., soft-empty hand control techniques) and by reference to authorized less-lethal (e.g., CEW) or lethal weapons (firearms).

Similarly, the FCPD should strongly consider modifying GO 540.4 to incorporate a continuum

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<sup>31</sup> GO 540.4 I.A.3 defines aggressive resistance as follows: “Where an individual displays the intent to cause injury, serious injury, or death to others, an officer, or themselves and prevents the officer from taking lawful action.

<sup>32</sup> See also San Diego Police Department Procedure 1.04 recently amended to include a Use of Force Matrix defining resistance levels and tying them to permissible levels of force.

that contains well-defined levels of resistance and control and which provides clear guidance to officers regarding what types of force are permitted under what conditions of resistance. These recommended changes need not confine officers to escalating or de-escalating force in a lockstep manner along the continuum and should include a provision that permits officers to respond quickly and appropriately with a force level reasonably necessary to defend life or prevent physical harm to themselves or others.

### **General Orders 540.7, 540.9, & 540.21**

In our Data Collection recommendations, we suggest capturing injuries to civilians and officers using the Abbreviated Injury Scale. The general orders applicable to documenting (GO 540.21) and investigating (GO 540.7 & 540.9) the use of force should likewise define injury or complaint of injury using the AIS (or similar) categories and definitions to make clear the responsibility for appropriately documenting and investigating what constitutes an “injury” or potential injury

### **General Order 540.8**

In our review of the empirical and legal scholarship on deadly force above, we demonstrate the clear advantages to adopting a simple defense of life policy governing the use of deadly force. A policy like this would permit the use of deadly force only to prevent what is reasonably believed to be an *imminent* threat of death or serious injury to an officer or other person. GO 540.8 does not currently reflect this modern standard. Specifically, 540.8 I.C. permits FCPD officers to use deadly force to apprehend suspects fleeing from felonies involving violence if the “felon’s escape poses a significant threat of serious injury or death to the officer or others.” Critically, section I.C.3 *does not* contain a requirement that such threat be *imminent*, and so it leaves open to an officer’s split-second judgment whether the suspect might pose an inchoate threat at some point in the future and authorizes the extrajudicial application of deadly force under potentially speculative conditions.

We strongly urge the FCPD to amend GO 540.8 to incorporate an *imminency* requirement in all cases of deadly force. A policy such as this eliminates the need for a separate “fleeing felon” provision altogether. Under this approach, officers are permitted to use deadly force to protect themselves or others from what is reasonably believed to be an *imminent* threat of death or serious injury. While some agencies permit the use of deadly force to apprehend fleeing violent felons who *also* pose an imminent threat to human life (see LMVP PO-035-20 XII.4.), such a provision is not necessary because it is merely a specific application of the general rule and thus is subsumed by it. Moreover, this recommended policy approach is clear, simple, easy to train on, and consistent with recommendations from professional police organizations and legal scholars. It is also consistent with evolving community standards on deadly force that increasingly expect police to use deadly force only under the narrowest of circumstances.

### **Other Recommendations**

*Consider combining and streamlining use of force policies*

Stand-alone policies defining objective reasonableness (GO 540.5) and less-lethal force (GO 540.6) could easily be streamlined and combined with GO 540.1 (definitions), 540.4 (resistance

and control), 540.8 (deadly force), 540.12 (force options), 540.13 (empty-hand tactics), 540.14 (oleoresin capsicum), 540.15 (baton), 540.16 (electronic control weapon), 540.17 (pepperball system), 540.19 (kinetic energy impact systems), and 540.20 (firearms) into a unified policy on the use of force or “response to resistance.” Going a step further, GO 540.2 on de-escalation and 540.3 creating a duty to intervene also could be combined with the others into a single policy. The advantage to a single policy is that it provides officers with a single point of reference to which they can turn to review their duties and responsibilities when it comes to the use of force. Policies pertaining to the documentation (540.21) and investigation of force (540.7 & 540.9) could likewise be combined and/or streamlined to provide a simpler and easier framework for officers to follow.

*Review the use of patrol dogs (GO 540.18) to ensure compliance with best practices and minimization of injury*

The FCPD policy on the use of canines is quite expansive and permits the use of dogs to apprehend (or bite) merely to effect an investigative stop or arrest. While it requires handlers to consider the totality of the circumstances, including the severity of the crime and threat posed by the individual, it does not otherwise limit apprehension bites to certain types of crimes or threats like some agencies (see Appendix B, Washington Metropolitan Police General Order GO-RAR-306.1 limiting the tactical use of canines to serious felonies, crimes of violence, or risk of immediate danger to others). There is increasing concerns in communities and among thoughtful police leaders over the role of canines as instruments of force (see PERF, 2020) capable of inflicting devastating injuries in a racially disparate manner (Lodner & Meixner, 2019; Vansickle et al., 2020), and the predicates necessary before turning a patrol dog loose to bite (Remkus, 2020). As a leading law enforcement agency in the Washington metro region and beyond, FCPD canine policy should reflect evolving standards on the use of canines as instruments of force.

*Consider adopting a policy on foot pursuits*

With increased public concern about the use of force by police, including equity-based concerns, we recommend that the FCPD consider adopting a policy on foot pursuits. The IACP has published a considerations document (IACP, 2019) on foot pursuits that recognizes the inherent dangerousness of them and provides policy and training guidance to agencies in managing foot pursuits. At a minimum, officers should be trained and guided by policy to ensure that before engaging in a foot pursuit, they have reasonable suspicion of a crime to support a detention (beyond the failure to submit to the detention itself) and that they have a reasonable belief that the suspect poses an immediate threat to officers or public safety (IACP, 2019). Foot pursuits carry with them a substantial risk of injury to officers and suspects (Kaminski et al., 2012; Kaminski & Alpert, 2013), suggesting the need for a policy and training to ensure that the benefits of a foot pursuit outweigh its risks.

## VII. Summary & Conclusion

This research project analyzed three years' worth (2016-2018) of use of force and related data from the FCPD to investigate the influence of civilian race, ethnicity, and other factors on force used by FCPD officers. The UTSA-led research team also was charged with providing recommendations for reducing potential bias in officer decision-making and improving use of force data collection methods and processes to facilitate future analyses. Altogether, the data analyzed for this project included 1,360 use of force incidents involving at least one officer and one civilian.

### Findings

Broken down by race and ethnicity, the FCPD used force against 576 Black persons (42%), 519 White persons (38%), 218 Hispanic persons (16%), and 45 Asian persons (3%) between January 1, 2016 and December 31, 2018. Average force levels were slightly higher for Blacks (2.4 on a 4.0 scale) than for other racial groups (2.1 for Whites, 2.2 of Hispanics, 2.0 for Asians), while resistance levels were essentially equal across the racial and ethnic groups. With the exception of an elevated risk of force by Hispanic officers in one of the incident-level models, there were no meaningful differences in the levels of force used by officers of different races or ethnicities against minority civilians.

Evaluating rates of force used against different racial and ethnic groups requires a comparison of the percentage of persons in each group subjected to force to the percentage of persons in those groups *at risk* for having force used against them. The risk for force may vary across groups according to the rate of contact with or arrest by the police or by differences in suspected criminal involvement across groups. Thus, comparing rates of force across population groups requires an appropriate *benchmark* against which those rates can be meaningfully compared.

For the purposes of this project, the UTSA-led research team relied on suspect and arrest data provided by the FCPD to develop two categories of benchmarks, each of which was further broken down by Part I violent crimes<sup>33</sup> and Part I violent crimes plus weapons offenses and simple assault. The benchmarks used to compare against the rates of force experienced by different racial/ethnic groups in Fairfax County were (1) the racial/ethnic composition of suspects drawn from crime reports made to the FCPD during the study period, and (2) the racial/ethnic composition of persons arrested by the FCPD during the same period.

Across the entire county, force was used against White civilians at rates that exceeded their representation in all six benchmarks, and in some cases, by a substantial margin. Similarly, the rate of force used against Black civilians exceeded their benchmarks in four out of the six benchmarks, including all arrestee benchmarks. The FCPD used force against Hispanic persons at lower rates than their representation in all benchmarks and against Asian individuals at rates that exceeded the suspect but not arrestee benchmarks. Comparing rates of force used against

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<sup>33</sup> The FBI defines Part I violent crimes as murder/non-negligent manslaughter, rape, robbery, and aggravated assault.

minorities *relative* to Whites utilizing these same benchmarks showed that in all but one case, the rates of force used against minorities was *lower* than the rate used against Whites. These disproportionality ratios should be interpreted with caution, however, because of the high rate at which Whites experienced force across all benchmarks examined. Finally, the rate at which civilians detained for mental illness reasons experienced force varied slightly by race/ethnicity and by mental health benchmark (voluntary vs. involuntary detentions), but Black civilians experienced lower rates of force compared to their representation among all those detained under temporary detention orders in the county while Asian civilians experienced higher rates of force compared to the detention order benchmarks.

Examining the benchmarking data by district station revealed some differences from the county-wide findings. For example, in Mt. Vernon, the rates of force used against Black civilians exceeded all benchmarks, and force was used disproportionately against Blacks relative to Whites in four of the six benchmarks examined. Blacks also experienced force at rates that consistently exceeded the benchmark comparisons in Franconia, McLean, and West Springfield. Hispanic civilians were overrepresented as the subjects of force in the Sully (3 of 6 benchmarks) and Mason (3 of 6 benchmarks) district stations. Finally, the rates of force used against Asian civilians notably exceeded the chosen benchmarks in Mt. Vernon (all suspect benchmarks), Reston (4 of 6 benchmarks), West Springfield (all benchmarks), and Fair Oaks (all benchmarks). Some disproportionality ratios were elevated for minority civilians relative to Whites in Sully (Hispanics), Mt. Vernon (Blacks and Asians), McLean (Blacks and Asians), Mason (Hispanics), Reston (Asians), Franconia (Blacks), West Springfield (Blacks and Asians), and Fair Oaks (Asians). The consistency of the elevated disproportionality ratios varied by district and by race/ethnicity; some district stations showed only one or two elevated ratios while others (e.g. Asians in Fair Oaks) showed consistent overrepresentation of certain minority groups.

As a final step in the analysis, the research team examined the *level* or *severity* of force used against civilians in Fairfax County using multivariate regression models that allow for an assessment of factors associated with the level of force used while controlling for (or holding constant) a variety of other relevant indicators. While a number of factors proved to be predictive of higher levels of force, race and ethnicity – Black, and to a lesser degree Hispanic, individuals – were positively related to increased levels or severity of force. These findings were consistent across four of six models for Blacks and one of six models for Hispanics. In addition, Black, but not Hispanic, civilians also were more likely to have force used against them during arrests compared to Whites, while Asian civilians were less likely to have force against them in arrest situations. At the district station level, Mt. Vernon, Franconia, and McLean showed higher levels of force against Black civilians after controlling for a variety of other relevant factors, including suspect resistance. Mt. Vernon also showed an elevated severity of force used against Hispanic civilians.

In sum, force used by the FCPD against persons of different racial and ethnic groups varied by district station and by severity. County-wide, Black, and to a lesser degree Hispanic and Asian civilians, were subjected to force more often than expected given their representation across multiple arrestee and crime suspect benchmarks. In addition, the FCPD consistently used force more often against Whites than predicted by the benchmark comparisons, which tended to reduce the disproportionality ratios (the rate of force used against minorities relative to Whites) that

might otherwise have been expected. Multivariate analyses that controlled for a variety of factors known to correlate with the use of force by police revealed that Black civilians were subjected to higher levels of force than Whites county-wide and in the Mt. Vernon, Franconia, and McLean districts and that Hispanic individuals were at greater risk for more severe force in Mt. Vernon. Finally, an examination of force used during arrests also found that Black civilians experienced force more often than Whites at the county level. Taken as a whole, the results indicate that force is used consistently more often by the FCPD against White and Black civilians compared to suspect and arrestee benchmarks and at consistently higher levels against Blacks. Results vary by district station, and at the station level, some disparities in force usage are evident for other minority groups as well, including Hispanics and Asians, depending upon the station. Asians, in particular, consistently experienced higher rates of force in West Springfield and Fair Oaks compared to their benchmarked risk of force in those districts. They did not, however, experience more severe levels of force compared to Whites as was the case for Black civilians.

## **Data Collection Recommendations**

Here we summarize the data collection recommendations detailed in Section V of this report. These recommendations may be achievable with modifications to the FCPD's existing use of force data collection system (Blue Team), or they may be achievable through use of the department's new records management system (RMS) in lieu of Blue Team.

- Capture all instances of force and resistance sequentially during each encounter involving the use of force. Each force tactic or weapon used by each officer and each resistance action taken by each civilian should be documented in the order in which they occurred.
- Adjust some of the drop-down fields in Blue Team to allow for "Other" entries when the most accurate choice does not neatly fit within one of the available options
- Simplify the available lighting and weather selections and add fields for location (indoors or outdoors) and estimated temperature
- Improve the capture of medical and injury data for civilians and officers by adding treatment (medical treatment refused, treated and released on-scene, transported to hospital) and injury fields. Consider using the Abbreviated Injury Scale (or similar) from the medical literature to more accurately categorize the nature and severity of injuries (if any) sustained
- Add officer and civilian age, race/ethnicity, and gender fields to the use of force data collection environment
  - In the case of officers, include their rank, years of service, assignment, education level, and veteran status
- Add fields for the number of civilians involved in the incident and the distance between the officer and civilian when a police weapon was used

- Add a field to capture civilian demeanor at the time force initially was used
- Adjust the Force Type field to clearly distinguish force used against animals and vehicles from force used against persons
- Align Force Type field with General Order 540.4 (defining levels and types of force) and add additional options as recommended
- Capture the pointing, threatened use, or use of all weapon types, not just firearms, by civilians and officers
- Add an “Effectiveness” field for all control type options to identify when a control tactic or weapon was effective, ineffective, or of limited effectiveness
- Align Citizen Resistance levels with General Order 540.4 (outlining levels of resistance) and incorporate the recommended four item scale
- Begin capturing all instances when deadly force would have been authorized by law and policy but *was not* used

## **Use of Force Policy Recommendations**

Section VI of this report details our review of and recommendations regarding FCPD use of force policies. Here we summarize our policy-related recommendations.

- Re-define the use of force reporting threshold to include any significant physical contact *beyond a firm grip*, including the use or threatened use of any weapon
- Add time, distance, cover, and patience to the definition of *de-escalation*
- Refine the policy preference for de-escalation by emphasizing the use of de-escalation to reduce the need for and the level of force required and to emphasize that officers must use only the *minimum* amount of force reasonably needed to overcome resistance
- Further define and provide examples of suspect resistance within the specified levels of resistance
- Incorporate a use of force continuum that clearly links levels of force to levels of resistance while allowing officers to escalate quickly if reasonably required under the circumstances
- Amend the policies requiring use of force documentation to include injury scales for officers and civilians. All injuries should be documented.

- Amend General Order 540.8 to allow for the use of deadly force to apprehend a felon fleeing from a crime of violence *only if* the suspect poses an *imminent* risk of death or serious injury to the officer or a third party, or consider eliminating the fleeing felon provision entirely and adopt a single, clear standard for the use of deadly force – Deadly force is permissible only if the suspect poses an imminent risk of death or serious injury to the officer or others.
- Review FCPD policies on the use of patrol dogs and consider limiting canine bites only to certain types of crimes or other narrowly-defined conditions
- Consider adopting a foot pursuit policy to help reduce force and injuries to officers and suspects

## **Training and Organizational Recommendations**

- Conduct a review of FCPD training to determine adherence with the following recently released recommendations from the Council of Criminal Justice (2021):
  - Include more time teaching communication skills, de-escalation tactics, principles of procedural justice, and handling situations that officers are most likely to encounter
  - Adopt a resiliency-based approach rather than stress-oriented military training
  - Include periodic recertification beyond firearms training
  - Substantially increase the amount of training hours provided annually for de-escalation skills and tactics. Several years ago, the FCPD provided all officers with 4-hours of initial T3 de-escalation training and since has provided periodic 4-hour updates during in-service training in combination with other topics. Recent studies have demonstrated the need for increased dosage of de-escalation training to reduce training decay (Engel et al., 2020a; Engel et al., 2021a)
- Consider adoption of Integrating Communication Assessment and Tactics (ICAT) training, developed by the Police Executive Research Forum (PERF), to supplement the de-escalation training currently provided. This 16-hour training is the only police de-escalation training supported by empirical evidence demonstrating reductions in police use of force.
- If not already in place, consider adoption of a collaborative responder model for handling incidents with persons with behavioral health (BH) issues and/or intellectual/developmental disabilities (IDD). Ensure that officers have received adequate crisis intervention training (CIT), typically a 40-hour training curriculum.
- Ensure that any training designed to reduce the use and severity of force is supported through comprehensive changes to policies, and also through supervisory activities and oversight designed to encourage subordinates' use of de-escalation tactics and skills in

the field. Focus on changing the culture to one that prioritizes, rewards, and incentivizes de-escalation first and the use of force as a last resort.

- Consider rotating officers out of high crime patrol areas and district stations on a regular basis to help reduce officer stress and the potential influence of implicit bias on decision-making
- Conduct annual or biannual follow-up analyses with improved force data to evaluate whether observed disparities diminish or change over time
- Utilize body-worn camera footage to evaluate racial/ethnic disparities in treatment by the FCPD, force escalation or de-escalation, and to improve training and accountability

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## IX. Appendix A: Full Models for Multivariate Analyses

**Table 26: Multinomial Regression for Force Level (Civilian, Full Model)**

	<u>Force Level 2:</u>		<u>Force Level 3:</u>	
	<u>Hard Hand Control</u>	<u>Robust</u>	<u>Taser, Pepper Ball, etc.</u>	<u>Robust</u>
	Coefficient	Std. Error	Coefficient	Std. Error
Intercept	-7.838*	3.368	3.796	15.356
<i>Situational Characteristics</i>				
Number of Force Actions	0.120	0.069	0.125*	0.058
Year 2017	0.439*	0.205	0.768*	0.340
Year 2018	0.458***	0.129	0.968***	0.125
Spring	-0.027	0.146	-0.556**	0.205
Fall	0.316	0.175	-0.142	0.313
Winter	-0.020	0.159	-0.250	0.208
Weekend	-0.305	0.203	-0.265	0.180
Nighttime	-0.027***	0.007	-0.046***	0.011
Violent Crime	0.468	0.521	1.486**	0.548
Weapons/Assault Crime	0.068	0.088	-0.475*	0.205
Property Crime	0.532**	0.178	0.337	0.288
<i>Civilian Characteristics</i>				
Civilian Resistance	0.101	0.074	-0.100	0.096
Civilian Male	0.811***	0.157	1.757***	0.211
Civilian Black	0.222	0.239	0.760***	0.216
Civilian Hispanic	0.313	0.225	0.371*	0.144
Civilian Asian	0.194	0.189	-0.107	0.489
Civilian Age	-0.003	0.008	0.002	0.007
Mental Health	-0.320	0.205	-0.237	0.322
<i>Officer Characteristics</i>				
Officer Female Only	-0.545	0.500	0.069	0.266
Officer Mixed Gender	0.134	0.365	0.387	0.444
Officer Black	-0.608	0.523	-0.189	0.470
Officer Hispanic	0.086	0.299	0.060	0.247
Officer Asian	0.482	0.587	0.718	0.594
Officer Mix Race	-0.130	0.219	-0.141	0.268
Officer Age	0.011	0.016	0.011	0.015
Officer Rank: Officer Only	0.195	0.278	-0.006	0.238
<i>Environmental Characteristics (Stations)</i>				
CFS-Average priority level	1.989	1.133	-1.768	4.599
% Black	-0.026	0.020	0.001	0.019
Violent Crime Rate	0.002	0.001	-0.002	0.001

\*\*\*p<0.001, \*\*p<0.01, \*p<0.05

**Table 27: Multinomial Regression for Force Level (Incident, Full Model)**

	<u>Force Level 2:</u> <u>Hard Hand Control</u>		<u>Force Level 3:</u> <u>Taser, Pepper Ball, etc.</u>	
	Coefficient	Robust Std. Error	Coefficient	Robust Std. Error
Intercept	-6.831	3.357	-1.856	13.288
<i>Situational Characteristics</i>				
Number of Force Actions	0.130	0.068	0.154*	0.060
Year 2017	0.441**	0.150	0.812**	0.238
Year 2018	0.447**	0.137	1.033***	0.176
Spring	0.042	0.132	-0.253	0.174
Fall	0.270	0.163	-0.039	0.319
Winter	0.119	0.181	0.101	0.262
Weekend	-0.279	0.221	-0.139	0.201
Nighttime	-0.022***	0.004	-0.037***	0.008
Violent Crime	0.322	0.463	1.309**	0.489
Weapons/Assault Crime	0.062	0.110	-0.511*	0.239
Property Crime	0.546**	0.203	0.259	0.338
<i>Civilian Characteristics</i>				
Civilian Resistance	0.113	0.087	-0.011	0.109
Civilian Male	0.926***	0.214	2.332***	0.320
Civilian Black	0.172	0.235	0.670**	0.235
Civilian Hispanic	0.349	0.235	0.194	0.169
Civilian Asian	0.145	0.194	-0.155	0.511
Civilian Age	-0.001	0.009	0.005	0.008
Mental Health	-0.374	0.236	-0.443	0.369
Alcohol/Drugs	-0.326	0.171	-0.697**	0.250
<i>Officer Characteristics</i>				
Officer Female Only	-0.367	0.464	0.016	0.271
Officer Mixed Gender	0.125	0.363	0.305	0.445
Officer Black	-0.528	0.530	-0.374	0.497
Officer Hispanic	0.379*	0.174	0.393	0.336
Officer Asian	0.465	0.553	0.494	0.588
Officer Mix Race	-0.095	0.238	-0.159	0.296
Officer Age	0.010	0.016	0.012	0.015
Officer Rank: Officer Only	0.087	0.277	-0.014	0.293
<i>Environmental Characteristics (Stations)</i>				
CFS-Average priority level	1.679	1.043	-0.288	3.994
% Black	-0.023	0.023	0.008	0.019
Violent Crime Rate	0.001	0.001	-0.001	0.001

\*\*\*p≤0.001, \*\*p≤0.01, \*p≤0.05

**Table 28: OLS Regression for Average Force and Totality of Force (Full Models)**

	<u>Average Force</u>		<u>Totality of Force</u>	
	Coefficient	Robust Std. Error	Coefficient	Robust Std. Error
Intercept	4.491	4.454	0.335	0.119
<i>Situational Characteristics</i>				
Number of Force Actions	-0.056**	0.010	0.074***	0.005
Year 2017	0.275**	0.077	0.052*	0.019
Year 2018	0.394***	0.029	0.045**	0.009
Spring	-0.164**	0.035	-0.044*	0.014
Fall	-0.026	0.071	-0.022	0.020
Winter	-0.125*	0.043	-0.023	0.014
Weekend	-0.009	0.043	-0.017	0.010
Nighttime	-0.001	0.002	0.000	0.000
Violent Crime	0.350*	0.106	0.084*	0.029
Weapons/Assault Crime	-0.084*	0.029	-0.004	0.011
Property Crime	0.034	0.090	-0.007	0.017
<i>Civilian Characteristics</i>				
Civilian Resistance	-0.054	0.037	-0.003	0.009
Civilian Male	0.355***	0.049	0.070**	0.014
Civilian Black	0.148**	0.037	0.045**	0.009
Civilian Hispanic	0.093	0.053	0.038	0.016
Civilian Asian	-0.102	0.080	0.028	0.021
Civilian Age	0.001	0.001	-0.001	0.000
Mental Health	-0.021	0.061	-0.002	0.031
<i>Officer Characteristics</i>				
Officer Female Only	0.105	0.084	-0.061*	0.023
Officer Mixed Gender	0.052	0.072	0.073	0.032
Officer Black	0.026	0.109	-0.020	0.031
Officer Hispanic	0.060	0.061	-0.043	0.027
Officer Asian	0.201	0.120	0.006	0.032
Officer Mix Race	-0.022	0.055	0.062**	0.013
Officer Age	0.002	0.004	0.000	0.001
Officer Rank: Officer Only	-0.063	0.060	0.008	0.020
<i>Environmental Characteristics (Stations)</i>				
CFS-Average priority level	-0.883	1.311	-0.057	0.314
% Black	-0.001	0.006	0.001	0.001
Violent Crime Rate	-0.001	0.000	0.000	0.000

\*\*\*p<0.001, \*\*p<0.01, \*p<0.05

**Table 29: Logistic Regression Force Model in Arrest Encounters**

	Coefficient	Robust Std. Error
Intercept		
<i>Situational Characteristics</i>		
Year 2017	-0.028	0.095
Year 2018	0.088	0.143
Spring	0.224*	0.100
Fall	0.031	0.092
Winter	0.308**	0.115
Nighttime	0.103	0.438
Violent Crime	-0.758***	0.116
Weapons/Assault Crime	0.891***	0.131
Property Crime	-1.020***	0.180
Felony Crime	1.350***	0.121
<i>Civilian Characteristics</i>		
Civilian Female Only	-0.643***	0.070
Civilian Mixed Gender	0.283	0.145
Civilian Black Only	0.214*	0.102
Civilian Hispanic Only	-0.055	0.096
Civilian Asian Only	-0.550**	0.194
Civilian Mixed Race/Ethnicity	0.177	0.213
Civilian Age	-0.009*	0.004
<i>Officer Characteristics</i>		
Officer Female Only	-0.645***	0.185
Officer Mixed Gender	0.394	0.317
Officer Black Only	-0.120	0.129
Officer Hispanic Only	-0.270**	0.098
Officer Asian Only	-0.099	0.082
Officer Mixed Race/Ethnicity	-0.090	0.112
Officer Age	-0.016*	0.007
Officer Rank: Officer Only	-0.129	0.077
<i>Environmental Characteristics (Stations)</i>		
CFS-Average priority level	-7.031***	1.334
% Black	-0.026***	0.004
Violent Crime Rate	0.000	0.000

N=33,111; \*\*\*p<0.001, \*\*p<0.01, \*p<0.05

## **X. Appendix B: Agency Policies**



# RESPONSE TO RESISTANCE AND FORCE OPTIONS



ISSUE DATE:	31 December 2020	EFFECTIVE DATE:	15 April 2021
RESCINDS:	29 February 2020 version		
INDEX CATEGORY:	Field Operations		

## I. PURPOSE

This directive:

- A. outlines the Department policy on response and force options and the expectations for members when employing response and force options.
- B. describes the concepts of Force Mitigation and the Department’s commitment to de-escalation when responding to all incidents to ensure effective police-public encounters.
- C. outlines the various force options and the circumstances in which they are authorized when Department members are met with resistance or threats.
- D. satisfies CALEA Law Enforcement Standard Chapter 4.

## II. POLICY

- A. **Sanctity of Human Life.** The Department’s highest priority is the sanctity of human life. The concept of the sanctity of human life is the belief that all human beings are to be perceived and treated as persons of inherent worth and dignity, regardless of race, color, sex, gender identity, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military status, immigration status, homeless status, source of income, credit history, criminal record, criminal history, or incarceration status. Department members will act with the foremost regard for the preservation of human life and the safety of all persons involved. A member's decision to use force will be made in accordance with G03-02, "De-escalation, Response to Resistance, and Use of Force."
- B. **De-Escalation.** Department members are required to use de-escalation techniques to prevent or reduce the need for force, unless doing so would place a person or a Department member in immediate risk of harm, or de-escalation techniques would be clearly ineffective under the circumstances at the time, in accordance with G03-02, "De-escalation, Response to Resistance, and Use of Force."
- C. **When Force is Authorized.** Department members' use of force must be objectively reasonable, necessary, and proportional to the threat, actions, and level of resistance offered by a person, under the totality of the circumstances.
- D. Sworn members will, whenever possible, identify themselves as police officers prior to taking any police action, unless identification would jeopardize the safety of the member or others or compromise the integrity of an investigation.
- E. Members will continually assess situations and determine:
  - 1. if any use of force is necessary.
  - 2. if the seriousness of the situation requires an immediate response or whether the member can employ the Force Mitigation Principles or other response options.
  - 3. the response or force option based on the totality of the circumstances and considering individualized factors such as:
    - a. the person's age, disability, or physical condition (e.g., known, suspected, or perceived behavioral or mental health condition; intellectual, developmental, psychiatric or physical disability; vision, hearing, or neurological impairment).
    - b. the risk posed by the person.

- c. if the person is restrained, injured, or in crisis.
- 4. if the level of force employed should be modified based upon the person's actions or other changes in the circumstances. The level of force will be de-escalated immediately as resistance decreases, provided that the member remains in control and as safety permits.
- F. Members will modify their force in relation to the amount of continued resistance offered by the person.
  - 1. As the person offers less resistance, the member will immediately lower the amount or type of force used.
  - 2. As the person increases resistance, the member may increase the amount or type of force used.
- G. Consistent with the Department policy that all uses of force must be objectively reasonable, necessary, and proportional, Department members will refrain from using force against a person who is secured and restrained with handcuffs or other restraining devices (e.g., flexible restraining devices), unless the member:
  - 1. must act to prevent injury to the Department member, the restrained person, or another person,
  - 2. must act to prevent escape, or
  - 3. is compelled by other law enforcement objectives.
- H. If the Department member is responding to an incident involving persons in need of mental health treatment, the member will act in accordance with the Department directive titled **“Responding to Incidents Involving Persons In Need Of Mental Health Treatment.”**

### III. PRINCIPLES OF FORCE MITIGATION

During all use of force incidents, when it is safe and feasible to do so, Department members will use the principles of Force Mitigation to ensure effective police-public encounters. The concepts of Force Mitigation include:

- A. Continual Communication
  - 1. Members will attempt to use verbal control techniques to avoid or minimize confrontations prior to, during, and after the use of physical force.
  - 2. When it is safe and feasible, members will use continual communication, including exercising persuasion, advice, and instruction prior to the use of physical force.
  - 3. Members should attempt to establish and maintain verbal communication in all police-public encounters and to continually evaluate the effectiveness of that communication. Members will:
    - a. when practical, establish and maintain one-on-one communication where only one member speaks at a time.
    - b. vary the level of assertiveness of their communication depending on the type of police-public encounter and whether a serious crime has been committed or life or property is at risk.
    - c. when appropriate, employ trauma-informed communications techniques, including using a respectful tone and acknowledging any confusion or mistrust by the person.

4. When encountering noncompliance to lawful verbal direction, when it is safe and feasible to do so, members will consider:
  - a. adjusting their verbal communication or other communication techniques.
  - b. allowing a different member to initiate verbal communications.

**NOTE:** Members should refrain from giving simultaneous directions to avoid any potential conflicts.

- c. requesting additional personnel to respond or making use of the specialized units and equipment available through a notification to OEMC, as necessary and appropriate.

**EXAMPLE:** Members will, when practical, request assistance from specialized resources, such as a Crisis Intervention Team (CIT) trained officer *when encountering an individual in crisis, who exhibits symptoms of known, suspected, or perceived behavioral or mental health conditions.*

- d. whether the noncompliance is due to age, limited English proficiency or other language barriers, a medical condition, disability, behavioral health crisis, or drug or alcohol use.

**NOTE:** Department members should be mindful that some persons may be physically or mentally less able to respond to verbal direction or verbal control techniques due to a variety of circumstances, including, but not limited to, the influence of alcohol or drugs, mental health or medical conditions, language barriers, or vision, hearing, or neurological impairment.

5. When it is safe and feasible, members will provide a warning prior to the use of physical force.

#### B. Tactical Positioning

1. When it is safe and reasonable to do so, members should make advantageous use of positioning, distance, and cover by isolating and containing a person, creating distance between the member and a potential threat, or utilizing barriers or cover. Members will continuously evaluate the member's positioning, the person's actions, and available force options.
2. Members should attempt to establish a zone of safety for the security of the responding members and the public. The zone of safety can be established when:
  - a. the incident scene has been secured;
  - b. the scene can be continually monitored or adjusted to maintain safety;
  - c. the person does not pose a continuing threat to Department members or the public;
  - d. the person can be continually monitored; and
  - e. the person can be contained throughout the incident.
3. Members should provide for a safe and effective route for additional Department members and other resources to approach the incident scene.

#### C. Time as a Tactic

1. When it is safe and reasonable to do so, members should use time as a tactic by slowing down the pace of the incident.

2. In order to use time as a tactic, a zone of safety should be established for the security of responding members and the public.
3. Using time as a tactic may:
  - a. permit the de-escalation of the person's emotions and allow the person an opportunity to comply with the lawful verbal direction;
  - b. allow for continued communication with the person and the adjustment of the verbal control techniques employed by the members; and
  - c. allow for the arrival of additional members, special units and equipment, and other tactical resources.
4. When it is safe and feasible to do so, Department members will allow persons to voluntarily comply with lawful verbal direction (e.g., allowing for the opportunity to submit to an arrest before force is used).

#### IV. LEVELS OF RESISTANCE

- A. **Cooperative Person:** a person who is compliant without the need for physical force, *including individuals lawfully and peacefully exercising their First Amendment rights (e.g., lawful demonstrations)*. The following options are authorized when dealing with a cooperative person:
  1. Police Presence
    - a. Police presence is established through identification of authority and proximity to the subject. Mere police presence may result in compliant behavior by the person.
    - b. Police presence alone is the only option authorized for use with persons who are fully cooperative without the need for further intervention.
  2. Verbal Response
    - a. Verbal response consists of persuasion, advice, instruction, and warning in the form of verbal statements or commands that may result in compliant behavior.
    - b. Whenever it is safe and feasible, members will attempt to de-escalate confrontations by utilizing verbal control techniques prior to, during, and after the use of physical force.
- B. **Resister:** a person who is uncooperative. Resisters are further subdivided into two categories (1) passive resister; and (2) active resister.
  1. **Passive Resister:** a person who fails to comply (non-movement) with verbal or other direction. In addition to the options listed in Item IV-A for Cooperative Persons, the following options are authorized when dealing with a passive resister:
    - a. Holding Techniques
 

Holding techniques include a firm grip, grabbing an arm, wristlocks, and come-along holds (i.e., escort holds that are not elevated to compliance techniques), as well as any combination of the above.
    - b. Compliance Techniques
 

Compliance techniques are designed to amplify nonimpact pressure and increase the potential for controlling a passive resister.

      - (1) The goal of applying joint manipulation and pressure point techniques to pressure sensitive areas of the body is to elicit and maintain established control through non-impact pressure compliance.
      - (2) Using a Long Range Acoustic Device (LRAD) to emit high-decibel focused sound waves to cause discomfort. Any use of the LRAD to emit high-decibel

focused sound waves to cause discomfort requires authorization from the Superintendent or his or her designee.

**NOTE:** The LRAD is not considered a use of force when used to deliver verbal messages or warnings at a decibel level not intended to cause discomfort.

c. Control Instruments

Control instruments are designed to amplify nonimpact pressure in order to increase the potential for controlling a passive resister. These instruments are placed mainly on the sensors of the skin covering bone. Control instruments are tools (e.g., baton) applied to joints and pressure sensitive areas of the body with non-impact pressure.

d. Oleoresin Capsicum (OC) Spray and Capsaicin II Powder Agent Deployment

Oleoresin Capsicum and Capsaicin II powder are highly inflammatory agents that occur naturally in cayenne peppers. The use of OC spray and Capsaicin II powder agent is intended to increase control by disorienting the passive resister and interfering with the passive resister's ability to resist arrest.

- (1) Oleoresin Capsicum is only authorized to use against the two types of passive resisters described below AND only after the required authorization is received. No other use of oleoresin capsicum is authorized against passiveresisters.
  - (a) Occupant(s) of a motor vehicle who is passively resisting arrest and only after obtaining authorization from an on-scene supervisor of the rank of sergeant or above.
  - (b) Noncompliant groups, crowds, or an individual taking part in a group or crowd (e.g., demonstrations, celebrations), only after obtaining authorization from the Superintendent or his or her designee.
- (2) Capsaicin II powder agent deployment is an authorized force option against passive resisters who are part of noncompliant groups or crowds **only** when used for area saturation and **only** after obtaining authorization from the Superintendent or his or her designee.

**NOTE:** Only Department-issued Capsaicin II powder agent projectiles and launchers may be used and only after the member has received Department-authorized training in their safe handling and deployment.

- (3) For further guidance and restrictions on the use of OC spray, members will refer to the Department directive titled "**Oleoresin Capsicum (OC) Devices and Other Chemical Agent Use Incidents.**"

2. **Active Resister:** a person who attempts to create distance between himself or herself and the member's reach with the intent to avoid physical control and/or defeat the arrest.

- a. This type of resistance includes, but is not limited, to evasive movement of the arm, flailing arms, and full flight by running.
- b. Active resistance includes attempting to avoid apprehension and failing to comply with a sworn member's orders to reveal themselves.

- c. In addition to the options authorized in Items IV-A and IV-B-1 for Cooperative Persons and Passive Resisters, the following options are authorized when dealing with an active resister:

(1) Stunning

Stunning is diffused-pressure striking or slapping an active resister to increase control by disorienting an active resister and interfering with his or her ability to resist.

(2) Oleoresin Capsicum (OC) Spray

Oleoresin Capsicum is an authorized force option against active resisters. If the active resister is part of a group or crowd, OC Spray is authorized only after obtaining approval from the Superintendent or his or her designee.

(3) Takedown

The act of physically directing an active resister to the ground to limit physical resistance, prevent escape, or increase the potential for controlling an active resister.

(4) Canines Used by Canine Handlers

A canine under the control of a canine handler is an authorized force option when used consistent with the provisions of the Department directive titled "**Canine Use Incidents.**"

(5) Taser

- (a) The Taser is a device used to control and subdue an active resister through the application of electrical impulses that override the centralnervous system and cause uncontrollable muscle contractions.
- (b) Only Department-issued Tasers may be used and only after the member has received Department-authorized training in their safe handling and deployment.
- (c) Using the Taser to drive stun an active resister is prohibited.
- (d) For further guidance and restrictions on the use of a Taser, members will refer to the Department directive titled "**Taser Use Incidents.**"

- C. **Assailant:** a person who is using or threatening the use of force against another person or himself/ herself which is likely to cause physical injury. Assailants are further subdivided into two categories:

(1) a person whose actions are aggressively offensive with or without weapons and (2) a person whose actions constitute an imminent threat of death or great bodily harm to a Department member or to another person.

1. The person's actions are aggressively offensive with or without weapons. This category may include an assailant who is armed with a deadly weapon but whose actions do not constitute an **imminent** threat of death or great bodily harm.

- a. In addition to the options authorized in Items IV-A and IV-B for Cooperative Persons and Resisters, the following options are authorized when dealing with this type of assailant:

(1) Direct Mechanical

Direct mechanical techniques are forceful, concentrated striking movements such as punching and kicking, or focused pressure strikes and pressures. These techniques can be combined with take-downs or pins against the ground or other objects.

(2) Impact Weapons

Impact weapons are designed to establish control by means of applying mechanical impact to an assailant in order to disable elements of his or her musculoskeletal structure.

- (a) Members will avoid the use of flashlights, radios, firearms, or any item not specifically designed as an impact weapon, unless reasonably necessary and no other practical options are available.
- (b) For further guidance and restrictions on the use of impact weapons, members will refer to the Department directive titled "**Baton Use Incidents.**"

(3) Impact Munitions

- (a) Impact munitions are projectiles intended to impact and incapacitate a potentially dangerous assailant from a safe distance, thereby reducing resistance and gaining compliance while reducing the probability of serious injury or death.
  - i) Capsaicin II powder agent projectiles fired from a powder agent deployment system is considered an impact munition.
  - ii) The use of Capsaicin II powder agent projectiles as an impact munition requires authorization from the Superintendent or his or her designee.
- (b) Only Department-issued impact munitions may be used and only after the member has received Department-authorized training in their safe handling and deployment.

2. The person's actions constitute an imminent threat of death or great bodily harm to a Department member or to another person. In addition to the options authorized in Items IV-A, IV-B, and IV-C-1 for Cooperative Persons, Resisters, and Assailants, firearms and other deadly force responses are authorized when dealing with this type of assailant.

- a. For further guidance and restrictions on the use of deadly force as a last resort, members will refer to Department directive titled "**De-escalation, Response to Resistance, and Use of Force.**"
- b. For further guidance and restrictions on the use of firearms, members will refer to Department directive titled "**Firearm Discharge Incidents - Authorized Use and Post-Discharge Administrative Procedures.**"
- c. Department members are prohibited from using deadly force against a person who is a threat only to himself, herself, or property.

V. POST-USE OF FORCE POSITIONING AND MONITORING

- A. Department members engaged in the use of force or application of authorized restraining devices are reminded of the dangers involved with positional asphyxia and will refer to the Department directive titled "**Restraining Arrestees**" for specific procedures concerning the physical restraint of persons in Department custody.
- B. After gaining control of a person, members will:
  - 1. avoid sitting, kneeling, or standing on a subject's chest, which may reduce the person's ability to breathe.
  - 2. position the person in a manner to allow free breathing. Whenever feasible, the person will not be forced to lie on his or her stomach.
  - 3. monitor a person until transported to a secure location.

4. request and offer medical aid to any injured Department member or person consistent with the procedures outlined in the Department directive titled "**De-escalation, Response to Resistance, and Use of Force.**"

(Items identified with italics/double underline have been added or revised.)

David O. Brown  
Superintendent of Police

T20-120 MWK/TSS

#### **GLOSSARY TERMS:**

1. **Zone of Safety**

The distance to be maintained between the person and the responding member(s). This distance should be greater than the effective range of the weapon (other than a firearm) and it may vary with each situation (e.g., type of weapon possessed, condition of the person, surrounding area).

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## I. PURPOSE

The purpose of this policy is to provide officers of the Charlotte-Mecklenburg Police Department (CMPD) with guidelines for responding to resistance.

## II. POLICY

The CMPD recognizes and respects the integrity and paramount value of human life. The Department believes that human life is sacrosanct and the goal of any encounter with the public is girded by the unwavering commitment to the preservation of life. Consistent with this belief is the Department's full commitment to a culture of guardianship that embraces a warrior spirit in protecting the community.

Consistent with any free society, CMPD seeks to police in ways that enhance and facilitate policing by the consent of its citizens. When situations present themselves where policing by consent is not achieved, it is the Department's responsibility to use control methods only when it is reasonably necessary. In determining whether a control method is reasonably necessary, it must be taken into full consideration that officers may be forced to make split-second judgments in circumstances that are tense, uncertain, and rapidly evolving. It must also take into consideration whether it was reasonable for the officer to attempt to control the situation, when time and circumstance permit, by using communication and other available resources to stabilize and/or de-escalate the situation.

A review of an officer's application of control requires balancing the legitimate need for officers to apply control in order to safely and lawfully carry out their duties against the right of the subject to be free from excessive application(s) of control.

CMPD further recognizes that in some instances a control method may be legally justified at the moment the control method is administered, but an officer who intentionally and unnecessarily instigates a situation where the use of a control method becomes necessary may be in violation of training or other Department policies. For example, an officer who taunts, verbally baits, or initiates needless or unnecessary physical contact with a subject and then is forced to apply a control method immediately afterwards will be in violation of this or other policies. Finally, passive physical resistance is not in and of itself synonymous with the risk of imminent harm or danger to oneself or others.

## III. DEFINITIONS

- A. **Active Aggression:** At this level of resistance, the subject poses a risk of immediate danger to the officer, another person, or themselves. This aggression may manifest itself through punching, kicking, striking, or any other action when apparent that the subject has the immediate means to injure an officer, another person, or his or herself.
- B. **Control:** The degree of force required by an officer to gain compliance of an unwilling subject.
- C. **Death or Serious Bodily Injury:** Actions that are likely to result in the death or serious bodily injury to an officer or subject. These actions may include the discharge of a firearm, use of a blunt or bladed weapon, or any control or resistance method that may cause bodily injury which involves a substantial risk of death.

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- D. **Deadly Force:** Any force that is reasonably likely to cause death or serious injury. Force that is not reasonably likely to cause death or serious physical injury, but unexpectedly results in death or serious injury is not considered deadly force. The discharging of a firearm at a person is always considered deadly force except when an officer is discharging a less lethal option approved pursuant to this policy.
- E. **De-escalation:** Tactics, techniques, actions, verbal, or non-verbal communication exercised by officers during a potential use of control encounter to reduce the imminence of a physical threat to officers or others. These tactics should be used when time, distance, communication, available resources and circumstances permit.
- F. **Defensive Resistance:** Measures a subject is actively taking to prevent being taken into custody. These actions may include, but are not limited to, twisting, pulling, holding onto fixed objects, running away, or preventing handcuffing.
- G. **Imminent:** An event that is likely to occur at any moment.
- H. **Less Lethal Control:** Any physical exertion or device that is used to restrain or control another which is not reasonably likely to cause death or serious injury.
- I. **Less Lethal Option:** Any control employed using specialized equipment that is designed to temporarily incapacitate a person and is not reasonably likely to produce death or serious injury, including, but not limited to, Oleoresin Capsicum (OC spray), impact munitions, Conducted Electrical Weapon (CEW), and bean bag rounds.
- J. **Passive Resistance:** Non-violent, noncompliance to lawful orders when a subject does not pose a continuing threat to the safety of officers. This type of resistance creates little to no risk of immediate danger. Purely passive resistance may still support the use of some level of control of the subject. (Source: *Graham v. Connor*).
- K. **Reasonably Necessary:** The reasonableness of a particular use of a control method must be evaluated from the objective perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. It also depends on the severity of the crime, whether the subject poses an imminent threat to the officers or others, and whether the subject is actively resisting arrest or attempting to evade arrest by flight. The inquiry asks whether the officer's actions were objectively reasonable in light of the facts and circumstances confronting him or her.

#### IV. PROCEDURES FOR THE USE OF LESS LETHAL CONTROL

- A. **Use of Less Lethal Control During Arrest**
  - 1. An officer may use less lethal force upon another person when and to the extent that the officer believes it reasonably necessary to:
    - a. Prevent the escape from custody or to effect an arrest of a person who the officer reasonably believes has committed an offense unless the officer knows that the arrest is unauthorized; or

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- b. Defend him or herself or another person from what the officer reasonably believes to be the use or imminent use of physical force while affecting or attempting to affect an arrest, or while preventing or attempting to prevent an escape.
2. An officer who, without provocation, taunts, verbally baits, or initiates needless or unnecessary physical contact with a subject and is compelled to use a control option immediately afterwards may not rely on paragraph IV. A. 1. of this Directive as justification for their acts in an administrative review of the use of control option.
3. An officer will use control options only when it is reasonably necessary. In making the decision to use a control option, officers must decide what degree of control is appropriate based on the facts and circumstances with which they are confronted. To determine what degree of control is appropriate, the officer must reasonably believe that a lower degree of control is not sufficient and that a higher degree of control is not reasonably necessary. As some interactions with citizens requiring officers to use control may be tense, uncertain and rapidly evolving, an officer may increase or decrease the degree of control utilized based on the circumstances confronting him or her such as, but not limited to:
  - a. The officer's/subject's physical size or strength;
  - b. The physical impairment of the officer/subject, such as injury, incapacitation, or fatigue;
  - c. The availability of a weapon by the subject;
  - d. The alcohol or drug use of the subject;
  - e. The subject's mental/developmental condition;
  - f. The number of officers/subjects present;
  - g. Previous knowledge of the subject;
  - h. Apparent skill level of the officer/subject;
  - i. Whether the subject poses an imminent threat to the public;
  - j. Whether the subject poses an imminent threat to the officer;
  - k. Whether the subject poses an imminent threat to him or herself;
  - l. Whether the subject is actively attempting to flee or escape lawful custody;
  - m. The length of time that a subject passively or actively resists an officer's legitimate efforts to control the subject;
  - m. The time that the officer had to react to a real or imminent threat;

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- n. Potential escape of the subject;
  - o. Potential destruction of evidence;
  - p. Environmental conditions;
  - q. Other facts and circumstances confronting the officer that are unique to the incident.
- B. De-Escalation, Verbal Warning, Dialogue, and Commands
1. Where time, distance, communication and circumstance permit, and considering the safety of officers and the public, officers shall attempt to de-escalate situations through verbal dialogue and other de-escalation techniques. The goal of de-escalation techniques is to slow down or stabilize the situation so that additional time and resources can be used to resolve the situation with a minimal amount of control, when possible.
  2. If reasonable, an officer will identify him or herself as a police officer and issue a verbal warning before using any control methods. A verbal warning, dialogue or commands are not required in a split-second situation or if the officer reasonably believes that it would place the safety of the officer or another person in jeopardy.
- C. Oleoresin Capsicum (OC Spray)
1. OC spray will normally be used when the officer is confronted with defensive resistance and:
    - a. The use is a reasonably necessary step in control methods to effect the arrest, to secure an arrestee, or to provide for the safety of the officer or others; and
    - b. Physical restraint of a person is not reasonable to bring the person under control without risk of injury to the person or the officer.
  2. OC spray may be used to discourage an attack by an animal.
  3. Officers are required to demonstrate proficiency in the deployment of OC in a training environment on a biennial basis.
- D. Non-violent Passive Protests
- The use of OC spray or any other physical control methods will not be immediately deployed where a person or group of persons are participating in a passive non-violent protest unless there is an imminent threat to the officer or another person's safety.
- E. Conducted Electrical Weapon

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Deploying a CEW is a serious control option. A CEW will be deployed only in response to a situation in which a reasonable officer would perceive some imminent danger that could be mitigated by using a CEW. The primary purpose of the CEW is to save human lives and prevent injuries. The use of the CEW is considered a higher level of control and its use is authorized as an alternative to employing deadly control in situations where time and circumstance permit.

The CEW should be used to gain control of imminently actively aggressive individuals or as a reasonable progression of control. The CEW shall not be used on a subject who is merely passively resistant.

1. Procedures
  - a. Only officers who have successfully completed CMPD's TASER™ Operator training are authorized to carry and use a CEW.
  - b. All officers authorized to carry and use the CEW are required to demonstrate proficiency and complete recertification training on an annual basis.
  - c. When equipped with the CEW, officers will only wear the CEW holster on the non-gun side. Wearing of the CEW on the gun side is strictly prohibited.
  - d. Uniform personnel that are issued a CEW are also required to carry all their issued equipment when on duty or working a secondary employment assignment.
  - e. Officers will not make any adjustments to their CEW device settings.
  - f. Each officer is responsible for the condition of their CEW and will thoroughly inspect the device before taking it into the field. Officers will maintain and inspect their assigned CEW in accordance with Directive 600-019A Management of Conducted Electrical Weapons.:
2. Use of Conducted Electrical Weapons
  - a. Examples of situations when the CEW may be used:
    - 1) When dealing with a mentally ill person that is actively aggressive (refer to 500-003, Management of Subjects in Extreme Distress);
    - 2) When confronted by subjects armed with knives, bottles, or objects other than a firearm, and the subject poses an imminent threat to officers or citizens;
    - 3) When attempting to control violent persons who may be under the influence of drugs and/or alcohol and are exhibiting aggressive behavior or subjects whose aggressive behavior indicates that other methods of control may reasonably result in injury to the subject or officers. Officers should be aware that there is a higher

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risk of sudden death in subjects under the influence of drugs or exhibiting symptoms associated with excited delirium (Refer to 500-003, Management of Subjects in Extreme Distress);

- 4) When a subject resists arrest and the subject has the apparent ability to retrieve a weapon and the officer reasonably believes the subject has access to a weapon;
  - 5) When confronted with a person expressing the intent and who has the immediate and reasonable means to commit suicide.
- b. When reasonable, officers will verbally warn the suspect before discharging the CEW. An ARC display may be used in conjunction with verbal warnings.
  - c. Initial use of the CEW will be for one full five (5) second cycle, and then the officer will evaluate the need to apply a second five (5) second cycle. Each subsequent five (5) second cycle requires justification to deploy the CEW. Once the subject has been exposed to three (3) cycles, the CEW should be deemed ineffective and another control method should be considered.
  - d. The intentional use of two or more CEW's simultaneously on the same subject is strictly prohibited.
  - e. The use of the CEW "drive stun" mode should be used primarily to supplement the probe mode to complete the conductive circuit. The "drive stun" requires the same level of justification as a probe deployment.
3. The CEW shall not be used:
    - a. When the officer cannot for safety or other reasons approach the subject to within the effective range of the CEW;
    - b. In the proximity of flammable liquids, gases, or any other highly combustible materials that may be ignited by the device including any individual that may have been exposed to combustible substances or liquids such as gasoline;
    - c. In situations where deadly force is the most reasonably necessary option, unless another officer is in position to use deadly force against the subject.
    - d. On handcuffed persons unless doing so is necessary to prevent the person from causing serious bodily injury to themselves or others.
    - e. Solely to prevent the escape of a suspect of a non-violent offense who is otherwise not displaying active aggression towards the officer or others.

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4. In less lethal control situations, officers shall not use a CEW under the following situations:
  - a. On persons who do not pose an imminent threat of physical harm to themselves, the public, or officers; unless as a progression of control to detain an individual who physically resists being handcuffed.
  - b. On a person who is mentally ill and has not committed a crime and does not pose an imminent threat of physical harm to themselves, the public or officers;
  - c. On a person who is in control of a vehicle (e.g., automobiles, trucks, motorcycles, ATVs, scooters), while that vehicle is moving or in gear unless no other option is available to prevent injury to the officer or others.
  - d. On a person who is complying with an officer's commands;
  - e. During a demonstration or other lawful protest where the subject is only engaged in passive resistance;
  - f. When it is reasonable to believe that incapacitation of the subject may result in serious injury or death (e.g. where the subject's fall may result in death or serious injury).
5. In less lethal control situations, officers will not intentionally target the head, neck, upper chest area or genitalia of the subject with a CEW.
6. In less lethal control situations, officers should be cognizant if the subject is visibly pregnant, elderly, otherwise infirm or of very young age and consider other less lethal control options before deploying a CEW.
7. In less lethal control situations, officers should be cognizant of the risk of positional asphyxia and use restraint techniques that do not impair the breathing of an in-custody subject after application of the CEW.
8. Medical Considerations: Personnel should be aware that there is a higher risk of sudden death in subjects under the influence of drugs and/or exhibiting symptoms associated with excited delirium. In accordance with Directive 500- 003 Management of Subjects in Extreme Distress, MEDIC will be requested as soon as practical once it has been concluded that the subject may be at risk for positional/restraint asphyxia or excited delirium.
  - a. Whenever possible, when officers respond to calls for service in which they anticipate a CEW may be deployed against a subject and/or an individual that may be at risk for positional asphyxia, restraint asphyxia or excited delirium, the officer shall, as soon as practical, notify an on- duty supervisor and request MEDIC if they were not initially dispatched. The officer shall designate a nearby safe location for MEDIC personnel to stage until the scene is secure.

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- b. First responders and MEDIC shall be requested for anyone who is subjected to the electrical discharge, including drive stun exposures. Officers will closely monitor the subject until arrival of first responders and MEDIC.
- c. MEDIC personnel will complete on-scene probe removal and a medical evaluation on all subjects exposed to the CEW. MEDIC personnel will then evaluate the subject and determine whether the subject will be transported to the hospital.
- d. If MEDIC clears the subject, the officer may then transport the subject directly to the intake center. In cases where a subject has been exposed to multiple CEW cycles exceeding 15 seconds the officer will request that MEDIC transport the subject to the hospital for further examination and clearance before being transported to the jail.
- e. Darts that penetrate the skin will only be removed by medical personnel. CEW probes will be treated as biohazard materials.
- f. Internal Affairs will be responsible for the administrative investigation of CEW applications when:
  - 1) Application exceeds 15 seconds;
  - 2) CEW is applied outside of policy and/or training;
  - 3) The subject is in an at-risk category (ex. young children, elderly, pregnant).

**F. Less Lethal Options**

- 1. Officers with specialized training who are authorized and trained in the use of specialized equipment may use that issued equipment pursuant to a standard operating procedure approved by the Chief of Police or designee.
- 2. The use of less lethal options is not considered deadly force.
- 3. Approved less lethal equipment currently includes, but is not limited to:
  - a. Bean Bag rounds
  - b. Chemical irritants
  - c. Rubber pellets
  - d. Conducted Electrical Weapons (CEW)
  - e. Canine
  - f. 40mm Impact Munitions

**G. Impact Weapons**

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1. Impact weapons may be used only when an officer is confronted with active aggression that is occurring or is imminent, against him or herself or another person.
  2. The use by an officer of a flashlight, baton, or similar object used as a club to strike a blow to the muscle groups of a person's arms or legs will be considered use of less lethal control.
  3. A flashlight, baton, or similar object used as a club to strike a blow to a person's head/neck is prohibited except where deadly force is reasonably necessary.
  4. Officers are required to demonstrate proficiency in the use of impact weapons in a training environment on a biennial basis.
- H. Officers will not use the following tactics unless deadly force is reasonably necessary:
1. Any hold with or without a device that restricts a person's airway.
  2. Any hold with or without a device that restricts blood flow to a person's brain.
  3. Any strike with an impact weapon or object to a person's head or neck.
  4. Any other tactic that is reasonably likely to result in death or serious injury unless deadly force was reasonably necessary.
- I. Officers will not taunt, verbally bait, or initiate needless or unnecessary physical contact with a subject.

#### V. PROCEDURES FOLLOWING THE USE OF LESS LETHAL CONTROL

##### A. Medical Treatment

An officer will summon appropriate medical aid when the subject requests medical assistance or, in the officer's opinion, the subject requires medical assistance. The officer will contact a supervisor if the officer is in doubt as to the necessity of medical treatment. In the event a supervisor is contacted, the supervisor will observe the subject prior to making the decision on whether to obtain medical aid.

After requesting the appropriate medical aid, the officer will take appropriate measures to protect the integrity of the crime scene and will render medical aid he or she is trained and certified to provide. Those actions may include:

1. Secure the scene to protect the subject from any further injury.
2. Apply any first aid they are trained and certified to apply.
3. Provide increased observation of the subject to detect obvious changes in condition.

##### B. Documentation

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1. Officers who use a control method on a subject will contact their supervisor immediately.
2. The officer's supervisor must be notified when a control method is used and must thoroughly investigate and determine when an IACMS (Supervisor's Investigative Report) is required.
3. If an IACMS (Supervisor's Investigative Report) is required, the supervisor is responsible for investigating the incident and for completing the report.
4. Upon completion of the investigation the supervisor will utilize the transfer function in IACMS (Supervisor Investigative Report) to route the investigation to the next higher level in the chain of command for review and disposition.
5. There are additional requirements for Supervisor Investigative Reports involving CEW discharges. Supervisors shall:
  - a. Photograph the impact points before and after removal (if possible).
  - b. Photograph the discharged cartridge, showing the wires and both probes.
  - c. Include a TASER™ Data Download report, covering the previous 24 hours.
  - d. Complete the CEW addendum in the IA Case Management System (IACMS).
6. Off-duty officers involved in situations where control is used are subject to the same procedures as on-duty officers. When an off-duty officer is involved in a situation where control is used, he or she will notify a police supervisor immediately. If the job or location has an off-duty supervisor assigned, that supervisor will complete the investigation and forward it to the officer's chain of command. If there is no off-duty supervisor assigned, an on-duty supervisor from the division where the job is located should be contacted. Additionally, on-duty supervisors shall assist off-duty supervisors with investigations, as needed.
7. The Department has attempted to identify all situations where an IACMS (Supervisor Investigative Report) investigation should be completed. Such an investigation is required in any situation that clearly involves the use of a less lethal or lethal control method. The following are examples of situations where the completion of an IACMS investigation is required:
  - a. An officer exercising police authority uses a control method which causes any visible or apparent physical injury, or which results in the subject saying that he or she was injured.
  - b. An officer exercising police authority uses any object, including baton, flashlight, hand, fist, or foot, to strike a blow to a subject.

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- c. An officer exercising police authority uses a control method that in any way causes a subject to suffer a blow to the head.
  - d. An officer uses OC spray on a subject.
  - e. An officer uses a CEW on a subject.
  - f. An officer uses a less lethal option to affect the arrest or to control a subject.
  - g. The Civil Emergency Unit or other specialized unit uses the less lethal option(s) to disperse rioters, mobs, crowds, or barricaded subjects. In this situation the commander of that unit will complete one Supervisor’s Investigative Report.
  - h. A police canine bite.
  - i. An officer exercises police authority on a subject resulting in the subject losing consciousness.
  - j. There is evidence that just prior to application of a less lethal control method an officer taunted, verbally baited, or initiated needless or unnecessary physical contact with the subject.
8. An IACMS investigation is also required when no apparent control method was used, but a subject has sustained visible injuries while fleeing from police or while in custody. These injuries are categorized as No Force Subject Injury (NFSI) investigations in the IACMS. Examples include:
- a. A subject flees from arrest and injures himself;
  - b. A subject injures himself in any manner while handcuffed or in police custody.
- C. Witness of Use of a Control Method by an Employee
- Any employee, who witnesses the use of a control method that is required to be reported, will notify a supervisor immediately and complete an Investigative Witness Statement.
- D. Notification
- 1. The investigating supervisor will notify the division commander and/or Operations Command as soon as possible whenever a CMPD employee has inflicted serious injuries on a subject.
  - 2. If the control method used is such that the affected individual requires hospitalization, Operations Command or division commander will notify the commander of the Internal Affairs Bureau immediately, regardless of the hour of the day.

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- E. The existence of one or more IACMS (Supervisor Investigative Reports) documenting a use of a control method by an individual employee, by itself, cannot be the basis for discipline against that employee.

**VI. PROCEDURES FOR THE USE OF DEADLY FORCE**

- A. An officer may use deadly force only as follows:
  1. When it appears to be reasonably necessary to defend him or herself or another person from what the officer reasonably believes to be the use or imminent use of deadly physical force; or
  2. To effect an arrest or prevent the escape from custody of a person who, the officer reasonably believes, is attempting to escape by means of a deadly weapon; or
  3. To effect an arrest or prevent the escape from custody of a person who, by his or her conduct or any other means, indicates that he or she presents an imminent threat of death or serious physical injury to others unless apprehended without delay.
- B. Where time, distance, communication and circumstance permit, and considering the safety of officers and the public, officers shall attempt to de-escalate situations. Officers shall resort to the use of deadly force only if the officer reasonably believes that a lower degree of control is not sufficient, practical, or feasible when the officer reasonably believes that it is necessary to defend him or herself or another person from the use or imminent use of deadly physical force.
- C. If reasonable, an officer will identify him or herself as a police officer and issue a verbal warning before using deadly force. A verbal warning is not required in a split-second situation or if the officer reasonably believes that issuing the warning would place the safety of the officer or another person in jeopardy.
- D. An officer will not discharge his or her firearm under the following circumstances:
  1. As a means of warning or frightening a person.
  2. In connection with an investigation or arrest for a misdemeanor offense and there is no imminent threat of death or serious injury to either the officer or another person.
  3. To stop or detain an individual based on reasonable suspicion that the individual is involved in criminal activity, when there is no imminent threat of death or serious injury to either the officer or another person.
  4. To protect or prevent damage to real or personal property.
  5. When based on the totality of the circumstances discharging a firearm would constitute a greater risk to innocent human life than the subject's actions. For example, discharging a firearm into a crowd or shooting into a building or

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through a wall, where the subject is not clearly identified and it is unknown if there are other occupants present.

E. Moving Vehicles

1. When confronted with an oncoming vehicle, an officer will not position him or herself into the path of the vehicle but will take all reasonable steps to move out of the way.
2. An officer will not discharge his or her firearm at a moving vehicle for the sole purpose of disabling the vehicle except pursuant to written protocol adopted by SWAT and approved by the Chief of Police, or designee.
3. An officer may discharge his or her firearm at or from a moving vehicle if the officer reasonably believes that no other option is reasonably available if:
  - a. Deadly force is being used against the officer or another person by an occupant of the vehicle by use of a weapon other than the vehicle itself.
  - b. The vehicle is being used as a weapon against the officer or another person or group, such as in an act of terrorism.

**\*\*Discharging a firearm is never authorized when it is reasonable to believe that the vehicle may contain an innocent passenger or it is reasonably apparent that the vehicle may careen out of control and injure an innocent bystander.\*\***

F. Pointing a Firearm at an Individual

An officer may point a firearm at another person if he or she reasonably believes that deadly force may become necessary. An officer need not wait until the threat becomes imminent before pointing his or her firearm at a person. However, an officer must be able to articulate why he or she believes that deadly force may become necessary. Nothing in this section is intended to take away from an officer the ability to defend him or herself or another person from serious bodily injury or death. See Directive 400-002 Firearms for procedures on documenting the pointing of firearms.

VII. PROCEDURES FOLLOWING THE USE OF DEADLY CONTROL

A. Medical Aid

Whenever deadly force is used against a subject and the subject is injured or the subject requests medical aid, the officer will immediately request medical assistance.

After requesting the appropriate medical aid, the officer will take appropriate measures to protect the integrity of the crime scene and will render medical aid he or she is trained and certified to provide. Those actions may include:

1. Secure the scene to protect the subject from any further injury.
2. Apply any first aid they are trained and certified to apply.

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3. Provide increased observation of the subject to detect obvious changes in condition.

B. Duty to Report Use of Deadly Force.

Any officer who uses deadly force, or witnesses another officer use deadly force, will immediately contact his or her supervisor.

C. Duty to Intervene

Officers will take appropriate and immediate action in any situation in which they know or should have known their failure to act would result in an excessive response to resistance or egregious behavior which shocks the conscience.

D. Officer Involved Situation Team (OIST)

Any investigation conducted by the OIST will be pursuant to the written protocol adopted by the Chief of Police, or designee.

E. Internal Affairs Bureau

Whenever an officer uses deadly force, the Internal Affairs Bureau will be responsible for conducting an administrative investigation.

F. Division Commander

The patrol division captain will ensure that all officers directly involved in a shooting incident schedule mandatory counseling sessions with the Department's psychologist in accordance with Directive 300-020 Police Critical Incident Stress.

G. Immediate Supervisor

Whenever an officer uses deadly force, the officer's immediate supervisor will ensure that a support supervisor is dispatched to the scene. The support supervisor will comply with the responsibilities outlined in directive 300-020 Police Critical Incident Stress.

H. Support Supervisor

The support supervisor will ensure compliance with directive 300-020 Police Critical Incident Stress.

I. Administrative Leave

1. Whenever the use of a control method by an officer results in the serious injury or death of a subject, the officer will initially be removed from his or her line duties pending the results of criminal or internal investigations.

2. The Chief of Police, or designee, may grant an officer three (3) days administrative leave with pay or longer.

3. An officer placed on administrative leave will remain available for call back.

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4. The work status of an officer on administrative leave will be reviewed by the officer's chain of command within ten (10) days following the incident.

J. Negligent Discharge of Firearm

1. Any officer who negligently discharges a firearm will immediately contact his or her supervisor.
2. The supervisor will notify his or her chain of command and Internal Affairs and initiate an IACMS investigation.
3. All negligent discharges will be reviewed by a Shooting Review Board convened by Internal Affairs.

K. Euthanasia of Animals/Wildlife

1. Officers are authorized with approval of his or her supervisor to euthanize a seriously injured animal if delay would cause needless suffering.
2. Prior to authorizing an officer to euthanize an animal, supervisors will determine if an Animal Care and Control Officer is available nearby and defer to that unit if it can respond in a timely manner.
3. Supervisors will document the euthanasia of any animal in IACMS and route the investigation through his or her chain of command.

VIII. REFERENCES

Rules of Conduct

200-001 Discipline, Internal Investigations, and Employee Rights

300-010 Administrative Leave Policy

300-020 Police Critical Incident Stress

400-002 Firearms

400-003 Equipment

500-003 Management of Subjects in Extreme Distress

600-019A Management of Conducted Electrical Weapons

Officer Involved Critical Incident Procedures

N.C.G.S. 15A-401(d)

[Graham v. Connor, 490 U.S. 386.](#)

Armstrong v. The Village of Pinehurst, 810 F. 3d. 892 (4<sup>th</sup> Cir. 2016)

CALEA

***P*ROCEDURAL**

*Las Vegas Metropolitan Police Department*

***O*RDER**

*Partners with the Community*

TO	:	ALL PERSONNEL	May 15, 2020	Directive No. PO-035-20
SUBJECT	:	USE OF FORCE		Effective Date IMMEDIATELY
Additional Information	:	Initiated by Office of the Sheriff to revise the entire policy and associated procedures. Policy has been reissued.		
Dept. Manual Reference	:	6/002.00		
Approval Signature	:	Joseph Lombardo, Sheriff Kevin McMahill, Undersheriff		

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**6/002.00 USE OF FORCE POLICY**

- I. POLICY**
- II. DEFINITIONS**
- III. GOVERNMENT AUTHORIZATION FOR USE OF FORCE**
- IV. DETERMINING THE APPROPRIATENESS OF FORCE**
- V. DE-ESCALATION**
- VI. DUTY TO INTERVENE**
- VII. MEDICAL ATTENTION**

**I. POLICY**

It is the policy of this Department that officers hold the highest regard for the dignity and liberty of all persons and place minimal reliance upon the use of force. The Department respects the sanctity of every human life, and the application of deadly force is a measure to be employed in the most extreme circumstances where lesser means of force have failed or could not be reasonably considered.

The Las Vegas Metropolitan Police Department is committed to protecting people, their property and rights while providing the best in public safety and service. The proper use of force is essential for ensuring impartial policing and for building trust in the community. There are circumstances where individuals will not comply with the law unless compelled or controlled by police officers through the use of force. Officers must remain mindful that they derive their authority from the community and that unreasonable force degrades the legitimacy of that authority (see LVMPD 4/103.26, *Respect for Individual Rights of Persons*).

The Department seeks to manage use of force beyond the *Graham v. Connor* (1989) standard and its minimum requirements by establishing further parameters for the application of force and to offer explicit direction to officers. Sound judgment, the appropriate exercise of discretion, and the adherence to Department policy will always be the foundation of officer decision-making in the broad range of possible use of force situations.

**II. DEFINITIONS**

approved weapons	Weapons meeting Department specifications for which officers receive proficiency and safety training.
de-escalation	An officer’s actions to slow down, stabilize, and resolve an incident as safely as possible by reducing danger through the use of verbal persuasion, tactics, resources, and transitioning through force options.
force transitions	The movement, progression, or reduction from the application of one force type to another.
imminent threat	An impending violent act, harm, or resistance that will likely occur if not instantly confronted or addressed.
levels of control	Broad categories of force options in escalating stages of intensity that are identified as low-level force, intermediate force, and deadly force.
objectively reasonable	An objective standard of force viewed from the perspective of a reasonable officer, without the benefit of 20/20 hindsight, and based on the totality of the circumstances presented at the moment the force is used.
recovery position	The placement of a subject’s body in a manner that does not restrict breathing or obstruct the airway, i.e., on their side or upright.
substantial bodily injury	An injury that creates a substantial risk of death, causes serious permanent disfigurement, or results in a prolonged loss or impairment of the functioning of any body part.

### III. GOVERNMENT AUTHORIZATION FOR USE OF FORCE

Officers may use force to protect themselves or others, overcome resistance, to effect a lawful detention, a lawful arrest, or to conduct a lawful search. Officers should, if reasonable, make clear their intent to detain, arrest, or search the subject.

Officers are legally authorized to use deadly force to effect an arrest when in compliance with Nevada Revised Statutes (NRS) and the legal standards under *Tennessee v. Garner* (1985) to:

1. Protect themselves or others from what is reasonably believed to be an imminent threat of death or substantial bodily injury.
2. Prevent the escape of a fleeing felon who the officer has probable cause to believe has committed a violent felony crime and is an imminent threat to human life if escape should occur ([NRS 171.1455](#)).

Officers will give a warning, if feasible, before the use of deadly force.

### IV. DETERMINING THE APPROPRIATENESS OF FORCE

Officers will only use a level of force that is objectively reasonable to bring an incident or persons under control and to safely accomplish a lawful purpose. An officer's use of force must balance against the level of resistance exhibited by the subject. The level of force administered by an officer must be carefully controlled and should not be more than objectively reasonable to overcome the physical harm threatened. In a confrontation, an officer will continuously reassess their response and adjust any use of force accordingly based upon the level of resistance encountered. Failure to reassess each application of force can lead to a violation of law and/or policy. In choosing a force option, the nature and severity of the crime underlying the police and citizen interaction must be considered.

The United States Supreme Court's decisions and interpretations of the Fourth Amendment of the United States Constitution state an officer shall only use such force as is "objectively reasonable" under all of the circumstances. The standard that courts use to examine whether a use of force is constitutional was first set forth in *Graham v. Connor* and expanded by subsequent court cases. The reasonableness of a particular use of force must be judged from the perspective of a judicious officer on the scene, rather than with 20/20 vision of hindsight. The consideration must account for the fact that officers are often forced to make split-second judgments in circumstances that are tense, uncertain, and rapidly evolving.

Objective factors that affect the reasonableness of the force include:

1. The severity of the crime.
2. Whether the subject poses an immediate threat to the safety of officers or others.
3. Whether the subject is actively resisting arrest or attempting to evade arrest by flight.
4. The influence of drugs/alcohol or the mental capacity of the subject.
5. The time available to an officer to make a decision.
6. The availability of officers or resources (including the number of officers present at the time) to de-escalate the situation.
7. The proximity or access of weapons to the subject.
8. The environmental factors and/or other exigent circumstances.

### V. DE-ESCALATION

Policing requires that at times an officer must exercise control of a violent or resisting subject to make an arrest or to protect the officer, other officers, or members of the community from risk of harm. Clearly, not every potential violent confrontation can be de-escalated, but officers do have the ability to impact the direction and the outcome of many situations based on their decision-making and the tactics they choose to employ. As a strategy to diminish the likelihood and the severity of force, officers will attempt to de-escalate confrontations.

When reasonable, officers should gather information about the incident, assess the risks, assemble resources and equipment, attempt to slow momentum, and communicate and coordinate a response. Officers should start to develop a tactical plan prior to arriving at the scene and, when applicable, utilize intervention techniques by coordinating approaches to persons who are in crisis, are believed to be mentally ill, or have developmental disabilities (see LVMPD

6/005.00, *Handling Persons with Special Needs and/or Considerations*). Where potential confrontations are anticipated, the deployment and use of low lethality options should be evaluated.

In responding as a team, officers should manage the containment or isolation of the subject. In their interaction with a subject, officers will, when feasible, use advisements, warnings, verbal persuasion, and other tactics as alternatives to higher levels of force. The use of cover, building more distance, or withdrawal to a more tactically secure position should be considered as options to help create time to diffuse a situation. Officers will perform their work in a manner that avoids unduly jeopardizing their safety or the safety of others through poor tactical decisions.

Supervisors will possess a thorough knowledge of tactics and ensure that officers under their supervision perform to a standard (in accordance with LVMPD policy and training). The prospect of a favorable outcome is often enhanced when supervisors become involved in the management of the overall response to a potentially violent encounter by coordinating officers' tactical actions. Supervisors will acknowledge and respond to incidents in a timely manner when officer use of reportable force is probable (see LVMPD 5/109.09, *Supervisors Tactics for Armed Subject Response*). Supervisors will also manage the deployment of resources and equipment. In dynamic and highly-charged incidents, supervisors will provide clear direction and communication to officers regarding their positioning and roles. Upon observing substandard officer approaches or flaws in tactical decisions, the supervisor will promptly act to correct any deficiencies.

At times, de-escalation may mean the timely and appropriate use of a lower force option to mitigate a later need to use greater force. Officers will make efforts to control a confrontation and not allow it to escalate.

## VI. DUTY TO INTERVENE

Any officer present and observing another officer using force that is clearly beyond what is objectively reasonable under the circumstances will, when in a safe position to do so, intercede to prevent the use of unreasonable force. The officer will promptly report these observations and the efforts made to intervene to a supervisor. If the observing officer is a supervisor, they will issue a direct order to stop the violation.

## VII. MEDICAL ATTENTION

Whenever an officer applies a use of force option upon a subject that results in observable signs of difficulty in breathing, a visible injury, or a complaint of injury, the officer will continuously monitor the subject and immediately summon medical attention. Officers will be mindful that persons who are in a prolonged physical encounter with officers may be at an increased risk of medical distress. Incidents involving these persons should be considered medical emergencies.

Officers will monitor for signs of life (e.g., pulse, respiration, and chest movement) and update responding medical personnel via Dispatch with any changes in the subject's condition. When requesting medical attention, the officer will provide the nature of the injury, the subject's age and gender, and other circumstances that could be of potential medical risk to the subject (e.g., obesity, suspected drug use, extreme agitation, profuse sweating, labored breathing, complaint of chest pain, or involvement in a foot pursuit) (see LVMPD 6/005.00 Section IV, *Excited Delirium*). Officers should render medical aid within the scope of their departmental training and skill level while awaiting the next level of medical care.

Officers will not restrain subjects who are in custody and under control in a manner that compromises their ability to breathe. Prone handcuffed subjects will be placed in a recovery position (i.e., the placement of a subject's body in a manner that does not restrict breathing or obstruct the airway, such as on their side or upright). While handcuffed subjects are seated, they will not be forcefully bent forward at the waist, and pressure will not be applied to their back, neck, or head.

In some instances, the best course of action may be to transport the subject to the nearest medical facility. The nature of injury, response time of medical personnel, and the proximity of the medical facility should be considered. Medical attention will be summoned for the following use of force applications, regardless of visible injury or complaint of injury:

1. Baton/Impact weapons – any strikes to the head, neck, chest, spine, kidneys, or groin area.
2. Canine – all bites.
3. Electronic control device (ECD) – probe strikes to the head, neck, chest, or groin area.
4. Lateral Vascular Neck Restraint® (LVNR®) – when applied.
5. Oleoresin capsicum (OC) spray – direct exposure to the facial area.
6. Use of Force with a Projectile Weapon:
  - a. Low lethality shotgun – all strikes.
  - b. 40mm specialty impact weapon – all strikes.
7. Handgun/Shotgun/Rifle – all strikes.
8. Use of Force with a Vehicle:
  - a. Precision intervention technique (PIT)
  - b. Ramming – all.

After prisoner transport, the arresting officer will notify detention personnel and facility medical staff if the subject has a visible injury, complains of injury, or has experienced any of the above force applications.

#### **6/002.01 USE OF FORCE PROCEDURE**

- I. USE OF FORCE MODEL**
- II. LEVELS OF RESISTANCE**
- III. LEVELS OF CONTROL**

#### **I. USE OF FORCE MODEL**

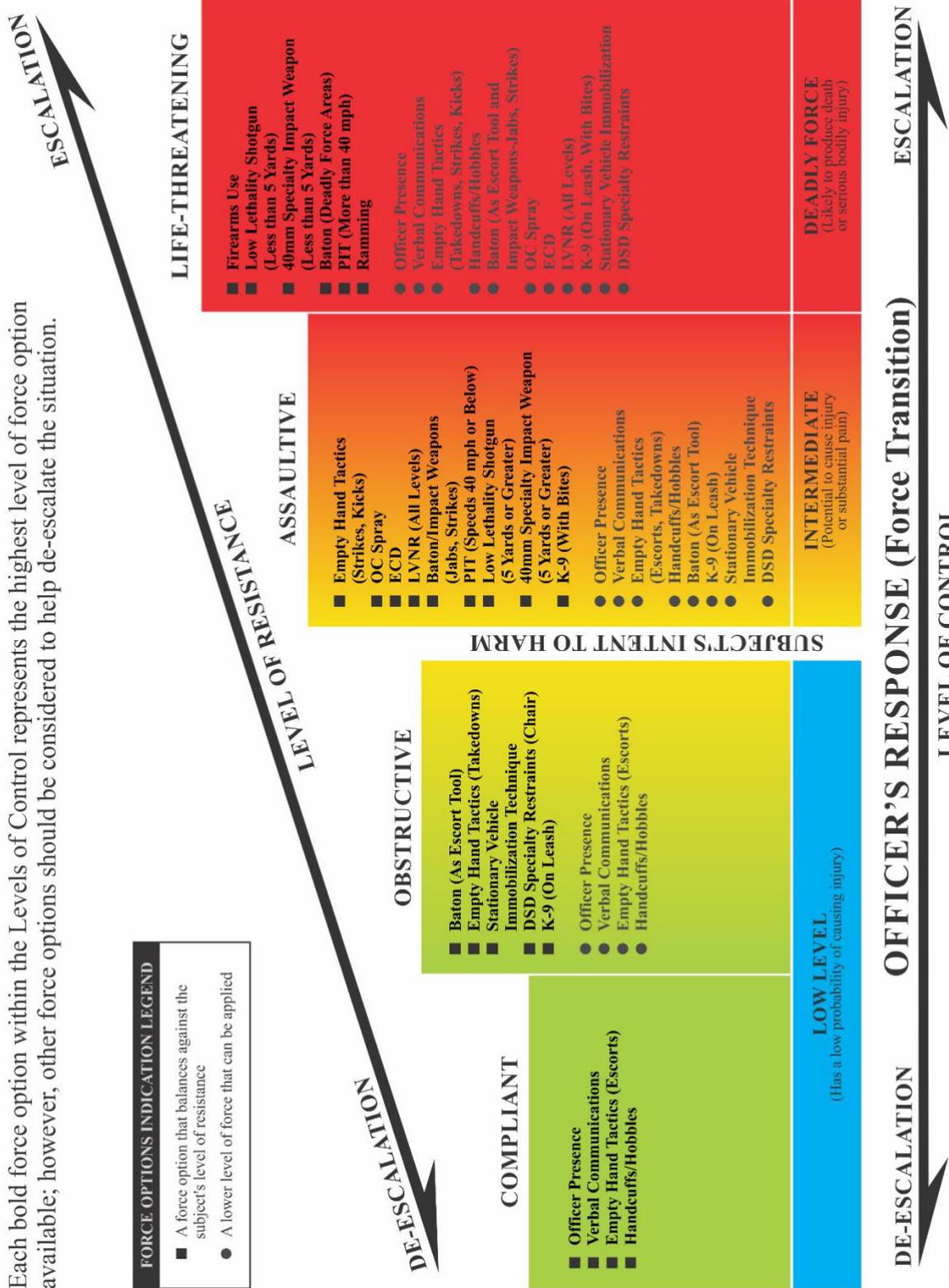
Force situations are dynamic and require an officer to continually assess the subject's actions to determine, based on policy, training, and experience, which use of force option will de-escalate the situation and bring it under control in a safe manner. Officers will modify their level of control in relation to the amount of resistance offered by a subject.

This following graphic is a general guideline that provides officers with a range of options during an encounter or confrontation:

Each bold force option within the Levels of Control represents the highest level of force option available; however, other force options should be considered to help de-escalate the situation.

**FORCE OPTIONS INDICATION LEGEND**

- A force option that balances against the subject's level of resistance
- A lower level of force that can be applied



**DE-ESCALATION**

**COMPLIANT**

- Officer Presence
- Verbal Communications
- Empty Hand Tactics (Escorts)
- Handcuffs/Hobbles

**OBSTRUCTIVE**

- Baton (As Escort Tool)
- Empty Hand Tactics (Takedowns)
- Stationary Vehicle
- Immobilization Technique
- DSD Specialty Restraints (Chair)
- K-9 (On Leash)
- Officer Presence
- Verbal Communications
- Empty Hand Tactics (Escorts)
- Handcuffs/Hobbles

**ASSAULTIVE**

- Empty Hand Tactics (Strikes, Kicks)
- OC Spray
- ECD
- LVNR (All Levels)
- Baton/Impact Weapons (Jabs, Strikes)
- PIT (Speeds 40 mph or Below)
- Low Lethality Shotgun (5 Yards or Greater)
- 40mm Specialty Impact Weapon (5 Yards or Greater)
- K-9 (With Bites)
- Officer Presence
- Verbal Communications
- Empty Hand Tactics
- Handcuffs/Hobbles
- Baton (As Escort Tool)
- Stationary Vehicle
- Immobilization Technique
- DSD Specialty Restraints

**LIFE-THREATENING**

- Firearms Use
- Low Lethality Shotgun (Less than 5 Yards)
- 40mm Specialty Impact Weapon (Less than 5 Yards)
- Baton (Deadly Force Areas)
- PIT (More than 40 mph)
- Ramming
- Officer Presence
- Verbal Communications
- Empty Hand Tactics (Takedowns, Strikes, Kicks)
- Handcuffs/Hobbles
- Baton (As Escort Tool and Impact Weapons-Jabs, Strikes)
- OC Spray
- ECD
- LVNR (All Levels)
- K-9 (On Leash, With Bites)
- Stationary Vehicle Immobilization
- DSD Specialty Restraints

**LOW LEVEL**  
(Has a low probability of causing injury)

**INTERMEDIATE**  
(Potential to cause injury or substantial pain)

**DEADLY FORCE**  
(Likely to produce death or serious bodily injury)

**DE-ESCALATION**

**OFFICER'S RESPONSE (Force Transition)**

**ESCALATION**

## II. LEVELS OF RESISTANCE

Officers must bear in mind that there are many reasons a subject may be non-compliant, resisting arrest, or unresponsive. The person in question may not be capable of understanding the gravity of the situation. A subject may be non-compliant due to a medical condition; mental, physical, or hearing impairment; language barrier; drug interaction; emotional crisis; and have no criminal intent. These circumstances may not make the subject any less dangerous but may require a change in tactics to effectively address or de-escalate the situation while maintaining officer safety.

Levels of resistance are general categories of behavior or actions exhibited by a subject at the time of a police encounter:

1. Compliant – a person contacted by an officer who acknowledges direction or lawful orders given and offers no resistance.
2. Obstructive – the subject is uncooperative, not complying with an officer's commands, or their physical actions are intended to prevent an officer from placing the subject in custody or under control; the subject's actions are not directed at harming the officer or others.

Examples include:

- a. Standing stationary and not moving upon lawful direction.
- b. Becoming "dead weight."
- c. Holding onto a fixed object (e.g., utility pole or steering wheel) or locking arms with another during a protest.
- d. Walking or running away.
- e. Breaking the officer's grip.

.....SUBJECT'S INTENT TO HARM .....

3. Assaultive – the subject demonstrates the intent to harm the officer, others or themselves.

Examples include:

- a. A subject taking a fighting stance, punching, kicking, striking, or attacking with weapons.
- b. Other actions which present an imminent threat of physical harm.
- c. A subject fleeing while in control of weapon (e.g., firearm in a waistband).

4. Life-Threatening – the subject's actions are likely to result in death or substantial bodily injury to the officer or others.

Examples include:

- a. The imminent use of a firearm, blunt, or bladed weapon.
- b. Extreme physical force.

## III. LEVELS OF CONTROL

Levels of control are broad categories of influence and force in escalating stages of intensity.

1. Low Level Force – a level of control that balances against a subject who is compliant or obstructive, and is neither likely nor intended to cause injury. Examples are handcuffing a compliant arrestee or proning a subject out on a high-risk vehicle stop.

This level of control includes:

- a. Officer presence.
- b. Verbal communication.
- c. Empty hand tactics (physical constraint, hand control [escorts], takedowns not likely to cause injury).

- d. Handcuffs/Hobbles/DSD specialty restraints
  - e. Baton (as escort tool).
  - f. Canine (on leash).
  - g. Stationary vehicle immobilization technique (pinching).
2. Intermediate Force – a level of control that balances against a subject who is assaultive and has the potential to cause injury or substantial pain.

This level of control includes:

- a. Empty hand tactics (strikes, kicks).
  - b. DSD specialty restraint devices (restraint chair/bed).
  - c. Baton/Impact tools (jabs, strikes).
  - d. Lateral Vascular Neck Restraint® (LVNR®) (all levels).
  - e. Oleoresin capsicum (OC) spray.
  - f. Electronic control device (ECD).
  - g. Low lethality shotgun (fired at a distance of five [5] yards or greater).
  - h. 40mm specialty impact weapon (fired at a distance of five [5] yards or greater).
  - i. Canine (with bites).
  - j. PIT (speeds 40 mph or below).
3. Deadly Force – a degree of force which balances against a subject whose actions are life-threatening and likely to result in death or substantial bodily injury.

This level of force includes:

- a. Baton (striking head, neck, chest, spine, groin, or kidneys).
- b. Low lethality shotgun (fired at a distance less than five [5] yards).
- c. 40mm specialty impact weapon (fired at a distance less than five [5] yards).
- d. PIT (speeds more than 40 mph).
- e. Ramming.
- f. Firearm use.

An officer will not use deadly force against a person based on the threat that the person poses solely to themselves.

Elements of Deadly Force:

- a. Ability – exists when a person has the means or capability to cause substantial bodily injury or death to an officer or others. Ability may include the subject's size, age, strength, combative skill, level of aggression, and any weapons in their immediate control.
- b. Opportunity – exists when a person is in a position to effectively resist an officer's control or to use force or violence upon the officer or others. Examples which may affect opportunity include:
  - 1) Relative distance to the officer or others.
  - 2) Physical barriers between the subject and the officer.
- c. Imminent Jeopardy – based upon the known facts and circumstances, the officer reasonably believes the subject poses an imminent threat to the life of an officer or others, and the officer must act immediately to prevent death or substantial bodily injury (see LVMPD 6/002.00, *Use of Force Policy*, Section II, [Definitions](#) for definition of "imminent threat").
- d. Preclusion – lesser alternatives have been reasonably considered and exhausted before the use of deadly force, to include disengagement.

**6/002.02 USE OF FORCE TOOLS AND TECHNIQUES**

- I. GENERAL RULES**
- II. PRESENCE AND VERBAL COMMUNICATION**
- III. EMPTY HAND TACTICS**
- IV. HANDCUFFS/HOBBLES/DSD SPECIALTY RESTRAINTS**
- V. BATON/IMPACT TOOLS**
- VI. OLEORESIN CAPSICUM (OC) SPRAY**
- VII. LATERAL VASCULAR NECK RESTRAINT®**
- VIII. ELECTRONIC CONTROL DEVICE**
- IX. USE OF CANINE**
- X. USE OF FORCE WITH A VEHICLE**
- XI. USE OF FORCE WITH PROJECTILE WEAPONS – Low Lethality Shotgun/40mm Specialty Impact Weapon**
- XII. USE OF FORCE WITH A FIREARM – Handgun/Shotgun/Rifle**

**I. GENERAL RULES**

With minimal exception, only Department-approved weapons and trained techniques will be used. Uniformed officers will carry all issued tools and equipment required by Department policy (see LVMPD 4/107.00, *Personal Appearance*). Certifications and POST requirements for Department-authorized tools are listed in LVMPD 5/108.06, *Advanced Training Program* and LVMPD 5/108.14, *Firearms Training*.

Non-uniformed commissioned personnel the rank of lieutenant and below are required to carry at least one (1) intermediate force option (baton, oleoresin capsicum [OC] spray, or electronic control device [ECD]) on their person when on-duty. All tools will be in working order and properly maintained. Supervisors have an ongoing obligation to inspect officer equipment and review with officers Department directives and training materials on the use of force.

The following are regulations that apply to Department-approved weapons or force options (SWAT and SERT personnel are exempt from these regulations, and subsequent regulations found under OC spray and projectile weapons, during tactical operations and will follow their SOPs and training):

1. If feasible, before the use of any approved weapon, the officer will communicate with other officers in the area and issue a warning to the subject. Officers will give the subject a reasonable opportunity to comply. This is particularly important in preventing sympathetic fire when utilizing projectile weapons or the ECD.
2. Officers will use care and constraint in choosing a force option when the subject is at extremes of age (elderly persons or young children), physically frail, or disabled.
3. Officers will not use a baton, ECD, or projectile weapon on a visibly or known pregnant woman unless the subject displays life-threatening resistance.
4. Officers will not use an ECD or projectile weapon when the subject is in an elevated position where a fall is likely to result in substantial bodily injury or death unless the subject displays life-threatening resistance. This is particularly important when utilizing the ECD.
5. Officers will not use physical force solely to stop a person from swallowing a substance that is in their mouth or to retrieve evidence from a person's mouth.
6. When a vicious dog (or other aggressive, unsecured animal) is encountered and the safety of officers or others is compromised, an officer should use a catchpole (preferred tool) or may use OC spray or ECD to stop or ward off an attack as options other than deadly force (see LVMPD 5/109.07, *Domestic Dog Encounters*).

7. Officers are to exercise care and caution in handling Department-approved weapons. Officers will refrain from the unnecessary drawing, handling, or exhibiting of a weapon while in public; the purpose of drawing and manipulating a Department-approved tool is to address a potential conflict or tactical situation at hand.

## II. PRESENCE AND VERBAL COMMUNICATION

To effectively de-escalate situations, officers will use advisements, warnings, and verbal persuasion. The utilization of communication skills, such as speaking calmly and showing empathy, may diffuse conflict and reduce the need to use force. When possible, officers should attempt to develop a rapport and convey concern; however, there are times where an officer will need to announce clear, assertive, and professional commands to control the situation (see LVMPD 4/102.12, *Interaction with the Public*).

## III. EMPTY HAND TACTICS

1. Level of Control:
  - a. Low Level Force – physical restraint, hand control (gripping, wristlocks), escorts, takedowns (not likely to cause injury).
  - b. Intermediate Level Force – takedowns, strikes, kicks (not likely to cause death or substantial bodily injury).
  - c. Deadly Force – takedowns, strikes, kicks (likely to cause death or substantial bodily injury).

## IV. HANDCUFFS/HOBBLES/DSD SPECIALTY RESTRAINTS

1. Level of Control:
  - a. Low Level Force – handcuffs, hobbles
2. Approved Use for Handcuffs:
 

In an attempt to minimize the risk of injury to officers and others, an officer will handcuff all persons arrested as soon as possible. Plastic “flex” cuffs and other Department-approved restraint devices, such as waist or belly chains, adhere to the same rules as handcuffs (for hobbles, see LVMPD 6/004.00, *Transporting Prisoners*).

  - a. During investigative detentions (“Terry Stops,” see LVMPD 5/200.01, *Search and Seizure*) where one or more of the following factors are present and only for as long as the circumstances exist, not to exceed 60 minutes (per [NRS 171.123](#)):
    - 1) Articulable facts that the subject is physically uncooperative.
    - 2) Articulable facts that a subject’s actions may present physical danger to themselves or others if not restrained.
    - 3) Reasonable possibility of flight based on the actions of the subject.
    - 4) Information that the subject is currently armed.
    - 5) The stop closely follows a violent crime, and the subject matches specific parts of a description.
    - 6) Articulable facts that a crime of violence is about to occur.
  - b. Suicidal persons.
  - c. During a search warrant service, as is reasonably necessary, to safely execute the warrant.
  - d. Persons being transported to detoxification facilities.
  - e. By officers moving in-custody subjects (see LVMPD 6/004.00, *Transporting Prisoners*).
3. Approved Use for DSD Specialty Restraints Devices (restraint chair/bed):
  - a. Devices may be used to control inmates who display behaviors that may result in the destruction of property or who are in danger of causing harm to themselves or others. A subject must be displaying obstructive or assaultive resistance for the use of the restraint chair/bed.
4. Disapproved Use and Additional Considerations:
  - a. If medical circumstances make it unreasonable to handcuff an arrestee, officers will refrain

- from handcuffing. (Arrestees will be handcuffed behind the back, unless impractical or impossible due to prisoner obesity, handicap, or other reason. Special restraints will not be used unless approved by a supervisor.)
- b. When responding to a security office where a subject has been placed in handcuffs prior to the officer's arrival, the officer will not place LVMPD handcuffs on the subject until the officer has reasonable suspicion or probable cause based on their independent investigation.
  - c. Officers will check handcuffs for tightness and double lock before transport.
  - d. When a handcuffed subject first complains that handcuffs are too tight, the officer having custody of the subject will, as soon as reasonably possible, check the handcuffs for proper tightness. If they are too tight (per training), they will be loosened and double locked.

## V. BATON/IMPACT TOOLS

An expandable straight baton is a Department-approved weapon.

1. Level of Control:
  - a. Low Level Force – when used as an escort tool, control holds, or “stirring the pot”
  - b. Intermediate Force – when used for jabbing or striking.
  - c. Deadly Force – striking subjects on the head, neck, chest, spine, groin, or kidneys.
2. Disapproved Use and Additional Considerations:
  - a. During non-deadly force incidents, officers will use reasonable care to avoid striking subjects on the head, neck, chest, spine, groin, or kidneys, as these strikes may constitute deadly force.
  - b. The use of instruments as a tool for the purpose of striking or jabbing (e.g., flashlights or radio) other than a Department-authorized baton, is strongly discouraged.
  - c. Officers are discouraged from using their firearm as an impact tool due to the possibility of an unintentional discharge.

## VI. OLEORESIN CAPSICUM (OC) SPRAY

OC spray is a non-lethal agent which causes inflammation of the skin and mucus membranes.

1. Level of Control:
  - a. Intermediate Force.
2. Disapproved Use and Additional Considerations:
  - a. OC spray will only be used as an aerosol stream.
  - b. OC spray will not be used on a handcuffed subject unless the subject is displaying assaultive resistance.
  - c. OC spray should not be used on a driver of a vehicle or inside a patrol vehicle.
  - d. OC spray is not intended to force extraction from an enclosed area unless utilized in a detention facility.
  - e. Whenever possible, OC spray should be used upwind and relatively close to the subject in an effort to minimize exposure to non-targeted persons. Due to the volume of agent dispersed, officers will assess the effect a devastator (high capacity OC spray) has on subjects in the vicinity.
  - f. In a protest or demonstration situation, OC spray may only be used when authorized by an incident commander in response to imminent threat of harm (see LVMPD 5/211.09, *Field Force Extrication*), and it will not be used for the dispersal of non-violent persons.

## VII. LATERAL VASCULAR NECK RESTRAINT®

A Lateral Vascular Neck Restraint® (LVNR®) is a control technique applied to the sides of the neck, using a combination of physiological factors to restrict blood flow to the brain which may cause the subject to lose consciousness.

1. Level of Control:
  - a. Intermediate Force – LVNR® (all levels).
2. Disapproved Use and Additional Considerations:
  - a. LVNR® will not be used on subjects who have been exposed to OC spray or who are experiencing difficulty breathing.
  - b. Officers will not use an arm bar across the throat, a dangerous or unauthorized chokehold, or any non-approved technique.
  - c. Once the subject is brought under control, the LVNR® will be relaxed.

## VIII. ELECTRONIC CONTROL DEVICE

An ECD is a neuro-muscular incapacitation (NMI) weapon that disrupts the body's ability to communicate messages from the brain to the muscles.

1. Level of Control:
  - a. Intermediate Force.
2. ECD applications:
  - a. Spark Display – a non-contact demonstration of the ECD's ability to discharge electricity.
  - b. Touch Stun – a pain-compliance application of the ECD, with or without the use of a cartridge, by making direct contact against the subject's body. The use of a Touch Stun application is discouraged unless used to complete neuro-muscular incapacitation by closing a circuit when probes have already been deployed.
  - c. Probe Mode – the primary function of the ECD where the cartridge is deployed, firing probes at the subject. The intent is to temporarily immobilize the subject as the ECD is cycled and provide an officer with a "window of opportunity" in which to take the subject safely into custody.
3. Maintenance Requirements:
  - a. Officers will recharge ECD batteries and replace cartridges when required. When off duty, ECDs must be stored and secured in a climate-controlled area (i.e., locker), not in a vehicle.
  - b. Officers must conduct a spark check, outside the public view, at the beginning of shift to ensure the ECD will function properly. This spark check does not require a Use of Force Report.
4. Disapproved Use:
  - a. The ECD will be handled in the same manner as a firearm and will be secured before entering any detention facility except Clark County Detention Center (CCDC).
  - b. The intentional use of more than one (1) ECD simultaneously on the same subject is prohibited.
  - c. The ECD will not be used:
    - 1) On a handcuffed person.
    - 2) When the officer knows a subject has come in contact with flammable liquids or substances.
    - 3) On a fleeing subject (without other known factors). Mere flight from an officer cannot be the sole justification for use of the ECD.
    - 4) On persons with known heart conditions.
5. Additional Considerations:
  - a. An officer will not draw an ECD and a firearm at the same time.
  - b. Reasonable effort should be made to target the lower center mass and avoid intentionally targeting the head, neck, groin, and chest. Back shots are the preferred target area.
  - c. When deploying an ECD, officers will:

- 1) Use the standard ECD five (5) second cycle, and then evaluate the need to apply another five (5) second cycle after providing the subject with an opportunity to comply. Each subsequent five (5) second cycle requires additional justification. Once the subject has been exposed to three (3) cycles, the ECD will be deemed ineffective and another use of force option will be considered unless exigent circumstances exist.
- 2) Begin restraint procedures, including cuffing under power, as soon as reasonably safe to minimize the total duration of ECD exposures.

## IX. USE OF CANINE

All patrol dogs will be certified per the LVMPD Canine Certification Manual.

1. Level of Control:
  - a. Low Level Force – on leash.
  - b. Intermediate Force – with bite.
2. Approved Use:
  - a. Obstructive – handlers will keep the patrol dog on leash and not allow the dog to make contact with the subject.
  - b. Assaultive or Life-Threatening – canine (with bite) is approved when there is probable cause to believe a subject has committed a violent or felony crime, or is a threat to themselves or others, and is evading efforts to be taken into custody.
3. Disapproved Use and Additional Considerations:
  - a. Canine handlers are responsible for their dog's deployment.
  - b. Risk to third parties – in using patrol dogs, the canine handler will exercise reasonable care to avoid unnecessary risk of injury to persons who are not the subject of a search or apprehension.
  - c. During a critical incident, the handlers should make contact with the supervisor on scene or incident commander to discuss tactical deployment options.
  - d. When it is believed a subject may be armed with a weapon likely to cause injury to the patrol dog, the handler may exercise their discretion to deploy the dog.
  - e. Since the use of patrol dogs may inflame a volatile situation, the Department places limitations on their use for crowd control, civil disorders, or riot situations. In such an occurrence, the canine teams may be dispatched in a standby status. Any subsequent use of canine is only authorized by a lieutenant or higher for extreme emergencies.
  - f. When cover officers accompany canine handlers during searches, they should stay with the handler and not move or run past the canine team unless directed. Cover officers should watch for dangers, make citizen contacts, and permit handlers to issue commands to a subject. Handlers will let the cover officers know when it is safe to apprehend a subject.
4. Additional Reporting Requirements:
  - a. Handlers will notify a supervisor, and advise Dispatch, when a person has been injured by a patrol dog (see LVMPD 6/002.00, *Use of Force Policy*, Section VII, [Medical Attention](#)).
  - b. Any injury caused by a patrol dog to a person who was not the subject of the search will be documented in Blue Team as an Accidental/Unintentional Bite Incident Report and require a supervisor response.

## X. USE OF FORCE WITH A VEHICLE DEFINITIONS

blocking

The positioning of a police vehicle in the path of an occupied subject vehicle where contact between the vehicles is anticipated to be minimal, and the potential for injuries is low. The intent of blocking is to prevent an avenue of escape by the safe placement of a police vehicle. Blocking is not a use of force.

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precision intervention technique (PIT)	A specific manner of intentional contact using a police vehicle against a fleeing vehicle during a pursuit to cause the fleeing vehicle to come to an abrupt stop, rendering it immobile.
ramming	The utilization of a police vehicle to intentionally hit another vehicle.
stationary vehicle immobilization technique (pinching)	A preplanned containment tactic restricted for use only by specialized units (not approved for Patrol Division). It employs extremely low-speed and intentional vehicle contact with a subject's vehicle. The purpose is to prevent a vehicle pursuit and render a vehicle immobile.

1. Level of Control:
 

Blocking is a permitted tactic and is not considered a use of force.

  - a. Low Level Force – Stationary vehicle immobilization technique (pinching).
  - b. Intermediate Force – PIT at speeds 40 mph or below.
  - c. Deadly Force – PIT in the following instances:
    - 1) At speeds of more than 40 mph.
    - 2) When used on a high center-of-gravity vehicle likely to roll over such as vans, SUVs, and Jeeps.
  - d. Deadly Force – ramming, regardless of speed.
2. Deployment Requirement for PIT:
  - a. Prior to initiating a PIT, officers will use their emergency equipment and will give the operator of the subject vehicle a reasonable opportunity to stop.
    - 1) Officers will advise Dispatch the intent to use a PIT if circumstances permit. Otherwise, notification will be made immediately after.
3. Approved Use:
  - a. PIT – circumstances warranting the use of a PIT as deadly force:
    - 1) Continued movement of the pursued vehicle would place others in danger of substantial bodily injury or death.
    - 2) Other tactical options have been considered and rejected as impractical (e.g., continue to follow, stop sticks, or use of the Air Unit)
  - b. Stationary vehicle immobilization technique (pinching) is a preplanned tactic, only utilized by specialized units who have been trained.
  - c. Ramming – to be used when all other means of apprehension have been considered and rejected as impractical and an imminent threat of death or substantial bodily injury exists.
4. Disapproved Use of PIT:
  - a. Officers driving Department trucks or non-patrol SUV-type vehicles are not authorized to use a PIT (exception: Major Violator Section, Narcotics Section, and Viper Section trucks/mini-vans/SUVs).
  - b. On motorcycles.
5. Tactical Considerations:
 

Officers will consider the safety of the public and subjects before utilizing PIT, the stationary vehicle immobilization technique (pinching), or ramming.

  - a. Environmental factors:
    - 1) Areas with pedestrians.
    - 2) Other vehicle traffic.
    - 3) Parked vehicles.
    - 4) Telephone/utility poles.
    - 5) Bridges/overpasses.
    - 6) Areas adjacent to paved roads with a significant elevation change.
    - 7) Significant curves in the roadway.
  - b. Subject factors:
    - 1) Severity of the crime.

- 2) Number of subjects.
  - 3) Subjects known to have access to firearms.
  - 4) Potential of the subject to use the vehicle as a weapon.
  - 5) Potential of creating a crossfire situation.
  - 6) Size/weight of the subject's vehicle compared to the police vehicle.
6. Supervisor Responsibility for PIT:
    - a. Immediately acknowledge the officer's notification over the radio.
    - b. Order discontinuation of the PIT when the necessity for apprehension is outweighed by the dangers of the PIT.
  7. Additional Reporting Requirements:
    - a. Any contact that causes damage or a collision between a Department vehicle and another vehicle will also be reported as a traffic incident on a Vehicle Incident Report (LVMPD 42).
    - b. The stationary vehicle immobilization technique (pinching) and ramming require a Use of Force Report.
    - c. PIT (successful uses or attempts) requires a Use of Force Report and a Pursuit Report.

## XI. USE OF FORCE WITH PROJECTILE WEAPONS – Low Lethality Shotgun/40mm Specialty Impact Weapon

1. Level of Control:
  - a. Projectile Weapons (Low Lethality Shotgun and 40mm Specialty Impact Weapon).
    - 1) Intermediate Force – when fired at a distance of five (5) yards or greater.
    - 2) Deadly Force – when fired at a distance less than five (5) yards.
2. Description:
  - a. Low Lethality Shotgun – orange-colored, Department-issued Remington 870. The ammunition is a 12-gauge, drag stabilized, less-lethal round.
  - b. 40mm Specialty Impact Weapon – Department-issued weapon designed to shoot a foam/sponge projectile.
3. Inspection Requirement:
  - a. Low Lethality Shotgun and 40mm Specialty Impact Weapon:
    - 1) Prior to each shift, ensure the projectile weapon is only loaded with Department-issued low lethality munitions.
4. Deployment Requirement:
  - a. When time permits, two (2) officers will be present for the deployment of a projectile weapon; this is the most effective and best practice in utilizing a low lethality shotgun or 40mm specialty impact weapon. In exigent circumstances, a single officer can deploy and use a projectile weapon; however, the officer will apply sound tactics to mitigate risk and will maintain a readiness to transition to their firearm.
5. Approved Use for Projectile Weapons:
  - a. Projectile weapons should only be used against persons who are armed, have access to a weapon, or pose an imminent threat to the safety of the officers or others. Examples of these circumstances are an edged weapon, club, pipe, bottle, or a brick.
  - b. Officers are cautioned that the target area for impact munitions substantially differs from a deadly force target area. Instead of aiming for center mass, these weapons will be aimed at the abdomen and target the large muscle groups of the buttocks, thigh, and the knees of the subject. The head, neck, and groin should be avoided.
  - c. Projectile weapons may be used against persons who are holding a firearm if it can be utilized

to de-escalate and intervene with a potential deadly force situation; however, the following conditions must be met:

- 1) A minimum of two (2) officers are present, one (1) officer acting as lethal coverage.
  - 2) Officers have considered the use of available cover/concealment.
6. Disapproved Use for Projectile Weapons:
    - a. In a civil unrest situation unless authorized by an incident commander or above. Each application must target a specific individual who presents an imminent threat, and it must be reasonably assured that other individuals in the crowd who pose no threat will not be struck by the munitions.
    - b. Will not be used as a breaching tool.
    - c. Officers should not fire the low lethality shotgun through barriers (e.g., glass or chain link fences) because the bag may tear and pellets may be released.
  7. Storage Requirements:
    - a. The 40mm specialty impact weapon will only be carried in the designated tactical vehicles and stored in the issued bag.

## XII. USE OF FORCE WITH A FIREARM – Handgun/Shotgun/Rifle

1. Level of Control:
  - a. Handgun/Shotgun/Rifle
    - 1) Deadly Force – shots fired.
2. Description:
  - a. Handgun/Shotgun/Rifle – see LVMPD 5/208.02, *Authorized Firearms and Associated Equipment*.
3. Inspection Requirement:
  - a. Ensure the weapon is loaded with Department duty ammunition, not mixed with practice ammunition.
  - b. Officer is responsible for knowing how many rounds are loaded in their firearm and each magazine.
4. Approved Use for Handgun/Shotgun/Rifle:
  - a. Officers are authorized to fire their weapons:
    - 1) To protect themselves or others from what is reasonably believed to be an imminent threat of death or substantial bodily injury.
    - 2) To prevent the escape of a fleeing felon who the officer has probable cause to believe has committed a violent felony crime and is an imminent threat to human life if escape should occur ([NRS 171.1455](#)).
  - b. Whenever feasible, officers will identify themselves and state their intention to shoot. Example: “Police! Stop, or I’ll shoot!”
5. Tactical Considerations:
  - a. Handgun/Shotgun/Rifle:
    - 1) Officers should shoot at the center mass for maximum stopping effectiveness and minimal danger to bystanders.
    - 2) Flashlights mounted to firearms will not be used for routine searches in place of a hand-held flashlight.
    - 3) Officers should be aware of the potential for sympathetic fire when a fellow officer discharges a firearm.
    - 4) Officers should control and assess the number of rounds they are discharging in order to cease fire when the threat is no longer present.

6. Disapproved Use for Handgun/Shotgun/Rifle:

- a. Officers are not authorized to discharge a firearm:
  - 1) As warning shots.
  - 2) If it appears likely that a bystander may be injured.

7. Restrictions Against Discharging a Firearm at or from a Moving Vehicle:

Shooting at a moving vehicle is often ineffective and unpredictable. In addition, incapacitating the driver may result in the uncontrolled operation of the vehicle and thereby increase the potential of injury to bystanders. There is also a greater risk of a bullet missing the intended target or ricocheting. As a fleeing vehicle creates distance from an officer, it becomes more difficult to isolate the target and identify backdrop hazards.

Officers will use sound tactics and will not place themselves into the path of a moving vehicle or remain standing in the path of a vehicle that is under control of a driver. An officer threatened by an oncoming vehicle will make every effort to move out of the way.

Officers will not discharge their firearm at a moving vehicle unless:

- a. A person in the vehicle is an imminent deadly threat to officers or others by means other than the vehicle (such as an occupant firing a handgun at an officer).
- b. The driver is using the vehicle as a weapon to inflict mass casualties (such as a truck driving through a crowd).

Officers will not discharge a firearm from their moving (Department) vehicle unless a person is an imminent deadly threat to officers or others (such a discharge must be limited to the most extreme circumstances).

8. Drawing or Exhibiting a Handgun/Shotgun/Rifle:

- a. Officers are to exercise care and caution in the handling of a firearm (see LVMPD 5/108.14, *Firearms Training*).
- b. An officer's decision to draw or exhibit a firearm will be based on the tactical situation at hand and articulable factors that a risk may exist to the welfare of a person or an officer.
- c. Unnecessarily drawing or exhibiting a firearm may limit an officer's alternatives in controlling a situation, create unnecessary anxiety on the part of citizens, and result in an unwarranted or accidental discharge of the firearm.

9. Humanely Euthanize Injured or Dangerous Animals:

- a. Approved use:
  - 1) Only after attempts have been made to request assistance from the agency responsible for the disposal of animals (e.g., Humane Society, animal control, or game warden) (see LVMPD 5/109.08, *Safe and Humane Disposal of Animals at Resident Locations* for an exception).
  - 2) If the animal's owner is present and does not wish to transport the animal to veterinary care.
  - 3) When the animal is so badly injured as to require humane relief from further suffering.

10. Rifle Deployment:

- a. An officer may deploy a rifle based on any of the following:
  - 1) There is a potential for deadly force or the subject is armed with a deadly weapon.
  - 2) Distance and the use of cover are considerations due to the suspect's location.
  - 3) The suspect is barricaded.
  - 4) The deployment has been pre-approved (e.g., Airport Bureau or officers assigned to a special event).
- b. Officer(s) deploying rifle(s) will:
  - 1) Announce via radio the deployment of the rifle, and whether accompanied by a cover officer (acting as an observer), and receive an acknowledgment from Dispatch. (Dispatch

- will update the event in CAD.)
- 2) Whenever possible, a rifle will be deployed using a two-officer team, consisting of a single rifle carrier supported by a cover officer. The rifle carrier should not go hands-on during the incident.
- 3) Advise Dispatch of deployment location and update whenever location changes, thus providing situational awareness to on-scene personnel.
- c. Dispatch will:
  - 1) Re-broadcast that a rifle has been deployed and notify the area supervisor of the deployment.
- d. Bureau/area supervisor will:
  - 1) Proceed immediately to the incident involving the rifle deployment and assume tactical control.
  - 2) Ensure proper deployment of rifles and address over-deployment and crossfire issues.

11. Additional Reporting Requirements:

- a. All rifle deployments are to be reported (exceptions are training exercises; deployments by SWAT, Airport Bureau, or Major Violator Section officers; pre-planned events; and corrections officers conducting high-risk transports). Where deployment has been pre-approved, officers may carry a rifle, slung with muzzle down. No reporting will be necessary in this instance.
- b. When multiple officers have deployed rifles, the supervisor will designate one (1) deploying officer to complete the Rifle Deployment Report, listing all officers who deployed a rifle.

**6/002.03 POST USE OF FORCE INVESTIGATIONS**

- I. DEFINITIONS**
- II. REPORTABLE FORCE INCIDENTS**
- III. REPORTABLE FORCE PROCEDURES**
- IV. INVESTIGATIVE RESPONSIBILITIES – Use of Non-Deadly Force**
- V. INVESTIGATIVE RESPONSIBILITIES – Use of Deadly Force or Force Resulting in Death or Substantial Bodily Injury**
- VI. ADMINISTRATIVE REVIEW**

**I. DEFINITIONS**

monitor officer	A designated officer who is not involved in the use of deadly force and whose responsibilities are to prevent discussions regarding the incident among subject officers, witness officers, witnesses, and with other individuals who arrive at the scene prior to the Force Investigation Team (FIT).
officer involved shooting	An officer's discharge of a firearm at a person, with or without physical injury.
Public Safety Statement (PSS)	A series of questions to obtain information to determine if there is an immediate threat to public safety.
reportable force	Any use of force which results in injury or complaint of injury, complaint of continuing pain, or any use of force greater than low-level force.

**II. REPORTABLE FORCE INCIDENTS**

The Department investigates and reviews all reportable use of force incidents to determine the appropriateness of the application of force and to address any performance or misconduct issues.

A Use of Force Report is required by each officer who uses reportable force in an incident. A civilian employee who also uses force (empty hand, OC spray, or firearm) is required to complete a Use of Force Report.

Levels of Control which require the completion of a Use of Force Report include:

- 1. Empty hand tactics with injury or complaint of injury (takedowns, strikes, kicks).

2. Baton/Impact tool (jabs, strikes).
3. Oleoresin capsicum (OC) spray.
4. Electronic control device (ECD) (spark display [as a use of force], touch stun, and probe mode deployment).
5. Lateral vascular neck restraint® (LVNR®) (all levels).
6. Canine (with bites).
7. Use of Force with a Vehicle:
  - a. Stationary vehicle intervention technique (pinching).
  - b. Precision intervention technique (PIT) – used or attempted.
  - c. Ramming.
8. Use of Force with a Projectile Weapon:
  - a. Low lethality shotgun/40mm specialty impact weapon – any discharge.
9. Use of Force Firearm
  - a. Handgun/Shotgun/Rifle – any intentional discharge.
10. Force that results in injury, complaint of injury, or complaint of continuing pain.

### III. ADDITIONAL REPORTABLE FORCE PROCEDURES

1. Critical Incident Review Team (CIRT) will:
  - a. Complete the Use of Force Report on officer involved shootings or use of deadly force incidents, and when applicable, the Pursuit Report.
  - b. At the discretion of the CIRT lieutenant, also complete the Use of Force Report when low lethality options are used.
2. CIRT will complete the Firearm Discharge Report on:
  - a. Any discharge at a person regardless of injury.
  - b. Accidental discharge of a firearm during a law enforcement operation.
  - c. The intentional discharge of any firearm (other than at a human being) which includes dog or animal shoots in self-defense or to humanely euthanize. Resident officers are an exception (see LVMPD 5/109.08, *Safe and Humane Disposal of Animals at Resident Locations*).

### IV. INVESTIGATIVE RESPONSIBILITIES – Use of Non-Deadly Force

1. Non-deadly force requiring a Use of Force Report will be investigated by the officer's chain of command.
  - a. Acting supervisors are not authorized to complete this investigation.
  - b. Supervisors involved in the use of force incident will not investigate other subject officers; investigative duties will be relinquished to the next level of supervision in the officer's chain of command.
2. All reportable uses of force on a subject, regardless of visible injury, will be photographed and downloaded into Blue Team.
3. The officer will:
  - a. Immediately request Dispatch to notify a supervisor.
  - b. Complete the Use of Force Report before the end of their shift (any exceptions must be approved by a supervisor).
    - 1) The report will include a detailed description of the level of force, tool, or tactic used, to include its effectiveness, and the eight (8) "objectively reasonable" force factors.
    - 2) Each application of use of force tool must be separately justified in the documentation.
  - c. Forward reports to the investigating supervisor, sending a copy to their immediate supervisor.
  - d. When an ECD is used:
    - 1) Handle the probes in the same manner as contaminated needles in accordance with bio-hazard disposal procedures (see LVMPD 5/110.10, *Occupational Exposure to Blood or*

*Other Potentially Infectious Materials*), and impound all probes, wires, and cartridges as evidence.

- 2) Provide the ECD to a supervisor for data download.
4. Use of Force with a Vehicle:
    - a. Blocking – any contact with damage will be reported as a traffic incident on a Vehicle Incident Report (LVMPD 42). A Use of Force Report is not required.
    - b. Stationary vehicle immobilization technique (pinching) – use of this technique requires a Use of Force Report. Any contact or collision will be documented by the Traffic Bureau on a Vehicle Incident Report.
    - c. PIT – Traffic officers will respond to assist with the traffic investigation.
  5. A supervisor will:
    - a. Respond, without delay, to an incident in which reportable force is used.
    - b. Determine the level of force; if deadly force was used or if there is substantial bodily injury, see [Section V, Investigative Responsibilities](#). Substantial bodily injury is an injury that creates a substantial risk of death, causes serious permanent disfigurement, or results in a prolonged loss or impairment of the functioning of any body part. Examples may include skeletal fractures, brain bleeds, head/chest injuries which create a risk of death, or paralysis. Wounds not amounting to substantial bodily injury may include a broken wrist, cracked tooth, abrasions, or sprains.
    - c. Conduct an investigation by interviewing the subjects, officers, medical personnel, and witnesses.
    - d. Ensure photographs are taken and placed into Blue Team, to include the subjects, the scene, officers involved, and collect any evidence.
    - e. For the review of body worn camera video, see LVMPD 5/210.01, *Body Worn Cameras*.
    - f. Check the surrounding area for any video surveillance, obtain a copy, and ensure the third-party video is impounded as evidence and noted in Blue Team.
    - g. Review all applicable reports to ensure accuracy and completeness.
      - 1) Document how a use of force has been determined to be appropriate and in adherence to Department policy. If the use of force is determined to not be appropriate, it will be sent through the chain of command to decide if a Statement of Complaint (SOC) is necessary. If other misconduct is identified, the supervisor will document how it was addressed.
      - 2) Document training deficiencies and how they were corrected.
    - h. When an ECD has been used:
      - 1) Ensure the data record has been uploaded into Blue Team.
      - 2) Verify the probes, wires, and cartridges are properly impounded, and arrange for replacement cartridges (accidental discharges will not require impounding unless there has been an injury).
    - i. Document the investigation in a Citizen Contact (CC) in Blue Team when alleged use of force is determined to be unfounded.
  6. The lieutenant will:
    - a. Review the supervisor's investigation and all attached documentation, to include video footage, and evidence in Blue Team to ensure accuracy and completeness.
  7. The bureau/area commander will:
    - a. Complete the Use of Force Administrative Review.
    - b. Review all attached documentation, video footage, and evidence in Blue Team to ensure accuracy and completeness, then forward to IAPro within 30 days of date of incident.
  8. Internal Oversight and Constitutional Policing (IOCP) Bureau will:

- a. Provide a monthly report to bureau and division commanders, listing all Use of Force Reports that have exceeded the 30-day limitation.

**v. INVESTIGATIVE RESPONSIBILITIES – Use of Deadly Force or Force Resulting in Death or Substantial Bodily Injury**

It is the policy of this Department to conduct a fair, impartial, and thorough investigation of all uses of deadly force (or force resulting in death or substantial bodily injury) for the interest of the officer, the Department, and the community alike. To ensure that an officer's rights are not infringed upon and that the Department is in compliance with [NRS 289](#), the Department will conduct a deadly force investigation similar to an Internal Affairs investigation where the officer is identified as a subject officer until the investigation is completed. The following procedures will apply:

1. Subject/Witness Officer Responsibilities:
  - a. When an officer intentionally discharges a firearm, uses deadly force, has an unintentional discharge of a firearm during a police operation, uses any force resulting in death or causes substantial bodily injury, or becomes aware of an in-custody death, the officer will:
    - 1) Ensure life safety.
    - 2) Ensure the scene is safe and secure.
    - 3) Notify Dispatch (via radio if on-duty):
      - a) If needed, request medical assistance and provide information on injuries.
      - b) Include suspect description and location.
    - 4) Once the scene is static, an officer should not modify, load, or unload any firearm used prior to the countdown by FIT. In addition, the officer will not modify their attire to include positioning of their equipment and BWC.
  - b. In addition, off-duty officers or plain-clothes personnel will:
    - 1) Inform Dispatch via radio or 9-1-1 if no radio is available.
    - 2) Make certain they are readily identifiable as officers and take precautions against a potential police-on-police confrontation by displaying identification prominently. If confronted by first-responding officers, obey first-responding officers' verbal commands.
2. The first arriving supervisor will:
  - a. Act as incident commander (per LVMPD 5/213.06, *Major Incident and All Hazard Plan*) until relieved and will:
    - 1) Ensure medical attention is provided for those in need.
    - 2) Ensure the crime scene is safe and secure, preventing the possibility of contamination or alteration.
      - a) This responsibility includes the removal of unauthorized persons, including officers from the inner perimeter of the crime scene. A degree of tact and good judgment must be exercised to avoid alienating potential witnesses who may possess information of value.
    - 3) Update Dispatch and request that notifications be made.
    - 4) Coordinate the search for outstanding suspects.
    - 5) Oversee the identification and isolation of witnesses.
    - 6) Ensure witness officers and subject officers are separated and placed in a secure environment with a monitor officer. The monitor officer will:
      - a) Not talk to the officer about the facts and circumstances of the incident.
      - b) Ensure that under no circumstance any representative be allowed to speak to or move the location of any subject or witness officer prior to a FIT supervisor's approval.
      - c) Ensure that subject officers and witness officers do not discuss the incident being investigated.
      - d) Remain with the officer until the firearms countdown is completed or dismissed by

- a. a FIT supervisor.
  - b. Provide FIT detectives on the names and locations of the subject officers and potential witness officers. If there is concern that an officer is not a witness officer, but a subject officer, the ranking FIT supervisor will make the final determination regarding the status of the officer(s).
  - c. Remain on scene, and do not leave until released by the FIT supervisor.
3. The Public Safety Statement (PSS) is a series of questions asked of the shooting officer to obtain information to determine if an immediate threat to public safety exists. The PSS must be taken in a timely manner and appropriate action conducted based on the information received from the PSS.

When practical, only the shooting officer and a supervisor should be present during the PSS. If multiple officers are involved, the PSS should be done separately with each officer. The questions below will be read directly from the PSS card (no unauthorized form will be used). A supervisor will write down the officer's response. The PSS should not be recorded on a body worn camera.

- a. Did you discharge your firearm?
    - 1) If so, in what direction?
    - 2) Approximately where were you located when you fired?
    - 3) How many shots do you think you fired?
  - b. Is anyone injured? If so, where are they located?
  - c. Are there any outstanding suspects?
    - 1) If so, what is their description?
    - 2) What direction and mode of travel?
    - 3) How long have they been gone?
    - 4) What crimes have they committed?
    - 5) What type of weapon do they have?
  - d. Is it possible the suspect fired rounds at you?
    - 1) If so, what direction were the rounds fired from?
    - 2) How many shots do you think the suspect fired?
    - 3) Approximately where was the suspect located when they fired?
  - e. Do you know if any other officer discharged their firearms?
    - 1) If so, who are they?
    - 2) Approximately where were the officers located when they fired?
  - f. Are there any weapons or evidence that needs to be secured/protected? If so, where are they located?
  - g. Are you aware of any witnesses? If so, what is their location?
4. The watch commander will respond immediately to the scene of the use of deadly force.
5. The incident commander will:
- a. Ensure all subject and witness officers are identified and separated.
  - b. Act in accordance with LVMPD 5/213.06, *Major Incident and All Hazard Plan*.
6. The appropriate Patrol detective or on-scene supervisor will:
- a. Respond immediately to begin assisting in the early management of the crime scene, the identification and separation of witnesses, and the canvass.
  - b. Ensure the Major Incident Log has been assigned and completed.
7. Dispatch will:
- a. Assign at least one (1) additional sergeant to the scene.
  - b. Ensure the proper notifications are made immediately by utilizing the approved messaging system.
8. Force Investigation Team (FIT):

- a. FIT Response Criteria:
  - 1) Any use of deadly force as described in LVMPD 6/002.00, *Use of Force*.
  - 2) Any incident where a Department member, in the course of their duties, is a victim of a significant violent crime or sustains substantial injury.
  - 3) In-custody death (see LVMPD 5/205.16, *In-Custody Deaths*).
  - 4) Other jurisdiction requests that meet FIT criteria.
  - 5) Suspect or citizen receives a substantial bodily injury or is killed in a police operation.
  - 6) Any investigation and/or incident at the request of the Sheriff or designee.
- b. The ranking FIT personnel will be in overall charge of police activities and may request the assistance of additional units (see LVMPD 5/213.17, *Major Incident Investigations*).
- c. If the subject officer provides FIT with a voluntary statement and probable cause exists, FIT will complete the arrest. If the subject officer does not speak with FIT and is the only witness, the subject officer will make the decision to arrest and then complete all paperwork, including the Temporary Custody Record (TCR)/Declaration of Arrest (DOAR).

#### 9. Critical Incident Review Team (CIRT):

CIRT conducts non-criminal, administrative examinations of deadly force, significant bodily injury, or other high-risk police operations. The purpose of this review is to improve individual and agency performance through the evaluation of decision making, tactics, supervision, and the actual use of force (see LVMPD 5/109.04, *Critical Incident Review Team*).

CIRT will respond and investigate the following:

- a. Officer involved shooting, use of force resulting in death, or substantial bodily injury.
  - 1) CIRT will conduct a preliminary investigation and make a determination as to whether the investigation remains with CIRT, is transferred to IAB for review, or is reverted to the officer's chain of command.
  - 2) Substantial bodily injuries may include skeletal fractures, brain bleeds, head/chest injuries which create a risk of death, or paralysis. Wounds not amounting to substantial bodily injury may include broken wrist, cracked tooth, abrasions, and sprains, will be investigated by the officer's chain of command.
- b. The intentional discharge of any firearm at anything other than a human being or animal.
- c. Unintentional discharge of a firearm in a police operation (i.e., the unintentional discharge of a shotgun while deploying it in response to a high-risk call).
  - 1) Accidental discharges that do not occur in a police operation (e.g., unintentional discharge of a shotgun while inspecting it at an area command or the unintentional discharge while cleaning it) will be investigated by IAB.
- d. Deadly force PIT maneuvers or PIT maneuvers resulting in death or substantial bodily injury.
- e. Officer, while in the line of duty, is killed or sustains a substantial bodily injury, including a traffic collision.
- f. Suspect or citizen receives a substantial bodily injury or is killed in a police operation, including a traffic collision, involving LVMPD personnel.
- g. In-custody death occurs during a police operation or at the Clark County Detention Center (CCDC) where no clear medical issues are related to the death. CIRT will respond to in-custody suicides and attempted suicides (see LVMPD 5/205.16, *In-Custody Deaths*).
- h. A high-risk incident, such as active shooter or large-scale civil unrest, upon the request of the Sheriff.

#### 10. Initial Briefing:

- a. The incident commander will:
  - 1) Designate a location for the initial briefing that provides a place that is operationally secure. The briefing location will not compromise the integrity of the crime scene.
- b. Patrol detective or on-scene supervisor will:
  - 1) Conduct the initial briefing using the Major Incident Briefing Guide (LVMPD 568).

- 2) Only essential personnel will attend the briefing. Essential personnel will be identified by the FIT supervisor.
  - c. At the close of the brief, FIT will assume control of the scene and investigation.
  - d. The IOCP bureau commander or their designee will coordinate with the Office of Public Information (PIO) before any media release.
11. Scene Walkthrough:
  - a. The purpose of the scene walkthrough is to assist investigators with an understanding of the scene, identifying physical evidence and officer locations at the time deadly force was used. The walkthrough with the subject officer is voluntary, and it is not an interview. Personnel observing the walkthrough will be at the discretion of the FIT supervisor.
  - b. Witness officers will provide a walkthrough and an audio recorded statement as needed or directed by FIT. Witness officers will identify their location and explain their role as a witness. A witness officer who refuses to provide information will be deemed in violation of LVMPD 4/104.04, *Obedience and Insubordination*.
  - c. No photographs of the crime scene will be taken independently of the Crime Scene Investigations Section (CSI). If other photographs, audio, or video recordings have been taken, such evidence will be reported to FIT by any officer who has such knowledge.
12. Photographs and Countdown of Firearms of Subject Officer:
  - a. The FIT supervisor will:
    - 1) Determine which officers will be photographed.
      - a) Ensure the officer's equipment is photographed in place (on the person) to show the location, presence, and condition of any tools (e.g., firearm, ECD, baton, flashlight, body worn camera [BWC]) available during the incident.
    - 2) Ensure the subject and witness officers relinquish their firearms to CSI for countdown.
13. Subject Officer Interview Guidelines:
  - a. FIT will conduct a voluntary interview with the officer whose use of force resulted in death or substantial bodily injury, a minimum of 48 hours after the incident (unless waived by the subject officer). The subject officer has the right to decline to be interviewed.
  - b. Under no circumstance will any FIT investigator question a subject officer regarding the facts of the incident without allowing the officer to consult with their representative; however, a subject officer may waive their rights to consult with their representative and speak to FIT investigators. (A subsequent compelled interview, conducted by CIRT, will be scheduled and in compliance with the rights and obligations per [NRS 289](#).)
  - c. All statements provided to FIT will be made available to the officer before the officer provides a statement to CIRT.
14. Viewing of Body Worn Camera/Third Party Video:
  - a. The viewing of body worn camera/third-party video related to a FIT investigation will be consistent with LVMPD 5/210.01, *Body Worn Cameras*.
15. Other Administrative Reporting Procedures:
  - a. The subject officer's chain of command will complete the Notice of Relief of Duty (LVMPD 117) for any incident involving the use of deadly force or where substantial bodily injury or death results. Supervisors will place other officers in relief of duty status at the direction of PEAP.
  - b. The CIRT supervisor will:
    - 1) Ensure a drug (and alcohol) analysis will be performed if the shooting officer is a sergeant, lieutenant, or captain (see LVMPD 5/110.01, *General Fitness for Duty and a Drug Free Workplace*).

16. Police Employee Assistance Program (PEAP) Involvement:
  - a. PEAP personnel will respond to use of deadly force or other critical incidents and arrange for psychological counseling of subject officers (and at times, witness officers) by a qualified psychologist.
  - b. Upon PEAP personnel's arrival, they will contact the FIT supervisor, and after conferring, PEAP will provide assistance to the officers involved in the incident.
  - c. PEAP personnel will not discuss any details of the incident with the subject officer before the officer provides a statement to FIT or CIRT. PEAP personnel will be able to interact with subject officers and can explain the investigative process while the officer is under the observation of the monitor officer.
  - d. If PEAP personnel believe a critical incident stress debriefing is appropriate, PEAP will seek prior approval with the FIT and CIRT lieutenants.
  - e. PEAP will advise the appropriate chain of command of the officers' readiness to return to duty.
  
17. Contact with Suspect or Person to Whom Force was Applied:
  - a. If a suspect or person to whom force was applied is transported for emergency medical treatment, an officer will accompany the subject to the hospital. This will guarantee the chain of evidence is preserved, and spontaneous statements can be documented. The escorting officer will verify medical personnel are aware that the subject's clothing and personal effects must be secured as evidence.
  - b. Interviews with a suspect or person involved in a deadly force incident will be video or audio recorded. If a suspect has been hospitalized, a FIT detective will arrange for a timely interview.
  - c. In circumstances where there is an unintentional discharge or an inappropriate use of deadly force (and no reasonable suspicion or probable cause exists to warrant a detention), the subject is free to leave. Timely and consensual efforts will be made to identify the subject, and detectives will seek the subject's voluntary cooperation.
  
18. Media Release:
  - a. Media inquiries will be referred to the IOCP bureau commander or designee. At the close of the scene investigation, the PIO's office in coordination with the FIT supervisor will prepare the written media release. The PIO will also be an available resource.
  - b. The identity of officers involved in deadly force incidents will not be released to the public or media for 48 hours.
  - c. The FIT lieutenant will coordinate with the Sheriff/Undersheriff and PIO to prepare a formal media release to the general public after the Executive Staff 72-Hour Briefing.
  
19. Executive Staff 72-Hour Briefing:
  - a. FIT will provide a briefing to Executive Staff on the details of the criminal investigation related to the use of deadly force. The date, time, and location of the briefing will be determined by the Office of the Sheriff.
  
20. Administrative and Tactical Review:
  - a. During the criminal investigation conducted by FIT, they will provide copies of reports to CIRT as they become available. The criminal investigation will share information with the administrative review, but CIRT will not share information with FIT that was compelled under *Garrity*. (See LVMPD 5/109.04, *Critical Incident Review Team* and LVMPD 5/109.02, *Critical Incident Review Process*.)

**6/002.04 USE OF FORCE POLICY COMMITTEE**

The Use of Force Policy Committee will review the Use of Force Policy and other policies pertaining to the use of force on an annual basis as designated by the Sheriff. An Assistant Sheriff will serve as chair, and other members

will include:

1. General Counsel
2. Deputy Chief, Professional Standards Division
3. Captain, Internal Oversight and Constitutional Policing
4. Captain, Office of the Sheriff (9/17, 5/20)

**SAN DIEGO POLICE DEPARTMENT  
PROCEDURE**

**DATE:** JULY 8, 2020  
**NUMBER:** 1.04 - ADMINISTRATION  
**SUBJECT:** USE OF FORCE  
**RELATED POLICY:** [1.04](#), [1.05](#), [1.06](#), [1.07](#)  
**ORIGINATING DIVISION:** INTERNAL AFFAIRS  
**NEW PROCEDURE:**   
**PROCEDURAL CHANGE:**  **EXTENSIVE CHANGES**  
**SUPERSEDES:** DP 1.04 – 02/28/2020

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**I. PURPOSE**

This Department procedure establishes guidelines on the use of force options available to Department personnel.

**NEW**

This procedure should be read and applied in context with Department Procedures 1.55 and 1.56.

**II. SCOPE**

This procedure applies to all members of the Department.

**III. BACKGROUND**

The San Diego Police Department recognizes and respects the value of human life, having this as its highest priority. It is the policy and practice of the Department to train its officers to perform their duties to the highest standards. Our officers perform their duties with integrity, and make decisions that are fair, respectful, lawful, and based on good judgment. However, in the performance of their duties, officers may encounter situations where the use of force is reasonable to effect a detention or arrest, to overcome resistance, or to protect themselves or others. This protection of human life recognizes that the innocent victim and uninvolved citizen are the least able to control a dangerous situation and thus must be our highest priority. Our next priority is to the officers protecting others as well as themselves.

NEW

The San Diego Police Department is committed to achieving a safe resolution to conflict whenever possible. To this end, the Department trains its officers in tactics, techniques, and strategies to control these types of incidents using time, distance, communications, and other available resources in an effort to de-escalate encounters and gain voluntary compliance. Refer to Department Procedure 1.55 De-escalation for established requirements and guidelines on the use of de-escalation techniques, crisis intervention tactics, and other alternatives to force.

NEW

Successful resolution of an encounter requires the cooperation of a subject to provide officers with the time and opportunity to employ these de-escalation techniques. While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this procedure requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

Penal Code 834a creates a duty to submit to an arrest by a peace officer. Penal Code 834a states, "If a person has knowledge, or by the exercise of reasonable care, should have knowledge, that he/she is being arrested by a peace officer, it is the duty of such person to refrain from using force or any weapon to resist such arrest."

Penal Code 148(a)(1) makes it illegal to resist, delay, or obstruct an officer's attempt to carry out his or her duties. Penal Code 148(a)(1) states, "Every person who willfully resists, delays, or obstructs any public officer, peace officer, or an emergency medical technician, as defined in Division 2.5 (commencing with Section 1797) of the Health and Safety Code, in the discharge of attempt to discharge any duty of his or her officer or employment, when no other punishment is prescribed, shall be punished by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment."

Penal Code 69(a) is a wobbler and may be charged as a felony or a misdemeanor, and says: "Every person who attempts, by means of any threat or violence, to deter or prevent an executive officer from performing any duty imposed upon the officer by law, or who knowingly resists, by the use of force or violence, the officer, in the performance of his or her duty, is punishable by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment pursuant to subdivision (h) of Section 1170, or in a county jail not exceeding one year, or by both such fine and imprisonment."

Penal Code section 835a(b) authorizes an officer to use reasonable force to make a lawful arrest, prevent an escape, or to overcome resistance. Officers are not required to retreat or desist from their efforts by reason of resistance or threatened resistance of the person being arrested. The decision to use deadly force in response to a perceived imminent threat of death or serious bodily injury to the officer or another person is one of the most critical decisions an officer will ever be called upon to make. Only force that is reasonable to overcome resistance may be used to effect a detention or an arrest, or take a person meeting the requirements of Welfare and Institutions Code section 5150 into protective custody. Additionally, officers shall not use deadly force against a person

based on the danger that person poses to themselves, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the peace officer or to another person.

Assembly Bill 392 amends Penal Code sections 196 and 835a. This bill states that an officer is justified in using deadly force upon another person only when the officer reasonably believes, based on the totality of the circumstances, that deadly force is necessary to defend against an imminent threat of death or serious bodily injury to the officer or to another person, or to apprehend a fleeing person for a felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless the person is immediately apprehended.

AB392 also addresses an officer's decision making, leading up to their use of force, when given the time and opportunity to do so. When feasible, officers shall take reasonable steps in the pre-planning of responses to critical incidents, taking into consideration the need for additional officers, force options and other available resources.

The U.S. Supreme Court in *Graham v. Connor*, 490 U.S. 386 (1989), acknowledged that the "reasonableness" test in analyzing the use of force is "not capable of precise definition or mechanical application." For that reason, in determining whether an officer's use of force is reasonable in a particular case, it is necessary to evaluate the facts and circumstances confronting the officer at the time that force was used. All of the surrounding circumstances will be considered, including whether the subject posed an imminent threat to the safety of the officer or others, the severity of the crime at issue, and whether the suspect actively resisted arrest or attempted to flee.

The evaluation of an officer's use of force will be undertaken from the perspective of a reasonable officer on the scene, not through the 20/20 vision of hindsight. The central inquiry in every use of force case is whether the amount of force used by the officer was objectively reasonable in light of the particular circumstances faced by the officer. When evaluating an officer's use of force, it must be understood that the officer's decision to use force is based on the totality of the circumstances known to or perceived by the officer at the time the force is used.

NEW

The Department and the community expect officers to perform their duties with integrity, and make decisions that are fair, respectful, lawful, and based on good judgment. The expectation that officers will use reasonable force also carries the responsibility for other officers to verbally and/or physically intervene if the force necessary to overcome resistance has been achieved, as required by Department Procedure 1.56 Intervention Duties.

#### IV. DEFINITIONS

A. Active Resistance – Physically evasive movements to defeat an officer's

attempt at control, including bracing, tensing, running away or verbally signaling an intention to avoid or prevent being taken into or retained in custody.

- B. Assaultive Behavior - behavior that consists of aggressive physical opposition to being physically controlled and conveys a threat of injury to the officer; or, behavior that consists of a threat of attack conveyed through aggressive physical actions or aggressive physical actions coupled with verbal threats. Verbal threats alone do not constitute assaultive behavior. Assaultive behavior can be directed at the officer or others.
- C. Compliant Behavior - behavior that complies with the officer's verbal commands.
- D. Crowd Control and Mobile Field Force Techniques - levels of force that include close range strikes with an impact weapon. These strikes are designed to redirect or move a subject who fails to follow verbal commands. The amount of force used in delivering the strike should be reasonable given the circumstances. The intent of the technique is to move a subject backwards or to the side.
- E. Deadly Force - force that creates a substantial risk of causing death or serious bodily injury.
- F. De-escalation - encompasses a variety of strategies and/or techniques designed to reduce the immediacy of a threat, minimize the need for force, and gain voluntary compliance from a subject. Refer to Department Procedure 1.55 De-escalation for established requirements and guidelines on the use of de-escalation techniques, crisis intervention tactics, and other alternatives to force.
- G. Defending Force - the force needed to stop assaultive behavior against an officer or another person. This level of force generally involves impact strikes by the officer. Impact strikes can be delivered either by personal body weapons (e.g., hands, feet, knees, etc.) or impact weapons (e.g., PR-24, OPN, Baton, Flashlight). Due to the potential for serious injury, intentional strikes with an impact weapon are prohibited from being directed at the head, face or throat of the subject unless the subject's actions and behavior pose an imminent threat of death or serious bodily injury to the officer or others.
- H. Distraction Techniques - acts used to divert or redirect a subject's focus away from resistive behavior in order to assist the officer in gaining control of the individual. Distraction techniques may include an open-handed strike and/or knee strikes that specifically target the lower body, such as the buttock or thigh area. These are controlled strikes, using a lower level of force. These lower level types of strikes are not intended, nor likely to cause serious injury.

NEW

Personal body weapons may be used under these constraints, when lesser controlling force has not been effective, or the officer reasonably believes lesser controlling force will not be effective. If a distraction technique proves ineffective, a different distraction technique or force option should be considered.

- I. Force - the act of gaining and/or maintaining control of a subject or situation.
- J. Intervention - the act of attempting to prevent or attempting to stop the unreasonable use of force by another member. Intervene means to come between so as to prevent or alter a result or outcome. Refer to Department Procedure 1.56 Intervention Duties for established requirements and guidelines on members who observe or become aware of another member's use of unreasonable force.
- K. Life-threatening Behavior - behavior likely to cause serious bodily injury or death.
- L. Passive Resistance - behavior that consists of a refusal to comply with verbal commands and does not convey a threat of physical resistance to the officer or another person.
- M. Verbal Control - a tactic used when encountering compliant behavior. Such control consists of the officer's mere presence, requests, explanations and orders.

NEW

## V. PROCEDURES

- A. Force, as defined above, may be used to effect an investigative detention or arrest; control a subject who is in lawful custody; prevent an escape; or, protect the officer, the subject, or another person from injury or death. Any time force is used, the officer shall apply a level of force that is reasonable for the situation.
- B. Before approaching a subject, when given the time and opportunity, and based on the totality of circumstances, officers shall use de-escalation strategies or techniques consistent with Department Procedure 1.55, De-escalation, to persuade the subject to voluntarily comply or to reduce the need to use a higher level of force. When officers encounter subjects that do not voluntarily comply, reasonable levels of force may be used to achieve a successful resolution consistent with this procedure
- C. Officers should use caution when using a takedown technique on a handcuffed prisoner. There is potential for injury since the prisoner's hands are behind his or her back, and they have no way of breaking his or her fall. If possible, when the person is handcuffed, officers should consider other controlling methods prior to a

NEW

takedown.

NEW

- D. The use of canines, Tasers, extended range impact weapons, and standard impact weapon techniques may be used to control an actively resisting subject reasonably believed to possess, or have immediate access to, a deadly weapon.
- E. Officers should maintain control of enforcement situations. Officers who are not readily identifiable as police officers, whether on or off-duty, shall identify themselves as police officers, when it is safe to do so or if identification would not jeopardize the safety of the officer or others. Additionally, where feasible, when apprehending a fleeing person for a felony that threatened or resulted in death or serious bodily injury, where the Officer reasonably believes the person will cause death or serious bodily injury to another unless immediately apprehended, Officers shall make reasonable efforts to identify themselves as peace officers and warn that deadly force may be used, prior to the use of force. Subjects should not be allowed to gain the advantage in a physical confrontation. Officers may need to use a force option which is greater than the subject's force level and which is reasonable under the circumstances.
- F. The use of force by an officer can be viewed as a matrix of force options that can be used in response to a subject's actions and behavior. It is the totality of the circumstances that an officer considers when using force. The matrix is a guide designed to assist officers in understanding how force can fluctuate and can assist officers in documenting the subsequent force used. The force matrix illustrates the relationship between a subject's actions and the officer's response.
- G. An officer's decision to use force is based upon the totality of the circumstances and various factors that pertain to officers and/or subjects. These factors include, but are not limited to, the following:
  - 1. Age;
  - 2. Availability of other options;
  - 3. Ground fighting
  - 4. Confined spaces
  - 5. Distance between subject(s) and officer(s)
  - 6. Whether the subject is under the influence of alcohol or drugs;
  - 7. Whether the subject has a physical, mental, developmental, or intellectual disability;

NEW

8. Prior contacts with the subject or awareness of any propensity for violence;
9. Whether the subject appears to be resisting, attempting to evade arrest by flight, or is attacking the officer(s);
10. Environmental factors such as location/terrain/lighting conditions;
11. Number of subjects/officers;
12. Nature of offense;
13. Opportunity/Time, provided by subject, to allow for de-escalation;
14. Proximity to weapons;
15. Size;
16. Skill;
17. Strength/endurance;
18. Language barriers;
19. Training and experience of the officer;
20. Whether the subject is armed or perceived to be armed;
21. Crowd control situations; and
22. Any other exigent circumstances.

H. Use of Firearms

1. Officers shall not discharge any firearm in the performance of their duties, except as authorized by this Department procedure.
2. No officer shall discharge a firearm in the performance of duty except:
  - a. During authorized training at a target range;
  - b. When the officer has a reasonable belief that a subject (or animal) poses an imminent threat of death or serious bodily

injury to the officer or another person;

NEW

- c. When necessary to apprehend a fleeing suspect if there is probable cause to believe the suspect has committed a felony involving the infliction or threatened infliction of death or serious bodily injury, and the officer reasonably believes the suspect is armed with a deadly weapon and the suspect will causedeath or serious bodily injury to another unless immediately apprehended; or,
- d. As permitted by Department Procedure 6.09, Handling of Injured Animals.

- 3. A verbal warning to submit to the authority of the officer shall be given prior to the use of a firearm, if feasible, and if doing so would not increase the danger to the officer or other persons.
- 4. Officers shall exercise the utmost care in their handling and use of firearms while engaged in the performance of their duties and while exercising their option to carry a loaded and concealed weapon while off- duty. Factors that should be considered before an officer discharges a firearm include, but are not limited to, the following:
  - a. The life-threatening behavior perceived by the officer;
  - b. Immediacy of the threat;
  - c. Suspect(s) age, size, skill, injury, or disability;
  - d. Environment (field of fire);
  - e. The presence of and perceived capabilities of the suspect's weapon;
  - f. Officer's current level of training and capability with their weapon;
  - g. Type of crime.

NEW

- 5. Firearms are found to be generally ineffective in stopping vehicles. Firearms shall not be discharged at a vehicle solely in an attempt to disable the vehicle, without Incident Commander approval. Officers shall consider the ramifications when shooting at moving vehicles, such as:
  - a. Moving vehicles present a rapidly changing field of fire;
  - b. If the driver is incapacitated, the vehicle would be uncontrolled; or,

- c. The action could create a danger to the public that outweighs the need to use deadly force.
- d. Shooting through barriers such as auto glass consisting of several layers of laminated safety glass, can affect the trajectory and effectiveness of a projectile. The glass fragmentation created by the projectile travelling through autoglass exposes the officer, civilian bystanders and others inside the vehicle to the potential of serious eye, inhalation and laceration injuries.

NEW

- 6. Officers shall not discharge a firearm from a moving vehicle or at an occupant of a vehicle unless:
  - a. The officer has probable cause to believe that the subject or the vehicle poses an immediate threat of death or serious physical harm to the officer and there is no reasonable alternative for the officer to avoid the harm; or,
  - b. The officer has probable cause to believe that the subject or the vehicle poses an **immediate threat of death or serious physical harm to other persons.**

NEW

- 7. Officers shall not knowingly position themselves in the path of a moving vehicle and will make reasonable efforts to move out of the path of a moving vehicle when time and opportunity permit.
- 8. Warning shots present a danger to the officer and other persons. They are prohibited, except under exigent circumstances when:
  - a. The officer has a reasonable belief that a subject (or animal) poses an imminent threat of death or serious bodily injury to the officer or another person; or
  - b. The warning shot is necessary to apprehend a fleeing suspect if there is probable cause to believe the suspect has committed a felony involving the infliction or threatened infliction of death or serious bodily injury, and the officer reasonably believes the suspect is armed with a deadly weapon and the suspect will cause death or serious bodily injury to another unless immediately apprehended.
- 9. Firearms are not designed or intended for use as impact weapons and shall not be used to strike another person, except when necessary to protect the officer or another person from death or serious bodily injury.

## VI. REPORTING THE USE OF FORCE

A. Officers who use force shall ensure that detailed, accurate reports (arrest, detention, or ARJIS-9) describing the force used and all the circumstances and facts surrounding the use of that force are prepared, including, but not limited to, factors listed in the Force Matrix section of this procedure. In addition, force effectiveness statistical data is also collected whenever force is used. To facilitate this, officers will complete a Use of Force, BlueTeam entry.

### B. Reportable Force

For reporting purposes, the following are considered use of force incidents requiring a report:

1. Any force option, control hold, or weaponless defense technique applied to a person, or any force that causes injury or complaint of injury to either the officer or the subject being restrained;
2. Discharge of a firearm in an official capacity;
3. Discharge of a Taser;
4. Use of the baton, police nunchaku (OPN), or other impact weapons where the suspect has been struck;
5. Use of any type of chemical agent (mace, OC, etc.);
6. Use of a police service dog, when a bite or other injury occurs;
7. Use of any restraint device, to include a cord cuff, WRAP restraint device, safety control chair or restraint car seats, as outlined in Department Procedure 6.01;
8. When the officer overcomes physical resistance to applying the handcuffs;
9. Use of "specialty munitions," as defined in Department Procedure 1.36, Use of Specialty Munitions; and,
10. The pointing of a firearm at a person to gain compliance.

C. Officers who use a force option shall personally prepare the appropriate report (arrest, detention, ARJIS-9) documenting their use of force, except when an SDPD investigator interviews the officer and his/her statements (regarding the force used) are documented in the investigator's report.

- D. In the event San Diego Police Department officers are involved in a situation with an outside agency, the SDPD officer responsible for writing the report shall request documentation describing the outside agency officers/deputies use of force options.
- E. Whenever physical force used by an officer results in an injury that necessitates medical treatment of any person, the officer shall immediately contact a field supervisor (Refer to Department Procedure 6.01, Handcuffing, Restraining, Searching, and Transporting Procedures).
  - 1. The field supervisor shall evaluate the circumstances surrounding the incident.
  - 2. The field supervisor shall notify the Watch Commander and/or field lieutenant.
  - 3. If the Watch Commander or field lieutenant deems the incident to be of significant magnitude, including but not limited to, a use of force resulting in great bodily injury, Internal Affairs shall respond and conduct an on-scene investigation.
  - 4. If Internal Affairs responds to the scene, the Watch Commander shall immediately telephone the Police Officers' Association and report the general nature of the incident.
  - 5. All statements made by the subject regarding his/her alleged or apparent injury should be documented.
  - 6. Photographs shall be taken to document the existence or absence of injury to the subject, officers, or other persons. Photographs shall also be taken of any damage to the clothing or personal property of the subject, officers, or other persons at the scene. The photographs shall be impounded as evidence.

## **VII. ASSEMBLY BILL 953**

Assembly Bill 953 (AB 953), also known as the Racial and Identity Profiling Act (RIPA) of 2015, requires law enforcement agencies to collect data on all stops, detentions, and searches. This includes consensual searches and instances where force was utilized. In order to capture this data, a new application will be available for every event generated through the Department's MPS and Intranet systems beginning July 1, 2018. There is a template to collect the required data in the F: Drive under Templates/Patrol Based Forms/PD-953, if the database application is temporarily unavailable. The data documented on this form shall be entered into the electronic application prior to the end of officer's shift unless exigent circumstances exist.

Under this mandate, the data collected will include the date, time, and duration of the stop, the location, perceived race or ethnicity, perceived gender, perceived LGBT, perceived or known disability, English fluency, perceived age, and the reason for the stop, detention, or search. The reason for the stop may be generated from a call for service, a traffic violation, reasonable suspicion or knowledge that the person was engaged, or about to engage in criminal activity and conclude with the actions taken by the officer. These actions will describe the basis of the search, whether or not contraband or other evidence is discovered, the reason for and type of property seized and the results of the stop or detention. The data collected under RIPA replaces the data previously collected from vehicle stop data cards.

- A. When completing a detention and/or arrest report, officers will ensure the narrative includes that a RIPA entry was submitted for every person being arrested or detained.
- B. Supervisors will verify officers have documented the RIPA entry in their narrative prior to approval.

SAN DIEGO POLICE DEPARTMENT GUIDELINE  
**Use of Force Matrix**

NEW



Compliant Behavior	Passive Resistance Behavior	Active Resistance Behavior	Assaultive Behavior	Life Threatening Behavior
<p>Touch Verbal Control (Orders, explanations, requests, officer's presence)</p>	<p>Impact Weapons – Close Range strikes with an impact weapon may be used in crowd control situations as outlined in this procedure.) Impact Weapon Control Holds (PR-24, OPN, ASP, flashlight) Control Holds (other than with impact weapons), Pain Compliance, Pressure Points, Body Weight, Physical Strength</p> <p>Touch Verbal Control (Orders, explanations, requests, officer's presence)</p>	<p>Takedown Techniques, Distraction Techniques, Chemical Agents (OC spray may be used on a spitting person to assist officers in gaining control.)</p> <p>Canine, Taser, Extended Range Impact (ERI) and Impact Weapons <b>may be used as defined in section V.D. of this procedure</b></p> <p>Impact Weapons –Close Range strikes with an impact weapon may be used in crowd control situations as outlined in this procedure.) Impact Weapon Control Holds (PR-24, OPN, ASP, flashlight) Control Holds (other than with impact weapons), Pain Compliance, Pressure Points, Body Weight, Physical Strength</p> <p>Touch Verbal Control (Orders, explanations, requests, officer's presence)</p>	<p>Hard Impact Weapons (PR-24, OPN, ASP, flashlight) Personal Body Weapons (head, hands, elbow, knees and feet)</p> <p>Takedown Techniques, Distraction Techniques, Chemical Agents (OC spray may be used on a spitting person to assist officers in gaining control.), Canine, Taser, Extended Range Impact (ERI) and Impact Weapons</p> <p>Impact Weapons – Close Range strikes with an impact weapon may be used in crowd control situations as outlined in this procedure.) Impact Weapon Control Holds (PR-24, OPN, ASP, flashlight) Control Holds (other than with impact weapons), Pain Compliance, Pressure Points, Body Weight, Physical Strength</p> <p>Touch Verbal Control (Orders, explanations, requests, officer's presence)</p>	<p>Firearms Hard Impact Weapons (Blows to the head, face, neck and throat are prohibited unless defending against life-threatening behavior as defined in this procedure.)</p> <p>Hard Impact Weapons (PR-24, OPN, ASP, flashlight) Personal Body Weapons (head, hands, elbow, knees and feet)</p> <p>Takedown Techniques, Distraction Techniques, Chemical Agents (OC spray may be used on a spitting person to assist officers in gaining control.), Canine, Taser, Extended Range Impact (ERI) and Impact Weapons</p> <p>Impact Weapons – Close Range strikes with an impact weapon may be used in crowd control situations as outlined in this procedure.) Impact Weapon Control Holds (PR-24, OPN, ASP, flashlight) Control Holds (other than with impact weapons), Pain Compliance, Pressure Points, Body Weight, Physical Strength</p> <p>Touch Verbal Control (Orders, explanations, requests, officer's presence)</p>

**Reasonable Force Under the Totality of the Circumstances**



**DISTRICT OF COLUMBIA**
**Title**  
**Use of Force**

Topic	Series	Number
<b>RAR</b>	<b>901</b>	<b>07</b>

**Effective Date****November 3, 2017****Replaces:**

GO-RAR -901.07 (Use of Force), Effective Date December 1, 2016

**Related to:**

GO-OPS-301.03 (Vehicular Pursuits)

GO-RAR-306.01 (Canine Teams)

GO-RAR-901.01 (Handling of Service Weapons)

GO-RAR-901.04 [Oleoresin Capsicum (OC) Spray Dispensers]

GO-RAR-901.08 (Use of Force Investigations)

GO-RAR-901.09 (Use of Force Review Board)

GO-RAR-901.11 (Force-Related Duty Status Determination)

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**I. BACKGROUND**

Regulations pertaining to the use of force by law enforcement officers are outlined in chapter six of the District of Columbia Code of Municipal Regulations (DCMR), the Fourth Amendment of the United States (U.S.) Constitution, and various other sections in the Official Code of the District of Columbia (D.C. Official Code). The DCMR provides guidance regarding a law enforcement officer's use of force including, but not limited to, outlining the circumstances permitting appropriate levels of force and imposing restrictions on firearm discharges. The Fourth Amendment of

the U.S. Constitution guarantees people “the right to be secure in their persons” and provides a framework in which the courts can evaluate the use of force by law enforcement officers, including the “objective reasonableness” standard established in *Graham v. Connor* 490 U.S. 386 (1989). The purpose of this order is to outline when members may use force.

## **II. POLICY**

The policy of the Metropolitan Police Department (MPD) is to value and preserve the sanctity of human life at all times, especially when lawfully exercising the use of force. Therefore, MPD members shall use the minimum amount of force that the objectively reasonable officer would use in light of the circumstances to effectively bring an incident or person under control, while protecting the lives of the member or others. When using force, members shall continuously reassess the perceived threat in order to select the reasonable use of force response, or one that is proportional to the threat faced by him, her, or others.

## **III. DEFINITIONS**

When used in this directive, the following terms shall have the meanings designated:

1. Active resistance – physically evasive movements to defeat or deflect the member’s attempts to control a subject, including but not limited to, bracing, tensing, pushing, or verbally signaling an intention not to be taken into or retained in custody, provided that the intent to resist has been clearly manifested.
2. Carotid artery hold (“sleeper hold” or “v hold”) – any technique which is applied in an effort to control or disable a person by applying pressure or force to the carotid artery or the jugular vein or the sides of the neck with the intent or purpose of controlling a person's movement or rendering a person unconscious by constricting the flow of blood to and from the brain (D.C. Official Code, § 5-125).
3. Less lethal weapon – any object or device deployed with the intent or purpose of nullifying a threat without causing death (e.g., rubber bullets, oleoresin capsicum spray, and tactical batons).
4. Member – sworn or civilian employee of MPD or MPD Reserve Corps member.
5. Non-deadly force – any use of force that, when employed in accordance with Department training, is neither likely nor intended to cause death or serious physical injury.
6. Objective reasonableness – the standard requiring the reasonableness of a particular use of force must be judged from the perspective of a reasonable member on the scene in light of the facts and circumstances confronting the member.

7. Resisted handcuffing – occurs when a person actively resists being placed in handcuffs, and the member must forcibly move the person's wrists or arms, or physically maneuver the person's body so that the handcuffs can be applied. The "resistance" may range from an active struggle to a person simply "locking" his or her arms to prevent their being moved to the handcuff position.
8. Serious physical injury – any injury or illness that results in admission to the hospital or that creates a substantial risk of death, serious disfigurement, loss of consciousness, disability, a broken bone, or protracted loss or impairment of the functioning of any body part or organ.

NOTE: Admission to the hospital must be *directly associated* with the use of force, and should not include treatment or hospitalization for those injuries incurred prior to the use of force (e.g., drug or alcohol use, medical conditions such as high blood pressure).

9. Serious use of force – actions by members including:
  - a. All firearm discharges by a member with the exception of range and training incidents, and discharges at animals;
  - b. All uses of force by a member resulting in a serious physical injury;
  - c. All head strikes with an impact weapon;
  - d. All uses of force by a member resulting in a loss of consciousness, or that create a substantial risk of death, serious disfigurement, disability or impairment of the functioning of any body part or organ;
  - e. All incidents where a person receives a bite from an MPD canine;
  - f. All uses of force by an MPD member involving the use of neck restraints or techniques intended to restrict a subject's ability to breathe; and
  - g. All other uses of force by a member resulting in a death.
10. Service weapon – any instrument issued or authorized by the Department that is used to control or overcome a subject, carried or kept readily available by MPD members.
11. Take down – maneuver in which a subject is forcibly brought to the ground.

12. Trachea hold ("arm bar hold" or "bar-arm hold") – any technique using the member's arm, a long or short police baton, or a flashlight or other firm object that attempts to control or disable a person by applying force or pressure against the trachea, windpipe, or the frontal area of the neck with the purpose or intent of controlling a person's movement or rendering a person unconscious by blocking the passage of air through the windpipe. (D.C. Official Code, § 5-125.02)
  13. Use of force – any physical coercion used to effect, influence or persuade an individual to comply with an order from an officer.
    - a. The following actions are designated "reportable uses of force":
      - (1) Deadly force;
      - (2) Serious use of force;
      - (3) Use of a less-than-lethal weapon;
      - (4) Any use of force indicating potential criminal conduct by a member; and
      - (5) Any use of force resulting in injury or a complaint of injury or pain where the injury or pain is directly associated with a member's use of force.
    - b. The following actions are designated "reportable force incidents" as long as the use of force does not result in injury or a complaint of injury or pain:
      - (1) All solo or team takedowns, where there is no complaint of pain or injury; and
      - (2) The drawing and pointing of a firearm at, or in the direction of, another person when no other force was used.
  14. Use of force framework – an adaptation of the decision making model (Attachment A) specifically applicable to situations potentially resulting in the use of force. The use of force framework contains five categories of perceived threats and responses, all of which are fluid, dynamic, and non-sequential. The use of force framework allows officers to
- NOTE:** Minor injury or discomfort resulting from the application and general wearing of handcuffs is not, in and of itself, considered a "reportable use of force" or a "reportable force incident".

determine which action or actions are objectively reasonable and proportional, given the perceived threat.

15. Use of force indicating potential criminal conduct by a member – includes, but is not limited to, all strikes, blows, kicks or other similar uses of force against a handcuffed subject and all accusations or complaints of excessive force made against the member. This includes any use of force that **clearly** goes beyond that which an objectively reasonable officer would use in light of the circumstances under which the force was used, or any use of force which may rise to the level of a criminal act.
16. Vehicle ramming attack – form of attack in which a perpetrator deliberately rams, or attempts to ram, a motor vehicle at a crowd of people with the intent to inflict fatal injuries.

#### **IV. REGULATIONS**

- A. All members who encounter a situation where the possibility of violence or resistance to lawful arrest is present, shall, if possible, first attempt to defuse the situation through advice, warning, verbal persuasion, tactical communication, or other de-escalation techniques. Members shall attempt to defuse use of force situations with de-escalation techniques whenever feasible.
- B. When using force, members must be able to articulate the facts and circumstances surrounding their tactics, decision making, and the extent of force used in any given situation.
- C. When any force response is employed, members shall:
  1. Conduct a visual and verbal check of the subject to ascertain whether the subject is in need of medical care.
  2. Summon medical assistance immediately if a person is injured, complains of pain, or demonstrates life-threatening symptoms as established in GO-PCA-502.07 (Medical Treatment and Hospitalization of Prisoners).
  3. Render first aid as soon as the scene is safe.
- D. Any excessive force by a member may subject him or her to disciplinary action and possible criminal prosecution or civil liability.
- E. Use of Force Framework (Attachment B)
  1. The use of force framework contains five categories of perceived threats and responses, all of which are fluid, dynamic, and non- sequential.

**a. Member's Perception of the Threat:**

- (1) Cooperative – the subject responds in a positive way to a member's presence and is easily directed with verbal requests and commands. The subject who requires control or searching offers no resistance.
- (2) Passive resister – the subject displays a low level of noncompliant resistance. The noncompliance is passive, and offers no physical or mechanical energy. The subject does not respond to a member's lawful request or commands and may be argumentative.
- (3) Active resister – the subject is uncooperative and will not comply with the member's requests or comments. The subject exhibits physical and mechanical defiance, including evasive movements to defeat the member's attempt at control, including but not limited to, bracing, tensing, pushing, or verbally signaling an intention not to be taken into or retained in custody, provided that the intent to resist has been clearly manifested.
- (4) Assaultive – the subject has gone beyond the level of simple non-cooperativeness, and is actively and aggressively resisting the officer's attempt to arrest. The subject has demonstrated a lack of concern for the member's safety; however, the subject does not pose an immediate threat of death or serious bodily injury to the member or others.
- (5) Serious injury or death – the subject poses an immediate danger of death or serious physical injury to the member or to another person, but not himself or herself. The subject's actions demonstrate his or her intent to inflict death or serious injury upon the member or another person immediately.

**b. Member's Force Response:**

- (1) Cooperative controls – the least physical force response category on the use of force framework. Cooperative controls include communication skills with cooperative subjects and are often achieved by non-verbal acts such as gestures, stance, and facial expressions in accordance with Department training and standards.
- (2) Contact controls – low-level mental and physical tactics to gain control and cooperation. The contact controls can

be psychologically manipulative (e.g., strong verbal persuasion) as well as physical (e.g., soft empty hand control, firm grip, and escorting), and can include additional verbal persuasion skills or waiting for backup to show strength in numbers in accordance with Department training and standards.

- (3) Compliance techniques – actions [e.g., control holds, joint locks, and oleoresin capsicum (OC) spray, solo or team takedowns] that may induce pain or cause discomfort to the subject who is actively resisting until control is achieved, but will not generally cause an injury when used in accordance with Department training and standards.
  - (4) Defensive tactics – actions to forcibly render the subject into submission; however, these actions are not likely nor designed to cause death or serious physical injury. The purpose of defensive tactics is primarily the safety of the member and others. Examples of “defensive tactics” include the use of ASP baton strikes, chemical agents, and electronic control devices (ECDs) in accordance with Department training and standards.
  - (5) Deadly force – any use of force likely to cause death or serious physical injury. The primary purpose of deadly force is to neutralize a subject who poses an immediate threat of death or serious injury to the member or others; however, this does not include a subject who poses a threat solely to himself or herself. Examples include, but are not limited to, the use of a firearm or a strike to the head with a hard object.
2. In response to a perceived threat, members shall apply the proportionate and objectively reasonable force response, as outlined in the use of force framework. To ensure the force response is objectively reasonable and proportionate to the perceived threat, members shall:
- a. Continuously assess the threat and develop strategies, consider their authority and Department policies, identify options and contingencies, take action and review, and gather information. This approach requires members to:
    - (1) Consider the seriousness of the crime, the level of threat or resistance presented by the suspect, the imminence of danger, the suspect’s mental capacity, his or her access to weapons, agency policies, and available options (e.g., calling upon members with specialized training for assistance).

- (2) Initiate the proportionate and objectively reasonable force response, when feasible, to overcome resistance.
  - (3) Modify their level of force in relation to the amount of resistance offered by a suspect. As the subject offers less resistance, the member shall lower the amount or type of force used. Conversely, if resistance escalates, members are authorized to respond in an objectively reasonable manner.
  - (4) Intervene in and subsequently report any use of force incident in which they observe another member utilizing excessive force or engaging in any type of misconduct.
3. Members shall not use techniques or defensive weapons when employing force unless they have received the requisite training and the technique or weapon has been approved for use by the Department. However, members may employ force as necessary to protect the life of a civilian or member subject to the imminent threat of death or serious physical injury, when no other options are feasible, and the force is objectively reasonable and proportionate to the perceived threat.

**F. Conditions that May Authorize the Use of Non-Deadly Force**

1. A member's decision to use non-deadly force shall involve one or more of the following considerations:
  - a. To protect life or property;
  - b. To make a lawful arrest;
  - c. To prevent the escape of a person in custody;
  - d. To control a situation, or subdue and restrain a resisting individual; or
  - e. To effect a lawful stop of a fleeing individual.
2. A member shall use the force response that is reasonably necessary to bring the situation under control. If de-escalation tactics are not effective, the member may use an increasing level of force to overcome the level of resistance, as long as the force response remains proportionate to the perceived threat. As soon as the incident is under control, the member's use of force response shall diminish proportionally.

G. Conditions that May Authorize the Use of Deadly Force

1. Authorized Use of Deadly Force:

a. Defense of Life

Members may use deadly force in the performance of police duties under the following circumstances:

- (1) When it is necessary and objectively reasonable; **and**
- (2) To defend themselves or another from an actual or threatened attack that is imminent and could result in death or serious bodily injury; **and**
- (3) When all other options have been exhausted **or** do not reasonably lend themselves to the circumstances.

b. Fleeing Felon

To apprehend a fleeing felon **only** when every other reasonable means of affecting the arrest or preventing the escape has been exhausted; **and**

- (1) The suspect fleeing poses an immediate threat of death or serious bodily harm to the member or others; **or**
- (2) There is probable cause to believe the crime committed or attempted was a felony that involved an actual or threatened attack that could result in death or serious bodily harm; **and**
  - (a) There is probable cause to believe the person fleeing committed or attempted to commit the crime, **and**
  - (b) Failure to immediately apprehend the person places a member or the public in immediate danger of death or serious bodily injury; **and**
  - (c) The lives of innocent persons will not be endangered if deadly force is used.

2. Unauthorized Use of Deadly Force

- a. Members shall not use deadly force in any circumstance other than those outlined Part IV.G.1.

- b. Members shall not utilize deadly force against subjects that only present a threat of harm to themselves.

#### H. Less Lethal Weapons

1. The objective of less lethal weapons is to preserve human life and prevent further escalation of force.
2. Less lethal weapons may only be used by members with the appropriate specialized training.
3. During instances of civil disobedience, members shall follow use of force procedures outlined in Department SOP-16-01 (Handling First Amendment Assemblies and Mass Demonstrations).

#### I. Positional Asphyxia Precautions

1. In order to avoid asphyxiation, members shall:
  - a. Whenever possible, avoid tactics that may impede a subject's ability to breathe, result in chest or throat compressions, or airway blockage.
  - b. Position the individual in a manner to allow free breathing once the subject has been controlled and placed under custodial restraint using handcuffs or other authorized methods.
  - c. Seek medical assistance immediately if a person appears to be having difficulty breathing or is otherwise demonstrating life-threatening symptoms. An official shall direct that alternative means to maintain custody be utilized, if appropriate.
2. Members are prohibited from:
  - a. Placing a person in a prone position (i.e., lying face down) for a prolonged period of time or during transport except during exigent circumstances. Prisoners shall be carefully monitored while in a prone position as a prone position may be a contributing factor to cause a prisoner to suffocate, also referred to as positional asphyxiation.
  - b. Employing unauthorized use of restraints while transporting a subject in a vehicle.
  - c. Attaching handcuffs or flex-cuffs to leg restraints in such fashion that forces the legs and hands to be close to one another (i.e., "hog-tying").

#### J. Neck Restraints

1. The use of neck restraints of any kind including, but not limited to, those of “trachea holds” and “carotid artery holds” as they are defined in D.C. Official Code § 5-125.02 are not authorized use of force options and are prohibited.

NOTE: Members are reminded of the legal restrictions against certain types of neck restraints outlined in D.C. Official Code § 5-125.01, *et seq.* (Limitation on Chokehold), and that members who use a “trachea hold” or “carotid artery hold” may be found in violation of the law.

2. In the event that a member employs a neck restraint or chokehold of any kind, he or she shall request emergency medical services immediately.

**K. Use of the Department-Issued Firearm**

1. When feasible, members shall identify themselves as a police officer and issue a verbal warning before discharging a firearm.
2. No member shall discharge his or her firearm under the following circumstances:
  - a. As a warning;
  - b. Into a crowd;
  - c. In a felony case which does not involve an actual attack, but involves a threatened attack, unless the member has reasonable cause to believe the threatened attack is imminent and could result in death or serious bodily injury;
  - d. In any misdemeanor offense, unless under exceptional circumstances;
  - e. Solely to protect property interests; or
  - f. To stop an individual on mere suspicion of a crime simply because the individual flees.
3. Members shall not discharge their firearms either at or from a moving vehicle unless deadly force is being used against the member or another person. For purposes of this order, a moving vehicle is not considered deadly force except when it is reasonable to believe that the moving vehicle is being used to conduct a vehicle ramming attack. Members shall, as a rule, avoid tactics that could place them in a position where a vehicle could be used against them.
4. No member shall draw and point a firearm at or in the direction of another person unless there is a reasonable perception of a substantial

risk that the situation may escalate to the point where deadly force would be permitted.

- a. When it is determined that the use of deadly force is not necessary, as soon as practicable, firearms shall be secured or holstered.
- b. Drawing and pointing a firearm at or in the direction of a person is a reportable incident and members shall notify an official in accordance with SO-06-06 [Instructions for Completing the Reportable Incident Form (RIF: PD Forms 901-g and 901-h)].

5. In accordance with GO-RAR-901.01 (Handling of Service Weapons), no member of the Department shall carry, use, or discharge any unauthorized ammunition in their issued service weapons. Members shall not obtain service ammunition from any source except through official Department channels. Members are further required to carry only the requisite amount of service ammunition as applicable to the authorized service weapon they are utilizing.

**L. Carrying Prohibited Weapons**

1. Members shall not:
  - a. In the normal exercise of their responsibilities, carry, use or discharge any firearm or other weapon, except those issued or approved for use by the MPD under direction of the Chief of Police.
  - b. Carry any Department-issued weapon prior to successfully completing Department-approved training courses directed by the Chief of Police.
  - c. Carry a non-Department-issued weapon (e.g., blackjack, sap, nunchaku, kenpo stick, brass knuckle, or weighted glove).

**M. Pain or Injury Associated with Handcuffing**

1. Members are reminded the proper application and general wearing of handcuffs may lead to complaints of minor pain or injury (e.g., pinching of skin or scratches).
2. When a subject complains of pain or injury that is associated with the application or wearing of handcuffs, members shall notify an official.
  - a. The official shall investigate the complaint or injury and document his or her findings in the PD Form 313 (Prisoner Illness/Injury Report) in accordance with GO-PCA-502.07 (Medical Treatment and Hospitalization of Prisoners).

- (1) If the investigating official determines the subject's injury or complaint of pain is exclusively the result of the application and wearing of handcuffs, no further force-related investigation or reporting is necessary.

Example: A member places handcuffs on a non-resistant subject. The subject claims the handcuffs are causing him discomfort but the official concludes the pain is due exclusively to discomfort associated with wearing handcuffs.

- (2) If the investigating official determines the subject's injury or complaint of pain is not exclusively the result of the application and wearing of handcuffs or force was required to apply the handcuffs, he or she shall initiate use of force investigation in accordance with GO-RAR-901.08 (Use of Force Investigations).

Example: The subject complains of discomfort in his right wrist. During the investigation, the arresting member tells the official he had to twist the subject's right wrist in order to place him in handcuffs. The official concludes the subject's discomfort is associated with the member's action of twisting the subject's wrist, not exclusively the discomfort associated with wearing handcuffs.

- b. Investigating officials shall provide counseling and conduct an administrative investigation as appropriate for policy violations in cases where, based on the totality of circumstances, a member applied the handcuffs improperly, but the associated injury does not warrant a use of force investigation.

Example: The arresting member places handcuffs on an unresisting subject but neglects to activate the double-lock function. Since the handcuffs are not double-locked, the subject inadvertently tightens them on himself while he is transported back to the station. The tightening of the handcuffs results in a minor rash on the prisoner's right wrist. This injury is due to the wearing of handcuffs and is therefore not a reportable use of force; however, it would not have occurred if the member had applied the handcuffs properly.

- N. Members are prohibited from employing any use of force technique or defensive weapon against a subject in handcuffs **unless** the subject is engaged in assaultive behavior as described in this order or the subject is attempting to escape police custody or resisting members' efforts to maintain custody of the individual (e.g., the subject will not get out of the transport vehicle). In these cases, members shall limit their force responses to the

minimum amount of force that the objectively reasonable officer would use in light of the circumstances to effectively bring an incident or person under control.

O. Civilian Employees of the Department

1. Civilian employees of the department are prohibited from receiving or carrying Department-issued weapons of any kind.

NOTE: Civilian employees may handle weapons when required as part of their assigned duties (e.g., civilian firearm instructors, civilian firearm examination technicians, civilian evidence technicians).

2. Civilian members shall only use force in defense of themselves or others.

P. Reporting Use of Force Incidents

1. All incidents involving a reportable use of force, as defined in Part III.13.A of this order, shall be reported in accordance with SO-10-14 [Instructions for Completing the Use of Force Incident Report (UFIR: PD Forms 901-e and 901-f)]. All reportable force incidents shall be reported in accordance with SO-06-06 [Instructions for Completing the Reportable Incident Form (RIF: PD Forms 901-g and 901-h)].

Example 1: A member uses OC Spray on a subject. This is a reportable use of force and requires the completion of a PD Form 901-e (commonly referred to as a "UFIR") in accordance with SO-10-14.

Example 2: A member employs a takedown technique to bring a resistive subject to the ground so he or she can be placed in handcuffs. The takedown and handcuffing does not result in injury or complaint of pain or injury. The use of a takedown is a reportable force incident and requires the completion of a PD Form 901-g (commonly referred to as a "RIF") in accordance with SO-06-06.

2. Members who are aware of a complaint regarding the use of force by another member shall notify their supervisor.

## V. ATTACHMENTS

Attachment A: Decision Making Model

Attachment B: Use of Force Framework

## VI. CROSS REFERENCES

A. Directives

1. GO-OPS-304.10 (Police-Citizen Contacts, Stops, and Frisks)
2. GO-PCA-502.07 (Medical Treatment and Hospitalization of Prisoners)
3. GO-RAR-901.01 (Handling of Service Weapons)
4. SO-06-06 [Instructions for Completing the Reportable Incident Form(RIF: PD Forms 901-g and 901-h)]
5. SO-10-14 [Instructions for Completing the Use of Force Incident Report (UFIR: PD Forms 901-e and 901-f)]
6. SOP-16-01 (Handling First Amendment Assemblies and Mass Demonstrations)

**B. D.C. Official Code**

1. D.C. Official Code, § 5-125 (Limitation on Chokeholds)



**Peter Newsham  
Chief of Police**

PN:KDO:MOC:SMM

<i>Amendment #</i>	<i>Page #</i>	<i>Description of Change</i>	<i>Effective Date of Change</i>	<i>Name and Title of Authorizing Member</i>
1	11	Revised Part IV.K.2.outline format to include the previously missing letter "d".	11/7/2017	Maureen O'Connell, Director, Policy and Standards Branch

# Metropolitan Police Department

## Decision Making Model

Draft Version



The goal of **every** encounter is  
**Voluntary Compliance!**

### Officers must **continually**

- Gather information and assess the threat.
- Consider authority, policy and tactics.
- Identify options and contingencies.
- Develop a strategy.
- Take action and review.

### Threat Assessment Observation should include the subject's:

- Emotional state.
- Resistive Tension.
- Early warning signs.
- Pre-attack postures or Gestures.
- Access to a Weapon.
- Apparent willingness to sustain injury.



GO-RAR-901.07 (Use of Force)  
Attachment A - Decision Making Model  
November 3, 2017

# Metropolitan Police Department

Draft Version



## Use of Force Framework

The goal of **every** encounter is Voluntary Compliance!

Officers must **continually**

- **Gather information and assess the threat.**
- Consider authority, policy and tactics.
- **Identify options and contingencies.**
  
- **Develop a strategy.**
- Take action and review.

Resistance and response are dynamic. The subject's behavior and the use of force to control it may escalate or de-escalate during any given altercation until complete control of the subject is achieved.

**Immediately summon emergency medical assistance and render first aid as soon as the scene is safe.**



# GENERAL ORDER



Title	
<b>Canine Teams</b>	
Series / Number	
<b>GO – RAR – 306.01</b>	
Effective Date	Distribution
<b>February 18, 2005</b>	<b>B</b>
Rescinds	
<b>General Order RAR-306.01 (Canine Teams)</b> <b>[Effective Date: October 7, 2002]</b>	

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II. Policy.....	Page 1	VI. Procedural Guidelines	Page 6
III. Definitions .....	Page 1	VII. Cross References	Page 16
IV. Rules...	Page 3		

## I. BACKGROUND

The Metropolitan Police Department utilizes trained law enforcement canines because their superior sense of smell and hearing make a valuable supplement to police manpower. Because of their potential aggressiveness, the use of canines by this Department requires adherence to procedures that properly control their use of force potential and that channel their specialized capabilities into legally acceptable crime detection, prevention, and control activities.

## II. POLICY

The policy of the Metropolitan Police Department is to ensure that all Department canines and canine handlers are trained in and utilize the handler-controlled alert methodology as defined in this order. The policy of the Metropolitan Police Department is to ensure that members assigned to the canine unit adhere to the proper rules and procedures for the management of the Department's canine unit and to use police canines in patrol or field operations in accordance with General Order RAR-901.07 (Use of Force). (CALEA 41.1.4)

## III. DEFINITIONS

When used in this directive, the following terms shall have the meanings designated:

- A. **Alert** – Any movement by a canine that would indicate the presence of the subject to include the following: raising its head, sniffing, pawing, scratching, and barking.
- B. **Apprehension** – The lawful arrest, capture, or taking into physical custody of a subject. When a canine is involved or on the scene, apprehension may be described as follows:

1. With contact – where the canine physically made contact with a subject.
  2. Without contact – where articulated facts demonstrate that the presence of the canine was instrumental in the surrender of the subject.
  3. Independent of canine involvement – where the arrest, capture or custody is effected by police action without direct involvement of the canine on the scene. If the canine was used for tracking or searching for a suspect, that fact should be noted.
- C. Bite** – Physical contact with a subject that results in a skin wound or puncture produced by a canine’s teeth.
- D. Contact** – Any touching of a person by a canine, including nudging, pawing, seizing of subject’s clothing, or biting, which may or may not require medical treatment (but not including playful or non-aggressive behavior).
- E. Canine Handlers** – Sworn members who have been certified by the Canine Training Official as qualified to perform all responsibilities of a canine handler. (CALEA 41.1.4-d,g)
- F. Canine Official** – A member of the Canine Unit, the rank of sergeant or above.
- G. Canine Team** – A canine handler and his or her assigned police canine.
- H. Handler-Controlled Alert Methodology** – The training methodology employed by MPD that results in both the canine and handler being trained to the point that the handler has demonstrated total control over the canine’s actions. Whereby, the handler, when authorized to conduct a tactical search, shall ensure that the canine is in constant view and under the handler’s total control at all times. The only time a canine will be out of the visual range of a handler is when the canine clears a threshold (e.g. rounding a corner, entering a room, ascending/descending a stairwell.) Clearing a threshold shall take no more than five (5) seconds. The handler shall also ensure that he/she is at the canine’s position within five (5) seconds of a canine “alert.”
- The canine will only bite upon handler command. The only circumstance under which a canine may contact/bite without handler command is if the canine, the canine handler, or another is threatened with possible attack.
- I. Serious Use of Force** – Lethal and less-than-lethal actions by MPD officers including:
1. all firearm discharges by an MPD officer with the exception of range and training incidents and discharges at animals;

2. all uses of force by an MPD officer resulting in a broken bone or an injury requiring hospitalization;
  3. all head strikes with an impact weapon;
  4. all uses of force by an MPD officer resulting in a loss of consciousness, or that create a substantial risk of death, serious disfigurement, disability or impairment of the functioning of any body part or organ;
  5. all other uses of force by an MPD officer resulting in a death; and
  6. all incidents where a person receives a bite from an MPD canine.
- J. Tactical Use of Canine** – An on-leash track for a suspect or an off-leash search conducted by a canine team in an effort to apprehend a suspect. Off-leash canine deployments, searches and other instances where there is otherwise a significant risk of a canine bite to a suspect shall be limited to instances in which the suspect is wanted for a serious felony or is wanted for a misdemeanor and is reasonably suspected to be armed.
- K. Non-Tactical Use of Canine** – The non-aggressive work of a canine when used to search for evidence or missing persons, to guard buildings or equipment, or to detect human remains.

#### IV. RULES

- A.** The Metropolitan Police Department shall ensure that all MPD canine teams are trained in and adhere to the Department's "Handler Controlled Alert Methodology." This methodology shall include the following directives:
1. Prior to **any** canine deployment (tactical or non-tactical), the handler shall give a warning announcement as outlined in Section VI, D below.
  2. The canine handler shall keep his or her canine within visual and auditory range during deployments at all times. The only exception to the canine being within the handler's visual range will be when a canine clears a threshold (e.g. rounding a corner, entering a room, ascending/descending a stairwell.) Clearing a threshold shall take no more than five (5) seconds.
  3. The handler shall ensure that he/she is at the dog's position within (5) five seconds of a canine "alert."
  4. The canine handler shall command his or her canine to make contact/bite a subject only when the handler is in visual and auditory range of the subject and the canine.

5. The canine handler shall not permit his or her canine to make contact/bite unless commanded to do so by the handler. The only circumstance under which a canine may contact/bite without handler command is if the canine, the canine handler, or another is threatened with possible attack.

## V. REGULATIONS

### A. Authorized Uses of Canine Teams

Canine deployments can be authorized for the following assignments provided they meet the guidelines as set forth in this order: (CALEA 41.1.4-a)

#### 1. Tactical Use of Canine

- a. The tactical use of canines shall be limited to the following situations: (CALEA 41.1.4)

- (1) Instances in which the suspect is wanted for a serious felony, e.g., a burglary where the suspect is concealed, an armed car-jacking, assault on a police officer, assault with a dangerous weapon, sexual offenses, or homicide, etc.

OR

- (2) Instances where the suspect is wanted and is reasonably suspected of being armed.

- b. Canines may be used to locate, apprehend, or control suspects:

- (1) Where failure to apprehend a suspect who is fleeing and has committed a felony meets the criteria for the use of canine force, and
- (2) Where the failure to quickly apprehend the suspect poses a risk of immediate danger to the officer or others.

- c. Canines may also be used to locate and apprehend a concealed suspect who is wanted for a misdemeanor and is reasonably suspected to be armed or is wanted for a serious felony, **except** that a canine shall not be used to apprehend known juvenile suspects who pose no immediate threat of serious injury to members on the scene.

## 2. Non-Tactical Use of Canines

Canines may be employed in non-aggressive work such as the following:

- a. To search for evidence, narcotics, explosives, or other contraband and critical missing persons;
- b. To guard building(s), equipment, vehicles(s), and to secure the perimeter of a search area; or
- c. To detect human remains.

## B. Deployment Authorization

1. Before a canine can be deployed, canine handlers shall first seek authorization from a canine unit official (civil service sergeant or higher), but may obtain authorization from a field supervisor if unable to contact a canine official. The purpose of this requirement is to ensure that intelligence is gathered on the scene and that various obtainable factors are weighed, such as: (CALEA 41.1.4-c)
  - a. severity of the crime;
  - b. age of the suspect;
  - c. whether the suspect is armed or unarmed; and
  - d. whether the suspect has displayed violent behavior, before deployment of the canine is authorized.
2. The only exception to the requirement that an official authorize the use of a canine is under exigent circumstances when the handler is unable to contact either a canine official (first) or a field supervisor and, using sound judgment, deems it necessary to deploy the canine to protect himself or herself, other police officers, or citizens, from an immediate threat of serious bodily injury. However, a supervisor shall be notified at the first practicable moment.

## C. Warning Announcements

Prior to **all** canine deployments (both tactical and non-tactical), the handler shall give a warning announcement as outlined in Section VI-D.

## D. Two Handlers to Respond

A Canine Official shall ensure that, whenever possible, two canine handlers should respond to any request for service. When two handlers respond to a request for a service, the primary handler shall search with his/her canine and the secondary handler shall act as back-up without his/her canine. If a question arises as to which handler shall be primary, the canine official shall designate the primary handler.

**E. Use at Demonstrations Restricted**

Canine teams shall not be used at the scene of demonstrations without prior approval of the Chief of Police or his/her designee. (CALEA 41.1.4-c)

**F. Violations**

Violations of this order may result in criminal and/or disciplinary action.

**VI. PROCEDURAL GUIDELINES (CALEA 41.1.4-b)****A. Request for Canine Services**

When the need for a canine team is anticipated, members shall:

1. Request their services through the dispatcher;
2. Advise the dispatcher of their exact location;
3. Secure the perimeter to avoid contaminating the search area with their scent; and
4. Once the request for a canine has been made, members shall not enter the area to be searched.

**B. Response by Canine Officials**

1. Canine officials shall respond to the scene when a request for the use of a canine has been made. Once on the scene, the canine official shall make a determination whether the tactical use of a canine is warranted. The official shall consider all the guidelines set forth in this order.
2. If the canine official is unable to respond to the scene at the time the request is made, he/she must authorize the use of the canine via the radio. Authorization can only be given after the canine handler has provided all of the necessary information needed to make such a determination.
3. Under exigent circumstances, authorization by a canine official is not required; however, a supervisor (civil service sergeant or above) shall be notified at the first possible moment.
4. Canine officials shall not authorize the use of their own assigned canine. Such authorization must come from the commander of the Canine Branch, Special Operations Division, or, in his or her absence, an official the rank of lieutenant or above.

**C. Response by Other Officials**

When a canine team has been dispatched to the scene, an official from the requesting officer's element shall also respond to the scene.

**D. Warning Announcements**

1. Prior to **all** canine deployments (both tactical and non-tactical), the handler shall execute the following procedures:
  - a. Advise the dispatcher that an announcement of intent to search is about to be given. The dispatcher shall announce the time over the radio.
  - b. Issue a loud and clear announcement prior to deploying the assigned canine: "Warning, a police canine will be used to search this (area to be searched), if you don't come out, I will release my dog. If approached by the dog, surrender and remain still."
  - c. Provide a reasonable amount of time for innocent civilians, other members, and the suspect to come out before commencing with the search.
  - d. After a reasonable time has been given, the handler shall advise the dispatcher that he/she is going to begin the search. The dispatcher shall again announce the time over the radio.
2. Where there is reason to believe that a suspect may speak a foreign language, the handlers shall announce the warning in English and, when practicable, any other language that may be spoken by the suspect or other persons in the area to be searched.
3. Warnings should be repeated on each level of multi-level structures/ dwellings when practicable. However, subsequent or repeated announcements shall be given during the course of a search when, in the discretion of the handler, such a warning will not jeopardize his or her safety.
4. The warning announcement may be omitted from a search in those exigent circumstances where specific articulated facts demonstrate the need for complete surprise or where the announcement may place the handler in imminent danger. In such a case, the on-scene supervisor must approve the omission.

**E. Considerations Before Canines May Be Tactically Deployed**

1. In those circumstances where the tactical deployment of a canine is considered, a canine official (or a field supervisor if a canine official is not available) shall:
  - a. Determine the nature and severity of the offense for which a suspect is sought.
  - b. Determine the age of the subject and whether the subject may be armed, if possible.
  - c. Ensure that the immediate area to be searched has been vacated by all innocent civilian and police personnel, and that a perimeter is established.
  - d. Interview the property owner or manager (if available), to determine whether there are any innocent persons or children inside the location to be searched. Additionally, the canine official shall make attempts to determine if any individual inside the location may be hearing impaired, deaf, speaks a foreign language or has a physical, emotional, or other disability.
  - e. If the property owner or manager is not available, the canine official shall attempt to interview surrounding neighbors to ascertain the above listed information.
  - f. Attempt to determine if there are any animals inside the premises to be searched.
  - g. Make all information known to the responding canine handler.
  - h. Advise officers on the perimeter that if they encounter a police canine unit, to stand still and not to run. Running or attempting to flee may cause the canine to key in on the officer.
  - i. Ensure that the perimeter is maintained until the canine officer has completed the search, secured his/her canine and has advised the supervisor of the results of the search.

**F. Tactical Use of Canines**

1. Canine handlers shall be responsible for the following when the use of a canine is necessary: (CALEA 41.1.4-b)
  - a. Ensuring that prior approval from a canine or patrol official is given for the tactical use of their canine.
  - b. Providing a warning announcement in accordance with subsection D (Warning Announcements).

- c. Ensuring that when moving from an on-lead tactical track to an off-leash tactical search for a suspect, handlers provide another warning announcement at the point of transition, consistent with subsection D (Warning Announcements).
  - d. Allowing sufficient time for other members, citizens and the suspect to come out before deploying their canine.
  - e. Using a canine to locate a juvenile suspect ONLY where the juvenile poses a threat of serious bodily injury to the officer or others. (CALEA 41.1.4-b)
  - f. A handler shall conduct all tactical searches for a suspect with his/her own assigned canine.
  - g. If a handler believes that the deployment is unwarranted, the handler shall voice those concerns to the official authorizing the deployment and record those concerns in his or her notebook.
2. For all tactical uses of a canine to locate a suspect, the canine shall be called off at the instant that a suspect no longer poses a threat, e.g.: (CALEA 1.3.1)
  - a. In situations where a canine finds and bites a suspect, the concerned canine handler shall determine if the suspect is armed. If the suspect is not armed, the handler shall order the canine to release the bite.
  - b. The handler shall call off the canine at the first possible moment that the canine can be safely released. When deciding to call off the canine, particular attention must be given to the perceived threat or actual resistance presented by the suspect. Handlers will continue to factor into their call-off decision that the average person will struggle if being seized or confronted by a canine. This struggling, alone, will not be cause for not calling off the canine. A reference to the duration of the canine's contact with a suspect shall be included in the handler's report of the incident.
3. An on-duty canine official and the Force Investigation Team shall be immediately notified when a canine bites or causes serious injury (as described in Section III-I). In instances where a canine official cannot be contacted, an on-duty patrol official shall be notified. Members shall record the name of the official notified in the PD Form 901-e (Use of Force Incident Report). Notification shall be made whether the member is on or off duty and regardless of the location of the incident.
4. The canine handler shall notify a canine official of higher rank (or a field supervisor if a canine official is not available) when the canine

actually or allegedly bites or causes injury to a person and shall make all notifications and reports as required in Section G below.

5. Whenever a canine-related injury occurs, the canine handler shall seek immediate medical treatment for the suspect, either by ambulance, transportation to an emergency room, or admission to a hospital.
6. When the apprehension of a subject occurs without a bite, caninehandlers shall:
  - a. Voice dispositions of “apprehension with (or without) contact” to the Communications Division.
  - b. Notify the Special Operations Division watch commander of the apprehension.
  - c. Complete the PD Form 906 (Tactical Use of Canine Report) prior to the end of their tour of duty, which shall include the disposition each time a suspect is apprehended.

## **G. Reporting the Tactical Use of a Canine**

1. Initial Response
  - a. When a Metropolitan Police officer becomes involved in the tactical use of a canine requiring a Use of Force Incident Report (PD Form 901-e), the first responsibilities of the officer shall be to ensure that the scene is safe, render first aid if applicable, secure the scene’s integrity, and notify a canine supervisor (or a field supervisor if a canine official is not available). (CALEA 1.3.5)
  - b. District Watch Commanders and/or appropriate element supervisors shall respond immediately to the scene of the tactical use of a canine, and ensure that the Communications Division and the Synchronized Operations Command Center (SOCC) are notified. The SOCC shall notify the Force Investigation Team, if appropriate.
2. Handler Responsibilities

Handlers shall notify their supervisor and complete a PD Form 901-e (Use of Force Incident Report) immediately following any use of a canine resulting in a bite.

3. Supervisor Responsibilities

When a member has declined to complete the Use of Force Incident Report immediately following an incident, the supervisor shall compel the member to complete the report following a declination by the U. S. Attorney's Office and/or issuance of an authorized Reverse-Garrity warning.

**H. Investigating the Tactical Use of a Canine**

1. Members shall be guided by GO RAR-901.08 (Use of Force Investigations) as to investigative responsibilities when a tactical use of canine occurs.
  - a. The Force Investigation Team (FIT) shall be responsible for investigating all incidents involving the deployment of a canine that results in a canine bite or causes serious injury (as described in Section III-I).
  - b. The Office of the Superintendent of Detectives shall be responsible for investigating the underlying offense leading up to the use of the canine, where applicable.
  - c. An official from the Special Operations Division (of higher rank than the involved member) shall be responsible for the reporting and documentation of all use of canine incidents not involving a serious use of force.
  - d. The affected Watch Commander shall notify OPR and obtain a tracking number within one hour of the incident and shall fax a copy of the preliminary report and any supporting documentation to OPR prior to being relieved from duty.
  - e. At the discretion of the Chief of Police or his designee, any incident that may be investigated by chain of command supervisors may be assigned to the Force Investigation Team.
2. In the event that authorization for the use of canine has been given and the use of the canine has resulted in the apprehension of a person without a canine bite, the following steps shall be taken:
  - a. The handler shall immediately notify the on-duty canine supervisor who authorized the deployment through the dispatcher or on the scene.
  - b. The Special Operations Division official (of higher rank than the involved handler) shall ensure that all applicable information is recorded on the PD Form 906 (Tactical Use of Canine Report).

3. In the event that authorization for the use of a canine has been given and the use of the canine has resulted in a canine bite, the following documentation shall be completed immediately after a bite has occurred and provided to the Force Investigation Team representative who is present on the scene:
  - a. PD Form 251 (Event Report)
  - b. PD Form 163 (Prosecution Report)
  - c. PD Form 313 (Arrestee's Injury or Illness Report)
  - d. PD Form 901-e (Use of Force Incident Report)
  - e. PD Form 906 (Tactical Use of Canine Report)
  - f. Photograph of injury.
  - g. Any other documentation associated with the incident.
4. Each canine shall be evaluated after every contact with a subject and shall be provided appropriate retraining as may be determined by the Canine Training Sergeant.

#### **I. Use of Canines in Another Jurisdiction**

Canine teams may be dispatched to another jurisdiction, provided the following has occurred:

1. An official from the law enforcement agency within that jurisdiction must request the use of the Metropolitan Police Department Canine.
2. The Chief of Police or his designee has given approval.

#### **J. Handlers**

Handlers shall be responsible for the following: (CALEA 41.1.4-e)

1. Ensuring that their assigned canine is wearing a choke chain and that a District of Columbia dog tag is attached to it. (CALEA 41.1.4-f)
2. Ensuring that their assigned canine is presented for recertification in accordance Section VI-K-12, of this General Order. In the event that a handler's assigned canine fails to recertify within the prescribed time, the handler shall immediately place his/her canine in the Department kennel, and he/she shall be revoked from the vehicle take home program until such time that the canine is recertified.

3. Ensuring that their assigned canine is presented to the Department veterinarian within twenty-four (24) hours of a police canine bite. Exceptions to this policy will include weekends and holidays. In those cases the canine will be presented on the next business day.
4. Maintaining at his/her place of residence, at his/her own expense, a kennel made of chain link fence material with at least one hundred square feet of open space. The kennel shall have hard surface flooring (e.g. concrete, patio block, or wood), chicken-wire fencing across the top of the kennel, and shall be suitable for a 100-pound canine. The handler shall ensure that the kennel can be secured with a padlock. The handler shall obtain prior written approval from the canine training sergeant for any deviation from these kennel requirements. Failure to comply with this provision shall result in the immediate revocation of the handler's privilege to participate in the canine take home program and home care compensation. This action shall remain in effect until such time as the handler comes into compliance. If the handler is unable to abide by this provision, he/she shall be removed from his/her position as a canine handler. (CALEA 41.1.4-f)
5. Making the kennel at their place of residence available for inspection.
6. Ensuring that while not under the handler's immediate control, the canine is placed within its approved kennel, and that the kennel is secured with a padlock. The handler shall also make reasonable periodic checks to ensure the safety of the canine.
7. Ensuring that under no circumstance will a Department canine be kenneled with another animal.
8. Ensuring that when he/she is unable to secure his/her assigned canine in the canine's approved home kennel with a padlock, the canine is immediately placed in the Department's kennel for safekeeping.
9. Maintaining control of his/her assigned canine on and off duty.
10. Making immediate notification to the Special Operations Division Watch Commander if his/her assigned canine becomes lost or missing.
11. Reporting immediately the death, serious injury and/or illness of his/her assigned canine to the canine training sergeant. If unable to contact the canine training sergeant, handlers shall contact a member of the canine training staff or the Kennel Master. In extreme situations, notification may be made to an on-duty canine patrol sergeant. Upon being notified, the responsible official will provide the handler with specific instructions as to what steps to take. Under no circumstances shall a canine be presented to any veterinary hospital without prior approval. Violations of this provision may result in the handler's personal responsibility for payment.

12. Obtaining approval from the Commander, Canine Branch, Special Operations Division, prior to traveling outside the metropolitan area with his/her assigned canine.
13. Obtaining approval from the canine training sergeant, Special Operations Division, prior to entering his/her assigned canine into any show, trial, or exhibition.
14. Meeting physical agility standards annually, as defined by the Canine Standard Operating Procedures.
15. Returning his/her assigned canine to the canine training section whenever he/she becomes ill or injured to the extent that he/she is unable to perform as a handler.
  - a. When it is suspected that a handler cannot perform his or her duties as a canine handler for reasons of health or injury, the handler shall be referred to the Medical Services Division for a determination.
  - b. When it has been determined that a handler cannot perform his or her duties because of health or injury, a canine official shall prepare a written request to the Commander, SOD, for that handler's removal.
  - c. Upon notification that a handler is unable to participate in all aspects of training because of health or injury, the canine official shall prepare a written request for that handler's removal to the Commander, SOD, who shall act upon the request within 10 days of receiving the request.
  - d. If a handler is placed on sick leave for more than sixty (60) days, his/her canine may be reassigned.

#### **K. Certification and Training**

The canine training section shall be responsible for the following:  
(CALEA 41.1.4-d)

1. Ensuring that each member of the canine training staff is a certified canine instructor.
2. Ensuring that all MPD canines are certified in handler-controlled alert methodology as defined in this order.
3. Ensuring that all canine handlers are physically capable of adhering to the canine policy and procedures described in this order and are able to maintain adequate control of their canine to prevent unlawful contact with suspects or others.

4. Ensuring that canine handlers complete all necessary training to become certified
5. Establishing and furnishing each canine handler with the required specifications that must be met for the kennel to be maintained at the handler's place of residence.
6. Inspecting each kennel twice a year to ensure that it meets all security and sanitary requirements.
7. Providing timely retraining to each canine team.
8. Ensuring that only professionally-bred canines are used.
9. Ensuring that each canine is certified annually.
10. Ensuring that any aggressive exercise such as apprehension work is done in the presence of a certified trainer.
11. Ensuring that all training and certification records are kept up to date and secure.
12. Ensuring that all assigned canines are re-certified every six weeks and canines not in compliance are immediately de-certified.

**L. Support Responsibilities**

1. The Commanding Officer, Special Operations Division, shall be responsible for the following:
  - a. Establishing Standard Operating Procedures to cover:
    - (1) selection and purchase of canines.
    - (2) qualification and training of canine handlers and canines.
    - (3) handling and care of canines.
  - b. Ensuring that appropriate statistical information concerning the canine unit, including use of force data, is kept on a monthly, quarterly and annual basis.
  - c. Ensuring that only professionally bred canines are used.
  - d. Establishing and publishing physical agility standards for canine handlers.
  - e. Ensuring that all canine handlers annually meet the physical agility standards.

2. The Office of Unified Communications shall ensure that dispatchers are fully informed of the requirements of this directive.

**VII. CROSS REFERENCES**

**A. Related Directives**

1. GO RAR-901.07 (Use of Force)
2. GO RAR-901.08 (Use of Force Investigations)
3. GO RAR-901.09 (Use of Force Review Board)

**B. Related Forms**

1. PD Form 313 (Arrestee's Injury or Illness Report)
2. PD Form 901-e (Use of Force Incident Report)
3. PD Form 906 (Tactical Use of Canine Report)

// SIGNED //  
Charles H.  
RamseyChief  
of Police

CHR:NMJ:DB:AFA:afa