


Memphis Police Department Policy Manual		
Effective Date May 24, 2023		MPD.P&P.03-010 Use of Force/Duty to Intervene
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**1. PURPOSE**

This policy establishes directives for the use of force.

**2. POLICY**

The Memphis Police Department will respect the civil liberties of all persons as designated by both the US Constitution and the TN Constitution and clarified by established case law. Officers may use only the force that is objectively reasonable to gain control of an incident while protecting the safety of the officers and others.

**2.1 The Use of Force Continuum**

2.1.1 The following use of force continuum is a guide for determining the necessary amount of force to use in a given situation:

1. Physical Presence
2. Verbal Warnings
3. Verbal Commands
4. Chemical Agents
5. Empty Hands Control (Soft and Hard)/MPD Canine
6. Impact Weapons/Less Lethal Weapons
7. Deadly Force

2.1.2 The use of force continuum uses an escalating/de-escalating scale to determine which type of force will be employed. Officers must react quickly and reasonably according to the circumstances and



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what is known at that time. Officers are allowed to employ methods in their use of force as their experience and training dictate. Officers should also de-escalate their use of force when the situation is safely under control and a higher level of force is no longer necessary or reasonable.

- 2.1.3 When it becomes necessary to use force, it must be applied to best protect the safety of all persons present and in a manner that minimizes injuries to the suspect.
- 2.1.4 When choosing to use force against a person, officers should consider using de-escalation techniques to defuse the intensity of the situation.

### **3. RESPONSIBILITIES**

#### **3.1 Officer Responsibilities**

- 3.1.1 Officers should use only the amount of force necessary to safely accomplish their duties.
- 3.1.2 Officers must complete all required documents related to uses of force before the end of the shift.
- 3.1.3 As soon as it is safely possible, officers must render aid to persons after force has been used or when there is an injury, alleged injury, or complaint of pain or discomfort.
- 3.1.4 When there is an injury or claim of injury, one officer on the scene must immediately notify a supervisor.
- 3.1.5 Officers are responsible for notifying a supervisor via MPD communications when force is used against a person or animal.
- 3.1.6 Officers must report the use of excessive force by other officers to a supervisor as soon as reasonably possible.
- 3.1.7 Officers must inform any person(s) providing medical care that the suspect was subjected to force (i.e. exposure to OC spray, prolonged struggle, etc.).

#### **3.2 Supervisor Responsibilities**

- 3.2.1 Supervisors are responsible for the initial on-scene investigation and security.
- 3.2.2 Supervisors are responsible for notifying the appropriate personnel and bureaus.
- 3.2.3 Supervisors are responsible for managing scene personnel.
- 3.2.4 Supervisors are responsible for verifying that all persons on a scene have received medical aid.
- 3.2.5 Supervisors are responsible for reviewing officers' reports and ensuring their accuracy. They also make sure that officers submit all required documents, which may include photographs. The supervisor is responsible for ensuring that the Blue Team reporting system has been updated with any additional information, including properly categorized body-worn camera video.
- 3.2.6 Supervisors are responsible for ensuring that subordinates adhere to departmental policies related to the use of force.



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- 3.2.7 Upon verification of the information, supervisors must notify their chain of command immediately when an injury occurs from a law enforcement action.
- 3.2.8 Supervisors are responsible for reviewing body worn camera video for use of force incidents, except for officer-involved shootings.

### **3.3 Inspectional Services (ISB) Responsibilities**

3.3.1 ISB is responsible for:

- 1. Reviewing all instances where force was used;
- 2. Maintaining the original of all Response to Resistance forms; and
- 3. Maintaining the data that was generated from the incidents.

3.3.2 ISB will analyze and report on incidents annually involving force used by officers in the course of their duties.

3.3.3 ISB will forward copies of the Blue Team Response to Resistance reports to the Training Academy Firearms Training Unit.

3.3.4 ISB is the liaison with TBI on scenes where TBI is conducting the criminal investigation.

3.3.5 ISB will convene the Use of Force Board quarterly to review use of force incidents.

### **3.4 Homicide Bureau**

3.4.1 The Homicide Bureau will conduct all criminal investigations into officer involved shootings when MPD is the investigating agency.

### **3.5 Training Academy Responsibilities**

3.5.1 The MPD Training Academy will provide training to all appropriate personnel related to the department's use of force policy.

3.5.2 If necessary, the MPD Training Academy will develop curriculum to address use of force issues identified during the ISB review of the Response to Resistance Forms.

## **4 ACTION**

### **4.1 Use of Force Generally**

4.1.1 Prior to using physical force, officers will make reasonable efforts to de-escalate situations in hopes of preventing a use of force incident. As situations evolve, officers should take all opportunities that they identify to de-escalate a situation.

4.1.2 Officers are allowed to use only the amount of force that is reasonably necessary to safely accomplish their duties. They should consider the safety of themselves and all potentially impacted individuals when choosing to use force. However, officers are allowed to use any level of force that is necessary and reasonable to protect themselves or others from bodily harm.



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- 4.1.3 After officers have given notice of authority and purpose, they may use reasonable force to gain entry to a person's property/structure to serve a valid search warrant.
- 4.1.4 During a traffic stop, officers may use the force reasonably necessary needed to remove a person from a vehicle when:
1. A lawful stop or detention has been made;
  2. There is reasonable suspicion/probable cause that the person may have committed a crime and the officer can articulate the offense or there are safety concerns that require ordering the driver from the vehicle;
  3. The driver has been ordered to exit the vehicle but refuses;
  4. The driver has an outstanding felony warrant;
  5. The driver has been advised of probable cause arrest;
  6. The driver has been advised or warned that force will be used for removal from the vehicle, and
  7. A supervisor approves the removal based on probable cause.

#### **4.2 Use of Deadly Force**

- 4.2.1 Officers may use deadly force in all instances where the officer believes there is imminent danger of death or serious bodily injury to the officer or a third person.
- 4.2.2 Before using deadly force and when practical, an officer must determine that all reasonable alternatives have been exhausted. Officers are not required to use any lesser form of force before resulting to deadly force if it would likely lead to the serious bodily injury or death of the officer or a third party.
- 4.2.3 When feasible, officers should warn suspects before using deadly force. The verbal warning should be issued when the officer believes it is necessary to discharge a firearm. An example of a warning is, "Stop—Police—I'll Shoot."
- 4.2.4 Officers who have been or are alleged to have been in a use of force incident that resulted in serious bodily injury or fatality are required to submit to a drug test.

#### **4.3 Deadly Force Prohibited**

- 4.3.1 Deadly force is prohibited in the following circumstances:
1. To apprehend or arrest a person for a misdemeanor offense;
  2. To affect the arrest of any person escaping from the commission of a misdemeanor offense;
  3. As warning shots, which will not be used under any circumstances;



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4. To apprehend or arrest a person who is either known to be or is believed to be a juvenile unless the officer has a reasonable belief that there is an imminent danger of death, serious bodily injury, or grave sexual abuse to the officer or a third party;
5. To apprehend someone fleeing from a non-violent felony, including auto theft, larceny, embezzlement, fraud, burglary of an auto, or any other felony that does not involve the infliction or threatened infliction of serious bodily injury or grave sexual abuse;
6. From or at any moving vehicle, except when an officer has probable cause to believe that the suspect committed a violent felony and poses a direct threat of serious bodily injury or death to other persons if not immediately apprehended. ***If the officer is in the path of the vehicle, the officer's first responsibility, if possible, is to move from the vehicle's path, as shooting the driver of a moving vehicle poses a danger from an uncontrolled vehicle. Officers should not intentionally place themselves in the path of a moving vehicle or reach inside a moving vehicle; and***
7. In all cases where the officer does not have a clear field of fire and cannot be reasonably certain that only the suspect will be hit.

#### 4.4 Choke Holds/Lateral Vascular Maneuver

##### 4.4.1 TCA 38-3-121 Use of Choke Holds (2021)

"A law enforcement officer shall not use a chokehold, as defined in § 38-8-101, with or without the use of a police baton, on any person unless the officer reasonably believes that deadly force is authorized pursuant to § 39-11-620."

4.4.2 Officers are prohibited from using choke holds and the lateral vascular maneuver except for instances where the officer would be justified in using deadly force.

4.4.3 There are no exceptions for the manner of application of choke holds and the lateral vascular maneuver, including the use of hands, knees, feet, or one's body weight to restrict a subject's ability to breathe.

#### 4.5 Duty to Intervene

4.5.1 Officers who directly observe the use of excessive or unnecessary force by another officer must, within the scope of the officer's training, knowledge, and authority, intervene when the observing officer has an opportunity and means to prevent additional harm from occurring.

4.5.2 Officers who witness excessive or unnecessary force used must report it to a supervisor immediately.

4.5.3 Retaliation against an officer who intervened in a situation where excessive or unnecessary force was used, reported, or cooperated in an internal investigation related to excessive or unnecessary force is prohibited.

4.5.4 Officers who intervene during an event where excessive or unnecessary force is used will report the incident to a supervisor immediately.



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#### **4.6 Duty to Render Aid**

- 4.6.1 Officers will render aid to all persons who appear to be in medical distress.
- 4.6.2 After using a level of force that could cause injury, officers will render aid as soon as safely possible. Officers will immediately call for emergency medical personnel, who will evaluate the suspect on the scene as soon as it is safe. A supervisor must go to the suspect's location to view the injury, verify that aid was provided, and speak with the suspect and witnesses.
- 4.6.3 When an adult is injured or claims to be injured as a result of an officer's use of force, the injury must be photographed by a crime scene investigator and the photo included in the associated report with a description provided in the narrative. If no report is taken, an officer will take a memo and attach the photo to the memo. The officer's body worn camera video will be used to document the injury.
- 4.6.4 When a juvenile is injured or claims to be injured as a result of an officer's use of force, no photo will be taken on a PDA and attached to a report. The injury will be described in the narrative of the associated report, and the supervisor will determine if a crime scene investigator is needed for photographs.
- 4.6.5 Officers should not remove a suspect's restraints if it is believed that the suspect might attempt to escape or would otherwise be a threat to the paramedics or the officers.
- 4.6.6 The officer will apply leg irons to the injured party, if practical, to secure him/her to prevent escape.

#### **4.7 Notifications Generally**

- 4.7.1 Officers are required to notify their immediate supervisors when there is an injury or claim of an injury that resulted from an officer's use of force.
- 4.7.2 Officers are required to notify a supervisor through the dispatcher in the following circumstances:
  - 1. All police shootings;
  - 2. When the suspect resists arrest;
  - 3. When the Impact Delivery System (IDS) is used;
  - 4. When chemical agents are deployed;
  - 5. If practical, when an event is volatile and might require the use of an IDS or conducted energy weapon (CEW); and
  - 6. After the use of a CEW.
- 4.7.3 Supervisors will notify the senior dispatcher to inform the available watch commander of the following incidents:
  - 1. A shooting involving an officer;
  - 2. Complaints of serious officer misconduct, such as excessive or unnecessary force;



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3. Serious injuries occurring as a result of a suspect resisting arrest; and
  4. When a suspect is critically injured while under the control of MPD, regardless of the source of the injury.
- 4.7.4 Supervisors may delay notification for instances when a suspect resists arrest and receives no or minor injuries.
- 4.7.5 MPD Policy and Procedure Manual Chapter I, Section 12: Command Officer Notification should be referenced for notifications for the rank of major and above.
- 4.8 Chemical Agent**
- 4.8.1 Prior to using a chemical agent, the officer must reasonably believe that such use would prevent an immediate physical threat to an officer, the suspect, or a third party.
- 4.8.2 Chemical agent may be used against a person who:
1. By an overt action, refuses to submit peacefully to lawful arrest or attempts to escape from lawful custody. It can also be used if a suspect refuses to comply with lawful orders during arrest or detention or while in custody if:
    - a. the subject has made an imminent physical threat by an overt action and the officer reasonably believes the use of soft hands techniques will jeopardize the safety of an officer, themselves, or another person;
    - b. the officer has attempted soft hands techniques and the arrestee resists that attempt; or
    - c. the circumstances reasonably indicate, by an overt act, that attempting soft hands control may lead to an escalation of force and accompanying risk of serious physical injury to the person being arrested or to any officer.
  2. A prisoner that is lawfully confined in a detention or correctional facility, before or after conviction of a crime, is subject to the use of chemical agent if the prisoner assaults or threatens imminent assault of any person or uses language or any conduct to incite others to assault any person. This only applies when the MPD is requested to assist the SCSO or another law enforcement agency that has a detention or correctional facility within Shelby County.
- 4.8.3 Chemical agent may not be used against a person who:
1. Submits peacefully to arrest and complies with lawful commands during a lawful arrest;
  2. Complies with lawful commands during a valid investigative stop, traffic stop, while in custody, or in detention;
  3. Is expressing verbal disagreement that does not threaten or incite others to threaten an officer and is not significantly delaying or obstructing the officer's discharge of duty;
  4. Is a non-threatening subject that does not pose a significant risk to officer safety;
  5. Is an operator of any motorized vehicle and has control of the vehicle;



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6. Has been taken into custody and is handcuffed, unless the subject presents a clear and imminent physical threat by an overt action to the officer, self, or another person. Any incident where chemical agent is used after a subject has been taken into custody and handcuffed will be forwarded to Inspectional Services for review. Inspectional Services and the FTU will retain all reviewed Response to Resistance Reports on file;
7. Is inside a medical facility;
8. Is being transported in a squad car. If a subject is violent on the scene prior to being transported, an additional officer, or officers, will follow the transporting officer to the Criminal Justice Complex Jail, or the Regional Medical Center, and assist the transporting officer during the transport if needed and in getting the subject inside the facility. If the subject is calm on the scene and becomes violent while being transported, then the transporting officer shall advise the dispatcher of the situation, location, and direction of travel. The officer shall continue transporting, and the dispatcher will have additional officers meet the transporting officer so the subject can be better secured; or
9. Has merely destroyed property, which is not considered an overt act.

#### 4.8.4 Special Considerations for Persons Sprayed with Chemical Agent

1. If possible, allow the suspect about 30 seconds to one minute before handcuffing to overcome the initial reaction of gagging and coughing. This gives the prisoner an opportunity to overcome the temporary effects of the chemical agent on the respiratory system unaffected by the physical stress of handcuffing.
2. As much as possible, officers should maintain the safety of a suspect that has been sprayed. However, some people will run away blindly.
3. The appropriate first aid after the use of chemical agent is fresh air and copious amounts of clean, cool water to flush out the eyes.

4.8.5 The guidelines concerning the completion of the Response to Resistance incident also apply to spraying dogs.

#### **4.9 Conducted Energy Weapon (CEW)**

4.9.1 CEWs may be used against persons who:

1. Present a risk of harm to officers;
2. Present a risk of harm to themselves;
3. Present a risk of harm to others; or
4. Are physically resisting.





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#### 4.9.2 The CEW should not be used:

1. In any punitive or coercive manner;
2. For pain compliance to prod or escort prisoners;
3. On a handcuffed or secured individual, unless the person is overly combative and may cause harm to the officer or others and cannot be dealt with in any less obtrusive manner;
4. As a compliance technique to overcome passive resistance or on any individual who does not demonstrate an overt intention to use violence or force against the officer or another person;
5. To rouse unconscious, impaired, or intoxicated persons. However, the CEW can be used on an intoxicated person if other factors apply;
6. On persons operating a moving vehicle or machinery;
7. For any purpose of horseplay or curiosity when use of the CEW is not allowed, including but not limited to, arc display and laser pointing. Only certified CEW instructors may demonstrate the CEW to the public or media or;
8. In any environment where the officer knows that a potentially flammable, volatile, or explosive material is present; and
9. On persons merely running or fleeing.

#### 4.9.3 Probes that have penetrated the skin will not be removed by officers. They will be removed by trained medical personnel at Regional One.

#### 4.9.4 If an individual who has been struck with a CEW is listed in critical condition or dies, the supervisor will make appropriate notifications.

#### 4.9.5 When probes are discharged from a CEW, CSI will be called to take photographs of the scene and collect the used probes, expended cartridges, and wires, which are tagged in the Property and Evidence Room. The cartridges and probes will be treated as biohazard. If the suspect is transported before CSI arrives on the scene, the CSI officer will go to the hospital and photograph any injuries and the probe positions if they have already been removed.

#### 4.9.6 Care of Exposed Persons

1. All persons exposed to CEW must be transported to an appropriate hospital, preferably Regional One. This includes any individual who has had a CEW successfully used against them in either drive stun or probe mode.
2. Any persons showing signs of excited delirium, sudden death syndrome, or extreme agitation must be transported immediately to Regional one for evaluation.



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#### 4.9.7 Data Download

1. After a CEW has been used, the officer will report to the FTU to download the incident, receive new Taser cartridges, and print the downloaded data device report. The officer will tag the data device report at the Property & Evidence room.
2. Officers must report to the FTU monthly to download CEW data and any software updates.

#### 4.10 Impact Delivery System (IDS)

4.10.1 Only officers certified to operate the IDS are authorized carriers/operators.

4.10.2 The IDS may be used to control violent and/or potentially dangerous individual(s) when an officer reasonably believes the following:

1. Attempts to control the conflict by using alternate methods have failed and/or other means will be ineffective, useless, or hazardous to the officer(s) or some third party. The immediacy of action is an important element to be considered.
2. The officer must have a clear field of fire to protect bystanders/others.

4.10.3 The officer must communicate his/her identity and purpose, unless these facts are already known or concluded or cannot reasonably be made known to the individual under the circumstances.

4.10.4 Officers shall use only the minimum amount of force which is consistent with the accomplishment of their duties and, if possible, should attempt any reasonable means of prevention, apprehension, or defense before using the impact delivery system (IDS).

4.10.5 To maximize everyone's safety, the IDS must be used under controlled situations, meaning that the individual's movement is contained or restricted (i.e. stand-off). Example: A person is violent and poses a direct threat to themselves or others and is armed with an implement that can inflict life threatening bodily harm.

4.10.6 Because of safety precautions, the use of the IDS is not intended for uncontained events (i.e. foot pursuit). If practical, each event should be assessed and meet the requirements before deployment.

4.10.7 If practical, IDS operators should notify their supervisor or commanding officer that an event is volatile and may require use of the IDS.

4.10.8 If the operator has loaded and prepared to bear the weapon, but has not pointed it at the subject and the subject surrenders, no Blue Team Incident report is required.

4.10.9 If the operator points the IDS at the subject and the subject surrenders, a Pointed Weapon report is required.

4.10.10 If the IDS has been discharged, the operator must notify his or her supervisor and complete the Response to Resistance Incident in BlueTeam. A supervisor will report to the scene to ensure policies and procedures have been followed.

4.10.11 If anyone has been struck by IDS ammunition and the event is under control, the IDS operator and/or the supervisor will call for paramedics.



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- 4.10.12 Anyone who has been struck by IDS ammunition will be transported to an appropriate medical facility. When the paramedics make the scene, the decision as to which agency will transport depends on their medical assessment.
- 4.10.13 CSI will take evidentiary photos of any injuries sustained from IDS ammunition and collect expended ammunition and the ammunition case(s), which will be tagged in the property room.
- 4.10.14 If an individual has been struck by IDS ammunition and is subsequently critically or fatally injured, the supervisor will notify the appropriate investigative services bureau and perform everything necessary for an orderly investigation.
- 4.10.15 All reports, including the Response to Resistance, will be completed before the end of the officer's tour of duty. Moreover, the reports will be routed to the appropriate station commander, duty chief, deputy chief, and FTU supervisor.
- 4.11 Patrol Rifle Deployment**
- 4.11.1 Only certified patrol rifle officers (PRO) are authorized to handle, deploy, or discharge patrol rifles.
- 4.11.2 Discharge of the patrol rifle will be limited to situations where an equal or greater force is necessary.
- 4.11.3 The following conditions are examples of authorized patrol rifle deployment:
1. The subject is known to possess or is suspected of possessing a deadly weapon;
  2. The subject is beyond the effective range of departmental pistols or shotguns (25 yards or greater);
  3. The subject is known to wear or is suspected of wearing body armor; or
  4. The suspect possesses a rifle (e.g., AR 15, etc.).
- 4.11.4 When a PRO deploys the patrol rifle, he or she will, as soon as practical, advise a supervisor or a commanding officer. If applicable and practical, the PRO will advise the Communications Division of the following upon deployment:
1. The location of the PRO and the suspect;
  2. The safest route for responding officers to approach the scene; and
  3. Crossfire considerations.
- 4.11.5 If an entry team should be used, PROs will not deploy the patrol rifle, except in active shooter situations. Any other exceptions must be approved by the supervisor or commander.
- 4.11.6 The PRO will advise any field supervisor or commanding officer that is contemplating inappropriate deployment of the patrol rifle.



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- 4.11.7 Patrol rifles will not be used to shoot a wounded or dangerous animal without approval from a commanding officer unless a dangerous situation develops after the proper deployment of the patrol rifle.
- 4.11.8 Except for duty deployment consistent with the provisions of policy, patrol rifles will be discharged only at an authorized firearms range under the direction of a patrol rifle instructor (PRI).
- 4.11.9 Discharge of the patrol rifle shall be in accordance with the deadly force policy.
- 4.11.10 Only in life-threatening situations or the presence of imminent danger will the deployment of the patrol rifle be accepted without prior authorization from the PRO's supervisor or commanding officer.
- 4.11.11 Each duty station/bureau commander is responsible for notifying the Communication Division of the units containing PROs.

#### **4.12 Comprehensive Reporting**

##### 4.12.1 Physical Response to Resistance Form

Officers are required to complete a physical Response to Resistance Form for all uses of deadly force, including all instances when a firearm was discharged against a subject or animal. The form will be uploaded to Blue Team by ISB. It should not be completed for recreation or training occurrences and when there was no use of force with a firearm against a subject or animal. The form will be submitted through the chain of command by the end of the officer's tour of duty.

##### 4.12.2 Blue Team Incidents

1. Officers are required to complete a Response to Resistance incident in Blue Team for all incidents involving:
  - a. The use of any part of the officer's body to compel compliance, including uses of force falling within the empty hand control component on the use of force continuum;
  - b. The use of chemical agents;
  - c. The discharge of an IDS and CEW deployment;
  - d. The use of an MPD canine to apprehend a suspect;
  - e. The use of a baton or expandable baton;
  - f. A suspect charged with TCA 39-16-602 Resisting Arrest; or
  - g. A death, injury, or alleged injury to an officer or suspect from an officer's use of less lethal force.
2. "See arrest ticket" is no longer acceptable in the narrative of a Response to Resistance Incident in BlueTeam. The officer will complete a detailed narrative in the summary section of the BlueTeam incident and articulate the following:
  - a. The reason for the initial police presence;



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- b. A description of the specific acts that led to the use of force;
      - c. The level of resistance encountered; and
      - d. A description of every type of force used.
    3. Response to resistance incidents in Blue Team are not needed for the following:
      - a. The presence of officers;
      - b. Issuing commands;
      - c. Routine or procedural physical contact necessary to accomplish a task, including, but not limited to, guiding a subject, holding a subject's arm for escorting, handcuffing; or
      - d. Pointing a firearm, IDS, or CEW at a subject.
    4. Blue Team Pointed Weapon Report
      - a. Will be taken when a firearm, IDS, or CEW is pointed at a person.
      - b. Will not be used as a Blue Team threshold indicator for the PEP program.
      - c. May prompt interventions.
- 4.12.3 Response to Resistance, Blue Team incidents, and Pointed Weapon reports are internal administrative instruments and will not be released to outside persons or agencies without the approval of the chief of police.
- 4.12.4 Supervisory Review
  1. Supervisors are responsible for reviewing reports submitted by their subordinates for issues related to policy and procedures, training, equipment use, officer conduct, and final approval.
  2. Supervisors who are involved in a use of force incident will submit their reports to another supervisor to review and submit. Likewise, supervisors will not handle complaints or allegations of misconduct resulting from incidents that the supervisor was involved in, witnessed, or authorized.
  3. The investigating supervisor will forward the Response to Resistance Incident to ISB and the FTU after it is approved by the chain of command.
  4. When an officer uses a chemical irritant agent on a subject, the officer will immediately notify the shift supervisor. If further medical attention is necessary, appropriate action will be taken. When chemical agent is used, the officer will complete the Response to Resistance Incident in Blue Team. The supervisor is required to approve the Response to Resistance Incident in Blue Team before the end of his or her shift.
  5. If the supervisor has reservations concerning the accuracy, the supervisor will not approve the Blue Team incident and will write a memo to the shift commander explaining any reservations.



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The supervisor will attach the memo to the Response to Resistance incident in Blue Team and forward the memo for the shift commander's review. If the shift commander agrees with the supervisor's concerns, he/she will follow the chain of command and forward the Blue Team report with the attached memo to the precinct/bureau commander via Blue Team. The station/bureau commander will determine if the report and memo shall be forwarded to Inspectional Services for further investigation.

6. Any supervisor with reservations that does not approve the Response to Resistance Blue Team Incident will not weigh the canister that discharged the chemical agent, but will have the officer report to the Criminal Justice Complex Property Room, where the canister will be weighed by property room personnel. The supervisor will enter the weight information into the comments/instructions block of the Blue Team incident before forwarding the incident up the chain of command immediately.

#### 4.12.5 ISB Maintenance and Review of Response to Resistance Forms

1. ISB will maintain all original Response to Resistance forms and the data generated from the forms.
2. The review of incidents will answer the following questions:
  - a. Was policy and procedure followed;
  - b. Is the applicable policy clearly understandable and effective in covering the incident;
  - c. Is current use of force training adequate;
  - d. Is current equipment adequate; and
  - e. Are there tactical issues that should be addressed in training?

#### 4.12.6 Analysis of Reports from the Use of Force

1. ISB will conduct an annual analysis of the use of force incidents, policies, and practices.
2. The Use of Force Analysis must include, at minimum:
  - a. The date and time of incidents;
  - b. The types of encounters resulting in the use of force;
  - c. Trends or patterns related to race, age, and gender of persons involved;
  - d. Trends or patterns resulting in injury to any person, including employees; and
  - e. The impact of findings on policies, practices, equipment, and training.
3. The ISB commander will forward the analysis to the chief of police.
4. The ISB commander will forward any training issues to the Training Academy.



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#### **4.13 Use of Force Involving Animals**

- 4.13.1 Officers should be aware that they will receive calls involving large, aggressive, unleashed animals that are causing a disturbance or are a threat to the officer or community.
- 4.13.2 When dealing with animals, officers should use only the amount of force needed to accomplish their duties, attempting to adhere to the guidelines concerning force established in the Response to Resistance Continuum.
- 4.13.3 When deciding to use deadly force on an animal, the safety of the officer and community is the primary consideration. The officer must make every effort to ensure it is done as safely and humanely as possible and without undue suffering or the animal's escape.
- 4.13.4 In addition, the officer must remain aware of the potential danger that results from wounding a large frightened or vicious animal. If the animal's death is not immediate, officers are warned that the animal might become enraged and desperate, causing it to become aggressive or further threaten the safety of those on the scene.
- 4.13.5 An officer using deadly force against an animal should notify the dispatcher and complete a Response to Resistance Form. The dispatcher will notify the appropriate supervisors, bureaus, departments, and ISB for further action.
- 4.13.6 An officer using chemical agent against an animal will follow the same reporting procedures as though the force was used against a person.

#### **4.14 Notifications when Weapons are Fired**

- 4.14.1 When an officer discharges a firearm for purposes other than recreation or training, whether on- or off-duty, he or she will immediately report the incident to the dispatcher, who will notify the appropriate supervisor. The supervisor will go to the shooting scene and investigate the incident. Moreover, he or she will notify the precinct or bureau commanders of the use of force incident.
- 4.14.2 The dispatcher will notify a supervisor, who will proceed to the scene.
- 4.14.3 After arriving on the scene, the supervisor will:
  - 1. Begin an investigation;
  - 2. Notify the appropriate precinct and bureau commanders;
  - 3. Notify the appropriate deputy chief or duty chief if the incident occurs after business hours or on the weekend;
  - 4. Secure the crime scene by:
    - a. Creating an inner perimeter around the crime scene and preventing people from entering it until both Homicide and ISB arrive, unless an emergency exists, and
    - b. Creating an outer perimeter for crowd control.



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5. Obtain the identification of all witnesses. If they are willing to cooperate, they should be separated to the greatest extent possible.
6. Contact the following through the communications bureaus:
  - a. Inspectional Services Bureau,
  - b. The Homicide Bureau or Felony Response after hours, and
  - c. Crime Scene Investigations.
7. Prohibit the unholstering of weapon(s) before Homicide, ISB, and CSI all make the scene to check the weapon(s), and
8. Return cars to service once it is determined that they are no longer needed.

#### 4.14.4 ISB, CSI, and Homicide Bureau

1. ISB, CSI, and the Homicide Bureau will be notified about the use of force incident and will respond to the scene to investigate the shooting incidents:
  - a. An officer involved shooting, whether on- or off-duty, where someone has been shot or there is evidence that someone was shot and has not been located. A courtesy call will also be made to the AG's office by the chief of police or assistant chief anytime a suspect is carried critical, advising them of the situation;
  - b. When an officer has fired a weapon at a suspect and there is no evidence that the suspect was shot;
  - c. Incidents where an officer has been shot or shot at by a suspect; and
  - d. When an officer reports that he or she was attacked with deadly force, but not seriously injured.
2. ISB, Homicide, and CSI will respond for a scene investigation regardless of the time of occurrence. Between 1600 hours and 0800 hours, Felony Response investigators and a supervisor will respond to assist Homicide investigators with the preliminary investigation regarding scene security and identify and interview witnesses.
3. CSI will send a supervisor and at least two CSI officers to all police related shootings.

#### 4.14.5 ISB and CSI Notification

1. ISB and CSI will respond for an on-scene investigation of incidents involving:
  - a. Any shooting by an officer occurring on- or off-duty resulting in property damage; or
  - b. Animal related shootings by an officer that occur on or off duty; or
  - c. Any unintentional discharge of a firearm.





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2. Recreational use of personal firearms and training on legitimate firing ranges is not investigated unless injury or death occurs.

#### 4.14.6 Law Enforcement Use of Force and Custodial Death Investigations

1. TBI will investigate law enforcement use of force investigation that result in death. The TBI will investigate in custody or use of force death for the Memphis Police Department. (The Shelby County District Attorney will approve this action.)
2. Upon the occurrence of such incidents, the following will happen:
  - a. The department will make immediate notifications to the bureaus, the duty chief, and ISB;
  - b. The duty chief will notify the chief of police and/or assistant chief; and
  - c. The chief of police or assistant chief will immediately notify the DA's office, who will notify TBI.
3. ISB will direct uniform patrol to:
  - a. Secure any scenes connected to the incident, including the main crime scene perimeter with access limited to emergency medical personnel, medical examiner personnel, and TBI personnel;
  - b. Detain and hold any suspects or arrested persons pending the arrival of TBI personnel; and
  - c. Identify and separate all officers and willing witnesses for subsequent interview by TBI.
4. In exigent circumstances, necessary steps will be taken to shield the crime scene and document evidence prior to TBI's arrival when it is necessary to protect the integrity of the crime scene. TBI will be contacted prior to any actions by Crime Scene.
5. TBI will work with the department per the MOU with the Memphis Police Association and the agency's critical incident stress debriefing protocols.
6. TBI will initiate an investigation in accordance with state law and TBI memorandum of understanding policy. They will:
  - a. Dispatch TBI personnel necessary for properly conducting the investigation;
  - b. Be responsible for collecting, documenting, and processing all evidence, including the uniforms, gun belts, and possibly shoes of involved officers;
  - c. Issue investigative reports and summaries to the DAs as appropriate in the investigative process; and
  - d. Submit final reports to the DA's office for review without an opinion on whether the force used, if any, was justified.
7. Officers should complete an Equipment Replacement Form to replace any items collected and not returned by TBI.



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8. ISB will be notified to conduct departmental investigations and will be the point of contact for on-scene investigations with TBI.
9. The Training Academy Response Team will be notified and respond for on-scene observations for all shooting incidents involving:
  - a. Shootings by an officer, on- or off-duty, when someone has been shot or there is evidence that someone was shot but has not been located.
  - b. When an officer has fired a weapon at a suspect and there is no evidence that the suspect was shot.
  - c. An officer being shot or shot at by a suspect.

#### **4.15 Investigations**

##### **4.15.1 Investigations not Requiring TBI Notification**

1. The commander of the Homicide Bureau (or a designee) will be the on-scene commander, unless the incident is one that requires TBI notification. If the incident requires a TBI investigation, TBI will assume control of the scene when they arrive.
2. In every firearm discharge, including off-duty incidents, the primary objective of ISB is to conduct the administrative investigation to determine whether departmental policy was adhered to by the officer involved.
3. ISB will provide an on-scene debriefing area for officers involved in discharging their weapons. This area may be a room, van, or any other location deemed appropriate by the ISB commander. It will serve as a central point for filling out reports, checking weapons, issuing replacement weapons, and any other tasks necessary for completing the on-scene investigation. An ISB member will be at this location to assist officers. No walk-through will be performed before ISB arrives. The walk-through will be done under the supervision of an ISB member. The purpose is to ensure the integrity of the scene.
4. When a squad car is involved in an accident during a shooting incident, the Traffic Bureau will make the scene and take all necessary accident reports.

4.15.2 ISB will investigate compliance with department policy only on the use of deadly force. Any officer involved in a shooting incident where a suspect was fired upon by the officer, whether the suspect is struck or not, will be routinely relieved of duty with pay pending the outcome of the investigation.

##### **4.15.3 Shooting Incidents Handled by MPD**

1. The Homicide Bureau is responsible for the criminal investigation of officer-involved shooting incidents and will obtain statements, create supplemental and state reports, and make presentations to the Shelby County Attorney General. It is at the lead scene investigator's discretion whether additional bureaus are contacted for assistance.
2. The following procedures will be followed on all police related shootings when an officer or citizen has been shot or is believed to have been shot.



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- a. The Homicide Bureau is responsible for the on-scene investigation. The oversight of Inspectional Services ensures the integrity of the process is maintained;
  - b. The only evidentiary photographs taken on the scene of a police shooting will be done by CSI under the direction of the lead homicide investigator and the Inspectional Services investigator. Digital photographs will be taken and a photo log completed. CSI will tag all evidence, including the officer's weapon. The lead Homicide investigator will order all evidentiary testing. A copy of the CSI report will be made available for the Inspectional Services' file, along with a copy of the photographs;
  - c. A Homicide or Felony Response investigator will provide a written description of the scene, the evidence documented, and the procedures taken;
  - d. Entrance into a contained scene is limited to the lead Homicide/Felony Response investigator; one assisting investigator, if necessary; one Inspectional Services investigator, for observation and taking notes for internal use; CSI officers; and medical examiner staff. After the scene has been completely processed, Homicide and Inspectional Services supervisors will review the scene with the lead homicide investigator to ensure that all investigative measures have been taken. Inspectional Services should then conduct a walk-through with involved officers;
  - e. The Inspectional Services Bureau, Homicide, or any other investigative bureau will not typically interview officers involved in a critical incident until at least 48 hours later. There may be times when interviews will be conducted sooner, and that decision will be made by the chief of police, his/her designee, ISB, Homicide, or any other investigative bureau supervisor when required. Inspectional Services will take and retain the officers' original Garrity statements. Homicide will take statements, as well, and they will be forwarded to ISB upon their request;
  - f. Homicide and Inspectional Service Investigators will work in conjunction to take live statements from witnesses, including officers. The original of the statement(s) will remain with the lead Homicide Investigator, and a copy will be retained by Inspectional Services; and
  - g. A debriefing will take place at the ISB office within five days of the scene investigation that includes the lead investigator from Inspectional Services, Homicide, the supervisor/commander from both bureaus, and the commander or assistant commander of Investigative Services. The debriefing will discuss the initial data gathered and determine the direction needed to complete the case.
3. This is also an opportunity for the investigating bodies to discuss problems and develop solutions. It is the responsibility of the commander of Inspectional Services and the commander or assistant commander of Investigations to brief the command staff.
  4. The Homicide Bureau or Felony Response will determine the criminal charges placed against a suspect wounded during the commission of a crime.



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#### 4.16 Review Procedures

- 4.16.1 Two Attorney General's homicide advisors will review the case independently after the initial investigation, which is concluded when all crime scene work is completed and all known statements, including those of officers, have been taken. After this review, the Attorney General will take one of three actions: recommend further investigation, recommend completing the case and presenting it to the grand jury for prosecution, or document that the case does not appear to be prosecutable at that stage. The Homicide Commander will advise the command staff in writing as to the initial findings.
- 4.16.2 All documents, including the Response to Resistance Incidents, Crime Scene Report, and Bureau Report, will be presented by ISB to the chief of police for review, as well as copies of arrest tickets, offense reports, and memos.
- 4.16.3 Upon reviewing all initial reports, the chief of police will take one of the following actions:
1. Order new or additional investigations as required;
  2. Concur with the findings that the officer(s) was justified in the use of deadly force and order the officer(s) to be notified by letter; or
  3. Concur with the findings that the officer(s) was not justified in the use of deadly force and direct administrative processing of the Statement of Charges issued by Inspectional Services under the established disciplinary procedures.
- 4.16.4 The lead Homicide investigator will complete the investigative file, including all reports, lab results, final autopsy report, and all evidentiary information, along with a written summary of the facts. The Homicide supervisor and Lt. colonel of Investigative Services will review the investigative file within 10 working days and accept it or order additional investigative measures. The homicide file will then be forwarded to Inspectional Services for review and presentation to the Grand Jury Section of the Attorney General's office for final review.
- 4.16.5 Upon completion of this review, the Inspectional Services commander/supervisor will notify the command staff of the final disposition.

#### 5. DEFINITIONS

- 5.1 Conducted Energy Weapon (CEW) - A CEW is an electronic device that is less lethal. It is a hand held device that discharges an electronic current to override a subject's central nervous system causing temporary incapacitation (probe mode) or discomfort (stun mode).
- 5.2 CEW Arc Displayed - The CEW is removed from the holster, and the electric arching is displayed to the subject. The subject then complies without the actual use of the CEW in either drive or stun mode.
- 5.3 CEW Cartridge - A CEW cartridge is a sealed unit that contains the CEW probes.
- 5.4 CEW Deployed - The CEW is used in drive stun mode or the probe deployment mode is utilized in an attempt to gain compliance.
- 5.5 CEW Displayed Mode - The CEW is removed from the holster and is visible to the subject. The incident concludes without the actual use of the CEW.



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- 5.6 CEW Laser Pointed - The CEW is removed from the holster, and the laser targeting mechanism is activated and pointed in the direction of the subject. In response, the incident is concluded without the actual use of the CEW in either probe mode or drive stun mode.
- 5.7 Choke hold - Choke hold means an intentional use of pressure or constriction to the neck, throat, or windpipe intended to inhibit breathing
- 5.8 Deadly Force - That amount of force that is sufficient to, intended to, or may be reasonably expected to inflict serious bodily injury and/or death. This includes the discharge of any firearm at, near, or in the direction of any individual.
- 5.9 De-escalation – De-escalation enables an officer when practicable to initiate specific actions to defuse an event where the use of force would be legally justified at that time. This may be accomplished through both verbal and tactical actions which may include: containment, securing backup, using cover or requesting CIT.
- 5.10 Drive Stun Mode - The drive stun mode is when a CEW is placed in direct contact with a person's body or clothing. The stun mode creates discomfort in the immediate area around the probe contact points and due to the narrow spread of the CEW probes, the stun application will likely not cause motor skill dysfunction.
- 5.11 Empty Hand Control – A method of control employed by an officer without the aid of equipment or weapons. This physical force is employed when it is necessary to overcome a subject's physical resistance to an officer's lawful objectives. There are two subcategories: Soft and Hard Empty Hand Techniques.
- 5.12 Excessive Force – *Excessive force* is defined as the amount of force which is beyond the need and circumstances of the particular event or which is not justified in the light of all circumstances.
- 5.13 Exhaustion of all Other Reasonable Means - All other reasonable means have been exhausted when an officer has tried to control conflict by using all alternate methods other than deadly force. However, all other reasonable means may be considered to have been exhausted when an officer analyzes a set of circumstances and honestly and reasonably concludes that any other means will be ineffective, useless, or hazardous to the officer or some innocent third party.
- 5.14 Hard Empty Hand Techniques – This subcategory includes kicks, punches, or other striking techniques such as brachial stun or other strikes to key motor points that have a moderate chance of injury.
- 5.15 Grave sexual abuse - Grave sexual abuse means aggravated rape (TCA 39-13-502), rape (TCA 39-13-503), rape of a child (TCA 39-13-522), or aggravated rape of a child (TCA 39-13-531)
- 5.16 Impact Delivery System - Sage SL-6 Multi-Role 37mm launcher
- 5.17 Lateral vascular maneuver - The lateral vascular maneuver is any use of force application intended to gain control of a subject by restricting blood flow to the brain for the purpose of incapacitation.
- 5.18 Less Lethal Impact Munitions - Ammunition designed and developed to be launched as less lethal force



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- 5.19 Necessary Force – *Necessary Force* or “reasonable force” is force that can be reasonably used by an officer to accomplish their duties in a timely manner; force that keeps both the officer and citizen as safe as possible. Officers are permitted to use whatever force is necessary and reasonable to protect others or themselves from bodily harm.
- 5.20 Less Lethal Force - Less lethal force is force that is applied with the intention to subdue or render a subject non-threatening, with a lower probability of producing fatal results.
- 5.21 Officer - An officer is any member of the department that is classified as either a full time or reserve law enforcement officer by the Tennessee Peace Officer Standards and Training Commission and TCA 38-8-101. The term *officer* is inclusive of all ranks.
- 5.22 Overt act - An overt act is an act that a reasonable law enforcement officer would believe indicates the intention to kill or do bodily harm to the officer or another person. An overt act also encompasses a subject who attempts to escape from custody.
- 5.23 Probable Cause - *Probable cause* exists when facts and circumstances within an officer's knowledge, and of which he has reasonably trustworthy information, are sufficient to warrant a man of reasonable caution in believing that an offense has been, or is being committed, and that the suspect committed it.
- 5.24 Probe Deployment Mode - The probe deployment mode of the CEW propels two darts from the cartridge to contact a person's body. The CEW sends an electrical signal to the probes through the wires, which can disrupt the subject's body's ability to communicate messages from the brain to the muscles to disrupt motor functions. Disruption depends upon multiple factors, which include the distance between probes, probe placement, and the subject's clothing thickness.
- 5.25 Serious bodily injury - Serious bodily injury means bodily injury that involves: a substantial risk of death; protracted unconsciousness; extreme physical pain; protracted or obvious disfigurement; protracted loss or substantial impairment of a function of a bodily member, organ, or mental faculty; or a broken bone of a child who is 12 years of age or less.
- 5.26 Soft Empty Hand Techniques – This subcategory includes escort controls, touch pressure points, wrist or arm locks, and take down techniques that have a minimal chance of injury.
- 5.27 Unnecessary Force - *Unnecessary Force* is that force or violence that is unprovoked, needless, or not required when making an arrest or dealing with a prisoner or any person. Officers shall never use unnecessary force.
- 5.28 Use of force continuum - The use of force continuum contains the list of force options available to officers. The continuum is organized from the least severe level of force, physical presence, to the most severe level of force, deadly force. The continuum is a dynamic concept that allows for officers to select and continually evaluate the appropriate level of force based upon the officer's training and experience in an escalating and de-escalating manner.
- 5.29 Violent Felony - A felony in which the suspect has used, threatened to use, or attempted to use force that can cause death or serious bodily injury.



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#### 6. **CANCELLATIONS**

This document is to be reviewed annually.

#### 7. **REFERENCES**

Eight Can't Wait (<https://reimagine.memphistn.gov/eight-cant-wait/>)

MOU among TBI, District Attorney General's Office for the 30<sup>th</sup> Judicial District, MPD, and SCSO

TCA 38-3-121 Choke holds; restrictions on use

TCA 38-8-101 Part definitions

TCA 38-8-129 Duty to intervene

TCA 39-11-611 Self Defense

TCA 39-11-612 Defense of third person

TCA 39-11-620 Use of deadly force by a law enforcement officer

#### 8. **SIGNIFICANT CHANGES**

#### 9. **APPENDIX:**