



4 June 2020

Newton City Hall
1000 Commonwealth Avenue
Newton, MA 02459

From: Jake Auchincloss, Chair of Public Safety & Transportation Committee

To: Newton City Council
Chief of Police

Re: Analysis of Newton Police Department Use of Force Policies

Dear colleagues:

Below please find an analysis of Newton Police Department Use of Force Policies, in relation to limits proposed by the [Use of Force Project](#). Read more about the project [here](#).

Mayor Ruthanne Fuller announced on 4 June 2020: "NPD will review our Use of Force policy, updating it to ban chokeholds and to require police officers to intervene when witnessing excessive force. We will reevaluate our training for officers, which currently includes de-escalation, racial bias, and fair and impartial policing. We will re-examine our police policies and our procedures for ensuring compliance."

As Chair of Public Safety, I had been preparing this document prior to the Mayor's announcement, and now share it with the City Council to ensure we may partner with the Mayor and Police Chief in this important project. **This analysis is still a work in progress**, and I am sharing it with the Newton Police Department for their review.

At present evaluation, the Newton Police Department Use-Of-Force policies align fully with **four** of these eight limits. Highlighted limits are those that are **not** fully fulfilled in NPD guidelines, by my reading.

1. **Require officers to de-escalate situations, where possible, by communicating with subjects, maintaining distance, and otherwise eliminating the need to use force.**

NPD guidelines suggest, but **do not** require, officers to de-escalate situations, where possible, by communicating with subjects, maintaining distance, and otherwise eliminating the need for force:

"Effective verbal communication can often reduce and/or manage anxious, aggressive, or even violent behavior. The appropriate use of verbal communication can often prevent or at least minimize the need for force."

2. **Ban chokeholds and strangleholds.**

NPD **does not** offer any specific language in reference to chokeholds and strangleholds.

3. **Require officers to intervene and stop excessive force used by other officers and report these incidents immediately to a supervisor.**

NPD **does not** offer any specific language on the requirement of officers to intervene and stop excessive force. It does, however, require the reporting of all use-of-force incidents through the chain-of-command to the Chief of Police:

"The following command staff members shall be notified anytime the use of force or actions of any employee results in the death of a person, an injury likely to cause the death of a person, and/or a shooting incident involving other persons or officers:

(a) Chief of Police; (b) Internal Affairs Unit; and (c) Captain of Detectives. The officer's immediate supervisor shall conduct all other Use-of-Force investigations with a full report through the chain-of-command to the Chief of Police. If the actions of a civilian employee result in death or serious bodily injury, the incident shall be investigated by Internal Affairs with a full report forwarded to the Chief of Police."

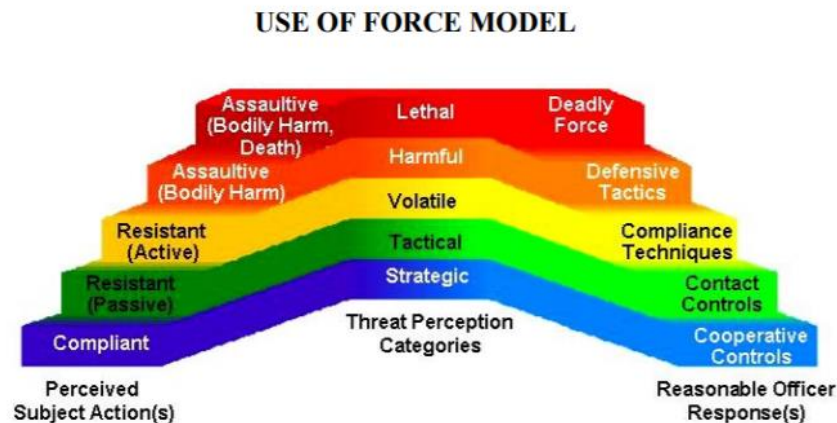
4. **Restrict officers from shooting at moving vehicles, which is regarded as a particularly dangerous and ineffective tactic.**

NPD guidelines **do** explicitly restrict officers from shooting at moving vehicles:

"Officers shall not discharge their firearm at a moving vehicle unless there is an imminent danger of death or serious bodily injury from the vehicle in motion to the officer or other person(s), and, there is no available means of escape for the officer or other person(s) involved."

5. **Develop a Force Continuum that limits the types of force and/or weapons that can be used to respond to specific types of resistance.**

NPD **has** developed a force continuum, adopting their model from Dr. Franklin Graves at the Federal Law Enforcement Training Center and Gregory J. Connor at the University of Illinois Police Training Institute:



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

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

Compliance Techniques: Includes resistant countermeasures designed to counter the subject's enhanced degree of resistance. These tactics could include the Hand Rotation Technique, chemical irritants, etc.

Defensive Tactics: Includes assaultive countermeasures designed to cease the subject's non-lethal assault on the officer or others, regain control, and assure continued compliance. These tactics could include baton strikes, kicking techniques, etc.

Deadly Force: Includes assaultive countermeasures designed to cease an assault that is lethal or could cause great bodily harm on the officer or others. These tactics could include the use of a firearm, lethal strikes, etc."

6. Require officers to exhaust all other reasonable means before resorting to deadly force.

NPD **does** require officers to exhaust all other reasonable means before resorting to deadly force:

"Officers should exhaust all minimum levels of force before resorting to more severe options, except when the totality of circumstances require the immediate use of a higher level of force in order to prevent the commission of a crime, or serious bodily injury or death would result to the officer or another person..."

"An officer is authorized to use deadly/lethal force only in the following circumstances and if there is no other reasonable alternative available:

- (a) To defend himself or another person from unlawful attack when he or she has reason to believe there is imminent danger of death or serious bodily injury. The unlawful attack must involve the means capable of inflicting death or serious bodily injury. Serious bodily injury is defined as an injury which creates a substantial risk of death or which causes permanent disfigurement or long-term loss or impairment of the functions of any bodily member or organ. "The reasonableness determination is based on objective reasons in light of the facts and circumstances confronting them (officers), without regard to their underlying intent or motivation. Reasonableness is judged from the perspective of the reasonable officer on the scene. Allowance should be made for split-second decisions about the force necessary in a particular situation (Graham vs. Connor, 1989, SJC)."
- (b) Flight in and of itself is not necessarily evidence of the commission of a crime and is not a sufficient reason for the use of deadly/lethal force. The use of deadly/lethal force against a fleeing felon shall only be authorized to defend the officer or another person from unlawful attack when the officer has reason to believe there is imminent danger of death or serious bodily injury.

If necessary, and when the situation is safe to do so, provide emergency medical attention to the victim."

7. Require officers to give a verbal warning, when possible, before shooting at a civilian

NPD **does** require officers to give a verbal warning, when possible, before shooting at a civilian:

"Officers encountering a situation where the use of deadly force is warranted shall issue a verbal warning first if circumstances and safety considerations allow. The preferred verbal warning is Police – Don't Move!"

8. Require officers to report each time they use force or threaten to use force against civilians.

NPD **does** require officers to report each time they use force, but **does not** include specific language regarding reporting incidents of *threatened* force:

"A written report shall be submitted whenever an officer: (a) Discharges a firearm for any reason other than training, recreational or animal control purposes. (b) Takes action or uses force that result in, or is alleged to have resulted in, injury or death of another person. (c) Applies force through the use of lethal or less-than-lethal weapons (including Oleoresin Capsicum and Batons). (d) Draws or displays their firearm (e) Applies weaponless physical force. This does not include light physical tactics as previously defined.

Included in the narrative of the incident report must be a complete description of the events that led to the use of force, any verbal commands issued, any response or failure of the subject to respond, the type of force used and the ultimate results, including any resulting injuries to any parties and any medical services required and received."