

July 19, 2021

Mayor Karl Dean
Mr. Dwight Lewis
Co-Chairs, Policing Policy Commission

Gentlemen:

I hope this letter finds you safe and well. I am writing today to inform you of formal changes to the MNPD Manual, specifically as pertains to De-escalation and Use of Force, that will take effect at the close of business today. The changes were previously outlined as new policy several months ago in Roll Call Training documents pending revisions to the MNPD manual.

As you are aware, de-escalation is one of the pillars upon which I expect all MNPD officers to practice as they serve and protect our community. We have placed significant emphasis on de-escalation training over the past few years, and I know from our officers in the field the training is working to diffuse tense situations. The manual policy revisions effective today require the use of de-escalation techniques and tactics where feasible (i.e., an active shooter situation may not necessarily allow for such). Additionally, the revisions make it clear that failure to de-escalate a given situation where reasonable and possible is grounds for disciplinary action, up to and including termination, as is the use of excessive or unauthorized force.

I am grateful for each of you and the members of the Policing Policy Commission. I hope you have an enjoyable summer, and I look forward to seeing you as our paths cross.

Sincerely,

John C. Drake
Chief of Police

Policing Policy Commission Report
Action Items with Proposed Timeline of “6 Months”



MNPD Response

July 19, 2021

“What this Commission wants most of all – and believes Nashville needs – is a Nashville model of policing.”

Item 33: Require that de-escalation tactics be utilized before an officer uses force, be it non-deadly or deadly.

MNPD Response: The MNPD issues and disseminates a Department Manual for all employees. That Manual is under continuous revision and updating. It is available online at: <https://www.nashville.gov/Police-Department/Department-Manual.aspx>

Because the Manual envisions that all policies are read and applied as part of a complete Manual; no policy stands alone and needs to be considered in the context of the entirety of the Manual. However, for clarity on certain unique issues, the MNPD Use of Force policy has been revised and now includes specific language in the Use of Force policy itself. Those policy changes include (emphasis added):

11.10.020, Definitions Specific to Use of Force:

H. De-escalation: *Actions which may aid in stabilizing the situation and reduce the immediacy of the threat so that more time, options, and resources are available to resolve the situation. The goal of de-escalation is to gain the voluntary compliance of subjects, when feasible, and thereby reduce or eliminate the necessity to use physical force.*

11.10.030, General Provisions, M. De-Escalation:

- 1. In accordance with current MNPD training on use of force, and where feasible, authorized employees shall use de-escalation techniques and tactics to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources are available to resolve the situation.*
- 2. In accordance with current MNPD training on use of force, officers shall continually assess the situation and seek to utilize de-escalation techniques in all use of force incidents, where possible.*
- 3. De-escalation techniques may include, but are not limited to:*
 - a. Vocal/Voice Control: Ensuring only one member addresses an individual at a time, regulating vocal tone, explaining the officer's actions and responding to questions, avoiding repetitive command loops, using calming gestures, verbal persuasion, verbal advisements and verbal warnings.*
 - b. Decreasing exposure: Moving to a safer distance, seeking cover, tactical repositioning, and utilizing barriers between uncooperative subjects.*
 - c. Slowing down the pace of the incident: Slowing speech, taking deep breaths, waiting the subject out, avoiding physical contact/confrontation, calling for additional personnel, requesting specially trained officers (bilingual, negotiators, CIT, etc.).*

- d. *Decreasing visual triggers: Avoid angry expressions or tones, avoiding unnecessary display of weapons.*
 - e. *Disengagement: While the ultimate objective of every subject encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to a potential physical injury before applying reasonable force. However, in some situations, disengagement may be a viable option for individuals who pose no additional threats to themselves or others and who may later be apprehended under safer conditions.*
4. *Employees shall reduce the degree of force used as the threat diminishes and cease the use of force as soon as reasonable.*
 5. *Successful resolution of an encounter ultimately relies on the cooperation of a subject to provide officers with the time and opportunity to employ de-escalation techniques. Cooperation is more likely obtained by conveying respect and professionalism to the subject throughout the contact.*

Item 33a: Establish that failing to use reasonable de-escalation techniques under the appropriate circumstances will result in disciplinary action

MNPD Response: As referenced above, the MNPD uses a Department Manual format. The Manual envisions that all policies are read and applied as part of a complete Manual; as such, no policy stands alone and needs to be considered in the context of the entirety of the Manual. However, for clarity on certain unique issues, the MNPD Use of Force policy has been revised and now includes specific language in the Use of Force policy itself. Those policy changes include (emphasis added):

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11.10.010, Purpose Statement

...

Officers who use excessive or unauthorized force, fail to use authorized techniques, or fail to de-escalate, where reasonable and possible, shall be subject to discipline, up to and including termination, possible criminal prosecution, and/or civil liability.

...

11.10.030 (F)

Employees shall adhere to department approved procedures, training, and tactics related to use of force. (The category of violation is based upon the circumstances and nature of the offense).

Item 33b: Require that training clearly states and teaches that physical force should only be used as a last resort.

MNPD Response: Regarding the requirement that force be used as a "last resort", MNPD policy and training includes substantively similar language. Any force used must be both reasonable and necessary. This is reflected in the fact that force use by MNPD is rare. On average, for every 10,000 police interactions of any type, we see only 3.8 uses of force (.038%) police interactions.

Instead of absolute language requiring "last resort", MNPD provides guidance that requires all other reasonable alternatives to force to be exhausted or determined to be ineffective.

The MNPD Manual and training provide officers with a force continuum. A force continuum describes an escalating series of actions an officer may take to resolve a situation. This continuum generally has many levels, and officers are instructed to respond with a level of force appropriate to the situation at hand, acknowledging that the officer may move from one part of the continuum to another in a matter of seconds.

If presented with a compliant subject, then presumably, any force use by an officer would not be reasonable or necessary. However, if presented with a suspect discharging a firearm at the officer, the officer need not progress through presence, verbal direction, soft empty hand control, chemical spray, Taser, hard empty hand control, and impact weapon before responding to the suspect's use of deadly force. An officer makes an objectively reasonable decision to respond to the level of force they are confronted with at a particular time. Just as a suspect can throughout the levels of resistance; an officer responds accordingly by adjusting throughout the force continuum.

This proposed "last resort" standard would require an officer to exhaust each and every element of the force continuum, before meeting resistance with equal force. The example would be, as described above, making it a policy violation for an officer to not attempt a lesser use of force against a subject who is discharging a firearm at him/her.

MNPD policy states (emphasis added):

Authorized employees are permitted to use only that force which is reasonable and necessary under the particular circumstances to protect themselves or others from bodily injury, and only after other reasonable alternatives have been exhausted or it is determined that such alternative action(s) would be ineffective under the circumstances. (11.10.040, E)

When the use of force is needed, if feasible, authorized employees will identify themselves and determine which options in the force continuum will best de-escalate the situation in the most safe, reasonable, and prudent manner possible. (11.10.040, A)