Title 11: Use of Force

11.10 Use of Force

The Metropolitan Nashville Police Department recognizes and respects the value and special integrity of each human life. When investing police employees with the lawful authority to use force to protect the public welfare, a careful balancing of all human interests is required.

11.10.010 Purpose

The main responsibility of MNPD officers is to protect the life and property of citizens. In compliance with applicable law, officers shall use only the amount of force necessary and reasonable to accomplish lawful objectives and to control a situation, effect an arrest, overcome resistance to arrest, or defend themselves or others from harm.

When force is necessary, the degree of force employed should be in direct relationship to the amount of resistance exerted, or the immediate threat to the officers or others. There is a compelling public interest that officers authorized to exercise the use of force do so in an objectively reasonable manner and in a way that does not violate the civil rights guaranteed by our Constitution, the Tennessee Constitution, and applicable law. Officers should attempt to use non-confrontational verbal skills, empathy, and/or active listening to stabilize a person in crisis or when confronted with a situation where control is required to effect an arrest or protect the public's safety. Officers who use excessive or unjustified force degrade the confidence of the community that they serve, undermine the legitimacy of a police officer's authority, and hinder the Department's ability to provide effective law enforcement services to the community.

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. The use of force is only authorized when it is objectively reasonable and for a lawful purpose. Accordingly, the Department will thoroughly review and/or investigate all uses of force by officers to assure compliance with all legal requirements and this policy.

This policy is for Metropolitan Nashville Police Department use only and does not apply in any criminal or civil legal proceedings. This department policy should not be construed as the creation of a higher legal standard of care. Violation of this directive will only form the basis for departmental administrative sanction.

11.10.020 Definitions Specific to Use of Force

A. **Absolutely Necessary:** All other options have been exhausted, unavailable, or are not feasible.

B. **Active Aggression:** Where the employee's attempt to gain lawful compliance has culminated in the perception of an attack, or the potential for such an attack, on the employee or others. The employee makes the reasonable assessment that such actions by the subject would not result in serious bodily injury or death to the employee or others.

C. **Active Resistance:** A subject whose non-compliance includes resistive movements or physical defiance.

D. **Aggravated Active Aggression:** Where the employee's attempt to gain lawful compliance has culminated in the perception of an attack or the potential for such an attack on the employee or others. The employee makes the reasonable assessment that such actions by the subject could result in serious bodily injury or death to the employee or others.

E. **Authorized Weapons and Ammunition:** Weapons and ammunition approved by the Metropolitan Nashville Police Department Chief of Police and the Training Division for which authorized employees receive departmentally approved safety and proficiency training.

F. **Conducted Energy Device (CED):** A hand-held device that is designed to subdue persons and/or animals. The device uses a low dose electrical current to temporarily stun and immobilize.

G. **Deadly Force:** Any use of force reasonably calculated to produce death or serious bodily injury.

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.

I. **Defensive Force:** Use of hands, feet, or any other defensive equipment to overcome violent resistance or to protect self or others from assault or injury.

J. **Display of Firearm:** Drawing and aiming, or similar un-holstered display indicating potential use, without discharge, of a firearm in circumstances where any person perceives the action as a threat of a use of force, whether or not this is accompanied by a verbal warning, aiming at or illuminating a subject with a weapon mounted light.

K. **Excited Delirium:** A state of extreme mental and physiological excitement, characterized by extreme agitation (including shouting and disruptive behavior), hyperthermia, excessive watering of the eyes, hostility, paranoia or panic, inappropriate nudity, exceptional strength and endurance without fatigue.

L. **Force-Continuum:** Broad categories of force, in identifiable escalating/de-escalating stages of intensity, in response to a subject's action. They are commonly identified as official presence, verbal direction, soft empty-hand control, hand-held chemical spray/conducted energy device, hard empty-hand control, batons, and firearms. A subject's action may be defined in broad categories including full compliance to commands, verbal uncooperativeness, passive resistance, active resistance, active aggression, and aggravated active aggression (deadly force).

M. **Hand-Held Chemical Spray:** Less than lethal device which delivers Oleoresin Capsicum via a propellant from a hand-held canister.

N. **Hard Empty-Hand Control:** Impact techniques that include knee, arm, and hand strikes, as well as kicks and dynamic takedowns.

O. **Impact Weapons:** A blunt impact object designed to immobilize a combative subject.

P. **Injury:** Includes any physical pain, illness, or any impairment of physical condition.

Q. **Less Lethal Devices:** A device that is designed to reduce the potential of causing serious bodily injury or death.

R. **Lethal Weapon:** Any weapon reasonably calculated to produce death or serious bodily injury.

S. **Neck Restraint:** Any pressure or constriction to the neck, throat or windpipe, arteries or vascular system that may impair breathing or impair circulation; including but not limited to chokeholds, strangleholds, carotid restraints, or lateral vascular restraint.

T. **Non-Deadly Force:** Any use of force other than that which is considered deadly force.

U. **Objectively Reasonable**: The reasonableness of a particular use of force is based on the totality of circumstances known by the officer at the time of the use of force and weighs the actions of the officer against the rights of the subject, in light of the circumstances surrounding the event. It must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.

Assessing the reasonableness of force used in a particular situation must allow for the fact that police officers are often forced to make split-second decisions in circumstances that are tense, uncertain, dynamic, and rapidly evolving. The reasonableness inquiry is an objective one: whether the officers' actions are objectively reasonable in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation.

V. **Official Presence:** The mere presence of a law enforcement officer works to deter crime or diffuse a situation. Not a use of force. The identification of an officer's authority may be by uniformed presence or verbal identification.

W. **Passive Resistance:** A non-compliant subject who offers no sign of physical defiance or resistive movement towards an employee's efforts.

X. **Physical Force:** The application of a technique, action, or device to compel a change in the actions of another person; usually compliance with a desired behavior, submission to authority, or to de-escalate a threatening behavior.

Y. **Positional Asphyxia:** Positional asphyxia is a position that can produce unconsciousness or death caused by a lack of oxygen or an increase of carbon dioxide in the blood.

Z. **Previously Existing Injury:** For the purposes of this policy, any injury, medical condition, or illness that existed prior to any officer's physical contact/custody with subject. The previously existing element may be a long established injury from months or years ago, to an injury incurred while eluding custody only moments or seconds prior to physical control by arresting officer(s).

AA. **Reasonable Belief:** The facts or circumstances the employee knows, or should know, are such as to cause an ordinary and prudent person

to act or think in a similar way under similar circumstances. Reasonable belief may be based upon the officer's evaluation of the situation, experience, training, and the totality of the circumstances known to or believed to exist by the officer at the time.

BB. **Restraining Force:** Force which is limited to holding and restraining persons, which shall include arm-lock and takedown holds, but shall not include neck restraints.

CC. **Self-Inflicted Injury:** For the purpose of this policy, an injury caused to one's self through one's own actions. Self-inflicted injuries are not caused by external factors but, rather, directly result from one's own behaviors, actions, and decisions. Self-inflicted injuries occurring PRIOR to an officer's physical contact/custody of subject should be reported as a Previously Existing Injury.

DD. **Serious Bodily Injury:** Bodily injury that creates a substantial risk of death, causes serious permanent disfigurement, or results in long-term loss or impairment of the functioning of any bodily member or organ.

EE. **Soft Empty-Hand Control:** The use of physical strength and skill in defensive tactics to control ~~arrestees~~ persons who are reluctant to be detained or taken into custody and offer some degree of physical resistance. Such techniques are not impact oriented and include pain compliance pressure points, controlled takedowns, joint manipulation, or simply grabbing a subject. Touching or escort holds may be appropriate for use against levels of passive resistance.

FF. **Verbal Direction:** The use of advice, persuasion, warnings, or clear directions prior to resorting to physical force. Includes calm, nonthreatening commands which may progress in volume and tone in an attempt to gain compliance. A coercive, non-physical, use of force.

GG. **Verbal Uncooperativeness:** A compliant subject who offers no sign of physical defiance or resistive movement towards an employee's efforts, yet verbalizes resistance to instructions.

11.10.030 General Provisions

A. Determining "Reasonableness" of Force:

1. Pursuant to the opinion issued by the United States Supreme Court in *Graham v. Connor*, the reasonableness of any particular force used shall be examined from the perspective of a reasonable

MNPD Officer, with similar training and experience, based on the same facts and circumstances.

2. Factors used to determine "reasonableness" may include, but are not limited to:
   a. The feasibility of using de-escalation tactics, crisis intervention or other alternatives to force;
   b. The seriousness of the crime or suspected offense;
   c. The level of threat or resistance presented by the subject;
   d. Whether the subject was posing an immediate threat to officers or a danger to the community;
   e. The potential for injury to citizens, officers or subjects;
   f. The risk or apparent attempt by the subject to escape;
   g. The conduct of the subject being confronted (as reasonably perceived by the officer at the time);
   h. The amount of time and any changing circumstances during which the officer had to determine the type and amount of force that appeared to be reasonable;
   i. The availability of other resources;
   j. The training and experience of the officer;
   k. The proximity or access of weapons to the subject;
   l. Officer versus subject factors such as age, size, relative strength, skill level, injury/exhaustion and number of officers versus subjects; and
   m. The environmental factors and/or other exigent circumstances.

B. Authorized employees shall not use force solely because another officer is using force.

C. At no time shall any level of force be utilized for retaliation, as punishment, or otherwise inconsistent with law and policy.

D. Authorized employees shall adhere to the following restrictions:

   1. Except for maintenance, official inspections, or during training, employees **shall not** draw or exhibit their firearm unless circumstances create reason to believe that it may become necessary to use it as provided in this policy;

   2. Warning shots are prohibited;

   3. When effecting an arrest, no form of deadly force shall be used which would pose a substantial risk to innocent bystanders;

4. When the use of deadly force is necessary to defend the employee or another from death or serious bodily harm, every effort will be made to minimize the risk of harm to innocent persons; and

5. Whenever an authorized employee is utilizing deadly force with a firearm, the employee shall ensure they have identified the target, have a clear field of view, and are aware of what is beyond.

E. In addition to the use of force provisions stated in this policy, an authorized employee may also discharge a firearm to destroy a seriously injured and suffering or dangerous animal when no other disposition is practical. A supervisor's approval will be sought when possible.

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).*

G. All members must recognize and act upon the Duty to Intervene in order to prevent or stop any member from conducting any act that violates law or policy (including, but not limited to excessive or unlawful force, unlawful behavior, abuses of authority or major violations of department policy or procedure). See also current policy provisions governing the duty to intervene.

H. Employees shall not**:**

1. Knowingly place themselves in a position where they would be in jeopardy of being struck by a suspect vehicle or knowingly stand and/or step into the path of a vehicle, creating circumstances where the use of deadly force may be necessary.

2. Discharge their firearm at or from a moving vehicle, motorcycle, or bicycle unless absolutely necessary to protect the life of the employee or others.

3. Restrain a person in a prone position any longer than necessary to properly secure the person. Any authorized employee who has placed a person in a prone position must move the person into a recovery position (on their side, sitting, or standing) as soon as the person has been properly secured to facilitate breathing.

I. All authorized employees shall be armed while on duty except, subject to supervisory approval, when their assignment requires otherwise.

J. The carrying of firearms while off-duty shall be at the discretion of the employee. If the employee chooses not to carry a firearm and the need for police services arises, the employee **shall** take appropriate action and request an on-duty employee to respond.

K. A firearm must always be carried by an authorized employee when operating a departmental vehicle except, subject to supervisory approval, when the employee's safety might be jeopardized should their identity be revealed.

L. When an authorized employee is in civilian attire and armed, the firearm must be concealed from view when in public. Authorized employees shall always possess their departmental credentials (I.D. card and badge) when armed.

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.

N. Use of equipment, other than the approved baton, as an impact device is prohibited.

   1. However, under **exigent circumstances**, other equipment may be used as a defensive impact device when the use of the baton is not feasible.

      a. If such non-lethal equipment is used as a defensive impact device within the guidelines of this policy, the training guidelines applicable to the use of a baton shall apply.

      b. If lethal equipment (firearm, vehicle, etc.) is used as a defensive impact device within the guidelines of this policy, the training guidelines applicable to the use of a deadly force shall apply.

   2. When such equipment is used as a defensive impact device, the member should disengage as soon as the situation permits and transition to an approved device.

   3. Authorized employees shall not intentionally strike the head, neck, or throat of an individual with an impact device, except where deadly force is justified.

O. When an employee reasonably believes that an arrestee has secreted an item within their mouth believed to be contraband or evidence, the following shall apply:

   1. An officer may reasonably order an arrestee to remove that which the arrestee has within their mouth.

2. Before an officer may use physical force to search an arrestee's mouth for contraband the officer must first have (all of the following simultaneously present):

    a. a lawful arrest of the person based upon probable cause;

    b. probable cause to believe that the arrestee has secreted a "seizeable item" (*e.g.* illegal drugs) within their mouth;

    c. a "clear indication" that a seizeable item will be found within the arrestee's mouth; and

    d. either a warrant authorizing an intrusion into the arrestee's mouth, or exigent circumstances, such as:

        (1) imminent destruction of evidence; or

        (2) medical emergency.

3. Once all of the prerequisites listed above have been satisfied, then an officer may use objectively reasonable force to extract the contraband secreted in the arrestee's mouth in a manner consistent with departmentally approved training.

4. After such incidents, such persons shall be medically evaluated by emergency medical personnel or by an appropriate medical facility.

11.10.040 Parameters for Non-Deadly Force

A. 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.

When communicating with any individual(s) wherein the use of force is likely, officers should be aware of any type of issue that may interfere with the subject’s ability for communication and/or comprehension of the officer’s instructions and/or commands.

Issues interfering with communication/understanding may include hearing impairment, medical condition, developmental disabilities, cognitive deficits (e.g., dementia), or other apparent behavioral/mental impairment.

B. Authorized employees are permitted to use department authorized non-deadly force techniques and equipment for resolution of incidents to:

1. Protect themselves or another from bodily injury;
2. Restrain or subdue a resistant person for whom there is probable cause to arrest or reasonable suspicion to stop;
3. Prevent damage to property; and/or
4. Bring an unlawful situation in which there is lawful authority for the employee to intervene, safely and effectively under control.

C. Authorized employees may use department issued or approved hobble restraints and approved custodial restraint techniques on subjects who have been combative to reduce the likelihood of self-inflicted injury or to control further resistance while handcuffed. Employees are **not** permitted to use hobble restraints, leg shackles, plastic ties, or any other device to place any subject in a manner which is likely to produce positional asphyxia.

D. Any use of force on subjects who are handcuffed or otherwise in custody is prohibited unless physical resistance must be overcome. Such uses of force must be specifically articulated - with an emphasis on why a particular level of force used was necessary to obtain compliance.

E. 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.

F. Flight alone shall not justify the use of any level of force beyond official presence or verbal direction on a suspect. An officer must have reasonable suspicion or probable cause to believe that the suspect has committed or is about to commit a criminal offense before utilizing force greater than verbal direction.

11.10.050 Use of Chemical Spray

A. When discharging chemical spray on an individual or animal that is within the parameters for the use of non-deadly force, the authorized employee shall:

1. Give the verbal warning of "**clear**" to alert other personnel that the spray is about to be used so they can create a safe distance between themselves and the target of the spray;

2. Use a short burst and only the number of bursts necessary to achieve the desired effect of temporarily immobilizing the individual being sprayed;

3. Use at a maximum distance of fifteen (15) feet, and a minimum distance of three (3) feet from the target person;

4. When possible, discharge the spray from the strong hand; and

5. Follow all other techniques and/or instructions taught or disseminated by Metropolitan Nashville Police Department Training Division personnel.

B. Storage & Security

1. Chemical spray shall be securely stored at all times when not in use.

2. An employee shall keep issued chemical spray out of reach of children at all times.

C. Further provisions regarding chemical spray:

1. Authorized employees shall be trained in the proficient use of chemical spray, in accordance with the training provided by Metropolitan Nashville Police Department Training Division personnel.

2. Authorized employees shall receive training and updates in the use of chemical spray on a biennial basis.

3. Authorized employees are only allowed to carry departmentally issued chemical spray.

4. Prior to carrying the chemical spray, the employee shall inspect the canister and ensure it is not expired.

5. Chemical spray is to be carried only in a department approved holster, on the front side of the utility belt or on the approved external vest carrier, in a manner consistent with established training.

6. Authorized employees will be issued one container of chemical spray by Training Division personnel and can obtain another container after a discharge (when over half of a can is used), if they bring the used container to the Training Division. Training Division personnel will attempt to verify that an MNPD Form 108, Use of Force Report is on file that describes the employee's use of the chemical spray before issuing the new container.

7. Carrying of a chemical spray while off-duty shall be at the discretion of the employee.

8. Authorized employees will not carry a chemical spray onto any airplane or helicopter.

9. Prior to using the chemical spray on an individual driving or in physical control of a vehicle, the employee(s) shall immobilize the individual's vehicle to prohibit it from moving during the incident, or ensure the vehicle would not pose an unreasonable risk to persons or property should chemical spray be deployed.

10. Authorized employees should not use a chemical spray in the vicinity of infants.

11. Any use of a chemical spray not consistent with established departmental policy or departmental training is expressly prohibited, and may result in remedial training, corrective or disciplinary action.

11.10.060 Use of Conducted Energy Device Taser®

A. The department may issue or make available a Conducted Energy Device (CED) to authorized employees who have successfully completed specialized training and qualification in the operation and use of these devices.

B. When possible, CEDs should be fired from the strong hand only. Additionally, CEDs should NEVER be held in the hand at the same time as the pistol.

11.10.070 Taser® / CED Training & Certification

A. Taser® training shall be provided by the Metro Police Training Division to authorized employees. Such training shall be consistent with approved lesson plans and the Taser® Student Manual.

B. Only those authorized employees who successfully complete and maintain certification may carry and/or deploy the Taser®.

C. To ensure proficiency, authorized employees will be required to successfully complete departmental Taser® training updates. This training shall, at a minimum, be provided annually.

11.10.080 Taser® Inspection & Storage

A. If a Taser® will be carried during the employee's shift, the employee shall perform any manufacturer recommended function testing and inspection at the beginning of each shift or prior to carrying the Taser® to ensure that the device is charged and properly functioning. The employee will also ensure any assigned cartridges are not expired.

B. Storage & Security

1. The Taser® shall be securely stored at all times when not in use.
2. An employee storing a Taser® shall be responsible for the safety and security of the Taser® unless another employee assumes responsibility for the device.
3. An employee shall keep the Taser® and cartridges out of reach of children at all times.

C. The Taser® shall be inspected, and its information noted, consistent with established policy and procedure governing departmental inspections.

11.10.090 Taser® Deployment

A. Deployment

1. The Taser® may be deployed consistent with established policy and procedure governing the force continuum. The Taser® is considered an "intermediate" level of force between soft empty-hand control techniques and hard empty-hand control techniques and may be deployed as appropriate.

2. Fleeing Suspect: All other provisions of this order notwithstanding, there must be probable cause to justify the arrest of a fleeing suspect for a criminal offense prior to utilizing the Taser® to effect the arrest.

B. When deploying the Taser®, probes or stun, at or upon an individual or animal that is within the parameters for the use of non-deadly force, the authorized employee shall:

1. Whenever possible, give the verbal warning of **"Taser!"** to alert other personnel that the Taser® is about to be used so they can create a safe distance between themselves and the target;

2. Deploy the Taser® consistent with department-approved training. Use only the minimum number of bursts and the minimum duration reasonably necessary to achieve the desired effect of temporarily immobilizing the individual or animal;

3. When possible, one authorized employee should deploy the Taser® while a cover employee is prepared with a standard weapon;

4. Employees should take the suspect into custody as soon as possible after deploying the Taser® thereby minimizing the number and duration of bursts necessary while realizing that the suspect may not be able to respond to commands during or immediately following a burst;

5. Follow all other techniques and/or instructions taught or disseminated by Metropolitan Nashville Police Department Training Division personnel; and

6. Employees shall be aware that first responders from the Nashville Fire Department have developed specific protocols when responding to calls where the Taser® has been utilized. To ensure the safety of suspects where a Taser® has been deployed, officers shall:

    a. Where feasible, notify the Nashville Fire Department prior to deploying the Taser® on a subject exhibiting characteristics of Excited Delirium; or
    b. When prior notification is not possible on a subject that is exhibiting characteristics of Excited Delirium, notify the Nashville Fire Department immediately after the Taser® has been utilized.

7. None of the above provisions shall preclude an employee from notifying the Nashville Fire Department and request

assistance in any other circumstance wherein the presence of medical personnel may be appropriate.

C. Further provisions regarding the Taser®:

1. Authorized employees are only allowed to carry the departmentally issued Taser® CED's and departmentally issued Taser® cartridges while on or off duty.

2. The Taser® is to be carried in a department approved holster on the front side of the utility belt or on the approved external vest carrier (in a cross-draw position), secured in the vehicle, or other approved method.

3. Carrying of the Taser® while off-duty shall be at the discretion of the authorized employee.

4. Prior to using the Taser® on an individual driving or in physical control of a vehicle, the employee(s) shall immobilize the individual's vehicle to prohibit it from moving during the incident, or ensure the vehicle would not pose an unreasonable risk to persons or property should the Taser® be deployed. All incidents of use will be consistent with established departmentally approved training.

5. The Taser® shall not be used on persons known to have been exposed to flammable liquids or sprayed with a chemical spray containing a flammable propellant, or in a location near flammable liquids or where flammable gasses are known to be present.

6. The Taser® should not be used on persons who are visibly pregnant or are at the extremes of age or physically disabled <u>UNLESS</u> there are compelling reasons to do so which can be clearly articulated.

7. The normal reaction of a person exposed to the discharge of a Taser® is the loss of some voluntary muscle control resulting in the subject falling to the ground or 'freezing' on the spot. For this reason, there is clearly a possibility of some secondary injury to the 'Tasered' subject, caused by falling and striking a hard surface. Particular attention should therefore be paid to the immediate environment and to assessing any additional risk factors (i.e., age, physical condition of the subject, objects being held by subject, etc.).

8. A Taser® shall not be used in cases of passive resistance, unless a lesser means of force:

    a. Has been attempted and failed;
    b. Is not an option due to exigent circumstances; or
    c. If attempted, could result in a significant possibility of injury to the employee or suspect.
    d. Where feasible, supervisory approval should be obtained before a Taser® is used to effect the arrest of a subject who is passively resisting.

9. Any use of the Taser® not consistent with established departmental policy or training is expressly prohibited, and may result in remedial training, corrective or disciplinary action.

11.10.100 Taser® Maintenance

A. Replacement Cartridges:

Upon use of a cartridge, the deploying personnel shall submit a copy of the completed Taser® Use Report-MNPD Form 108T detailing the use of the Taser® to the Police Training Division. Upon review of the supporting documentation, the Training Division will provide authorized replacement cartridges. Only cartridges provided by the Training Division are authorized for use.

B. All Tasers® shall be downloaded on a quarterly basis by designated supervisory personnel at the precinct or division. Such download data shall be accompanied by a completed Form 741, stored on the designated network based drive, and shall be maintained for at least five (5) years.

C. Any Taser® which may require service, repair, or maintenance shall be delivered to the Police Training Division as soon as practical. The Academy shall, when available, issue a temporary replacement Taser® until such assigned Taser® can be returned.

11.10.110 Reporting & Documentation of Taser® Use

A. Consistent with established policy, when force is applied through the use of the Taser®, the employee shall complete the Use of Force Report-MNPD Form 108 and a Taser® Use Report-MNPD Form 108T.

B. As with <u>any</u> application of force, multiple applications/bursts of the Taser®, in any mode, is a separate application of force within the

overall force incident and justification for each must be clearly articulated.

C. Personnel shall report the display of a Taser® when such display has had the effect of reducing or eliminating the need for additional use of force. Reporting of such displays shall be by the completion of a Taser® Use Report-MNPD Form 108T (if no other force is used, a Use of Force Report-MNPD Form 108 is not required). For purposes of this section, display is defined as: drawing and aiming, or indicating potential use, without application, of a Taser® in circumstances where any person perceives the action as a use of force or threat of a use of force, whether or not this is accompanied by a verbal warning, sparking of the device or placing of the laser sight red dot onto a subject. Reports generated under this section will be submitted through the established chain of command and a copy submitted to the Director of the Training Division.

D. Personnel shall immediately notify a supervisor anytime their Taser® is activated except for a spark test or formal training exercise. Upon the deactivation of the safety, the Taser® is activated and will begin recording dataport information. The laser sighting and LED lighting will also occur. Should the incident not require a 108 or 108T, it will be documented on an MNPD Supplement Form 104. A supervisor shall download the dataport record of this event when appropriate and consistent with established training.

E. The original Taser® Use Report-MNPD Form 108T shall be processed with the original Use of Force Report-MNPD Form 108 consistent with established policy. When appropriate, the download report may be included with the submission packet.

F. Evidence Collection & Maintenance

1. Taser® Cartridge(s) and Probes

   Expended Taser® Cartridge(s) and Probes may be placed into property as evidence or disposed of as bio-hazardous waste consistent with established procedure.

2. Photographs

   When appropriate, photographs should be made of a subject's injuries/condition.

G. The Police Training Division will maintain a database of Taser® equipment assigned by the MNPD. Such database will include, at a minimum, the name of the personnel receiving the Taser® and the serial number of the assigned Taser®, serial number(s) of

assigned/expended cartridges, complaint numbers of incidents related to expended cartridges, and the relevant dates and times relating to issuance of such equipment.

H. Precinct/Division Commander Review

1. Whenever the Taser® is displayed or utilized and the MNPD Form 108T, Taser® Use Report is completed, the Precinct/Division Commander shall review that form and all associated documents.

2. After review, the Precinct/Division Commander shall make a determination whether or not to authorize the officer to continue to carry/utilize the Taser®. If the Precinct/Division Commander disapproves the employee's continued use of the Taser®, the commander shall complete a detailed narrative supporting their decision and attach it to the MNPD Form 108T.

3. The Precinct/Division Commander shall immediately notify the following departmental elements should an employee's authorization to carry the Taser® be suspended:

   a. The employee's chain of command;
   b. The Director of the Training Academy; and
   c. The Chief of Police

11.10.120 Use of Less Lethal Devices

The department may issue or make available less lethal devices (e.g., bean bag, etc.) to **authorized** employees who have successfully completed specialized training and/or qualification in the operation and use of these devices.

11.10.130 Use of Deadly Force in Self Defense

Authorized employees may use deadly force when they have a reasonable belief that the action is immediately necessary to prevent imminent death or serious bodily injury of a human being, including the employee.

11.10.140 Use of Deadly Force to Effect an Arrest

Authorized employees may use deadly force to effect the arrest of a fleeing felon only when:

A. The employee has probable cause to believe the individual to be arrested has committed a felony involving the infliction or threatened infliction of serious bodily injury; **AND**

B. The employee has probable cause to believe that the individual to be arrested poses a threat of death or serious bodily injury, either to the employee or to others unless immediately apprehended; **AND**

C. Where feasible, the employee has identified himself/herself as a police employee and given warning such as, **"STOP--POLICE--I'LL SHOOT,"** that deadly force is about to be used unless flight ceases; **AND**

D. If all other means of apprehension available to the employee under the attendant circumstances have been exhausted

11.10.150 No Deadly Force to Prevent Self-Harm

For incidents wherein a subject is threatening to harm themselves only, under no circumstances may an officer use deadly force solely to prevent an individual from inflicting self-harm.

11.10.160 Neck Restraint Techniques

A. MNPD does not teach nor authorize any neck restraint techniques to include, but not limited to: any pressure or constriction to the neck, throat or windpipe, arteries or vascular system that may impair breathing or impair circulation; including but not limited to chokeholds, strangleholds, carotid restraints, or lateral vascular restraint.

B. A member of the MNPD shall not use a neck restraint technique on any suspect, arrestee, defendant, or other person as restraining force.

11.10.170 Administration of First-Aid

A. Whenever an employee is involved in a use of force incident in which a person sustains injuries or requests evaluation and/or treatment, the appropriate first-aid shall be administered as quickly as reasonably possible either by the employee or others at the scene, by transporting the injured person to the hospital, and/or by summoning emergency medical personnel.

B. After <u>any</u> use of force, employees should inquire of the subject as to injuries or pre-existing medical conditions, regardless of whether they are obvious. Where employees are informed or have reason to believe that a person, to whom any use of force has been applied, has an injury or pre-existing medical condition which places the subject at an increased risk of developing a medical crisis, employees shall provide immediate aid by transporting the injured person to the hospital, and/or by summoning emergency medical personnel.

C. After any use of force on an individual who has exhibited signs or symptoms of excited delirium, extreme drug/alcohol intoxication, extreme hyperactivity, or similar uncontrolled behaviors, employees shall provide immediate aid by summoning emergency medical personnel and/or by transporting the person to the hospital.

D. After any use of force on an individual who is suspected to have ingested contraband, evidence, or unknown suspicious substances; employees shall provide immediate aid by summoning emergency medical personnel and/or by transporting the person to the hospital.

E. After any use of force, at a minimum, employees shall notify receiving DCSO personnel of any known or observed injuries or pre-existing medical conditions so that the DCSO Nurse can conduct an informed intake interview and assessment.

F. In a case when chemical spray is used the employee shall:

1. Monitor and verbally reassure the subject that the effects of the spray will normally subside in thirty to forty-five minutes;

2. After the subject is secured, allow the subject proper ventilation to expedite the recovery period;

3. If the individual experiences or complains of symptoms other than those normally associated with the use a chemical spray or does not show signs of recovery within the normally expected time period, they should be afforded immediate medical attention. Unusual symptoms include profuse sweating, respiratory problems, or chest and/or neck pain. If these symptoms do occur the employee should administer first aid and call for an ambulance. Employees will also advise medical personnel that the individual has been exposed to chemical spray;

4. The Chemical Spray Aftercare Notice, MNPD Form 109, shall be provided to all individuals who have been exposed to the chemical spray; and

5. When transferring custody of a subject who has been exposed to chemical spray to medical personnel, Davidson County Sheriff's Office personnel, or others, the employee shall advise the receiving personnel of the transferred subject's exposure to the chemical spray and the time of the exposure.

G. When the Taser® is used, either by probes or drive stun, the employee shall:

1. Monitor and verbally reassure the subject that the effects of the Taser® will normally subside in a matter of minutes, if not immediately.

2. If the individual experiences or complains of symptoms other than those normally associated with the use of the Taser® or does not show signs of recovery within the normally expected time period, they should be afforded immediate medical attention. Employees will advise medical personnel that the individual has been exposed to the Taser®, and when custody is transferred, the transferring personnel shall also notify the receiving personnel that the subject has been exposed to the Taser®.

3. After Taser® use, the following persons shall be medically evaluated by emergency medical personnel or by an appropriate medical facility:

   a. Persons who are visibly pregnant or are at the extremes of age or physically disabled;

   b. Persons who had more than three (3) bursts applied via probes;

   c. Persons who had more than one CED effectively used in the same incident;

   d. Persons who have been subjected to a continuous burst of fifteen (15) seconds or more;

   e. Persons requiring evaluation and/or treatment as described in the Guidelines for Officer Removal of Taser® Probes in the MNPD Taser® Student Manual; or

   f. Any person who requests evaluation or treatment.

4. The Taser® Aftercare Notice shall be provided to all individuals who have been exposed to the Taser®.

5. Probe Removal: Probes that have not pierced the skin or are superficially in the skin may be removed by an employee who is trained to do so and, if practical, in the presence of another employee. Authorized employees shall remove such probes consistent with department-approved training and the Guidelines for Police Officer Removal of Taser® Probes. Employees shall

NOT attempt removal if subject is combative or if the location of the probe is in the face, neck, ear, breast, groin, or deeply embedded.

11.10.180 Use of Force Training

A. All employees will be provided access to the current use of force policy and thoroughly trained before being authorized to carry any weapon. Authorized employees will be instructed in the policies and procedures described in such policy and provided with the necessary training, at a minimum, on an annual basis.

B. Less Lethal Devices
Only those authorized employees who have successfully completed specialized training and/or qualification in the operation and use of less lethal devices may use such devices.

C. Lethal Weapons
For policy regarding training in the use of lethal weapons, see current firearms policy and departmentally approved lesson plans.

D. Written directives and lesson plans governing the use of force shall be reviewed annually by the Director of the Training Division.

11.10.190 Reporting Use of Force, Firearms Display, and Injuries in Custody

A. Personnel shall report all use of force incidents. However, no MNPD Form 108, Use of Force Report is required ~~when~~ for official presence or verbal direction~~, and/or soft empty-hand control is used by the employee and there is no injury and no allegation of injury~~.

B. A MNPD Form 108, is completed anytime force is required to be reported by policy. ~~A MNPD Form 108 is also completed to document any of the incident types listed in Box 2a of the form, which are not considered uses of force.~~ The MNPD Form 108, shall be completed, approved by supervisory personnel, and processed as per current procedure.

C. Use of force incidents to be reported on MNPD Form 108 shall include, but are not limited to:

1. Whenever an employee discharges a firearm, other than for training, or legal recreational purposes;

2. Whenever an employee takes an action that results in (or is alleged to have resulted in) injury or death of another person;

3. When force is applied through the use of less lethal weapons, CED, chemical spray, baton, etc.; or

4. Whenever an employee uses defensive or physical force above the level of ~~other than~~ soft empty-hand control.

5. Whenever an employee uses soft empty-hand control that results in injury or an allegation of injury.

D. Other incidents to be reported shall include:

1. Whenever a subject taken into custody reports an aggravation (or re-injury) of a previously existing injury, or suffers a self-inflicted injury, as defined in 11.10.020 (Z), and (CC) above, directly after or during the process of being taken into custody. These injuries should be noted specifically on the MNPD Form 108, Use of Force, Box 50 ~~2a~~.

2. Pain or injury associated with handcuffing or other restraint devices, where the injury or complaint is exclusively the result of normal pain/discomfort associated with the wearing of restraining devices, are not injuries sustained from a use of force as defined in this policy. These injuries should be noted specifically on the MNPD Form 108, Use of Force, Box 50 ~~2a~~.

3. The display of a firearm when such display has had the effect of reducing or eliminating the need for additional use of force. Reporting of such displays shall be accomplished through the completion of a Firearm Display Report – MNPD Form 108F (if no other force is used, a Use of Force Report – MNPD Form 108 is not required).

4. The use of soft empty-hand control in response to active resistance shall be reported to a supervisor. Such supervisor, based upon a review of facts and circumstances, will direct an employee to complete MNPD Form 108NC, Non-Compliant Suspect/Arrestee Report. If there is an injury or allegation of injury during the incident involving the use of soft empty-hand control, the supervisor shall instead direct the employee to complete MNPD Form 108, Use of Force Report.

Note: The following law enforcement actions are not considered reportable for the purposes of completing MNPD Form 108NC:

a) Presence of police officers or canines;

b) Issuance of commands or verbal directions;

c) Handcuffing of an arrestee with no or minimal resistance;

d) Physical control or assistance due to impairment, disability, or inability; or

e) Escort techniques not involving pain compliance, or pressure points and joint manipulation, which do not involve complaints of pain or injury.

E. An employee involved in an incident required to be reported under this policy shall notify the appropriate supervisor immediately and complete the required report (i.e., Form 108, Form 108T, Form 108F, or Form 108NC).

F. The employee's immediate supervisor shall investigate the incident and review the MNPD Form 108, Form 108T, Form 108F, or Form 108NC and any associated documents completed by the employee. While each supervisor has discretion based on the facts and circumstances of each event, the supervisory review of an incident involving the use of Soft Empty-Hand Control (where there is no injury or allegation of injury) should generally be limited to the completion of MNPD Form 108NC. Under normal circumstances, and similar to the 108F and 108T involving a Taser® display only, no additional administrative packet or reporting should be necessary to document the event. Any supervisor reviewing such forms has the authority to escalate the supervisory review process by requiring the completion of Form 108 and initiating the associated supervisory review process described herein.

G. When a Form 108 is submitted, the supervisor will document their findings in writing and attach them to the packet for review. The MNPD Form 108, Form 108T, Form 108F, or Form 108NC, and any associated documents, shall be reviewed by the chain of command up to the Office of the Chief of Police and copies forwarded to the Director of the Training Division.

H. The notified supervisor shall ensure that all appropriate notifications are made, consistent with established policy and procedure on call-outs of investigative elements.

I. The reviewing supervisor shall ensure a departmental control number is immediately assigned.

I. Responsibilities of the Office of Chief of Police

The Office of the Chief of Police will receive and file all original MNPD Form 108, Form 108T, Form 108F, Form 108NC, and related reports. Such reports shall be copied and distributed as directed. Relevant data from such reports will also be entered into a computer database.

J. Administrative and Investigative Procedures

1. Any employee whose use of force results in a death or serious bodily injury shall be removed from line or field duty assignments consistent with the provisions outlined in Chapter 4, Section 4.60 (Relief From Duty/Decommission and Alternate Duty Assignment) by the employee's supervisor without loss of pay or benefits, pending the investigative review.

2. As soon as practical, the employee's supervisor shall schedule a meeting between the involved employee and a representative from the Professional Wellness Section for debriefing.

3. When an employee discharges a firearm in a manner that constitutes deadly force, the employee will be required to submit that firearm for examination or testing by the appropriate firearms examination laboratory as may be necessary for the investigation.

4. The employee-in-charge of the investigation will document the firearm used by recording the make, model, and serial number of that firearm in the employee's report. Unless otherwise directed, the firearm will be retained by the employee involved, but will not be cleaned prior to the examination.

11.10.200 Force Review Board

A. The Force Review Board examines whether policies and procedures governing the use of force have been followed. The Chief of Police has the discretion of convening a Force Review Board as a result of any departmental use of force incident. The Chief of Police shall be the final authority within the department as to the disposition of each incident reviewed by the board.

B. A Force Review Board shall be convened to review:

1. All uses of force involving firearms discharges.
   NOTE: *Firearms discharges at injured or suffering animals or those involving accidental or negligent discharges are addressed in Section C, below.*

2. All uses of force involving the use of deadly force, or any force which results in death or serious bodily injury.

3. Uses of less than lethal force when such force is applied through the use of a primer activated weapon.

4. Any incident referred to the board by the Chief of Police, a Bureau Deputy Chief, the Director of the Training Division, or the Director of the Office of Professional Accountability.

C. Weapons Discharges at Injured or Suffering Animals & Negligent/Accidental Firearms Discharges

1. All firearm discharges resulting in the death of an injured and suffering animal, when no other disposition is practical, shall be reported on MNPD Form 108, investigated, and reviewed by the affected employee's chain of command. The employee completing MNPD Form 108 shall ensure that the appropriate check box indicating the destruction of an injured animal is marked in Box 18 on the form.

2. All firearm discharges as the result of negligence or an accident, unless occurring during an application of some type of force, shall be investigated and reviewed by the affected employee's chain of command.

3. The involved employee's component commanding employee will review the circumstances and make a conclusion as to whether the weapon discharge was within departmental policy. The component commander will then forward a written report to the Chief of Police, through the chain of command, detailing their conclusion. If the component commander reasonably believes that the employee's actions may have been outside the parameters of the department's policies, procedures, or directives, a recommendation regarding remedial training and/or corrective/disciplinary action shall be included.

4. Discharges under this section will only be presented to the Force Review Board when the employee's chain of command determines such review to be in the best interest of the department.

D. Firearm discharges involving an application of force, including dangerous animals for employee safety, or any use of deadly force will be investigated by the Criminal Investigation Division or Precinct

Investigative Units, consistent with their established operating procedures, and presented to the Force Review Board.

E. Force Review Board Membership

The Force Review Board shall consist of:

1. The Deputy Chiefs of Police, or a designee approved by the Chief of Police. The Deputy Chief of the involved employee shall be the chairperson;
2. The Director of the Training Division;
3. The Commander of the Criminal Investigation Division;
4. The component commander of the involved employee, as designated by the board chairperson;
5. An equivalent rank/classification of the involved personnel, selected by the Chairperson;
6. A representative of the Office of Professional Accountability, who is assigned to assist the board and is a non-voting member;
7. An attorney from the Metropolitan Department of Law, who will be present as a non-voting member; and
8. The Executive Director of Metro Nashville Community Oversight (MNCO), or if unavailable, the Assistant Executive Director, may elect to participate as a board member on any or all Force Review Board meetings. On any individual Force Review Board meeting wherein the Executive Director (or Assistant Executive Director) of MNCO elects to participate, the Executive Director (or Assistant Executive Director) will be a voting member.

F. Meetings and Findings

1. The chairperson of the Force Review Board should schedule a meeting of the Force Review Board to occur within thirty (30) working days, but no more than sixty (60) working days after receipt of the criminal case file, or other appropriate and complete investigative files, for each use of force required to be reviewed under this policy.

2. If facts indicate that criminal charges may be filed against an employee as a result of a use of force, the Force Review Board shall delay final recommendations until after such court actions are concluded.

3. At least five (5) working days prior to each Force Review Board meeting, the chairperson of the Force Review Board will ensure that all appropriate investigative reports are delivered to participating board members. Board members shall be advised

that the investigative reports are not to be reviewed by anyone other than board members, and all reports must be returned at the conclusion of the board review.

4. Findings of the Force Review Board:

   The Force Review Board, as a result of its review process, shall report three findings at the conclusion of each hearing. The board shall make the following findings:

   a. In Policy or Out of Policy

      The board shall make a finding as to whether the use of force was consistent with established departmental policy or procedure. The finding shall be reported as follows:

      (1) In Policy: The application of force was consistent with established departmental policy or procedure, or

      (2) Out of Policy: The application of force violated established departmental policy or procedure. The board, in its findings, shall specify which policy or procedure was violated.

   b. Intentional, Negligent, or Accidental
      The board shall make a finding as to whether the use of force was intentional, negligent, or accidental.

   c. Associated Recommendations
      The board shall make such recommendations it deems necessary, to include but not limited to:

      (1) the need for remedial training;
      (2) the need to review or revise departmental policy, procedure, or training;
      (3) the need for corrective or disciplinary action; or
      (4) any other recommendation the board deems relevant.

5. A report of findings shall be submitted to the Chief of Police. This report should also include:

   a. The relevant facts and circumstances surrounding the incident;
   b. A conclusion as to whether the use of force complies with departmental policies and procedures; and
   c. Any other documentation as needed.

6. When the board has reviewed the circumstances of the use of force and formulated their conclusions, the chairperson will cause the preparation of a report for the Chief of Police, detailing the board's conclusions and any recommendations. This report will be forwarded to the Chief of Police within fifteen (15) working days after the conclusion of the Force Review Board hearing. Should the voting members fail to unanimously agree regarding the board's conclusions and recommendations, each dissenting member shall provide a written opinion clearly articulating the basis for their dissent from the majority's findings.

   Within fifteen (15) working days after the Force Review Board issues its report to the Chief of Police, the representative from the Office of Professional Accountability may forward a separate opinion regarding the conclusions and recommendations of the Force Review Board to the Chief of Police.

7. The chairperson will retain all records, notes, and reports associated with the board hearing.

G. Responsibilities

1. The Chief of Police shall be the final authority within the department as to the disposition of each incident. The Chief of Police shall review all relevant reports and take one of the following actions:

   a. Adopt the findings of the Force Review Board as stated in its report;

   b. Modify the findings of the Force Review Board and, if appropriate, issue an addendum to the report indicating the manner in which the findings have been modified; or

   c. Request the Force Review Board reconvene for the purpose of making additional findings and reporting them to the Chief of Police. In such an event, the Chief of Police shall instruct the board in writing as to what additional findings are needed.

2. The Chief of Police shall, upon a determination that a use of force incident was out-of-policy, refer the matter to the Office of Professional Accountability or the employee's chain of command for processing in accordance with the department's corrective or disciplinary action procedures.

3. Should the Chief of Police find that a need for additional or remedial training exists, either for the affected employee or throughout the

department, the Director of the Training Division shall be responsible for providing the appropriate additional and/or remedial training and maintain a record of such training as a part of the departmental training records.

4. It will be the responsibility of the involved employee's component commander to have:

   a. MNPD Form 343, Remedial Training Request, completed and forwarded to the Director of the Training Division;

   b. Ensure the employee successfully completes any recommended remedial training; and

   c. Forward documentation of the employee's successful completion of the recommended remedial training to the Office of the Chief of Police for inclusion in the employee's Force Review Board file.

5. The Office of the Chief of Police shall maintain a file for all cases reviewed by the Force Review Board.

6. The Office of the Chief of Police shall cause the Director of the Training Division to be notified of the final results and approved dispositions of all force incidents reviewed by the Board. The Director shall review all incidents to identify training issues or needs.

7. If the Chief of Police makes a recommendation calling for action by a component of the department, that component's Deputy Chief shall be responsible to ensure that the proper follow-up action is taken. That Deputy Chief shall provide a report to the Chief of Police detailing what action was taken.

8. The Chief of Police has the ultimate responsibility for reviewing use of force incidents.

9. In addition to reports from Force Review Boards occurring throughout the year, the Chief of Police may schedule a Departmental Force Review Board annually. The core members shall review each use of deadly force and all cases reviewed by the Force Review Board for the purpose of identifying any potential patterns and/or systemic problems and to report their findings and recommendations to the Chief of Police.

10. Core members of the annual Departmental Force Review Board shall include the Chief of Police, the Deputy Chiefs, the Director of the Training Division, the commanding employee of the Criminal Investigation Division, and a representative from the Office of Professional Accountability. Other persons may be present at the discretion of the Chief of Police.
11. The MNPD Quality Assurance Manager assigned to the Strategic Development Division will annually provide the Chief of Police and members of the Departmental Force Review Board with a use of force analysis covering MNPD use of force activities, policies and practices. The analysis shall include, at a minimum:

    a. date and time of incidents;
    b. types of encounters resulting in use of force;
    c. trends or patterns related to race, age and gender of subjects involved;
    d. trends or patterns resulting in injury to any person including employees; and
    e. impact of findings on policies, practices, equipment, and training.