

MPTSC Best Practices for Use of Force Policy & Training Development

In accordance with Public Safety Article § 3-207 (a) (19) and § 3-524, the Police Training and Standards Commission (PTSC) herein adopts and recommends a set of best practices and standards for Use of Force policy and training development by all law enforcement agencies and units. The PTSC also recommends consideration for inclusion of implicit bias training required by PSA § 3-207(k) in conjunction with Use of Force training. Each law enforcement agency or unit should consult its servicing legal office for specific advice when developing any Use of Force policy and training.

Protocols and Standards for Use of Force Policy Development

Title 3 of the Public Safety Article enumerates a number of requirements that must be adhered to by law enforcement agencies, supervisory and command staff, and police officers. Where indicated, the following subject areas must be included in all Use of Force policies. It is highly recommended that the remaining statutory mandates also be included in any Use of Force policy:

- 1) Use of Force. Each law enforcement agency's Use of Force policy should set forth the standard established by the Maryland Use of Force statute: An officer may only use force when, under the totality of the circumstances, the force is necessary and proportional to prevent imminent threat of physical injury to a person or to effectuate a legitimate law enforcement objective. Agencies can reference the Attorney General's opinion 107OAG033 as issued on February 25, 2022.
- 2) De-escalation of conflict. Each law enforcement agency is required to have a written de-escalation of conflict policy. This may be included in the agency's Use of Force policy. Officers are encouraged to defuse rather than intensify confrontations with and between citizens. When time, circumstances, and safety permit, officers shall take steps to gain compliance and control a situation without using physical force. Examples may include but are not limited to: the use of advisements, warnings, and persuasion; attempts to slow down or stabilize the situation so that more time, options and resources are available; officers should consider whether a subject's lack of compliance is a deliberate attempt to resist or is caused by an inability to comply.
- 3) Supervisory and command-level review. Each law enforcement agency is required to adopt a written policy requiring supervisory and command-level review of all Use of Force incidents.
- 4) Sanctity of life pledge. Each police officer is required to sign an affirmative sanctity of life pledge to respect every human life and act with compassion toward others. Each law enforcement agency should include in its policy the procedures for ensuring that each officer signs such a pledge and that the statement is retained by the agency.
- 5) Avoiding the Use of Force. Each officer is required to take steps to gain compliance and de-escalate conflict without using physical force when time, circumstances and safety allow the officer to do so. Each Use of Force policy should include provisions related to this requirement.
- 6) Cessation of Use of Force. An officer is required to cease the Use of Force as soon as the person on whom the force is used is under the officer's control, the person no longer poses an imminent threat of physical injury or death to the officer or another person, or the officer determines the force will no longer accomplish a legitimate law enforcement objective. This requirement should be included in the Use of Force policy.

7) Duty to intervene. A police officer is required to intervene to prevent or terminate the Use of Force by another police officer beyond what is authorized under the Use of Force statute. This mandate should be included in the Use of Force policy.

8) Basic first aid. Each police officer is required to render basic first aid to a person injured as the result of police action and promptly request appropriate medical assistance. The duty to care requirement should be included in the Use of Force policy.

9) Documentation of Use of Force incidents. Each police officer is required to fully document all Use of Force incidents the officer observes or is involved in. The Use of Force policy needs to include an agency's standardized reporting format.

10) Supervisory response. A police supervisor is required to respond to the scene of any incident during which a police officer used physical force and caused serious physical injury and gather and review all known video recordings of a Use of Force incident. Each Use of Force policy must set forth the procedures for determining which supervisor will respond to such incidents and the procedures for gathering and reviewing video recordings.

11) Training. Each law enforcement agency's Use of Force policy should set forth the training related to Use of Force that police officers are required to attend.

Identified Use of Force Training Concepts and Best Practices

Except where required by law, the following subject areas are recommended to be included in each law enforcement agency's training programs.

1) Drawing a firearm. All police officers are required to undergo training on when a police officer may or may not draw a firearm or point a firearm at a person.

2) Other enforcement options. All police officers are required to undergo training that includes enforcement options that are less likely to cause death or serious physical injury. Such training must include scenario-based training, de-escalation tactics and techniques, and reasonable alternatives intended to decrease physical injury. The training should focus on communication skills, crisis intervention techniques, minimizing force, and tactical repositioning. The training should also include techniques to demonstrate how an officer's actions may attempt to slow an incident down and think through a high-risk situation. Recognizing signs of individuals experiencing a mental health crisis should be included in the training.

3) Use of Force. All police officers are required to undergo and complete training on the Maryland Use of Force statute. Training discussions shall cover Public Safety Article § 3-524 Use of Force standards, explaining "under the totality of the circumstances the force is necessary and proportional". Officers must act within the scope of their duties as law enforcement officers. The purpose of any Use of Force is to gain control of a non-compliant, resistant or assaultive subject. Use of Force training topics must include:

- De-escalation tactics and techniques;
- When to draw/point a firearm at a person;
- Enforcement options that are less likely to cause death or serious physical injury;
- Reasonable alternatives to decrease physical injury; and
- Include judgment/decision making scenario-based training.

4) Training completion document. All police officers are required to sign a training completion document stating that the officer understands and shall comply with the Maryland Use of Force Statute.

5) Deadly Force. Defined as any force that is likely to cause death or serious physical injury. An officer may use deadly force to stop an imminent threat of death or serious physical injury to the officer or another person. Serious physical injury is an injury that creates a substantial risk of death or an injury that is a permanent or protracted impairment or disfigurement.

6) Less Lethal Force. Officers may be issued less lethal weapons that may assist them in controlling resistant or assaultive behavior. "Less lethal weapons" are those weapons that are expected to create less risk of causing serious injury or death, such as, ECD, OC Spray. Officers issued less lethal weapons must be trained on those issued weapons.

7) Duty to intervene. Officers who have an opportunity to intervene in another officer's excessive Use of Force must do so or risk potential liability, including criminal charges and civil rights violation based upon their failure to intervene. Agencies may likewise be liable where there is a custom or failure in training, supervision or discipline that leads to the constitutional violation.

8) Policy and legal review updates including criminal and constitutional standards. Training should consist of reviewing policy, criminal law and constitutional law surrounding the application and Use of Force, limitations and legal implications. It is crucial that law enforcement agencies develop clear and concise policies relative to Use of Force by their officers. It is equally important that officers be made familiar with Use of Force policies and standards through refresher courses and scenario-based training.

9) Shooting at or from moving vehicles. Each agency's policy regarding shooting at vehicles will establish the requirements for this training component. Training should emphasize the inherent obstacles associated with shooting at or from a moving vehicle.

Other Related Mandates

Public Safety Article § 3-516 requires each law enforcement agency to establish a confidential and non-punitive early intervention system to identify police officers who are at risk of engaging in the use of excessive force. The agency must provide those officers with training, behavioral interventions, reassignments or other appropriate responses to reduce the risk of the use of excessive force.

Public Safety Article § 3-523 requires each law enforcement agency to provide a *voluntary* mental health consultation and *voluntary* counseling services to any police officer who is involved in an incident involving an accident resulting in a fatality.

Public Safety Article § 3-523 further requires each law enforcement agency to provide a *mandatory* mental health consultation and *voluntary* counseling services to any police officer who is involved in an incident involving a serious injury to the police officer, an officer-involved shooting, or any Use of Force resulting in a fatality or serious injury.