



Bill Federice <federicebill@gmail.com>

Recommendations from Rural Awakening

2 messages

Pat Hults <hultsp@outlook.com>

Fri, Nov 27, 2020 at 9:00 AM

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Hello Mr. Federice and Chief Stevens,

Attached are recommendations re policing and policing policies from the Rural Awakening Committee on Policing. We wanted to send out recommendations to all police departments in the county, so we recognize you have already implemented some of these.

We also want to state how much respect we hold for the county police department and the innovative and ahead of the curve work you have already done. And we appreciate your cooperative attitude that allows us to work together to improve policing in our county.


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sent from Outlook

6 attachments

 **Policing Recommendations-County_Nov25.docx**
42K

 **ATT00001.htm**
1K

 **Appendix_A_8cantwaitpolicy.docx**
35K

 **ATT00002.htm**
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 **Appendix_B_Compare Clties.docx**
471K

 **ATT00003.htm**
1K

Bill Federice <federicebill@gmail.com>

Sun, Nov 29, 2020 at 9:50 AM

To: Bruce Baker <bruce.baker@co.schoharie.ny.us>, Candace Ellis <candacee@ccalbany.org>, Dick Lape <lapepspc@midtel.net>, Duane Tillapaugh <duane.tillapaugh@co.schoharie.ny.us>, Harold Vroman <haroldvroman@aol.com>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Pastor Ray Richards <pastorray@cagcobleskill.org>, Peggy Hait <jeffersonsup@gmail.com>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>, Steve Weinhofer <stephen.weinhofer@co.schoharie.ny.us>
Cc: Patricia Hults <Hultsp@outlook.com>, Wendy Cook <wcook001@luthersem.edu>

[Quoted text hidden]

—
Bill Federice
Supervisor, Town of Conesville
Chairman, Schoharie County Board of Supervisors


607-353-2110

Check out the official Town of Conesville Website at:
<http://www4.schohariecounty-ny.gov/government/town-of-conesville/>

6 attachments


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 **Policing Recommendations-County_Nov25.docx**
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 **Appendix_A_8cantwaitpolicy.docx**
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 **ATT0002.htm**
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 **Appendix_B_Compare Clties.docx**
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Recommendations on Improved Police Policies

From Rural Awakenings Police Policy Committee

*Wendy Cook, Reggie Harris, Peter Harrison, Theresa Heary,
Pat Hults, Alyson Montione, Debbie Paden, and Bobbi
Wilding*

November 23, 2020

As we work to comply with NYS Executive Order 203 and develop a plan to improve police force actions, address racial bias and disproportionate policing of communities of color through a review and consideration of policing strategies, we offer the following recommendations to every police department operating in Schoharie County. We support consistency across departments, but recognize that each department may apply different language in their respective policies. We also recognize that some recommendations may already be included in specific policies.

1. Use of force policies

We recommend adopting a higher standard than “objective reasonableness,” as reflected in the model policy developed by “Campaign Zero” (8cantwait) which is attached as Appendix A. The model policy retains some uses of the term “objective reasonableness” but expands upon it. This higher standard requires a series of policy changes which build upon the “objectively reasonable” standard by delineating those actions that are and are not acceptable, following a Use of Force Continuum. Policy language can acknowledge that some situations occur too rapidly for step-by-step continuum of force. Use of force policies proposed by Lexipol should be reviewed against this model. Appendix B contains a list of cities that utilize specific policy recommended by Campaign Zero (8can'twait).

Chokeholds have been banned by NYS law; there are now criminal penalties for the use of a chokehold. NYC has gone further and holds police officers culpable for sitting, kneeling or standing on the chest or back in a manner that compresses the diaphragm. We recommend that policies comply with NYC requirements and include prohibitions against neck holds, chokeholds, strangleholds, lateral vascular neck restraints, carotid restraints, chest compressions, or any other tactic that restricts oxygen or blood flow to the head or neck.

We recommend that the policy requires body cameras be turned on and operating at all times when force of any kind may be used.

We recommend that the use of force policy utilize the concept of “immediate” danger, not “imminent” danger. An imminent danger is an anticipated danger that is likely to happen, is impending, and is separated by space or time. This impending danger could be one hour, one day, or an unknown time away but is still imminent. An immediate danger is a present danger that is next in order and not separated by space or time.

We recommend the use of reasonable, proportional, and necessary force, with the goal of preserving human lives of all involved (officers, suspects, bystanders); employing alternatives to use of force; and requiring that officers to exhaust all other reasonable means before resorting to deadly force through:

- a. De-escalation
- b. Decreasing exposure to potential threat by use of a variety of methods
- c. Use of communications
- d. Other methods that reduce the risk of violent confrontation.

We recommend a prohibition on shooting at a moving vehicle, unless shooting is coming from the vehicle.

We recommend requiring officers to report each time they use force or threaten to use force against civilians.

We recommend requiring officers to intervene and stop excessive force used by other officers and report these incidents immediately to a supervisor. We recommend that officers be required to provide medical assistance when needed.

We recommend regular training for officers to reinforce all of these requirements, and clear communication from leadership that these policies are important and expected.

2. Procedural justice

We recommend that policies and practices require transparency and equal treatment for all. Transparency means that the police department shall provide information to the public upon request in all police events, not just discharged weapons.

Transparency should include officers' disciplinary records, body camera recordings, other pertinent material, and complaints. Complainants should have the ability to review results of their complaint. Transparency must be timely – no waiting months for video footage, reports, records.

We recommend fostering, supporting and promoting a police culture that does not tolerate misbehavior, and holds officers accountable. This includes peer accountability and support, re-training when necessary, and firing and/or bringing criminal charges when appropriate. Leadership must be role models and enforce policies.

We recommend a county-wide citizen review board for all police departments functioning within the county for deadly use of force and citizen complaints not satisfied by individual departmental complaint processes.

We recommend that officers have access to high quality mental health services and that the department foster a work environment that encourages and normalizes use of such services.

3. Any studies addressing systemic racial bias or racial injustice in policing

We recommend an annual time-bound sample study by the police force that tracks racial/ethnicity/gender/religious data on selected low-level interactions such as traffic stops to use as an evaluative tool to assess disproportionate stops of people who members of various ethnic and minority religious groups. Results of the studies should guide next steps for implicit bias training.

4. Implicit bias awareness training

We recommend that adequate and substantial training specifically focusing on implicit bias be required, and repeated/updated regularly, at least annually. Funding for such training is essential, and should be allocated by the relevant government body.

We recommend quality training in identifying and responding to hate crime – if you don't recognize it, you underestimate the problem in the community. Talking to people of color from the community, you start to understand that there is always a low level of hostility humming around in the form of snide comments, rude behavior, nasty looks, nasty signs and inappropriate fear. It may not be daily or even weekly, but it doesn't take many of these responses to contaminate the environment. This is well beyond the responsibility of just the police department, but the department needs to acknowledge the issue and its impact on the community. The police also need to understand the legitimate fear many people of color have toward police – appropriate fear given our long history of police abuse. It doesn't matter whether our specific police department engaged in abuse – enough departments have, so that a reasonable person of color needs to be cautious of all departments. Departmental training must be evaluated, including feedback from the community.

5. De-escalation training and practices

We recommend that Use of Force written policies in particular should require de-escalation on a continuum, and require officers to exhaust all available methods of resolving a situation before using force.

We recommend mandatory, adequate and substantial training specifically on de-escalation occur annually. Funding for such training is essential, and should be allocated by the relevant government body.

6. Law enforcement assisted diversion programs

We recommend expanding the current LEAD program. This program is a valued option as it is currently utilized. We recommend continued and enhanced collaboration of services between the police, health department, mental health services and public defender legal services.

However, a program that relies on officer discretion for offering the service must be very careful to acknowledge implicit bias (race, gender, economic status, etc..) and take steps to reduce its impact, such as keeping data on who is and who isn't offered access to the program and who is and isn't referring people to the program, and adjusting the program accordingly.

7. Restorative justice practices

Albany County uses restorative justice practices, including in Berne, where this option has been successfully utilized at no cost to the Town. Rev. Bob Hoffmann in Berne heads up the local committee. We recommend asking him if he is willing to talk to Susan Mallory and the District Attorney. We recognize that this is beyond just the scope of the police department.

Recommendation: work with other entities, including Catholic Charities, to investigate ways to set up processes to mediate disputes, utilize victim impact panels, explore alternatives to incarceration, including community service, will require community input and collaboration.

8. Community based outreach and conflict resolution

We recommend expanding the LEAD program to support high-risk individuals before a crime is committed.

9. Problem-oriented policing

We do not have a recommendation at this time.

10. Hot Spots policing

We do not have a recommendation at this time.

11. Focused deterrence

We do not have a recommendation at this time.

12. Crime prevention through environmental design

We do not have a recommendation at this time.

13. Violence prevention and reduction interventions

We do not have a recommendation at this time.

14. Model policies and guidelines promulgated by the NYS Municipal Police Training Council

We recommend providing copies of these policies to Committee members and interested members of the public.

15. Standards promulgated by the NYS Law Enforcement Accreditation Program

The Village Board and the County have contracted with Lexipol to evaluate and assist in necessary revisions of their Police Policies and Procedures Manuals. Recommend that the proposed Lexipol policies be reviewed with the policies attached as Appendix A and the recommendations set forth above in mind, Lexipol recommendations should be tailored to provide the appropriate policies for Schoharie County and its citizens with the concepts of racial equality and racial bias in mind. If possible, both the Village Police Department and the County Sheriff's Office should take all necessary steps to become an accredited law enforcement agency.

Model Use of Force Policy from 8cantwait (campaign zero)

I. GENERAL

This policy sets forth criteria governing the use of force for the [Insert Jurisdiction] to prevent unnecessary force, ensure accountability and transparency, and ensure the community's trust and confidence in the [Insert Jurisdiction] ability to protect and serve.

MISSION. It shall be the utmost priority and mission of [Insert Jurisdiction] Police Department to protect and serve all individuals of [Insert Jurisdiction] and to respect the inherent life, liberty, dignity, and worth of all individuals by preserving human life, and minimizing physical harm and the reliance on use of force, and by conducting their duties without prejudice.

OFFICER'S RESPONSIBILITY AND COMPLIANCE.

All officers are responsible for knowing and complying with this policy and conducting themselves in a manner aligned with this mission. Any violation of this policy will subject the officer to disciplinary action, including and up to termination and criminal prosecution. Supervisors shall ensure that all personnel in their command know the content of this policy and operate in compliance with it.

II. USE OF FORCE

It shall be the policy of [Insert Jurisdiction] that all law enforcement officers must respect and preserve human life at all times and in all situations.

MINIMAL RELIANCE ON FORCE. Law enforcement officers of [Insert Jurisdiction] Police Department shall only use physical force when no other viable option is available and when all non-physical options are exhausted. (See section, "Alternatives to Use of Force"). In all cases where force is used, only the minimum degree of force which is necessary shall be employed. The minimum degree of force is the lowest level of force within the range of objectively reasonable force that is necessary to effect an arrest or achieve a lawful objective. [Model Policy: Buffalo PD Policy , San Francisco PD Policy]

To further the aim of minimal reliance on force, all law enforcement officers must carry on their person at all times at least one less-lethal weapon. [Seattle PD policy]

ALTERNATIVES TO USE OF FORCE. The following is a list of options that may be used instead of physical, non-deadly force [Seattle PD Policy]:

- De-escalation
- Placing barriers between an uncooperative subject and a law enforcement officer
- Containing a threat
- Moving from a position that exposes law enforcement officers to potential threats to a safer position
- Decreasing the exposure to potential threat by using
 - Distance
 - Cover

- The law enforcement officer has exhausted all reasonable alternatives to the use of deadly force, including de-escalation, other reasonable means of apprehending the suspect, defending themselves or others AND;
- The law enforcement officer objectively reasonably believes that using deadly force would not unnecessarily endanger innocent people;

The above circumstances apply to each discharge of a firearm or application of deadly force. Law enforcement officers shall reassess the situation, when feasible, to determine whether the subject continues to pose a current and active threat. A law enforcement officer is not justified in using deadly force at any point in time when there is no longer an objectively reasonable belief that the suspect currently and actively poses an immediate threat of death, even if deadly force would have been justified at an earlier point in time. [St. Petersburg PD Policy, SFPD Policy, and Philadelphia PD Policy]

TACTICS PRECEDING THE USE OF DEADLY FORCE. Law enforcement officers shall not contribute to precipitating the use of deadly force by placing themselves or others in jeopardy by taking unnecessary, overly aggressive, or improper actions. It is often a tactically superior police procedure to de-escalate, withdraw, take cover or reposition, rather than the immediate use of force. The evaluation of an officer's use of deadly force will include consideration of the officer's tactical conduct and decisions leading up to the use of deadly force. [Philadelphia PD Policy, LAPD Policy]

VERBAL WARNING. The law enforcement officer shall issue a verbal warning, when feasible, and have a reasonable basis for believing that the warning was heard and understood by the individual to whom the warning is directed prior to using deadly force against the individual.

PAST CONDUCT. A law enforcement officer shall not use deadly force where the only basis for using the deadly force is that the individual posed a threat of committing, or committed, a serious, violent crime prior to the encounter with police. Law enforcement officers are only authorized to use deadly force against a person who *currently and actively* poses an immediate threat of death to other persons and/or the law enforcement officer.

NO DEADLY FORCE IN CASES OF SELF-HARM ONLY. Under no circumstances may a law enforcement officer use deadly force to prevent an individual from self-harm where the individual does not currently and actively pose an immediate threat of either death to the others or to the law enforcement officer. [SFPD Policy]

MOVING VEHICLES.

- Officers shall not discharge a firearm at or into a moving vehicle unless the occupants of the vehicle are using deadly force, other than the vehicle itself, against the officer or another person, and such action is necessary for self-defense or to protect the other person; shall not intentionally place themselves in the path of, or reach inside, a moving vehicle; and shall attempt to move out of the path of a moving vehicle.
- Moving into or remaining in the path of a moving vehicle, whether deliberate or inadvertent, SHALL NOT be justification for discharging a firearm at the vehicle or any of its occupants. An officer in the path of an approaching vehicle shall attempt to move to a position of safety rather than discharging a firearm at the vehicle or any of the occupants of the vehicle. [Philadelphia PD Policy]

- Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle.
- Officers shall not discharge a firearm from his or her moving vehicle. Shooting accurately from a moving vehicle is extremely difficult and therefore, unlikely to successfully stop a threat of another person.

[SFPD Policy]

NECK HOLDS PROHIBITED. Law enforcement officers shall not use chokeholds, strangleholds, Lateral Vascular Neck Restraints, Carotid Restraints, chest compressions, or any other tactics that restrict oxygen or blood flow to the head or neck.

**OTHER PROHIBITIONS ON THE USE OF DEADLY FORCE. **

- Law enforcement officers shall not discharge their firearms in defense of property.
- Law enforcement officers shall not use a firearm as a club.
- Law enforcement officers shall not fire warning shots under any circumstances.
- Law enforcement officers shall not discharge their firearms to subdue a fleeing individual who does not currently or actively pose an immediate threat of death to the officers or another person.

Failure to comply with this prohibition is punishable in various ways, including departmental disciplinary action and up to termination and/or criminal prosecution.

DRAWING AND POINTING FIREARMS.

- Law enforcement officers are only authorized to draw their firearms when they reasonably believe there is a current and active immediate threat of death to themselves or another person.
- The pointing of a firearm at a person is a seizure and requires legal justification. No officer shall point a firearm at or in the direction of a person unless there is a reasonable perception of a substantial risk that the situation may escalate to justify deadly force. If an officer points a firearm at a person, the officer shall, if feasible, safe and when appropriate, advise the subject the reason why the officer(s) pointed the firearm.
- When an officer points any firearm at a person, it shall be considered a reportable use of force. Such use of force must be reasonable under the objective facts and circumstances. [SFPD Policy]

IV. OTHER DUTIES

DUTY TO RENDER MEDICAL ASSISTANCE. All law enforcement officers are required to render and, if necessary, call for medical assistance and other aid to anyone in police custody who the law enforcement officer knows, or has reason to know, is injured, and to anyone who complains of injury. [Baltimore PD Policy]

DUTY TO INTERVENE AND REPORT. All law enforcement officers must intervene when they reasonably believe that a law enforcement officer is using or is about to use unnecessary or excessive force in violation of this mission, and must report the incident to a supervisor. Failure to report incidents involving the use of unnecessary or excessive force will result in disciplinary action. [SFPD Policy]

DUTY TO PREVENT THROUGH EARLY INTERVENTION. The [Insert Jurisdiction] Police Department recognizes that through early intervention it may be possible to avoid the use of excessive force and prevent harm to the community. In this effort, the Department will implement early intervention systems to identify law enforcement officers who are at risk for engaging in the use of excessive force and to provide those law enforcement officers with re-training and appropriate behavioral interventions, re-assignments or other appropriate consequences to eliminate that risk.

V. USE OF FORCE REPORTING AND INVESTIGATIONS

REPORTABLE USES OF FORCE. To promote transparency and accountability of actions involving the use of force against civilians, law enforcement officers shall report any use of force involving physical controls when the subject is injured, complains of injury in the presence of officers, or complains of pain that persists beyond the use of a physical control hold. Officers shall also report any use of force involving the use of personal body weapons, chemical agents, impact weapons, ECWs (i.e. Tasers), vehicle interventions, K-9 bites, and firearms. Additionally, officers shall report the pointing of firearms or ECWs (i.e. Tasers) at a subject.

NOTIFICATION OF USE OF FORCE. An officer shall notify his or her supervisor immediately or as soon as practical of any reportable use of force. A supervisor shall be notified if an officer receives an allegation of excessive force.

EVALUATION OF USE OF FORCE. A supervisor shall conduct a use of force evaluation in all cases involving a reportable use of force.

EXCESSIVE USE OF FORCE. Every allegation of excessive force shall be subject to the reporting and investigative requirements of this policy, [Insert Jurisdiction] Police Department disciplinary policies, and the [Insert Civilian Oversight Structure].

PROCEDURE:

OFFICER'S RESPONSIBILITY. Any reportable use of force shall be documented in detail in an incident report, supplemental incident report, or statement form. Officers shall complete use of force reports fully and truthfully. Descriptions shall be in clear, precise and plain language and shall be as specific as possible. When the officer using force is preparing the incident report, the officer shall include the following information:

- The subject's action allegedly necessitating the use of force, including any threat presented by the subject;
- Efforts to de-escalate prior to the use of force; and if not, why not;
- Any warning given and if not, why not;
- The type of force used;
- Injury sustained by the subject;
- Injury sustained by the officer or another person;
- Information regarding medical assessment or evaluation, including whether the subject refused;
- The supervisor's name, rank, star number and the time notified.

Each law enforcement officer must submit a report without coaching or assistance from other law enforcement officers present during the incident.

SUPERVISOR'S RESPONSIBILITY. When notified of the use of force, the supervisor shall conduct a supervisory evaluation to determine whether the force used appears necessary and within the provisions of this policy. The supervisor shall:

- Immediately respond to the scene unless a response is impractical, poses a danger, or where officers' continued presence creates a risk. When more than one supervisor responds, the responsibility shall fall on the senior supervisor;
- Ensure the scene is secure and observe injured subjects or officers;
- Ensure that witnesses (including officers) are identified and interviewed, and that this information is included in the incident report. The number of witnesses may preclude identification and interview of all witnesses, however supervisors shall ensure identification to the best of their ability;
- Ensure photographs of injuries are taken and all other evidence is booked;
- Remain available to review the officer's incident report, supplemental incident report and written statement at the direction of the [Insert Next Rank Officer]. A supervisor shall not approve an incident report or written statement involving a use of force that does not comply with the requirements as set forth above;
- If applicable, ensure the supervisor's reason for not responding to the scene is included in the incident report.
- Supervisors shall complete and submit an evaluation form indicating whether the force used appears reasonable, necessary, and proportional, by the end of shift;
- No supervisor who used, participated in, or ordered reportable force, will conduct the supervisory evaluation of the incident, unless it is impractical under the circumstances. When a supervisor uses, participates in, or orders reportable force, a [Insert Next Rank Officer] shall determine who will conduct the investigation.

The supervisor shall notify the [Insert Next Rank Officer] and [Insert Civilian Oversight Structure of Jurisdiction] if the supervisor determines that an officer's use of force is:

- Unnecessary, unreasonable, or disproportionate OR;
- Otherwise appears to violate [Insert Jurisdiction] policy OR;
- Results in serious bodily injury or death

POLICE AND CIVILIAN OVERSIGHT INVESTIGATIONS. When notified, the [Insert Next Rank Officer], [Insert Force Investigation Team, if applicable], and an independent investigator from the [Insert Civilian Oversight Structure of Jurisdiction] shall respond to the scene, secure the evidence, initiate on-going investigations into the use of force, and prepare reports to the [Insert Force Review Board and Civilian Oversight Structure] that contain preliminary findings, whether or not the use of force appears to comply with [Insert Jurisdiction] policy, and recommendations.

PROMPT INTERROGATION OF OFFICER(S) INVOLVED

Where an officer's use of force is determined to meet one or more of the conditions specified above, the supervisor will transport the involved officer, if not incapacitated, directly to [Insert Jurisdiction's Internal Affairs Office or Civilian Oversight Structure] for an investigatory interview.

- Officers involved shall be transported separately and shall not be allowed to converse with one another prior to the interview. If additional vehicles are needed; additional supervisors will be summoned to provide transportation.

- At the request of the officer involved, questioning shall be delayed for **no longer than two hours** in order to give the officer an opportunity to consult with a Union representative. [DC Metropolitan Police Policy]
- Officers involved shall not be permitted to review evidence related to or audio/video content depicting the use of force prior to an interrogation. [Oakland PD Policy]

INDEPENDENT CRIMINAL INVESTIGATIONS. Criminal investigations shall be initiated into all uses of force resulting in serious bodily injury or death. In addition, if information is obtained at any stage of the process which suggests criminal conduct involving any other use of force, the [Insert Police Chief or Civilian Oversight Structure] shall initiate a criminal investigation into this conduct. This includes criminal conduct while on duty, or while off-duty if the officer purports to act under the color of law, or commits the offense while using police property, equipment, or weapons. To ensure independence and legitimacy, [Insert Jurisdiction] shall include at least two investigators from [Insert Preferred State, Federal, or Neighboring Law Enforcement Agency or Civilian Oversight Structure, as appropriate] in all criminal investigations of [Insert Jurisdiction] law enforcement officers.

PUBLIC RELEASE OF INFORMATION FOLLOWING POLICE USE OF DEADLY FORCE. A press conference and/or an official press statement will be released by the Police Commissioner or designee within 72 hours of an incident in which an individual was killed or wounded as a result of a use of force by an officer of [Insert Jurisdiction]. The information will include officer's name, years of service, assignment and duty status.

- The release will contain a preliminary summary stating the circumstances of the incident known at the time and based on the facts collected and confirmed by the investigators. The release will provide a brief synopsis of the incident, condition (injuries) of the individual and the proceeding steps of the investigation.
- Names of the individual subject and the officer will be released.
- No information regarding the subject's potential criminal record shall be released unless the officer's disciplinary record is also released simultaneously with this information.
- A preliminary summary based on the facts collected and confirmed by the investigators will be placed on the [Insert Jurisdiction] website. [Philadelphia PD Policy]

DATA COLLECTION AND ANALYSIS. The Department will collect and analyze information on use of force in its database and Early Intervention System. The Use of Force statistics and analysis will include at a minimum:

- The type of force
- The types and degree of injury to suspect and officer
- Date and time
- Location of the incident
- Officer's unit
- District station where the use of force occurred
- Officer's assignment
- Number of officers using force in the incident
- Officer's activity when force was used (ex. Handcuffing, search warrant, pursuit)
- Subject's activity allegedly requiring the officer to use force

- Officer's demographics (age, gender, race/ethnicity, rank, number of years with [Insert Jurisdiction], number of years as a police officer)
- Subject demographics including race/ethnicity, age, gender, gender identity, primary language and other factors such as mental illness, cognitive impairment, developmental disability, drug and alcohol use/addiction and homeless.
- Outcome of any investigation regarding the use of force including any disciplinary actions that were taken as a result.

[SFPD Policy]

- Concealment
- Communication from a safe position intended to gain the subject's compliance, using:
 - Verbal persuasion
 - Advisements
 - Warnings
- Avoidance of physical confrontation, unless immediately necessary (for example, to protect bystander or witness, or stop dangerous behavior)
- Using verbal techniques, such as Listen and Explain with Equity and Dignity (LEED) Training, to calm an agitated subject and promote rational decision making
- Calling extra resources to assist or law enforcement officers to assist
 - More law enforcement officers
 - CIT law enforcement officers
 - Law enforcement officers equipped with less-lethal tools
 - Crisis Intervention Team, mental health and other health care professionals
- Any other tactics and approaches that attempt to achieve law enforcement objectives by gaining the compliance of the subject through less-lethal means

REASONABLE, PROPORTIONAL, AND NECESSARY FORCE. Law enforcement officers shall use physical force only when it is objectively reasonable, necessary, and proportional to effectively and safely resolve a conflict. Force may only be used if and only if doing so is aligned with the Department's mission of preserving life and minimizing physical harm.

In furtherance of these principles, law enforcement officers may use reasonable, proportional force necessary to:

- Lawfully arrest, detain, or search an individual;
- Overcome active physical resistance;
- Prevent escape of an individual who the law enforcement officer has probable cause to believe has committed a serious crime;
- Defend oneself or others from active and actual physical danger;
- To prevent an individual from engaging in acts of self-harm.

Whether a law enforcement officer's use of force is reasonable will be evaluated based on its conformity with the principles and values outlined in this policy. All law enforcement officers must use the least amount of physical force necessary to achieve one or more of the objectives listed above. While recognizing that this is a higher standard than provided by the controlling U.S. law articulated by the Supreme Court, *Graham v. Connor*, 490 U.S. 386 (1989), this policy recognizes that there are situations whereby the use of force – up to and including deadly force – may be considered legally permissible, but not reasonable or necessary given the range of reasonable alternatives available to the law enforcement officer. In doing so, this policy complies with international law and standards and best upholds a commitment to protect and preserve human life. **Compliance with these principles and values will also help to ensure the safety and protection of law enforcement officers by reducing the need for, and reliance on, unnecessary physical force.**

FACTORS TO CONSIDER IN USE OF FORCE. The following factors may be used to determine whether the law enforcement officer used the appropriate level of force [LAPD Policy]:

- *The seriousness of the crime or suspected offense.* It will be presumptively unreasonable for a law enforcement officer to use serious physical force against an individual who the law enforcement officer believes or has reason to believe committed a traffic or ordinance violation, misdemeanor, or non-violent felony. That presumption may be rebutted with evidence that the use of force was justified in light of other factors listed here, among others.
- *The level of threat or resistance presented by the individual.* It will be presumptively unreasonable to use serious physical force against an individual that does not pose a current, active, and immediate threat of death or serious bodily injury¹ to the law enforcement officer or bystanders, or to use force against an individual that is engaged in passive resistance only.
- *The risk of escape.* It will be presumptively unreasonable to use physical force against an individual who the law enforcement officer believes or has reason to believe committed a traffic or ordinance violation, misdemeanor, or non-violent felony.
- *The conduct of the individual being confronted by the law enforcement officer.* Serious physical force may only be used if the individual acts in a manner than poses a current, active, and immediate threat of death or serious bodily injury to the law enforcement officer or bystanders. Under no circumstances may serious physical force be used to apprehend an individual engaged in passive resistance only.
- *Whether the officer is using force against an individual who appears to be having a behavioral or mental health crisis, a person with a mental illness, or a person who is otherwise in distress.*
- *The time available to a law enforcement officer to evaluate the situation and decide on a course of action.*
- *The availability of other feasible, less intrusive force options;*
- *The ability of the officer to provide a meaningful warning before using force.*
- *Whether the law enforcement officer believes the individual to be in close proximity to a deadly weapon, or a weapon that can inflict serious bodily injury on the law enforcement officer or bystanders.*
- *The tactical conduct and decisions made by the law enforcement officer preceding the use of force.*

LEVELS OF THREAT FROM SUBJECTS.

- *Compliant.* Subject offers no resistance.
- *Passive Resistance.* Does not respond to verbal commands but also offers no physical form of resistance. Expressing an intent to resist is not considered resistance.
- *Active Resistance.* Physically evasive movements to defeat, avoid, or prevent an officer's attempt at apprehension. Expressing an intent to resist an officer's attempt at control is not considered active resistance.

¹ "Serious bodily injury" means bodily injury that involves (1) a substantial risk of death; (2) protracted and obvious disfigurement; or (3) protracted loss or impairment of the function of a body part, organ, or mental faculty.

- *Assaultive*. Aggressive or combative; actively attempting to assault the officer or another person. Expressing an intent to assault an officer or another person is not considered assaultive under this policy.
- *Life-threatening*. Any action likely to result in serious bodily injury or death of the officer or another person. [SFPD Policy]

LEVELS OF FORCE. Officers shall strive to use the minimum amount of force necessary to accomplish a lawful purpose, including levels of force lower than the level of threat. **Officers shall not, under any circumstances, use a level of force higher than the level of threat.**

- **Low Level Force.** The level of control necessary to interact with a subject who is or displaying passive resistance or active resistance. This level of force has a low probability of causing injury and includes physical controls such as control holds and other weaponless techniques.
- **Intermediate Force.** This level of force poses a foreseeable risk of significant injury or harm, but is unlikely to cause death. Intermediate force will only be authorized when officers are confronted with active or assaultive aggression and an immediate threat to the safety of officers or others. Certain force options such as OC spray, impact projectiles, and baton strikes are intermediate force likely to result in significant injury.
- **Deadly Force.** Any use of force substantially likely to cause serious bodily injury or death, including but not limited to the discharge of a firearm, the use of an impact weapon under some circumstances, other techniques or equipment, and certain interventions to stop a subject's vehicle.

[SFPD Policy]

DE-ESCALATION. Prior to using physical, non-deadly and/or deadly force, all law enforcement officers must use proper de-escalation techniques to decrease the likelihood that law enforcement officers will resort to force and to increase the likelihood of cooperation between law enforcement officers and members of the public. [SFPD Policy, NOPD Policy]

Law enforcement officers shall employ effective communication techniques to engage with individuals who are not compliant with orders by establishing rapport, using the appropriate voice intonation, asking questions and providing advice to defuse conflict and achieve voluntary compliance before resorting to force options. [SFPD Policy]

Where feasible, all law enforcement officers must determine whether an individual's failure to comply with an order is the result of one of the following factors [Seattle PD Policy]:

- Medical conditions;
- Mental impairment;
- Developmental disability;
- Physical limitation;
- Language barrier;
- Drug interaction;
- Behavioral crisis; and
- Other factors beyond the individual's control

After evaluating whether the individual's failure to comply with an order is based on one of the factor's listed above, the law enforcement officer must then determine whether physical force, and what level of physical force, is necessary and appropriate to resolve the situation in a safe manner.

Under no circumstances may a law enforcement officer use force on an individual for insolence, or for running away where the individual does not pose a current, active, and immediate threat to the safety of bystanders, other law enforcement officers, or the primary law enforcement officer. [Settlement Agreement between the U.S. DOJ and Cleveland PD]

CRISIS INTERVENTION TEAM. When feasible, a Crisis Intervention Team (CIT) consisting of both mental health providers and CIT trained law enforcement officers shall respond to calls for service involving individuals known or suspected to have mental illness or who appear to be in mental or behavioral health crisis. [SFPD policy]

SUBJECT ARMED WITH A WEAPON - NOTIFICATION AND COMMAND. In situations where a subject is armed with a weapon, officers and supervisors shall comply with the following:

- Upon being dispatched to or on-viewing a subject with a weapon, an officer shall call a supervisor as soon as feasible.
- When notified that officers are dispatched to or on-view a subject armed with a weapon, a supervisor shall as soon as feasible:
 - Notify DEM, monitor radio communications, respond to the incident (e.g., "3X100, Fin monitoring the incident and responding.);
 - Notify responding officers, while en-route, to protect life, isolate and contain the subject, maintain distance, find cover, build rapport, engage in communication without time constraint, and call for appropriate resources;
 - Upon arrival, where appropriate, the supervisor shall assume command, and ensure appropriate resources are on-scene or are responding.
 - Officers and supervisors shall factor into their approach the possibility that a subject suspected of being armed with a weapon is, in fact, unarmed or carrying an object other than a weapon.

[SFPD Policy]

III. USE OF DEADLY FORCE

The most serious act in which a police officer can engage during the course of their official duties is the use of deadly force. The authority to carry and use firearms in the course of public service is an immense power, which comes with great responsibility. It shall be the policy of the [Insert Jurisdiction] Police Department that law enforcement officers shall NOT use deadly force against another person unless ALL of the following conditions are met:

- The law enforcement officer has an objectively reasonable belief that deadly force is necessary to protect themselves or another person from a subject who is posing a current, active, and immediate threat of death AND;

Charlotte		NEW		NEW	NEW	NEW	NEW
Chesapeake							
Chicago							
Chula Vista		NEW					
Cincinnati							NEW
Cleveland							
Colorado Springs		NEW					
Columbus						NEW	
Corpus Christi							
Dallas		NEW	NEW	NEW		NEW	
Denver						NEW	NEW
Detroit							
Durham						NEW	
El Paso							
Fort Wayne							
Fort Worth							
Fremont		NEW					
Fresno		NEW		NEW			
Garland							
Glendale							
Greensboro						NEW	
Henderson		NEW	NEW				
Hialeah							
Honolulu		NEW					
Houston	NEW	NEW			NEW		
Indianapolis	NEW	NEW				NEW	NEW
Irvine		NEW					
Irving							

Jacksonville							
Jersey City		NEW					
Kansas City, MO							
Laredo		NEW					
Las Vegas		NEW			NEW		
Lexington							
Lincoln		NEW	NEW			NEW	NEW
Long Beach		NEW					
Los Angeles			NEW		NEW		NEW
Louisville		NEW				NEW	
Lubbock			NEW	NEW		NEW	
Madison							
Memphis		NEW				NEW	
Mesa							
Miami							
Milwaukee							
Minneapolis		NEW					
Nashville							
New Orleans							
New York		NEW					
Newark		NEW					
Norfolk							
North Las Vegas		NEW				NEW	
Oakland		NEW					
Oklahoma City		NEW					
Omaha						NEW	
Orlando							
Philadelphia							

Phoenix		NEW					
Pittsburgh							
Plano							
Portland		NEW					
Raleigh							
Reno	NEW	NEW	NEW			NEW	
Riverside		NEW					
Rochester		NEW					
Sacramento		NEW					
San Antonio		NEW	NEW		NEW		NEW
San Bernardino		NEW					
San Diego	NEW	NEW				NEW	
San Francisco							
San Jose							
Santa Ana		NEW					
Scottsdale							
Seattle							
Spokane							
St. Louis	NEW	NEW				NEW	NEW
St. Paul		NEW					
St. Petersburg							
Stockton		NEW					
Tampa		NEW	NEW		NEW	NEW	NEW
Toledo							
Tucson							
Tulsa							
Virginia Beach							
Washington DC							
Wichita		NEW		NEW		NEW	
Winston-Salem							