






Evaluation of MNPDP's Use of Force Policy Revision for Consistency with Policy Recommendations


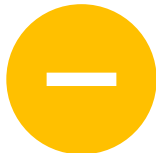
August 19, 2021




Metro Nashville Police Department (MNPDP) [released an updated use of force policy on July 23, 2021.](#) In the past year, the Community Oversight Board and Mayor Cooper's Policing Policy Commission have issued policy recommendations aiming to alter MNPDP's use of force policy. This report gauges which of the policy recommendation are included in the policy revision, which have been partially adopted, and which have not been included. Each recommendation is marked with the following icons:

	The recommendation has been incorporated into MNPDP's revised used of force policy.
	The recommendation has been partially incorporated into MNPDP's revised use of force policy.
	The recommendation has not been incorporated into MNPDP's revised use of force policy.



Community Oversight Board Recommendations Related to Use of Force Policy


The COB has released two reports focusing on use of force policy. These reports included 10 recommendations in total.



	Recommendation	MNPD Response	Included in Revised Use of Force Policy	Notes
1	Ban choke holds and strangle holds: The COB recommends that MNPD policy define “neck restraints” to include choke holds, carotid restraints, lateral vascular restraints, and holds with a knee or other object on the neck while an individual is prone.	Accepted		<ul style="list-style-type: none"> • §11.10.160 prohibits neck restraints including, “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.”
2	Require de-escalation, physical force only as a last resort: The COB recommends that de-escalation tactics be required before an officer uses force, be it non-lethal and/or lethal, and that failing to use reasonable de-escalation techniques when circumstances permit should make the officer subject to disciplinary action. Policy should state that physical force should only be used as a last resort. The MNPD Manual should also explicitly define common de-escalation tactics that are available to officers.	Partial Acceptance		<ul style="list-style-type: none"> • De-escalation required in §11.10.010 and §11.10.030(M). • Language of force as a “last resort” is not included. Previous and current policy states that officers are, “permitted to use only that force which is reasonable and necessary under the particular circumstances to protect themselves or others from bodily injury, and only after other reasonable alternatives have been exhausted or it is determined that such alternative action(s) would be ineffective under the circumstances.” §11.10.040(E) • De-escalation technique examples are specified in §11.10.030(M)3.

3	<p>Ban the shooting of firearms at moving vehicles: The COB recommends that MNPd amend the policy prohibiting shooting of firearms at moving vehicles to specify that the only circumstance where shooting at vehicles is allowed is when an occupant of the vehicle is using deadly force, other than the vehicle itself, against the officer or another person. We recommend that shooting at moving vehicles be prohibited except for in the specified circumstances and that the disciplinary category for shooting at a moving vehicle is included.</p>	No Response		<ul style="list-style-type: none"> • Unchanged from previous policy, see §11.10.030(H)1-2.¹
4	<p>MNPd should review policies, procedures, and trainings to ensure consistency between policies in the Manual and prohibitions that are covered in training. Actions that are against policy because of training should be explicitly stated as prohibited in the MNPd Manual. When appropriate, concrete examples should be provided to ensure clarity.</p>	Accepted		<ul style="list-style-type: none"> • The use of force revision includes multiple changes that increase consistency between policy and training.
5	<p>MNPd should implement promotional and annual in-service supervisor training that focuses on conducting use of force investigations. This training should be in addition to the annual in-service training provided to all sworn officers. Recommended training topics include: conducting use of force investigations, strategies for effectively directing officers to minimize uses of force and to</p>	Accepted		<ul style="list-style-type: none"> • Specialized training for supervisors responsible for investigating use of force incidents is being rolled out in the department. Command-level leadership has received training and it will be required for lieutenants next.

¹ MNPd policy prohibits shooting at moving vehicles unless “absolutely necessary to protect the life of the employee or others.” The Police Executive Research Forum (PERF), #8cantwait recommendations, and the Metropolitan Nashville Community Oversight Board recommend that the policy clarify that someone in the vehicle must be using deadly force other than the vehicle itself to justify shooting at the vehicle. PERF, in June 2020, updated their recommended policy to state that “Agencies should adopt a prohibition against shooting at or from a moving vehicle unless someone in the vehicle is using or threatening deadly force by means other than the vehicle itself, or the driver is attempting to use the vehicle as a weapon of mass destruction in an apparent terrorist attack.” PERF’s policy is available at <https://www.policeforum.org/criticalissuesjune22>.





	intervene effectively to prevent or stop unreasonable force, incident management, and supporting officers who report unreasonable or unreported force, or who are retaliated against for using only reasonable force or attempting to prevent unreasonable force.			
6	MNPD should create a Crisis Intervention Team comprised of specially trained officers for response to crisis situations involving mental health issues including drug addiction. CIT officers should work closely with civilian mental health professionals and, when possible, should be accompanied by a mental health professional co-responder when responding to crisis-related calls for service. The MNPD Manual should comprehensively outline policies, procedures, and roles related to the crisis intervention program, including trauma-informed, situation-based guidance for officers responding to the scene of a crisis. Since a CIT will require a long-term implementation plan, MNPD should aim to create a budget-neutral plan for developing the program. If additional resources are needed, those should be detailed in a request to the Metro Council for the FY22 budget.	Accepted		<ul style="list-style-type: none"> • CIT Co-response program is active in North and Hermitage Precincts.
7	MNPD should categorize all use of force above unresisted handcuffing into three levels that will guide the reporting and investigation of the use of force.	Partial Acceptance		<ul style="list-style-type: none"> • MNPD's partial acceptance had indicated that they accepted the reporting threshold for any force above unresisted handcuffing but not the 3-level categorization. • Commander Lara stated that officers are required to report to a supervisor when they overcome resistance. The supervisor then decides whether a 108 Form is required. There is no







				<p>documentation of the report to the supervisor or that soft empty hand control was used without injury.</p> <ul style="list-style-type: none"> • Reporting soft empty hand control to supervisor is not explicitly stated in the revised use of force policy (see §11.10.190(C & D)) • §11.10.190(A) states: “Personnel shall report all use of force incidents. However, no MNPDP Form 108, Use of Force Report is required when official presence, verbal direction, and/or soft empty-hand control is used by the employee and there is no injury and no allegation of injury.”
8	<p>A Force Investigation Team should be created as a branch of OPA to investigate criminal and administrative aspects of uses of force resulting in serious injury, all firearm discharges, misapplications of force, and other serious uses of force as defined by the department. They should also investigate fatal uses of force for violations of administrative standards parallel to the TBI criminal investigation. The unit should receive specialized training in conducting use of force investigations into serious uses of force.</p>	Accepted		<ul style="list-style-type: none"> • The OPA SOP now states: “The Office of Professional Accountability’s Force Investigation Team (FIT) shall review any use of force by an employee of the department resulting in death or serious bodily injury of any person. Additionally, the FIT may review any firearm discharge, misapplication of force, or other serious use of force by a member of the department. Upon notification of such a use of force the OPA Director or Lieutenant will ensure notification and response of Force Investigation Team investigator(s). Members of the Force Investigation Team shall receive appropriate training related to force investigations.” • OPA SOP included no other changes


				<p>other than the paragraph above and retained the Cold Case Unit as the investigative lead in officer involved shootings when TBI does not lead the investigation.</p> <ul style="list-style-type: none"> • FIT investigating misapplications of force and negligent firearm discharges is discretionary. Revised Use of Force policy states that Criminal Investigation Division or Precinct Investigative Units will investigate firearm discharges and deadly force, see §11.10.200(D) • No mention of FIT is included in the revised policy and
9	<p>MNPD should track and analyze use of force data and create an annual use of force report that is available to the public. The analysis in this report should examine the relative frequency and type of force used by officers against individuals in specific demographic categories, examine MNPD's use of force over time, and identify and address any trends that may warrant changes to policy, procedures, training, tactics, equipment, or practice.</p>	Accepted		<ul style="list-style-type: none"> • Included in §11.10.200(G)11
10	<p>MNPD should publish an interactive dashboard of monthly or quarterly use of force statistics including, but not limited to, the race, ethnicity, age, and gender of subjects; the type(s) of force applied; the type of resistance from subject; injuries sustained by officers and subjects; the geographic area where the use of force occurred, and the call types where force was applied.</p>	Partial Acceptance		<ul style="list-style-type: none"> • While not in the policy manual, MNPD has developed dashboards and are working to deploy them on Nashville.gov.

Mayor’s Policing Policy Commission’s Recommendations Related to Use of Force Policy

The PPC made recommendations on various aspects of the police department. Recommendations focused on use of force policy are included in the table below.

	Recommendation	Included in Revised Use of Force Policy	Notes
1	Require that de-escalation tactics be utilized before an officer uses force, be it non-deadly or deadly.		<ul style="list-style-type: none"> • See: §11.10.010 and §11.10.030(M)
2	Establish that failing to use reasonable de-escalation techniques under the appropriate circumstances will result in disciplinary action.		<ul style="list-style-type: none"> • See: §11.10.010
3	Require that training clearly states that physical force should be used as a last resort.		<ul style="list-style-type: none"> • Language of force as a “last resort” is not included. Previous and current policy states that officers are, “permitted to use only that force which is reasonable and necessary under the particular circumstances to protect themselves or others from bodily injury, and only after other reasonable alternatives have been exhausted or it is determined that such alternative action(s) would be ineffective under the circumstances.” §11.10.040(E)
4	Incorporate policies that fulfill the remaining four recommendations of the #cantwait initiative. The following procedures should be updated: Requires de-escalation, duty to intervene, ban shooting at moving vehicles, and requires comprehensive reporting.		<ul style="list-style-type: none"> • Requires De-escalation: included as §11.10.010 and §11.10.030(M) • Duty to Intervene: included as §11.10.030(G) • Requires Comprehensive Reporting [missing from policy manual was reporting of firearm displays]: included as §11.10.190(D)3 • Ban Shooting at Moving Vehicles: Unchanged from previous policy, see §11.10.030(H)1-2 and footnote 1 above.

5	Stop teaching “excited delirium” at the Police Training Academy.		<ul style="list-style-type: none"> Excited Delirium is included as a definition in policy (§11.10.020(K)) and officers are required to summon EMS whenever a person exhibits symptoms of excited delirium and force was used. §11.10.170(C)
6	Conduct a full-scale review of MNPД’s Continuum of Force with MNCO that strongly considers and remedies the harm to community relations and the disproportionate impact that teaching “Police Presence” as the first step on the continuum of force creates in communities of color and other marginalized communities.		<ul style="list-style-type: none"> §11.10.020(V) defines “Official Presence” and specifies that is not a use of force.
7	Consider clearer policy using more specific techniques, including chart or pyramid of de-escalation techniques that are prerequisites to use of force around the MNPД Incident Decision Making Model.		<ul style="list-style-type: none"> De-escalation technique examples are specified in §11.10.030(M)3. The policy manual does not include charts or images showing the force continuum or IDMM.
8	Explicitly define what qualifies as “soft empty hand control” and what warrants the filing of a Form 108, the MNPД form used for reporting use of force and how these practices will be taught during Academy instruction.		<ul style="list-style-type: none"> Soft empty hand control is defined in §11.10.020(EE) and guidelines for events requiring a Form 108 are defined in §11.10.190.
9	Make the use of Form 108 mandatory despite injury or “soft empty hand” contact between officer and any non-MNPД person.		<ul style="list-style-type: none"> §11.10.190(A) states: “no MNPД Form 108, Use of Force Report is required when official presence, verbal direction, and/or soft empty-hand control is used by the employee and there is no injury and no allegation of injury.”
10	Develop a clear definition of broad terms like “serious bodily injury” and “injury” for determining disciplinary actions.		<ul style="list-style-type: none"> Definitions in §11.10.020 have been updated.

11	In the event that a use of force results in the admission to the hospital, remove officers from the line of duty and field assignments until a formal investigation has been completed.		<ul style="list-style-type: none">• §11.10.190(J)1 requires that any employee whose force results in death or serious bodily injury defined as “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” is removed from the line of duty. Hospital admission is not a criteria used in the policy.
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