

**Public Safety Review Committee  
Review Materials for “8 Can’t Wait” Policies Discussion  
and Draft Report**

**EXECUTIVE SUMMARY/RECOMMENDATIONS**

Summarize recommendations from 8 policies here.

## INTRODUCTION: USING THIS REPORT

[Mayor Satya Rhodes-Conway requested](#) that the Public Safety Review Committee report on the “8 can’t wait” policies.

This report compiles information, recommendations and policy work on the 8 can’t wait related policies for the past three to five years and follows this general format for each section:

1. “8 can’t wait” policy/information from [”8 Can’t Wait” policy website](#)
  - a. “8 Can’t Wait” Policy Recommendation
  - b. Madison specific information from “8 Can’t Wait” police website
2. Policy Background
  - a. “8 can’t wait” Model Policy Language
  - b. [Police Department Response to “8 can’t wait”](#) (Chief Wahl’s Blog - June 7, 2020)
  - c. [City Attorney Memo Excerpts](#) (July 8, 2020) and MPD policies
  - d. [OIR Report](#) (December 2017) & [MPD response to OIR Report](#) (January 31, 2018)
  - e. [Ad Hoc Committee Recommendations](#) (October 18, 2019) and [MPD Status Report on Ad Hoc Committee Recommendations](#) (July 13, 2020)
  - f. [Recommendations from President’s Workgroup on Police & Community Relations](#) (May 12, 2017)
  - g. Other city policy and community recommendations
3. PSRC Findings and Recommendations
  - a. Findings
  - b. Recommendations

## 8 CAN’T WAIT WEBSITE – GENERAL INFORMATION

[8 Can’t Wait Website](#)  
[Research Basis for Policies](#)  
[Model Use of Force Policy](#)



Other “8 Can’t Wait” Information

Read about [What Abolitionists Do](#)

Learn about [the difference between reformist reforms and abolitionist steps](#)

Learn about [the difference between racism and anti-blackness](#)

Learn about the [Movement for Black Lives](#)

Read about the campaign to [defund the police by \\$1 billion](#)

Read all of the [resources listed on the 8ToAbolition site](#)  
Read this entire [library](#) of anti-racism resources

# POLICY #1 – BAN CHOKEHOLDS & STRANGLEHOLDS

## A. Policy

Allowing officers to choke or strangle civilians results in the unnecessary death or serious injury of civilians. Both chokeholds and all other neck restraints must be banned in all cases.

## B. Madison, WI

Yes. "The intentional punching, striking, or grabbing the throat (trachea) or blocking or restricting the carotid neck arteries creates a substantial likelihood of death or great bodily harm and is therefore considered deadly force and shall be used only in accordance with this policy."

## BACKGROUND

### A. 8 Can't Wait Model Policy Language (see full model policy here)

**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.

### B. Police Department Response to "8 Can't Wait"

*Ban Chokeholds & Strangleholds* – MPD does not, nor has it ever, trained officers in chokeholds, strangleholds or any other similar techniques. MPD policy specifically prohibits use of these techniques unless deadly force is justified.

### C. City Attorney Response/MPD Policy

The MPD Use of Non-Deadly Force Standard Operating Procedure (SOP) states:

#### USE OF FORCE TECHNIQUES/INSTRUMENTS

The intentional continued restriction of the carotid neck arteries is not a trained MPD technique and is therefore prohibited, unless deadly force is justified.

<https://www.cityofmadison.com/police/documents/sop/NonDeadlyForceUseof.pdf>

The MPD Deadly Use of Force SOP states:

#### USE OF FORCE TECHNIQUES/INSTRUMENTS

The intentional punching or striking of the trachea creates a substantial likelihood of death and is therefore considered deadly force and shall be used only in accordance with this SOP.

<https://www.cityofmadison.com/police/documents/sop/DeadlyForceUseof.pdf>

### D. OIR Report & MPD Response to OIR Report

This policy is not mentioned in the OIR Report.

### E. Ad Hoc Committee Recommendations & MPD Status Report on Ad Hoc Committee Recommendations

This policy is not mentioned in the Ad Hoc Committee Report.

### F. President's Workgroup on Police and Community Relations

Action Item 4. The Common Council hereby issues a lawful order to the Chief of Police to incorporate language to emphasize an officer's duty to preserve life, including the lives of those being placed into police custody into the MPD Use of Force and the Use of Deadly Force SOPs.

## G. Other

A. **Council ordinance** – on the August 12 Agenda for PSRC recommendation: [Creating Section 5.16 of the Madison General Ordinances to prohibit Madison Police Department employees from intentionally using carotid or neck restraints.](#)

“5.16 PROHIBITION OF CAROTID AND NECK RESTRAINTS.

(1) Definitions.

“Carotid restraint” means any technique applied in an effort to control or disable a subject by intentionally applying pressure to the carotid artery, jugular vein, or sides of the neck with the purpose, intent, or effect of controlling an individual’s movement or rendering a subject unconscious by constricting the flow of blood to and from the brain.

“Neck restraint” means any technique involving the use of an arm or other firm object to attempt to control or disable an individual by intentionally applying pressure against the windpipe, or the frontal area of the neck with the purpose or intent of controlling an individual’s movement or rendering an individual unconscious by blocking the passage of air through the windpipe.

(2) While on duty, all commissioned officers employed by the Madison Police Department are prohibited from the intentional use of any type of carotid restraint or any type of neck restraint on any individual.”

B. [NAACP](#) – A Ban on the use of “Knee Holds” and other questionable, potentially lethal methods of restraint in detentions and arrests

## PSRC FINDINGS AND RECOMMENDATIONS

### A. Findings

The 8 can’t wait policy says that “Both chokeholds and all other neck restraints must be banned in all cases.”

Madison Police Department response indicates “MPD policy specifically prohibits use of these techniques unless deadly force is justified.” The City Attorney’s Office acknowledges that they should not be used “unless deadly force is justified.”

MPD does not ban chokeholds “in all cases”.

### B. Recommendations

To be determined by committee

## POLICY #2 – REQUIRE DE-ESCALATION

### A. Policy

Require officers to de-escalate situations, where possible, by communicating with subjects, maintaining distance, and otherwise eliminating the need to use force.

### B. Madison, WI

When safe and feasible under the totality of circumstances, officers should attempt to slow down or stabilize the situation so that more time, options and resources are available for incident resolution. Officers should utilize appropriate tactical and officer safety principles to avoid unreasonably placing themselves at risk. Examples of De-escalation could include, but are not limited to:

- Placing barriers between an uncooperative subject and an officer
- Containing a threat
- Moving from a position that exposes officers to potential threats to a safer position
- Decreasing the exposure to potential threat by using
  - Back-up
  - Distance/time
  - Cover/concealment
- Communication from a safe position intended to gain the subject's compliance, using dialogue
- Any other tactics and approaches that attempt to achieve law enforcement objectives

## BACKGROUND

### A. 8 Can't Wait Model Policy Language (see full model policy here)

**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 in to 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](#)]

## B. Police Department Response

From [Acting Chief Vic Wahl's Blog – June 7, 2020](#)

*Require De-Escalation* – MPD has implemented a policy on de-escalation that requires the use of de-escalation techniques (such as time, distance, communication, etc.) when feasible. All officers were trained in de-escalation when the policy was implemented. New officers are trained in de-escalation and the principle is incorporated into many aspects of officer training (professional communication, tactical response, etc.).

## C. City Attorney Response/MPD Policy

The MPD Use of Non-Deadly Force SOP states:

### DE-ESCALATION

Whenever safe and feasible, officers will attempt to utilize de-escalation tactics and techniques in a manner consistent with the De-Escalation SOP.

<https://www.cityofmadison.com/police/documents/sop/NonDeadlyForceUseof.pdf>

MPD also has a SOP specifically related to De-escalation which can be found at this link: <https://www.cityofmadison.com/police/documents/sop/Deescalation.pdf>. It states, in part,

When safe and feasible under the totality of circumstances, officers should attempt to slow down or stabilize the situation so that more time, options and resources are available for incident resolution. Officers should utilize appropriate tactical and officer safety principles to avoid unreasonably placing themselves at risk.

#### D. OIR Report & MPD Response to OIR Report

**RECOMMENDATION 26:** MPD should implement the Special Community/Police Task Force Recommendation to explore Scotland’s de-escalation methods and the United Kingdom’s national decision-making model for police, and adapt these concepts productively to its own policing challenges.

**MPD Response:** MPD Training Staff personnel are always exploring options to improve the quality and content of both pre-service and in-service training. This includes review of training provided by other agencies. An example, as highlighted in the report, was an officer traveling to Seattle to observe de-escalation training provided by the Seattle Police Department. This provided the foundation for MPD’s training and SOP on de-escalation.

Training staff can review the Scotland and United Kingdom models and evaluate whether any individual aspects should be incorporated into MPD training. It is neither appropriate nor practical to consider full implementation of the models, however. As the report notes, police in the United Kingdom face a reality much different from those in the U.S.

**RECOMMENDATION 63:** MPD should cross-train patrol tactics and force instructors to also run and debrief mental health crisis scenarios to strengthen the Department’s message around the importance of de-escalation in crisis situations, even in those scenarios when officers also need to consider force options.

**MPD Response:** MPD supports this concept and has made efforts to implement this structure already.

**RECOMMENDATION 80:** MPD should adopt policy requiring a supervisor to evaluate whether each use of force was within policy, as well as compliance with any other policies implicated such as the foot pursuit or de-escalation policies, with a supporting analytical narrative that also demonstrates a holistic review of all the circumstances surrounding the use of force.

**MPD Response:** The MPD use-of-force coordinator (a supervisor) reviews every MPD force incident. The totality of each incident is considered, and opportunities for improvement are recognized. This could involve training, equipment, procedure or individual performance.

While front-line supervisors are involved in the initial force review and entry into the use-of-force database, responsibility for the review process should remain that of the centralized use-of-force coordinator. This ensures adequate expertise and consistency, and allows for the recognition of patterns or systems issues that might otherwise not be identified. Contrary to the report’s assertion, remedial measures related to a specific use-of-force incident are documented by the use-of-force coordinator.

Requiring a narrative document reviewing each incident is not feasible, without additional staffing for this position. However, MPD recognizes that some standardization would be beneficial, and steps will be taken to fine-tune this process.

**RECOMMENDATION 83:** MPD should identify and publicly commend officers who practice de-escalation techniques and problem oriented policing.

**MPD Response:** MPD is committed to this practice. We regularly release summaries of incidents where officers successfully de-escalated a situation or avoided the use of deadly force, however these occurrences typically do not attract media or public attention. MPD also has a long history of recognizing this type of work—as well as problem-oriented policing efforts— at the annual awards ceremony. These efforts will continue.

### E. Ad Hoc Committee Recommendations & MPD Status Report on Ad Hoc Committee Recommendations

The recommendations the Committee makes are extensive and wide-ranging. Thematically, they include efforts to:

- Increase civilian oversight of law enforcement, enhance accountability, and expand Department transparency;
- Improve and in some instances repair damaged community-police relations and trust, especially among communities of color and low-income people;
- Increase sensitivity and seek non-traditional responses to individuals who suffer from emotional disturbances or alcohol and drug abuse, individuals from marginalized communities, and juveniles;
- Minimize the risks of avoidable uses of police force, including deadly force, by: a) instituting greater accountability, b) instituting systems for non-blaming learning from critical incidents, c) tightening standards and training on permissible uses of force, and **d) incorporating an emphasis on de-escalation throughout MPD’s Standard Operating Procedures (SOPs) and training.**

**Recommendation #38:** MPD should implement the Special Community/Police Task Force Recommendation to explore Scotland’s de-escalation methods and the United Kingdom’s national decision-making model for police, and adapt these concepts productively to its own policing challenges. [OIR Report #26]

**Responsible Agency:** MPD

**Fiscal Impact:** \$130,000 (annual salary & benefits for Sergeant position)

**Priority:** Low

**Status/Comments:** MPD conducts a number of audit processes to ensure accountability and compliance with SOP/Code of Conduct. As indicated in the Ad Hoc Committee report, MPD supports this concept; however additional supervisor staffing will be required to implement it in a meaningful way.

**Recommendation #78:** MPD should cross-train patrol tactics and force instructors to also run and debrief mental health crisis scenarios to strengthen the Department’s message about the importance of de-escalation in crisis situations, even in those scenarios when officers also need to consider force options. [OIR Report #63]

**Responsible Agency:** MPD

**Fiscal Impact:** Staff Time

**Priority:** Addressed/Ongoing

**Status/Comments:** MPD is committed to this principle, and de-escalation is incorporated into a variety of training topics.

**Recommendation #79:** City of Madison should contract with ProTraining to provide their full training program for all officers. [PWG #2]

**Responsible Agency:** MPD

**Fiscal Impact:** \$65,000

**Priority:** Low

**Status/Comments:** MPD requested funding in the 2020 budget to support providing this training to all officers. The request was approved and the funding was included in MPD’s 2020 budget. However, following through with the training will not be possible due to the COVID-19 pandemic (given logistic challenges of putting on this type of training and the need to identify spending cuts to address the City’s budget crisis).

Recommendation #98: MPD should adopt policy requiring a supervisor to evaluate whether each use of force was within policy as well as compliance with any other policies implicated, such as the foot pursuit or de-escalation policies, with a supporting analytical narrative that also demonstrates a holistic review of all the circumstances surrounding the use of force. [OIR Report #80]

**Responsible Agency:** MPD

**Fiscal Impact:** Staff Time

**Priority:** Addressed/Ongoing

**Status/Comments:** Department SOP has been amended to address this recommendation. The revised SOP outlines a variety of factors for the MPD use of force coordinator to consider when reviewing recordable force incidents.

<https://www.cityofmadison.com/police/documents/sop/UseOfForceData.pdf>

Recommendation #101: MPD should identify and publicly commend officers who practice de-escalation techniques and problem-oriented policing. [OIR Report #83]

**Responsible Agency:** MPD

**Fiscal Impact:** None

**Priority:** Addressed/Ongoing

**Status/Comments:** MPD is committed to this and makes regular efforts to publicize this work.

Recommendation #126: MPD should consider deploying additional protective equipment in squad cars, including but not limited to transparent acrylic personal protection shields and Kevlar stainless steel gloves, and provide training in their use. [CRT #2]

**Responsible Agency:** MPD

**Fiscal Impact:** Unknown

**Priority:** Low

**Status/Comments:** MPD is committed to providing appropriate equipment to employees to enhance officer and community safety. Funding has been provided to expand availability of some less lethal tools (see #127). However, the COVID-19 pandemic is likely to make budgets extremely tight in the near future. And, maintaining/replacing Tasers in future years will have a significant budget impact. Maintaining Taser inventory and expanding current platforms (see #127) takes priority over experimenting with new tools.

## **F. President’s Work Group on Police and Community Relations**

Action Item 3. The Common Council hereby issues a lawful order to the Chief of Police to issue updated MPD Use of Force and the Use of Deadly Force SOPs that explicitly incorporate the duty to intercede and de-escalate which are already included in MPD’s Code of Conduct and Core Values and the de-escalation SOP.

Action Item 5. The Common Council directs the Ad Hoc Committee to evaluate the precautionary principles detailed above and determine whether and how they may be addressed in MPD policies, practices and procedures.

Action Item 7. The Common Council hereby issues a lawful order to the Chief of Police to develop a comprehensive backup policy that addresses the need to protect public safety and officer safety. The backup policy should incorporate the principles of de-escalation and judicious use of force, as described in the relevant

SOPs. The backup policy should clearly define procedures to ensure officers request and wait for backup in specific relevant scenarios such as:

- When an officer anticipates a need to use force, but has an opportunity to retreat or is not facing immediate threat;
- When an officer is dealing with an EDP or a resistant intoxicated person;
- When backup is expected to arrive within a certain amount of time;
- When an incident involves violence or violence is anticipated;
- An occurrence involving the use, display or threatened use of a weapon;
- Domestic disputes;
- Areas where communications are known to be deficient; or
- Any occurrence involving a subject posing a threat to self or others.

## G. Other City and Community Recommendations

NAACP – A review of Dane County Police Departments’ Use of Force Continuums, ensuring that they have at least 6 levels with clear rules on de-escalation.

## PSRC FINDINGS AND RECOMMENDATIONS

### A. Findings

To be determined by committee

### B. Recommendations

To be determined by committee

## POLICY #3 – REQUIRE WARNING BEFORE SHOOTING

### A. Policy

Require officers to give a verbal warning in all situations before using deadly force.

### B. Madison, WI

Yes. "Before using deadly force, officer shall, if reasonably possible, identify themselves and order the suspect to desist from unlawful activity."

## BACKGROUND

### A. 8 Can't Wait Model Policy Language ([see full model policy here](#))

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;
- 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](#)]

## B. Police Department Response

*Require Warning Before Shooting* – MPD policy requires that "Before using deadly force, officers shall, if reasonably possible, identify themselves and order the subject to desist from unlawful activity." This requirement is reinforced in officer training.

## C. City Attorney Response & MPD Policy

The MPD Use of Deadly Force SOP states:

### **VERBAL WARNING**

Before using deadly force, officers shall, if reasonably possible, identify themselves and order the subject to desist from unlawful activity.

<https://www.cityofmadison.com/police/documents/sop/DeadlyForceUseof.pdf>

## D. OIR Report & MPD Response to OIR Report

Not mentioned in the OIR Report.

## E. Ad Hoc Committee Recommendations & MPD Status Report

Not mentioned in the Ad Hoc Committee Report.

## F. President's Work Group on Police and Community Relations

Not mentioned in the President's Work Group Report.

## G. Other City and Community Recommendations

[NAACP](#) – A review of Dane County Police Departments' Use of Force Continuums, ensuring that they have at least 6 levels with clear rules on de-escalation.

## PSRC FINDINGS AND RECOMMENDATIONS

### A. Findings

The "8 Can't Wait" policies say to "Require officers to give a verbal warning in all situations before using deadly force"

MPD policies to not require verbal warnings in all circumstances, they allow the officer discretion and verbal warning is only required "if reasonably possible"

## B. Recommendations

To be determined by committee

## POLICY #4 – REQUIRES EXHAUST ALL ALTERNATIVES BEFORE SHOOTING

### A. Policy

Require officers to exhaust all other alternatives, including non-force and less lethal force options, prior to resorting to deadly force.

### B. Madison, WI

Yes. "It is the procedure of this department that deadly force will never be resorted to unless an officer reasonably believes that a lesser degree of force would be insufficient to defend the life of another, one's self, or in limited situations, to apprehend a dangerous felon, or control an animal."

## BACKGROUND

### A. 8 Can't Wait Model Policy Language (see [full model policy here](#))

Model Policy Language (see [full model policy here](#)) - 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;
- 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](#)]

### **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](#)]

### **B. Police Department Response to “8 Can’t Wait”**

*Require Exhausting all Alternatives Before Shooting* – MPD policy clearly states that deadly force is "a measure of last resort, only to be employed when an officer reasonably believes all other options have been exhausted or would be ineffective." This principle is emphasized in officer training.

### **C. City Attorney Response/MPD Policy**

Require Exhausting all Alternatives Before Shooting The MPD Use of Deadly Force SOP states:

The application of deadly force is a measure of last resort, only to be employed when an officer reasonably believes all other options have been exhausted or would be ineffective.

### **DEADLY FORCE AUTHORIZED**

The use of deadly force is only authorized, when under any of the following circumstances, an officer reasonably believes a lesser degree of force would be insufficient.

<https://www.cityofmadison.com/police/documents/sop/DeadlyForceUseof.pdf>

### **C. OIR Report & MPD Response to OIR Report**

Not mentioned in the OIR Report.

### **D. Ad Hoc Committee Recommendations & MPD Status Report**

Not mentioned in the Ad Hoc Committee Report.

### **E. President’s Work Group on Police and Community Relations**

Not mentioned in the President’s Work Group Report.

### **F. Other City and Community Recommendations**

None.

## **PSRC FINDINGS AND RECOMMENDATIONS**

### **G. Findings**

To be determined by committee

## H. Recommendations

To be determined by committee

## POLICY #5 – DUTY TO INTERVENE

### A. Policy

Require officers to intervene and stop excessive force used by other officers and report these incidents immediately to a supervisor.

### B. Madison, WI

Yes. "It is the procedure of this department that deadly force will never be resorted to unless an officer reasonably believes that a lesser degree of force would be insufficient to defend the life of another, one's self, or in limited situations, to apprehend a dangerous felon, or control an animal."

## BACKGROUND

### A. 8 Can't Wait Model Policy Language (see full model policy here)

**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.

### B. Police Department Response to "8 Can't Wait"

*Duty to Intervene* – MPD policy and Code of Conduct states, "Any officer present and observing another officer using excessive force, or engaged in unlawful conduct, or in violation of the Madison Police Department's Code of Conduct has an affirmative obligation to intercede and report."

### C. City Attorney Response/MPD Policy

The MPD Code of Conduct & MPD Use of Deadly Force SOP both state:

#### **DUTY TO INTERCEDE**

Any officer present and observing another officer using excessive force, or engaged in unlawful conduct, or in violation of the Madison Police Department's Code of Conduct has an affirmative obligation to intercede and report.

<https://www.cityofmadison.com/police/documents/sop/DeadlyForceUseof.pdf>

### D. OIR Report & MPD Response to OIR Report

Not mentioned in OIR Report.

## E. Ad Hoc Committee Recommendations & MPD Status Report

Not mentioned in Ad Hoc Committee Report.

## F. President's Work Group on Police and Community Relations

Action Item 3. The Common Council hereby issues a lawful order to the Chief of Police to issue updated MPD Use of Force and the Use of Deadly Force SOPs that explicitly incorporate the duty to intercede and de-escalate which are already included in MPD's Code of Conduct and Core Values and the de-escalation SOP.

## G. Other City and Community Recommendations

Not mentioned.

## PSRC FINDINGS AND RECOMMENDATIONS

### A. Findings

To be determined by committee

### B. Recommendations

To be determined by committee

## POLICY #6 – BAN SHOOTING AT MOVING VEHICLES

### A. Policy

Ban officers from shooting at moving vehicles in all cases, which is regarded as a particularly dangerous and ineffective tactic. While some departments may restrict shooting at vehicles to particular situations, these loopholes allow for police to continue killing in situations that are all too common. 62 people were killed by police last year in these situations. This must be categorically banned.

### B. Madison, WI

No. Does not limit shooting at moving vehicles to only those situations where deadly force is being used against others by means other than the vehicle. Allows shooting at vehicles if they're operated in a manner "deliberately intended to strike an officer or another person." Deadly force is never authorized: 3. At a moving vehicle unless: A. A person in the vehicle is threatening the officer or another person with deadly force by means other than the vehicle; or B. The vehicle is operated in a manner that reasonably appears deliberately intended to strike an officer or another person, and all other reasonable means of defense have been exhausted (or are not present or practical).

## BACKGROUND

### A. 8 Can't Wait Model Policy Language (see full model policy here)

#### 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](#)]

### B. Police Department Response to "8 Can't Wait"

*Ban Shooting at Moving Vehicles* – MPD policy states that shooting at a moving vehicles is never authorized unless: a person in the vehicle is threatening the officer or another person with deadly force by means other than the vehicle; or the vehicle is being operated in a manner that reasonably appears deliberately intended to strike an officer or other person, and all other reasonable means of defense have been exhausted (or are not present or practical).

### C. City Attorney Response/MPD Policy

The MPD Use of Deadly Force SOP states:

## **Deadly force is never authorized:**

1. At a moving vehicle unless:

A. A person in the vehicle is threatening the officer or another person with deadly force by means other than the vehicle; or

B. The vehicle is operated in a manner that reasonably appears deliberately intended to strike an officer or another person, and all other reasonable means of defense have been exhausted (or are not present or practical). <https://www.cityofmadison.com/police/documents/sop/DeadlyForceUseof.pdf>

## **D. OIR Report & MPD Response to OIR Report**

RECOMMENDATION 99: MPD should modify its prohibition on shooting at moving vehicles to make it clear that discharging a firearm at a moving vehicle is prohibited unless an individual in the car poses an immediate threat of death or serious bodily harm by means other than the vehicle, and that officers have a duty to move out of the path of a moving vehicle.

**MPD Response**: MPD agrees that this language in the Use of Deadly Force SOP could be improved. However, the change suggested by OIR would be unwise. OIR suggests an absolute prohibition on discharging a firearm at a vehicle unless the driver or occupant is posing a deadly force threat by means other than the vehicle. This ignores the potential for the intentional use of a vehicle as means of killing or as a terroristic tool. A number of instances, internationally and within the United States, have seen an attacker use a vehicle to intentionally run down pedestrians. An SOP preventing officers from taking action in these instances seems inappropriate, particularly given the number of events in Madison with high concentrations of pedestrians in small areas.

## **E. Ad Hoc Committee Recommendations & MPD Status Report**

Recommendation 122 [OIR #99 & CRT #17]: MPD should modify its policy prohibiting shooting at moving vehicles to read: “Firearms shall not be discharged at a moving vehicle unless: 1) A person in the vehicle is threatening the officer or another person with deadly force by means other than the vehicle; or 2) The vehicle is operated in a manner that reasonably appears deliberately intended to strike an officer or another person, and all other reasonable means of defense have been exhausted (or are not present or practical). To prevent the threat of being struck by a vehicle, officers should make every effort to avoid putting themselves in the path of any moving vehicle and, when such positioning is unavoidable, to move out of the vehicle’s path as soon as practical.”

**Responsible Agency**: MPD

**Fiscal Impact**: Staff Time

**Priority**: Addressed/On-going

**Status/Comments**: MPD SOP has been modified to address this recommendation:

<https://www.cityofmadison.com/police/documents/sop/DeadlyForceUseof.pdf>

The SOP was updated in early 2019 and all sworn personnel were provided training in the new SOP prior to implementation.

## **F. President’s Work Group on Police and Community Relations**

Not mentioned in President’s Work Group Report

## **G. Other City and Community Recommendations**

**Impact Demand Youth Group**: SOP on not shooting at moving vehicles.

## PSRC FINDINGS AND RECOMMENDATIONS

### A. Findings

To be determined by committee

### B. Recommendations

To be determined by committee

## POLICY #7 – REQUIRE USE OF FORCE CONTINUUM

### A. Policy

Establish a Force Continuum that restricts the most severe types of force to the most extreme situations and creates clear policy restrictions on the use of each police weapon and tactic.

### B. Madison, WI

Yes.

## BACKGROUND

### A. 8 Can't Wait Model Policy Language (see [full model policy here](#))

## 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
  - 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 injury<sup>1</sup> 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.
- *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.

<sup>1</sup> "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.

#### **B. Police Department Response to "8 Can't Wait"**

*Require Comprehensive Reporting* – MPD policy requires that any officer who uses physical force, weapons, items, or devices against a person shall complete an original or supplemental report on the incident. This includes pointing a firearm at an individual. Additionally, officers who use "recordable" force must contact a supervisor to review the use of force and enter information about the incident into an internal database. Each use of recordable force is reviewed by the MPD Use of Force Coordinator, and certain levels of force require an initial on-scene supervisory response/review.

#### **C. City Attorney Response/MPD Policy**

Require Comprehensive Reporting

The MPD Use of Force Data Collection and Review SOP states:

##### **Officer(s) Using Recordable Force**

Anytime a sworn employee uses recordable force during an incident, the force used must be documented in the MPD use of force database. The officer completing the original field report must indicate that recordable force

was used in Mobile. (see definitions for recordable force above.). Officers using recordable force are also responsible for contacting a field supervisor to notify them of the force use and review the incident. This contact must take place as soon as possible, and no later than the end of the officer's shift. Any MPD supervisor can complete this task.

If the use of force involved a less lethal impact projectile deployment, K9 bite, impact weapon use or resulted in injury to the suspect/subject consistent with substantial bodily harm, the officer will request that a field supervisor respond to the scene immediately.

### **RECORDABLE FORCE**

For statistical purposes, recordable force includes takedowns, active countermeasures, OC spray, impact weapons, hobble restraints, less lethal projectiles, Taser deployments, K9 apprehensions and use of deadly force (including dispatching animals). *Recordable Force excludes the following: Pain compliance techniques, escort holds, handcuffing, threats or displays of the above types of force, pointing of Firearms at Subject(s)/Suspect(s).*

<https://www.cityofmadison.com/police/documents/sop/UseOfForceData.pdf>

#### **D. OIR Report & MPD Response to OIR Report**

Need assistance identifying recommendations.

#### **E. Ad Hoc Committee Recommendations & MPD Status Report**

Need assistance identifying recommendations.

#### **F. President's Work Group on Police and Community Relations**

Not mentioned in the President's Work Group Report.

#### **G. Other City and Community Recommendations**

[NAACP](#) – A review of Dane County Police Departments' Use of Force Continuums, ensuring that they have at least 6 levels with clear rules on de-escalation.

### **PSRC FINDINGS AND RECOMMENDATIONS**

#### **H. Findings**

To be determined by committee

#### **I. Recommendations**

To be determined by committee

## POLICY #8 – REQUIRE COMPREHENSIVE REPORTING

### A. Policy

Require officers to report each time they use force or threaten to use force against civilians. Comprehensive reporting includes requiring officers to report whenever they point a firearm at someone, in addition to all other types of force.

### B. Madison

Madison, WI - <https://www.cityofmadison.com/police/documents/sop/NonDeadlyForceUseof.pdf>

**USE OF FORCE REPORTING REQUIRED** Any officer who uses physical force, or any of the following enumerated weapons, items or devices against another person, shall complete an original or supplementary report on the incident involved:

1. Firearms (including pointing a firearm at an individual)
2. Baton or Less Lethal Impact Munitions
3. Chemical Agents, including OC spray, or Electronic Control Devices
4. Handcuffs or Other Restraining Devices, including hobble restraints, spit hoods, etc.
5. Physical force, including focused and diffused strikes, pressure points, escort holds, decentralization techniques, holding or grabbing of subjects, etc.

The report shall specifically note the totality of the circumstances necessitating force and the manner of force employed.

## BACKGROUND

### A. 8 Can't Wait Model Policy Language (see full model policy here)

**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 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]

## B. Police Department Response to "8 Can't Wait"

*Require Use of Force Continuum* – The "8cantwait" initiative defines this as restricting "the most severe types of force to the most extreme situations" and "creating clear policy restrictions on the use of each police weapon and tactic." MPD policy and training are consistent with this. Deadly force is clearly restricted to extreme situations, and the use of specific tools/techniques is specifically restricted in policy. MPD officers are trained in a manner consistent with the State of Wisconsin's Defensive and Arrest Tactics (DAAT) curriculum (as required by the State). The DAAT system incorporates an intervention options matrix, with restrictions on specific techniques.

## C. City Attorney Response/MPD Policy

The MPD Non-Deadly Force SOP states:

The Department is committed to resolving conflicts through the use of communication skills, crisis intervention and de-escalation tactics, when feasible. Officers may only use that force which is objectively reasonable, and only in furtherance of a legitimate, lawful objective. **FORCE**

### **CONSIDERATIONS**

Officers shall use the degree of force believed to be objectively reasonable to control a situation considering the following factors:

1. The existence of alternative methods of control.
  2. Physical size, strength and weaponry of the person as compared to the officer.
  3. The nature of the encounter.
  4. Actions of the person.
  5. The severity of the offense.
  6. Whether the subject poses a threat to the safety of officers or citizens.
  7. Whether the subject is actively resisting arrest or attempting to evade arrest by flight
- <https://www.cityofmadison.com/police/documents/sop/NonDeadlyForceUseof.pdf>

## D. OIR Report & MPD Response to OIR Report

Need assistance identifying recommendations.

## E. Ad Hoc Committee Recommendations & MPD Status Report

Need assistance identifying recommendations.

## F. President's Work Group on Police and Community Relations

Need assistance identifying recommendations.

## G. Other City and Community Recommendations

Need assistance identifying recommendations.

## PSRC FINDINGS AND RECOMMENDATIONS

### H. Findings

To be determined by committee

### I. Recommendations

To be determined by committee