


Policy Title:		Use of Force Continuum	
	OFFICE OF THE CHIEF ADMINISTRATIVE OFFICER	Category	Security
		Administrative Policy #	100-ADM-Use of Force Continuum
		Revision #	N/A
		Review Frequency	As Needed – no less frequently than triennially
Administrative Division	Security and Integrity Division	Reviewed By	Chief Administrative Officer, General Counsel, Chief of Security
BOWC Approval	3/15/2019	Last Reviewed/Update Date	3/15/2019
Implementation Date	3/15/2019	Resolution #	19-0079

1. AUTHORITY

- 1.1 Section 16 of the Michigan Code of Criminal Procedure (MCL 764.16) regulates arrest by a private person. A private person may make an arrest—in the following situations:
 - (a) For a felony committed in the private person's presence.
 - (b) If the person to be arrested has committed a felony although not in the private person's presence.
 - (c) If the private person is summoned by a peace officer to assist the officer in making an arrest.
 - (d) If the private person is a merchant, an agent of a merchant, an employee of a merchant, or an independent contractor providing security for a merchant of a store and has reasonable cause to believe that the person to be arrested has violated section 356c or 356d of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.356c and 750.356d of the Michigan Compiled Laws, in that store, regardless of whether the violation was committed in the presence of the private person.
- 1.2 DWSD employees will endeavor at all times to contact the Detroit Police Department when an incident arises that may lead to use of force to carry out a detention or arrest. In those instances where time or circumstances do not provide an opportunity for the Detroit Police Department to arrive on the scene as first responder, this policy applies.
- 1.3 Refer to the Firearm policy for legal authority for DWSD Security and Integrity Divisions authority to carry firearms.

2. OBJECTIVES

- 2.1. Establish DWSD Security and Integrity Division Use-of-Force Continuum
- 2.2. Establish and prescribe guidelines for the lawful use of non-lethal and lethal force
- 2.3. Establish standard operating procedures for regulating use of force incidents (non-lethal or lethal)
- 2.4. Establish standard operating procedures for investigating use of force incidents (non-lethal or lethal)

- 2.5. Establish standard operating procedures for addressing critical incidents/post critical incidents

3. **PURPOSE**

- 3.1. The policies and procedures in this document establish guidelines and internal controls for the use of force. The Detroit Water and Sewerage Department Security and Integrity Division shall have in place a policy to guide officer's use of force in any given situation or confrontational incident as warranted. The Use-of-Force Continuum Policy and Procedure shall describe an escalating series of actions an officer may take to resolve a situation or set of circumstances. The Use-of-Force Continuum generally has many levels, and officers are instructed to respond with a level of force most appropriate to the situation and factors at hand, acknowledging that the officer may move from one part of the continuum to another in a matter of seconds.
- 3.2. For the protection of all persons and to minimize or prevent risk of liability, we must ensure Officers receive the proper training and qualifications so they safely carry out their duties.

4. **DEFINITIONS**

"Active Aggression" means physical actions/assaults against the officer or another person with less than deadly force (e.g., advancing, challenging, punching, kicking, grabbing, wrestling, etc.). Subjects may also be actively aggressive towards a third party (e.g., another officer or civilian).

"Active Resistance" means any action by a subject that attempts to prevent an officer from gaining control of the subject (e.g., pulling/pushing away, blocking, etc.). There is an overt attempt to defeat the officer from gaining control (e.g., resistance to handcuffing). It is not an attack on the officer but a physical act (often accompanied by verbal statements) to prevent the officer from gaining control.

"Compliance Controls" means a Soft Empty Hand Techniques (e.g., escort position, pressure points, etc.) Compliance Control Devices (e.g., pepper spray, etc., when used as a compliance control device rather than as an impact weapon). Application of compliance controls may inflict pain and are used for the purpose of gaining control of a subject.

"Control" is established when the subject's unlawful action(s) are neutralized and no longer pose a threat to the officer, himself, and/or others.

"Deadly Force Assault" means any force used against an officer and/or another person that may result in great bodily harm or the loss of human life. Injury potential to the officer or others is extremely high. A deadly force assault leaves little room for officer response options. An immediate response that will stop the assault and neutralize the threat is needed. Subjects may also commit a deadly force assault against a third party (e.g., another officer or civilian).

"Deadly Force Response" means any force used by an officer that has a reasonable probability to cause death. Limited to:

- a) Self-defense when the officer has reason to believe there is imminent danger of death or great bodily harm
- b) Defense of another when the officer has reason to believe there is imminent danger of death or great bodily harm

“Escalation of Force”- is the Officer’s increased reasonable and necessary control response to a subject’s increased level of resistance or aggressive action when the level of force being used is insufficient to stop or control the resistance or aggressive action.

“Force”- is the attempt to establish control through physical means, in the presence of resistance.

“Inactive Resistance” Resistance that may include psychological intimidation and/or verbal resistance. (e.g. blank stare, clenching of fist(s), tightening of jaw muscles, etc.). The subject complies with verbal attempts at control, but displays visual and verbal cues that indicate potential physical resistance.

“Objective Reasonableness” is the officer’s action consistent with the actions another officer would take given the same circumstances.

“Officer” means any person employed by the DWSD Security and Integrity Division.

“Officer Response” is the officer’s lawful action taken to gain control of a subject whose unlawful actions create a dangerous situation for the officer or others, or the subject is attempting to defeat the officer’s attempt to gain control.

“Passive Resistance” means any type of resistance whereby the subject does not attempt to defeat the officer’s attempt to touch and control the subject, but still will not voluntarily comply with verbal and physical attempts of control. (e.g., dead weight, does not react to verbal commands, etc.) The subject will not comply with verbal attempts at control and will not fully comply with physical attempts at control. Passive Resistance and Inactive Resistance are very close in description. The subtle difference is in non-compliance with verbal or physical attempts at control.

“Physical controls” are Hard Empty Hand Techniques (e.g., strikes, take downs, etc.). Physical controls have application where the subject’s action includes active resistance.

“Objective Reasonableness” is an Officer’s action consistent with the actions another officer would take given the same circumstances, as defined from *Graham v. Connor*, 490 U.S. 386 (1989).

“Subject Action” means unlawful actions (verbal or physical) taken by a subject to defeat an Officer’s attempt to gain control of the subject during an arrest or confrontational situation. The subject’s action, combined with the totality of circumstances, determines the Officer’s response.

“Thorough Knowledge” means a complete understanding of the policy and any policy updates to properly execute the policies and procedures herein in daily operations.

“Totality of Circumstances” means all the facts and circumstances confronting the Officer, at the time the force is used. These include, but are not limited to: type of crime committed or attempted, size/stature of subject, number of officers on scene, subject’s access to weapons, subject’s influence of drugs or alcohol, and immediacy of danger.

5. SCOPE

- 5.1. This Use of Force Continuum Policy and listed procedures and/or guidelines contained therein, shall apply to all Officers and DWSD Security and Integrity Division staff as applicable.

6. RESPONSIBILITIES

- 6.1. DWSD Security and Integrity Division is responsible for administration and oversight of this policy.
- 6.2. Officers shall have thorough knowledge of department policy regarding the use of force, including the use of deadly force.

7. POLICY

7.1. Use of Force

- 7.1.1. An Officer may use physical force or mechanical force when the Officer reasonably believes it is immediately necessary at the time:
 - 7.1.1.1. To overcome resistance directed at the Officer or others; or
 - 7.1.1.2. To protect the Officer, or a third party, from unlawful force; or
 - 7.1.1.3. To effect other lawful objectives, such as to detain a subject and / or make a lawful arrest.

7.2. Use of Force Continuum - DWSD Officers shall employ the following progressive use-of-force continuum guideline as follows:

7.2.1. Officer Presence or Constructive Authority

- 7.2.1.1. No force is used. An officer's attitudes and demeanor are professional and nonthreatening as information and circumstances present are evaluated and considerations are based on the best and most reasonable way to resolve a situation and / or exert control over a subject.
- 7.2.1.2. The mere presence of an officer works to deter criminal activity or diffuse a situation.

7.2.2. Verbalization / Communication Skills – Force is not physical.

- 7.2.2.1. Officers issue calm, nonthreatening verbal requests, directions, and commands.
- 7.2.2.2. Officers may increase their volume and shorten requests, directions, warning, gestures, and commands in an attempt to gain compliance.

7.2.3. Empty-Hand Control – Officers use bodily less lethal force to gain control of a situation

- 7.2.3.1. Physical contact may involve routine or procedural contact with a subject to effectively accomplish cooperative steps in support of legitimate DWSD Security and Integrity Division efforts.
- 7.2.3.2. Soft Level Techniques. Officers use grabs, holds, and defensive tactics to direct a subject to compliance with commands and / or to restrain an individual.
- 7.2.3.3. Medium Level Techniques. Officers use an increased level of grabs, holds, and defensive tactics to restrain and control an individual such as holding the subject's arm while transporting, handcuffing the subject, maneuvering the subject for a search for weapons and evidence, or securing a subject by assisting law enforcement authorities to accomplish placement into a law enforcement vehicle. NOTE: Chokeholds are strictly prohibited and shall not be used.
- 7.2.3.4. Hard Level Techniques. Extended physical force which involves contact with a subject beyond that which is generally considered normal to affect an arrest or other security objective. Physical force is employed when necessary to overcome a subject's physical resistance to the exertion of the officer's efforts to deter criminal activity or diffuse a situation, or to protect persons or property.
- 7.2.4. Less-Lethal / Mechanical Methods – Officers use less-lethal technologies to gain control of a situation
 - 7.2.4.1. Less—Lethal / Mechanical force involves the use of some device or substance, other than a firearm, to overcome a subject's resistance to the exertion of the officer's efforts to deter criminal activity or diffuse a situation. Examples include pepper spray or natural agents.
- 7.2.5. Lethal Force
 - 7.2.5.1. An Officer shall make every reasonable effort to identify himself and his/her intention to shoot before discharging a firearm.
 - 7.2.5.2. Officers use lethal weapons to gain control of a situation after ALL other reasonable means of non-lethal force or less lethal force have been exhausted.
 - 7.2.5.3. Lethal force is used when the actions of a suspect or individual pose a threat of imminent death or serious bodily harm which may result in death to the officer or when the officer reasonably believes such action is immediately necessary to protect the life of another individual(s) when the actions of a suspect or individual poses a threat of imminent death or serious bodily harm which may result in death.

7.3. Restrictions on the Use of Deadly Force

- 7.3.1. An Officer shall not resort to the use of deadly force if the officer reasonably believes that an alternative to the use of deadly force will avert or eliminate an

imminent danger of death or serious bodily harm, and achieve the lawful purpose at no increased risk to the Officer or another person.

7.3.2. An Officer shall not use deadly force to subdue persons whose actions are only destructive to property.

7.3.3. Deadly force shall not be used against persons whose conduct is injurious only to themselves.

7.3.4. An Officer shall not discharge a weapon as a signal for help or as a warning shot.

7.3.5. Officers shall not use deadly force when a subject is fleeing.

7.4. Restrictions Reference the Use of Deadly Force and Motor Vehicles

7.4.1. Officers shall not discharge a firearm from or at a moving vehicle.

7.5. Exhibiting a Firearm

7.5.1. An officer shall not un-holster or exhibit a firearm except under any of the following circumstances:

7.5.1.1. For maintenance of the firearm;

7.5.1.2. To secure the firearm;

7.5.1.3. During training exercises, practice or qualification with the firearm;

7.5.1.4. When circumstances create a reasonable belief that it may be necessary for the officer to use the firearm.

7.7 Objectively Reasonable Force

7.8.1. Individual Officers may respond differently to a subject's resistance or actions. Officers are not required to choose the least intrusive control method, only a reasonable one. Reasonableness means within reason, moderate action suitable to the situation, consistent with the use of force continuum, and department approved training and policies. Factors that affect an Officer's response may include: training, ability, totality of circumstances; and departmental policy.

7.8 Reasonable and Necessary Accommodations

7.8.2. Management may issue reasonable and necessary directives to accomplish the intent of this policy.

8. PROCEDURE

8.1. Escalation/De-escalation

8.1.1. **Officer Presence/Verbal Direction** - Officers remain alert and ready for any sudden change in escalation of resistance regardless of the 'routineness' of the situation and use a fair, calm approach to deescalate the situation.

8.1.2. As a subject escalates his or her actions, officers respond with **an objectively reasonable amount of force** that will control the subject. Control is established when the subject's actions are neutralized and there is no longer an immediate

threat to the officer or others. As a subject de-escalates his or her actions, the officer reduces the amount of force used proportionally but is alert and ready to respond to any attempt by the subject to escalate resistance or assault the officer or others. Subject escalation of resistance may increase slowly or may increase suddenly from passive resistance to active aggression or even deadly force assault. Subject action and officer response are dynamic and escalation and de-escalation of resistance may fluctuate throughout an incident.

- 8.1.3. Officers do not need to escalate response controls in a step by step progression (i.e. a sudden attack by an armed subject would require an immediate response by the officer and verbal commands may be inappropriate under such circumstances). When objectively reasonable, the officer may respond with deadly force without using any of the control techniques at the lower end of the continuum. Officers shall justify using higher degrees of control methods when a subject's resistance does not escalate and the officer's attempt to control the subject is not successful. Increasing the amount of force or degree of control response should only occur when the officer believes that control must be immediately established to prevent a further escalation of resistance.

8.2. Passive Resistance

- 8.2.1. Subjects refuse to move or comply with verbal direction/commands. Officer utilizes verbal direction/commands and negotiation as basic tools in this situations. As objectively reasonable, the officer uses a control or compliance technique that will be effective and has the least potential for injury to officers and subjects. Officers are not required to choose the least intrusive control method, only a reasonable one. Officers should not escalate the amount of response force to a higher level simply because a technique does not work and there is no increased resistance by the subject. Officers must be very cautious in escalating control techniques to gain compliance where subject resistance remains constant.

8.3. Use of Force

- 8.3.1. **Compliance Controls** - Used when verbal direction/commands are not effective and there is non-compliance with lawful orders. Compliance controls have application when the subject's actions include passive resistance and there may be an application when the subject's action is inactive resistance.
- 8.3.2. **Active Aggression** - Subjects displaying aggressive behavior or assaulting officers may be dangerous. Officer response differs greatly based upon the degree of the subject action within active aggression and in consideration of the potential reason for the aggression.
- 8.3.3. **Active Resistance** - Subjects actively resisting an officer may suddenly escalate to active aggression as the officer escalates response techniques. An appropriate, effect and immediate response is required. Individual officers may have a different response to the same situation based upon the totality of circumstances.

8.4. Detailed Incident Report

- 8.4.1. In all instances when physical, mechanical or deadly force is used, each Officer who has employed such force and each officer who has witnessed the use of physical, mechanical, or deadly force shall complete a full and detailed Incident Report in an expeditious manner (Exhibit A). As applicable, the Use of Force Form will be completed.

8.5. Notifications and Reporting

- 8.5.1. The following parties will be notified immediately, upon use of force:
- a) Local, County, State and or applicable municipal law enforcement agencies, fire and / or emergency medical response units
 - b) Great Lakes Water Authority Fusion Center
 - c) DWSD Chief of Security and Integrity Division or his / her designee

Exhibits

EXHIBIT A: INCIDENT REPORT

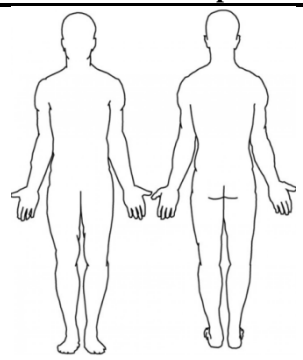
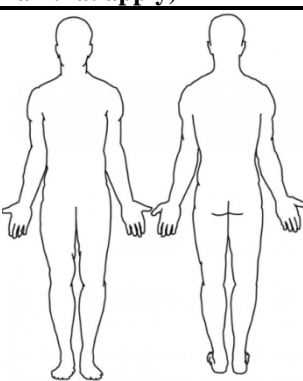
DETROIT WATER & SEWERAGE DEPARTMENT

SECURITY SECTION INCIDENT REPORT

Report on		Investigator Assigned to				Incident No.			
Place of Occurrence <input type="checkbox"/> Street <input type="checkbox"/> Westside <input type="checkbox"/> MOB <input type="checkbox"/> Eastside		Occurred on or between		Mo.	Day	Yr.	Day of wk.	Military Time	<input type="checkbox"/> Day <input type="checkbox"/> Night <input type="checkbox"/> Overnight
		And							
		Reported to security on							
Name/Title		Address			Phone		Age	Sex	Race
Person Reporting Offense									
Complainant									
		Business Ph.			Residence Ph.				
Was Complainant working? If yes – occupation, business name and address							Complainant injured? <input type="checkbox"/> Yes <input type="checkbox"/> No		
							City employee? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Method of entry:							<input type="checkbox"/> Unknown		
Method of escape:							<input type="checkbox"/> Unknown		
Describe weapon:							<input type="checkbox"/> Unknown		
No. of perpetrators: <input type="checkbox"/> Unknown		Describe: <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Unknown		<input type="checkbox"/> Juvenile <input type="checkbox"/> Adult <input type="checkbox"/> Unknown		<input type="checkbox"/> Black <input type="checkbox"/> Other <input type="checkbox"/> White <input type="checkbox"/> Unknown		Total value \$	
Victim-perpetuator relationship <input type="checkbox"/> Related <input type="checkbox"/> Acquainted <input type="checkbox"/> Strangers <input type="checkbox"/> Unknown		Notifications						Time	
		Name						Date	
Arrests <input type="checkbox"/> Yes <input type="checkbox"/> No		Description(s) of perpetrators(s) <input type="checkbox"/> Yes <input type="checkbox"/> No		Witness(es) <input type="checkbox"/> Yes <input type="checkbox"/> No		Vehicle license number(s) <input type="checkbox"/> Yes <input type="checkbox"/> No		Physical evidence <input type="checkbox"/> Yes <input type="checkbox"/> No	
Summary of details and corrective recommendations (who, what, where, when, how, action taken). <i>Use reverse side if additional space is needed.</i>									

Exhibits

Exhibit B: DWSD Security and Integrity Unit Use of Force Form

Date of Incident	Officer's Name & Rank	Case No.																						
Officer Status <input type="checkbox"/> On Duty <input type="checkbox"/> Off Duty <input type="checkbox"/> Uniform <input type="checkbox"/> Plainclothes <input type="checkbox"/> Other																								
Location of Incident:		Time:																						
Initial Reason for Contact:																								
Force Used Against: <input type="checkbox"/> Individual <input type="checkbox"/> Property <input type="checkbox"/> Animal																								
Information of Person Force was used Against																								
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%;">Name</td> <td style="width: 10%;">Race</td> <td style="width: 10%;">Sex</td> <td style="width: 20%;">Date of Birth</td> <td style="width: 10%;">Ht.</td> <td style="width: 10%;">Wt.</td> </tr> <tr> <td colspan="6"> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%;">Phone</td> <td style="width: 33%;">Email</td> <td style="width: 33%;"></td> </tr> <tr> <td colspan="3"> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%;">Street</td> <td style="width: 33%;">City</td> <td style="width: 33%;">State</td> <td style="width: 33%;">Zip Code</td> </tr> </table> </td> </tr> </table> </td> </tr> </table>			Name	Race	Sex	Date of Birth	Ht.	Wt.	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%;">Phone</td> <td style="width: 33%;">Email</td> <td style="width: 33%;"></td> </tr> <tr> <td colspan="3"> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%;">Street</td> <td style="width: 33%;">City</td> <td style="width: 33%;">State</td> <td style="width: 33%;">Zip Code</td> </tr> </table> </td> </tr> </table>						Phone	Email		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%;">Street</td> <td style="width: 33%;">City</td> <td style="width: 33%;">State</td> <td style="width: 33%;">Zip Code</td> </tr> </table>			Street	City	State	Zip Code
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INITIAL FORCE: Type of force used (check all that apply) Indicate below and on diagram the location on the persons body force was used. Diagrams are not to take place of photos. At least three (3) photos are to be taken of injuries and submitted to supervisor.																								
Location on Body <input type="checkbox"/> Physical <input type="checkbox"/> Pepper Spray <input type="checkbox"/> Flashlight <input type="checkbox"/> Other																								
SECONDARY FORCE: Type of force used (check all that apply)																								
Location on Body <input type="checkbox"/> Physical <input type="checkbox"/> Pepper Spray <input type="checkbox"/> Flashlight <input type="checkbox"/> Other																								
Subject Armed:	If armed, check weapon type:																							
<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Knife <input type="checkbox"/> Club <input type="checkbox"/> Firearm	<input type="checkbox"/> Other, describe:																						