

September 24, 2020

To: Fire and Police Commission

From: Paul Mozina

Re: [FPC20205](#) Resolution to amend Standard Operating Procedure 460 - Use of Force

There are two areas in SOP 460 – Use of Force that should be addressed before it is approved: lack of explicit definition of a Use of Force Continuum or Matrix; and, lack of recognition that executing a no-knock search warrant is a Use of Force that must be strictly limited.

Use of Force Continuum or Matrix

Please implement recommendation #2 of Campaign Zero's "[8 Can't Wait](#)" guidelines:

[Use a Force Continuum or Matrix](#) that define/limit the types of force and/or weapons that can be used to respond to specific types of resistance.

The current language in the SOP does not explain when a taser or baton can be used. It does not include the break down provided in the escalation/de-escalation pyramid provided by Campaign Zero.

460.25 AMOUNT OF FORCE (WILEAG 5.1.2, 5.1.3)

A. Force that is intended or likely to cause great bodily harm or death may only be used as a last resort:

1. If reasonable under all the circumstances then existing to prevent great bodily harm or death to the officer or a third party;
2. When necessary to prevent a suspect's escape and the officer has probable cause to believe that the suspect presently poses a significant threat of great bodily harm or death to the officer or others;
(WILEAG 5.1.2.1)
3. To kill an animal if the officer or another person is threatened with serious bodily harm by the animal or otherwise to provide for the safety of the general public; or
4. To kill an animal that has been so badly injured that its destruction would prevent further suffering.

B. Police members may draw or display their firearms in circumstances where they reasonably believe it may be necessary to use their firearm in the performance of their duties.

C. The firing of warning shots is prohibited. When feasible, a verbal warning should be given prior to the use of force likely to cause great bodily harm or death.

D. Police members shall not discharge their firearm at a person who presents a danger only to him or herself (e.g., attempted suicide).

E. Police members shall not engage in chokeholds, strangleholds, lateral vascular neck restraints, carotid restraints, or any other tactic that restricts oxygen or blood flow to the head or neck unless the member is involved in a deadly force situation and has reasonably exhausted all other options and tactics. Deadly force shall only be used when the officer reasonably believes it is necessary to prevent death or great bodily harm to himself/herself or to others.

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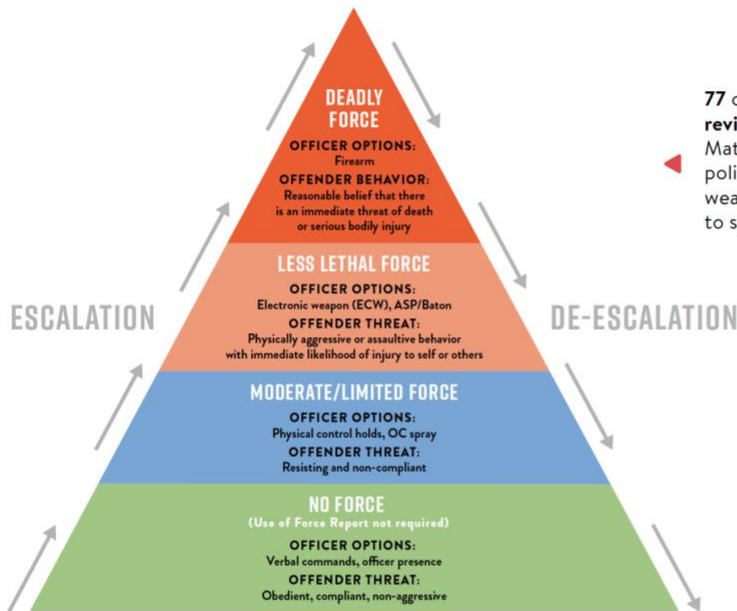
F. Members shall not utilize Oleoresin Capsicum (OC) on peaceful demonstrations. A peaceful demonstration is defined as a gathering of people expressing a position in a cooperative manner without violation of the law.

**NEW ORLEANS POLICE USE OF FORCE POLICY
REQUIRES OFFICERS TO TRY TO DE-ESCALATE
SITUATIONS BEFORE RESORTING TO FORCE**

300.1 USE OF FORCE PRINCIPLES
 (a) Officers shall use advisements, warnings, and verbal persuasion, when possible, before resorting to force.
 (b) Force shall be de-escalated immediately as resistance decreases.
 (c) When feasible based on the circumstances, officers will use disengagement, area containment, surveillance; waiting out a subject; summoning reinforcements; and/or calling in specialized units, in order to reduce the need for force and increase officer and civilian safety.
 (d) Officers shall allow individuals time to submit to arrest before force is used wherever possible

Source: New Orleans Police Department Use of Force Policy, Section 300.1 USEOFFORCEPROJECT.ORG

Only 34 of the 91 police departments reviewed require officers to de-escalate situations, when possible, before using force.



77 of the 91 police departments reviewed have a Force Continuum or Matrix included in their use of force policy, defining the types of force/ weapons that can be used to respond to specific types of resistance.

USE THE OPTION THAT REPRESENTS THE MINIMAL AMOUNT OF FORCE NECESSARY TO REDUCE THE IMMEDIATE THREAT

Source: Philadelphia Police Department Use of Force Policy, Directive 10.1

“ ONLY 34 OF THE 91 POLICE DEPARTMENTS REVIEWED REQUIRE OFFICERS TO DE-ESCALATE SITUATIONS, WHEN POSSIBLE, BEFORE USING FORCE.”

Please incorporate the escalation/de-escalation information shown in the pyramid above into section 460.25 of the SOP.

Executing No Knock Search Warrants is a Use of Force

The death of MPD Officer Matthew Rittner was a tragedy that could have been avoided if the MPD would have carefully considered other options for accomplishing their goal. And the death of Breonna Taylor reminds us as well that executing no knock search warrants is an extremely dangerous operation. There must be a cross reference between SOP 970 – SEARCH WARRANTS and SOP 460 – USE OF FORCE.

The militarization of the MPD and deployment of the Tactical Enforcement Unit are things the FPC should be watching very carefully and explicitly restricting via SOP procedures. SOP 460 should clearly define when the last resort, potentially extremely dangerous, alternative of executing a no knock search warrant is justified.

The FPC should require the MPD to produce quarterly reports on the Use of Force when executing no-knock search warrants. What alternatives for de-escalation were considered? What alternative strategies for accomplishing the law enforcement objective were considered? How many instances of a no knock search warrant were executed, what were the outcomes and what injuries were sustained by MPD members or their targets?