



# TORONTO POLICE SERVICES BOARD

## CONSULTATION DRAFT

### DE-ESCALATION AND APPROPRIATE USE OF FORCE

<b>DATE APPROVED</b>	March 22, 2007 (as Use of Force)	Minute No: P105/07
<b>DATE(S) AMENDED</b>	June 18, 2009 April 7, 2011 May 11, 2011 (TBD)	Minute No. P162/09 Minute No. C94/11 Minute No. P113/11 (TBD)
<b>REPORTING REQUIREMENT</b>	Chief to report to Board Annually	
<b>LEGISLATION</b>	<i>Police Services Act, R.S.O. 1990, c.P.15, as amended, s. 31(1)(c).</i> <i>Criminal Code of Canada and Ontario Provincial Offences Act.</i> <i>Equipment and Use of Force Regulation 926</i> <i>O. Reg. 268/10: General</i> <i>Ontario Human Rights Code.</i> <i>Charter of Rights and Freedoms</i>	
<b>ASSOCIATED POLICIES</b>	Adequacy Standards Compliance Policy, chapter XL, LE-013 – Police Response to Persons in Crisis Race-Based Data Collection, Analysis and Public Reporting	
<b>TAGS</b>	Adequacy Standards, Administration and Infrastructure, Equipment and Uniforms, Professional Conduct, Interaction with Public, Training	

### Guiding Principles

The Toronto Police Services Board (Board) places the highest value on the protection of life and the safety of the public, Service Members, and those that its Members work with in partnership. The Board is confident that Members of the Service wish for all their interactions with the public to yield positive outcomes that maximize safety and enhance trust. The Board acknowledges that, in their roles, Members of the Service encounter a wide range of circumstances in their daily work, where events are dynamic and rapidly evolve – and often, these circumstances are unpredictable. In some of those circumstances, Members' or public life and safety may be at risk and intervention is required to address that risk.

The Board is charged with ensuring the provision of adequate and effective policing in Toronto in a manner that complies with applicable law. With respect to this Policy, the

Board must ensure that sworn officers of the Toronto Police Service and Special Constables employed by the Service are trained to prioritize de-escalation to the greatest extent possible, and are able to utilize appropriate degrees of force only where it is necessary to enforce the law, and protect public safety and themselves. The Board recognizes that the use of force by Service Members, even when justified, and even when it does not result in serious injury, carries inherent psychological damage to members of the public who may be traumatized, to the public's sense of safety and trust in the police, and to the mental health and wellbeing of Service Members themselves.

This Policy therefore creates a governance framework that is guided by the goals of prioritizing de-escalation in all appropriate circumstances, producing positive outcomes arising from interactions between members of the Service and the public, and minimizing, to the greatest extent possible, the degree of force used by Service Members, as well as injury or death where a Service Member is justified in using some form of force, while ensuring the safety of the community and of Service Members.

## **Purpose**

The purposes of this Policy are to:

- Eliminate the use of excessive force;
- Ensure that the Service's training, procedures and practice prioritize a Service Member's pursuing de-escalation options to the greatest extent possible without endangering officer safety;
- Ensure that Service Members employ de-escalation and communication tactics in all appropriate circumstances by continuously assessing incidents as they unfold for opportunities to effectively de-escalate a conflict without force or with a lesser degree of force, including after a Member has begun the lawful use of force;
- Ensure that any force option will be used against a member of the public only where it is necessary, without bias, and in a manner proportionate to the circumstances to effectively protect public safety;
- Reduce to the greatest extent possible the impact of use of force on persons in crisis, in accordance with the Board's Adequacy Standards Compliance Policy, chapter XL, *LE-013 – Police Response to Persons in Crisis*;
- Ensure that all incidents of use of force by Service Members are carried out in compliance with the relevant legislation, common law standards, Board Policies, and training;
- Reduce as much as possible the adverse effects of lawful use of force, with the goal of minimizing injuries and deaths to the greatest extent possible;
- Ensure that members of the public against whom Service Members have used force will receive any necessary medical attention as soon as practicable and with a view to minimizing the harm;
- Ensure that where Service Members are present during an interaction where inappropriate or excessive use of force by another Service Member is occurring, they will intervene to stop it, and report it to their supervisors;

- Ensure that the Service makes readily available to its Members wellness and other supports to assist with the mental health impacts that can materialize after an interaction in which force is used, in a manner that is consistent and easy for the Member to access; and,
- Ensure the Service remains accountable by transparently sharing information pertaining to use of force by Service Members.

## Definitions

Application of force: within an incident in which physical force was used, an application of force is each individual type of physical force applied to a subject (e.g., empty hand, baton, displaying or discharging a CEW).

De-escalation: Verbal and non-verbal strategies intended to reduce the intensity of a conflict or crises encountered by a Service Member, with the intent of gaining compliance without the application of force, or if force is necessary, reducing the amount of force required, including remaining calm, using verbal communication strategies, creating physical distance between the officer and the members of the public, and employing critical thinking skills to pivot to other tactics in response to changing dynamics.

Excessive force: the application of force beyond what can be reasonably believed to be necessary and proportional to the danger in any given incident.

Procedural justice: a fair process that is designed to increase trust. A procedurally just interaction is characterized by treating individuals with respect and dignity, making decisions in a neutral, unbiased and transparent manner, giving individuals an opportunity to voice their side, and conveying trustworthy motives.

## Policy of the Board

Therefore, it is the policy of the Board that the Chief of Police will establish procedures, training and processes to ensure that:

### *Appropriate Incident Response*

1. In responding to an incident, and when interacting with members of the public, Service Members act professionally and respectfully, in a manner that embodies procedural justice and Service values, and respects all *Charter* rights and freedoms, including the freedom of expression and freedom of peaceful assembly;
2. Communications Centre call takers and dispatchers are trained to obtain and effectively communicate to responding units information that will facilitate the ability of Service Members to plan their response so as to minimize the likelihood of harm and the need for use of force as much as possible;

3. Service Members are trained on the effective use of de-escalation techniques, and to prioritize their use to the greatest extent possible, including in the context of interacting with a person in crisis;
4. Service Members are trained on evidence-based techniques for the effective use of communication, including non-verbal communication, despite potential barriers such as language barriers, disabilities, or a person experiencing a mental health crisis, to de-escalate incidents and reduce the need for use of force;
5. Service Members are trained to take into account individual physical, developmental and mental characteristics of persons in crisis, individuals with mental or developmental issues, and youth, so as to enable the Service Members to more successfully de-escalate incidents where such information is available;<sup>1</sup>
6. Service Members in situations that may involve use of force shall continuously evaluate to identify and make use of opportunities of using de-escalation techniques and communication tactics in order to avoid escalating an incident through the use of force, and, even after some application of force has occurred, continue to seek opportunities to de-escalate in order to reduce harm caused to members of the public;
7. Service Members are trained to apply the Provincial Use of Force Model and use of force best practices in situations that may involve use of force, including:
  - (a) Circumstances where less-lethal force options should be considered;
  - (b) Circumstances where lethal force options must not be used;
  - (c) Circumstances where an officer should be mindful of containment pressure and consider repositioning or tactical disengagement;
  - (d) Providing a verbal warning where possible prior to using lethal force;
8. Use of excessive force is strictly prohibited, and will result in discipline and possible criminal charges;
9. Use of techniques such as chokeholds, carotid holds, or any other techniques intended or likely to prevent respiration is prohibited, unless no other reasonable alternatives exist to prevent grievous bodily harm or death of a Service Member or a member of the public during an interaction;
10. When use of force results in an injury to a member of the public, Service Members ensure the member of the public receives appropriate medical attention as soon as

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<sup>1</sup> An additional recommendation will be made to amend the Arrest chapter in the Adequacy Standards Compliance Policy to include a section directing the Chief to ensure Service Members are trained to use alternatives to arrest, including referral to alternative response providers, community services and resources, youth diversion, or other available options, where appropriate. [Board Office]

possible, including, where appropriate, rendering first aid and requesting the attendance of paramedics or other medical professionals;

11. The Special Investigations Unit is notified promptly of any use of force incident that may reasonably be considered to fall within the investigative mandate of the Special Investigations Unit, in accordance with the *Special Investigations Unit Act*, or whenever there is doubt whether an incident does or does not fall within this mandate;
12. Officers involved in use of force incidents are offered and encouraged to access appropriate physical and mental health care to mitigate any potential physical or mental harm;

#### *Duty to Intervene*

13. Uniform Service Members who observe other Members or members of other law enforcement agencies (including Special Constables employed by other organizations) using prohibited or excessive force, or engage in acts that constitute misconduct, must:
  - (a) Intervene, where feasible, using verbal instructions or reasonable soft or hard physical control, in a manner that is proportional to the perceived risk of harm to members of the public if the acts continue, and that does not jeopardize safety, and with the goal of de-escalating the situation and preventing further harm to members of the public; and,
  - (b) report the incident as soon as possible in accordance with the procedure;
14. Service Members who reasonably intervene verbally or physically in accordance with section 13 will not be subject to discipline for these actions, and will not be retaliated against in any way;
15. Where a Service Member intervened in accordance with section 13 against the actions of a superior officer, and in particular when the superior officer is a supervisor of the Service Member, the Service Member can report confidentially to a designated 3<sup>rd</sup> party and has access to supports to ensure they do not experience retaliation;
16. A supervisor or a designated 3<sup>rd</sup> party in accordance with section 15 who receives a report in accordance with section 13 will conduct or cause the conduct of an investigation to determine the need for training, discipline, or a notification to the Special Investigations Unit, as appropriate;
17. Where an incident of excessive use of force in the presence of other Service Members is under investigation, an investigation is conducted of any Service

Members who witnessed the incidence and failed to intervene, and determine whether there is need for training or discipline;

### *Supervision*

18. Supervisors will review the use of force by Service Members reporting to them for the purpose of identifying instances of inappropriate or excessive use of force that require additional training, discipline or notification of the Special Investigations Unit, and to identify and address any evidence of use of force biased on *Human Rights Code* protected grounds; and
19. Supervisors reviewing body-worn camera recordings in accordance with the Board's *Body Worn Cameras* policies, who identify incidents of use of force that were not reported in accordance with sections 38 or 46, will initiate an investigation of the matter in accordance with Service Procedures to determine the need for training, discipline, or a notification to the Special Investigations Unit, as appropriate.

### *Service's Compliance with Regulations*

It is further the policy of the Board that the Chief of Police will:

20. Establish procedures that address all the requirements of Ontario's *Equipment and Use of Force Regulation*;
21. Ensure that force options used by Service Members always meet all requirements and standards established by the *Equipment and Use of Force Regulation* and the Ministry of the Solicitor General (the Ministry);

### *Regulatory Training Requirements*

22. Ensure that Members do not:
  - (a) use force on another person unless they have successfully completed the In Service Training Program;
  - (b) carry a firearm unless they have successfully completed the In Service Training Program, and have demonstrated through evaluation that they are competent in the use of firearms;
23. Ensure that, at least once every 12 months, Members:
  - (a) who may be required to use force on other persons complete the In Service Training Program, which includes training on the use of force;
  - (b) authorized to carry a firearm, complete the In Service Training Program, which includes training on the use of firearms; and,

- (c) authorized to carry a force option weapon, complete a specific training course on that force option weapon, in addition to completing the In Service Training Program;
- 24. Ensure that the In Service Training Program includes, in addition to use of force training, at a minimum, training on Member safety, communication and de-escalation, handcuffing and physical control techniques, human rights, mental health and systemic discrimination, with a particular focus on anti-Black and anti-Indigenous racism;
- 25. Ensure that a record is maintained of the training courses taken by the Members of the police service on the use of force and the use of firearms;
- 26. Ensure that communication operators and dispatchers are trained to obtain and communicate to the dispatched officer, to the greatest degree possible, all relevant information to facilitate an appropriate response to a call for service;

#### *Regulatory Equipment Requirements*

- 27. Ensure that Members do not use a weapon other than a firearm, with the exception of those used on another Member in the course of a training exercise in accordance with procedures, unless:
  - (a) that type of weapon has been approved for use by the Ministry,
  - (b) the weapon conforms to the technical standards established by the Ministry, and,
  - (c) the weapon is used in accordance with standards established by the Ministry;
- 28. Ensure that handguns and other force option weapons that are issued to Members meet the technical specifications set out in the *Equipment and Used of Force Regulation 926*;
- 29. Determine which use of force options are issued to every Service Member, in accordance with their duties and training (e.g., handgun, less-lethal shotgun, OC aerosol spray, baton), and which options are issued on a shared-use basis.
- 30. Determine the officers who will be issued a Conducted Energy Weapon (C.E.W.) and ensure that C.E.W.s are only issued to officers who were appropriately trained in their safe use; and
- 31. Permit the use of reasonable weapons of opportunity by Service Members, when none of the approved options are available or appropriate to defend themselves or members of the public during an interaction;

### *Up to Date Processes and Procedures*

32. Establish and maintain up to date procedures and a reporting structure consistent with the requirements of the *Equipment and Use of Force Regulation*;
33. Ensure the ongoing review and evaluation of de-escalation and use of force procedures, training (including de-escalation techniques), outcomes of de-escalation and use of force incidents, reporting, and evidence from peer organizations and academic research, in a manner that supports the identification and incorporation of best practices;
34. Post on Service's public website an up-to-date copy of the Service's procedure on incident response, in a form that will ensure the efficacy of investigative techniques or operations is not endangered and that will not compromise the safety of any person by divulging police practice; and
35. Advise the Executive Director and Chief of Staff of any change to the procedure.

### *Reporting Use of Force*

36. For the purpose of sections 38–44 below, incidents of use of force are defined as occurring when Service Members, in the performance of their duty:
  - (a) draws a handgun in the presence of a member of the public;
  - (b) points a firearm at a person;
  - (c) discharges a firearm (including less lethal firearms);
  - (d) uses a weapon on another person, regardless of whether any injury requiring medical attention results;
  - (e) draws and displays a conducted energy weapon (CEW) to a person with the intention of achieving compliance;
  - (f) points a CEW at a person;
  - (g) discharges a CEW, either directly (Stun Drive Mode), or by firing the probes at the subject (Full Deployment); or
  - (h) uses force on another person, including through the use of a horse or a dog, that results in an injury requiring the services of a physician, nurse or paramedic and the member is aware that the injury required such services before the member goes off-duty..
37. For clarification, incidents of use of force as defined in section 36 do not include incidents in which:
  - (a) a handgun is drawn or a firearm or CEW is pointed at a person or is discharged in the course of a training exercise, target practice, competition, a



demonstration of the weapon or of policing techniques, loading, unloading, storing, surrendering, removing or ordinary firearm maintenance, repair, testing or inspection in accordance with the procedures;

- (b) a weapon other than a firearm is used on another member of a police force in the course of a training exercise, practice, competition, a demonstration of the weapon or policing techniques or testing in accordance with the procedures; or
- (c) physical force is used on another member of a police force in the course of a training exercise, practice, a competition or a demonstration of policing techniques, in accordance with procedures;

It is the policy of the Toronto Police Services Board that the Chief of Police will:

- 38. Develop procedures and processes to ensure that Service Members involved in a use of force incident complete the Provincially mandated Use of Force Report in accordance with the *Equipment and Use of Force* regulation, and in a manner that will enable the Service to collect and analyze data on use of force by Service Members so as to comply with the reporting requirements set by the Board in this and other Policies;
- 39. Establish, in the procedures and processes, that a single Use of Force report filled out on behalf of more than one Service Member:
  - (a) May be submitted by the supervisor of a containment team, tactical unit, hostage rescue team, or public order unit, or by an officer delegated by the supervisor of such a team or unit, in the circumstances where it is allowed by applicable regulations; and
  - (b) May not be submitted by any other Service Member;
- 40. As soon as possible subject to the relevant legislation, cause an investigation to be made in accordance with section 32 of O. Reg. 268/10: General, where an incident with respect to which the SIU has been notified has occurred, and in accordance with section 12 and 13 of the *Equipment and Use of Force* regulation where a Service Member, by the discharge of a firearm in the performance of their duty, kills or injures another person, and submit a report of the investigation to the Board upon the conclusion of any associated investigation;
- 41. Immediately cause an investigation to be made where a member unintentionally or intentionally discharges their firearm, except on a target range or in the course of weapon maintenance;
- 42. Where the Chief discharges a firearm in the performance of their duties, promptly report the matter to the Board;

43. Provide to the Board, at a public meeting of the Board, an annual report on use of force and ensure the report includes information and analysis that addresses, at a minimum:
- (a) The number of use of force incidents, reports and individual applications of force in that year, and trends for the previous four years;
  - (b) A breakdown of the reasons for the aggregate use of force reported, and trends for the previous four years;
  - (c) A breakdown of the type of incident during which force was used, and trends for the previous four years;
  - (d) A breakdown into range increments of the age of members of the public that were involved in use of force incidents;
  - (e) Numbers and types of injuries to members of the public and Service Members sustained during use of force incidents, broken down by the highest level of use of force option employed in the incident, and trends for previous four years where available;
  - (f) The number of use of force incidents involving persons in crisis, broken down by the use of force option employed and the type of injuries sustained by the person in crisis, and trends for the previous four years where available;
  - (g) Perceived race of members of the public involved in use of force incidents, broken down by the highest level of use of force option employed in the incident, and the type of injury sustained by the member of the public during the incident, and trends for previous four years where available;
  - (h) Analysis to identify any broad patterns or trends in incidents of use of force and/or de-escalation and their impacts, that could indicate the degree to which the Policy is effective in achieving its purposes as defined above, as well as training needs, equipment upgrade needs, and/or Policy modification needs;
  - (i) Overview of investigations conducted in accordance with section 40, and their findings, and analysis of patterns, with the goal of identifying opportunities for improvement that emerge from the aggregate analysis;
  - (j) The number of reports made in accordance with section 13, a summary of their disposition, and trends for the previous four years;
  - (k) The number of investigations resulting from probably or confirmed violations of this Policy or the Code of Conduct with regards to Use of Force, including probable or confirmed violations of the Duty to Intervene set out in section 13, a summary of their dispositions, and trends for the previous four years; and,
  - (l) Any other information that the Board directs the Chief of Police to provide as part of this annual report; and

44. Make available on the Service' website in an open, machine readable format, anonymized data on all use of force incidents reported by Service Members in accordance with section 38, including, at a minimum:
- (a) The type of incident;
  - (b) The use of force option employed;
  - (c) The type(s) of injury(ies) to members of the public or to Service Members sustained during the incident, if any;
  - (d) The reason(s) for the use of force;
  - (e) Perceived race of the member(s) of the public involved in the use of force incidents; and
  - (f) The division or unit to which the Service Member involved in the use of force incident was assigned at the time of the incident.
45. For the purpose of sections 46–48,
- (a) Physical force is defined as techniques intended to control or stop a subject's behaviour, which exceed mere physical contact (e.g., handcuffing a resisting individual, punches, armlocks, tackles, oleoresin capsicum (OC) aerosol spray, baton, firearms). Physical force includes drawing a firearm or displaying a Conducted Energy Weapon (C.E.W.), whether or not the firearm or C.E.W. were discharged at the subject;
  - (b) Physical contact is defined as routine or procedural contact with an individual necessary to effectively accomplish a legitimate law enforcement objective, which are unlikely to cause injury. Examples include guiding an individual into a police vehicle, holding the individual's arm while transporting, routinely handcuffing a non-resisting individual, and maneuvering or securing an individual for a frisk. Physical contact alone does not constitute force; and
  - (c) incidents of use of physical force are defined as:
    - i. Incidents where a member of the public was detained or taken into custody using physical force and which do not fall within the definition in section 36; or
    - ii. Where the member of the public is or, if their age is not known, perceived to be under the age of 18, including non-resistant handcuffing.

It is the policy of the Toronto Police Services Board that the Chief of Police will:

46. Develop processes and procedures to ensure that Service Members involved in a use of physical force incident report on the incident and provide information on:
- (a) The type of the force used;
  - (b) The type of incident during which force was used;

- (c) The reason for the use of force;
  - (d) The age (or, where not known, the perceived age) of the member(s) of the public involved in the incident;
  - (e) Whether the member(s) of the public involved in the incident was a person in crisis; and
  - (f) The perceived race of the member(s) of the public involved in the incident;
47. Provide to the Board at a public meeting of the Board an annual report on incidents of use of physical force, and ensure the report includes information and analysis that addresses, at a minimum:
- (a) The number of incidents and reports in that year, and trends for the previous four years, or as available;
  - (b) A breakdown of the reasons for the use of physical force reported, and trends for the previous four years, or as available;
  - (c) A breakdown of the type of incident, and trends for the previous four years, or as available;
  - (d) A breakdown of the age of members of the public that were involved in the incidents;
  - (e) The number of incidents involving persons in crisis, and trends for the previous four years, or as available;
  - (f) Perceived race of members of the public involved in the incidents, and trends for previous four years, or as available;
  - (g) The number of incidents, if any, that took place in either a school or a hospital; and,
  - (h) Any other information that the Board directs the Chief of Police to provide as part of this annual report; and
48. Make available on the Service' website in an open, machine readable format, anonymized data on all use of force incidents reported by Service Members in accordance with section 46.

#### *Board's Compliance with Regulations*

It is the policy of the Toronto Police Services Board that:

49. The Board will, upon receiving a report on the investigation into an injury or death caused by the discharge of a member's firearm:
- (a) review the report and make further inquiries as necessary;
  - (b) file a copy with the Ministry, including any additional inquiries of the Board; and

50. The Board will, upon being notified that the Chief of Police has discharged a firearm in the performance of their duty, cause an investigation to be made into the circumstances and file a report of the investigation with the Ministry.

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