



Use of Force Policy Advisory Report Proposal

Request approval from the Community Oversight Board for an annual Policy Advisory Report on MNPD's use of force practices, impacts on community members, and recommendations for policy revisions.

Background

Police use of force occurs in a small number of police-community interactions. When it does occur, the consequences can be deadly. Excessive use of force by law enforcement has received national attention in recent years after many high-profile cases that resulted in civilian deaths. Communities across the country—including Nashville—have responded to these events with protests and calls for reforms to police policies surrounding use of force and de-escalation tactics. Nashville's Community Oversight Board (COB) was created in response to two high-profile, fatal police shootings. On February 10, 2017, Jocques Clemmons was fatally shot by Metro Nashville Police Department (MNPD) Officer Joshua Lippert during a foot pursuit. On July 26, 2018, Daniel Hambrick was fatally shot by MNPD Officer Andrew Delke three times from behind during a foot pursuit.¹ Since the genesis of the COB is, in part, from two use of force incidents, we propose a yearly policy advisory report that tracks use of force incidents by MNPD officers and makes recommendations for continual policy improvements that enhance both public and officer safety.

MNPD officers receive extensive training on use of force as a continuum. Officers are trained to respond to the behavior from a subject with reasonably necessary force required to complete lawful objectives and to attempt to de-escalate confrontations when possible. In most situations, the lowest level of force—official presence—is necessary. If the community member resists, an officer can proportionately escalate their force to gain compliance, protect themselves, or protect others. A subject's actions are defined in broad categories including "full compliance to commands, verbal uncooperativeness, passive resistance, active resistance, active aggression, and aggravated active aggression (deadly force)."² When necessary, an officer escalates up the force continuum to "verbal commands, soft-empty hand control, hand-held chemical spray/conducted energy devices, hard empty-hand control, batons, and firearms" proportionately to the subjects actions.³

According to §11.10.170 of the MNPD Manual, officers are required to report all uses of force by completing MNPD Form 108, Use of Force Report. Since force is defined as a continuum, a Use of Force Report is not required when "official presence, verbal direction, and/or soft empty-hand control is used by the employee and there is no injury and no allegation of injury."⁴ Given this MNPD policy, use of

¹ Timms, "Nashville Has Changed since an Officer Killed Daniel Hambrick a Year Ago, but How Much."

² Metropolitan Nashville Police Department, 698.

³ Metropolitan Nashville Police Department, *Department Manual*, 698.

⁴ Metropolitan Nashville Police Department, 715.

force reporting is only required for incidents involving hand-held chemical spray/conducted energy devices, hard empty-hand control, batons, and firearms unless an injury is alleged by the officer or subject.

Research on use of force nationwide shows an “increased likelihood of police use of force against people of color, people with disabilities, LGBT people, people with mental health concerns, people with low incomes, and those at the intersections of these groups.”⁵ *Disparities* are not necessarily caused by *discrimination*. Disparities show that an underlying process led one group to be overrepresented in the data.⁶ Reporting disparities is useful to show whether some social groups are experiencing a disproportionate amount of police force and to suggest potential reforms. When large disparities exist, police legitimacy and trust can be undermined by supporting a perception of bias.⁷

Police policies and procedures have a measurable impact on the use of deadly force.⁸ A recent study conducted as part of the Use of Force Project showed that the number of use of force policy restrictions that are adopted by police departments is, “a significant and influential factor in predicting the number of people killed by these departments.”⁹ The policies that were associated with the largest reductions in police-involved killings included: use of force reporting, prohibiting chokeholds and strangleholds, and requiring officers to exhaust all other means before using deadly force.¹⁰

Proposed Study

This proposal is to establish a yearly use of force report that will serve two primary purposes. First, it will assess the types of force used by MNP and how frequently they are used. Specifically, we will assess the frequency with which certain types of force are used and by who, the racial, ethnic, and gender distribution of those impacted by the use of force, and the spatial distribution of use of force incidents. Second, this report will review the MNP policies and training curriculums regarding use of force and de-escalation and compare them to policy and training best practices being established by other researchers, law enforcement agencies, and oversight organizations in cities across the country.

Methodology

There are ongoing debates among researchers about the best practices to determine whether police are using force inappropriately.¹¹ For instance, we will aim in this report to estimate how often MNP officers use force. Giving a rate is challenging because it is not clear what the denominator of the rate should be. In a rate, the denominator serves as a comparison to a known quantity or benchmark. For instance, the total population of Nashville could be the denominator but would then assume that all residents of Nashville were at equal risk of police use of force. More appropriate denominators could be the total number of police contacts or the number of arrests. Criminologists refer to this as the benchmarking problem. When making racial, gender, or age comparisons, appropriate benchmarks are

⁵ United States Commission on Civil Rights, “Police Use of Force: An Examination of Modern Policing Practices,” 138.

⁶ Tregle, Nix, and Alpert, “Disparity Does Not Mean Bias.”

⁷ McLean and Worden, *Mirage of Police Reform: Procedural Justice and Police Legitimacy*; United States Commission on Civil Rights, “Police Use of Force: An Examination of Modern Policing Practices.”

⁸ Garrett and Stoughton, “A Tactical Fourth Amendment.”

⁹ Sinyangwe, “Examining the Role of Use of Force Policies in Ending Police Violence,” 4.

¹⁰ Sinyangwe, “Examining the Role of Use of Force Policies in Ending Police Violence.”

¹¹ Alpert and Dunham, *Understanding Police Use of Force: Officers, Suspects, and Reciprocity*; Kramer and Remster, “Stop, Frisk, and Assault?”

necessary. We will focus on using multiple appropriate benchmarks since which benchmark is selected can affect interpretation of results.¹²

In addition to the descriptive analysis of use of force incidents, we will evaluate MNPDP's use of force and de-escalation policies and training. We will review best practices from other law enforcement agencies and model polices from across the nation in order to develop specific policy recommendations. As an annual report, we will track policy implementation and make further recommendations annually.

Data

This report will use three databases provided by MNPDP to conduct the analyses: Use of Force (Form 108), Incident Reports (Form 100), and Arrests (Form 106). The Use of Force database lists the incident number; subject race, ethnicity, sex, and age; officer race, ethnicity, sex, and age; whether the subject or officer was injured; type of resistance, type of weapon with subject; type of force used (foot, hand, take down, grapple, chemical spray, tear gas, Taser, baton, K9, firearm). Taser and firearm use have an additional column of data indicating whether the weapon was displayed only or discharged. Firearm displays have only been tracked since January of 2019 while Taser displays have been tracked since 2012.

Use of force cases are linked to incident reports through an incident number. We will use the Incident Database to determine geographic location of the force incident and the type of alleged crime that had occurred. Currently, MNCO only has access to incident location information for closed cases. If we are not able to obtain access to location information (reporting area, patrol zone, precinct, zip code) for open incidents, we will not be able to conduct a complete analysis of where force is used. The total number of incidents will be used as one benchmark to estimate the use of force rate. The Arrest Database will be used as another benchmark estimating the use of force rate.

Community Input

MNCO plans to consult community members regarding the scope and direction of our policy advisory research and reports. Community input is a crucial part of the work of oversight organizations and should be a part of the discussion surrounding future policy recommendations and decisions. We will reach out to affected community members and request interviews with them. We plan to directly reach out to community members as well as collect information through an online questionnaire. For the use of force report, we will seek out input from community members who have experienced use of force from police and family members of those who have had force used against them. We would like to interview non-law enforcement community members to better understand the personal impact of police use of force. We also plan to solicit input from members of the community who are in law enforcement. We would like their input to inform our understanding of the challenges officers face when being faced with the decision to use force and the potential stress associated with having used force on a resident.

The online questionnaire is available at: <https://tinyurl.com/MNCOsurvey>. Community members are asked to describe the incidents they would like to share and how they felt about the incident. We clarify that the questionnaire is not a misconduct complaint but is for research purposes only. Participants are asked for demographic information and may optionally give contact information for a follow-up interview. The questionnaire does not aim to be a representative survey but to solicit input from people who have stories they would like to share with MNCO.

¹² Tregle, Nix, and Alpert, "Disparity Does Not Mean Bias."

Broader Impact

While MNP already has some policies that limit the use of force, staying current with national best practices can help to build a stronger relationship between law enforcement and the local community in Nashville and Davidson County. The research and analysis conducted for this policy advisory report can help to facilitate a more informed discussion surrounding local use of force policies and the potential impact of future policy reforms.

The research conducted for this yearly research report can help to provide insight and guidance for other law enforcement agencies and/or civilian oversight organizations seeking to change the use of force policies in their cities or jurisdictions. As other cities around the country work to review their own policies and procedures surrounding use of force, the Metro Nashville Police Department and Metro Nashville Community Oversight can be valuable contributors to the conversation. As a law enforcement agency responsible for a state capital and large metropolitan area, the MNP can lead by example when it comes to implementing reforms to use of force training and policies.

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