



MALDEN'S USE OF FORCE POLICY

August 2022

MALDEN POLICE DEPARTMENT

Response to the Final Report submitted by the
Advisory Group on Obama's Pledge (AGOP) on
Malden's Use of Force Policy.

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The Malden Police Department appreciates the work of the Advisory Group on Obama’s Pledge (AGOP) in reviewing the Use of Force Policy, providing insight through the lens of a community member and in identifying areas of improvement. The following is a response to the AGOP’s Final Report and recommendations:

Recommendation #1:

Focus on Protecting Life and Safety

Reorient policies to clarify that the purpose for use of force is to protect the life and safety of all individuals involved in a situation (including officers, subjects of enforcement, and bystanders), rather than to control a situation.

Response to #1:

The Malden Police Department’s (MPD’s) Use of Force Policy provides that “The Malden Police Department places the highest value on the life and safety of its officers and on the protection of the public.” The recommendation seems to suggest eliminating the phrase, “...control of a situation.” The current meaning behind the wording is to manage a chaotic and/or dangerous situation so that the likelihood of injury to all involved is greatly reduced. The goal is to use no more force than is reasonably necessary. It is important to note that every situation presents unique circumstances, and an officer is required to assess and determine the appropriate police response after reviewing the totality of the circumstances. The wording of this section will be reconsidered.

Recommendation #2:

New Policy Sections

Add new policy sections, including:

- Prohibiting profiling based on race or other identities (the MPD reports this is the current practice, so this recommendation would make it a formal policy);
- Requiring de-escalation tactics for police officers responding to a situation, with appropriate training in these tactics;
- An updated and research-based model for assessing the use of force, such as the Critical Decision-Making Model and proportionality standard recommended by the *Police Executives Research Forum*; and
- The role of police officers at rallies and demonstrations, based on best practices from other departments and consultation with community leaders.

Response to #2:

The MPD is currently engaged in the Police Certification and Accreditation program. There are several benefits to participating in this process, most notably is that it involves an intensive review of policies and procedures. To achieve accreditation, there must be compliance with program standards, and this usually involves the rewriting of policy. The Department’s Use of Force policy is one of the topical areas covered as well as other areas of law enforcement. Each of the policies are published separately and may now be accessed on the city website at: <https://www.cityofmalden.org/752/Department-Policies-Procedures>.

In response to the specific policy sections recommended:

- **Prohibit profiling based on race or other identities:**

See MPD Policy #006, *Bias-Free Professional Policing Policy*, which is attached to this response. The policy specifically sets forth the utilization of the [Municipal Police Training Committee \(MPTC\)](#) and any Department sponsored in-service training programs to ensure that all employees receive the requisite training on the legal aspects of identification and prevention against any bias-based profiling.

- **Requiring de-escalation tactics for police officers responding to a situation, with appropriate training in these tactics:**

The MPD Use of Force Policy, pg. 2, addresses de-escalation. The policy requires that “when time and totality of the circumstances permit, officers shall use de-escalation tactics in order to reduce the need for force.” The MPD has a Training Unit that is responsible for facilitating the Department's training efforts. Police officers also attend training with de-escalation as an area of focus through the Municipal Police Training Committee as well as in-service trainings each year. *See also Response to #3 for further trainings.*

- **An updated research-based model for assessing use of force, such as “Critical Decision-Making Model” and proportionality standard recommended by Police Executives Research Forum:**

Although many aspects of PERF’s model are incorporated in policies, MPTC and the Peace Officer Standards and Training Commission (POST) set mandated standards regarding the Use of Force continuum with no deviation. [550 of the Code of Massachusetts Regulations](#), Section 6.00 requires MPTC and POST to jointly promulgate rules and regulations governing the use of force by law enforcement officers.

- **The role of police officers at rallies and demonstrations, based on best practices from other departments and consultation with community leaders:**

See MPD Policy #005, *Crowd Management Policy*, which is attached. This policy includes the mandated rules and standards. In practice, the MPD aims to facilitate public assemblies and lawful First Amendment expression in the safest way possible for all involved. The Department has always advocated working with community leaders in the planning process as well as all departments involved.

Recommendation #3:

Clarify Training for Officers

Add and clarify required training for officers beyond what is required by the state in key areas related to equity and minimizing harm, such as: antiracism, racial bias, unconscious bias, conflict resolution and negotiation, language training, how to address a Section 12, how to respond to persons with disabilities, de-escalation techniques and strategies, and trauma-informed responses.

Response to #3:

- The MPD receives annual mandatory training, in all aspects of “Bias-Free Professional Policing,” which is an all-encompassing training that addresses, equity, racial bias, antiracism, and unconscious bias.
- Officers are familiar with Section 12 of the Mental Health Act and the MPD is committed to providing officers with the tools to assist individuals in crisis safely and effectively. Additionally, officers receive annual training in de-escalation techniques, ICAT (Integrating Communications, Assessment, and Tactics), and less lethal devices. Many officers have also received specialized training in Crisis Intervention, Mental Health 101, and negotiation.
- As mentioned, a large percentage of MPD officers are “Crisis Intervention Trained (CIT). This means that officers have a level of expertise in responding to situations involving individuals impacted by psychiatric illness, developmental disorders, and co-occurring substance use disorders. The Department also works hand in hand with Eliot Community Human Services and the City’s Addiction Recovery Resource Specialist.
- The MPD receives additional training using the Middlesex County Sheriff’s Department’s Use of Force Trailer. In this program, officers are given various scenarios that require them to escalate and de-escalate situations using the MPTC Use of Force Continuum. The Department is on its fourth year of providing this scenario-based training. Each year, the instructors try to focus on the types of incidents that law enforcement has been encountering. The main area of focus has been on de-escalating a person in crisis such as during a mental health episode. Officers are instructed on their positioning, using time to their benefit and the use of proper verbal commands and communication. The trailer allows the officer to use their assigned equipment, i.e., Taser 7, OC spray (“pepper spray”), baton and duty firearm. The scenarios are geared toward having the officer complete the scenario without discharging their firearm.
- In addition to the Department’s qualifications two times per year with their duty firearm, the Department is trained annually in the use of the Taser 7. The qualification requires the officer to follow the de-escalation procedures that are in place for the Taser.
- Members of the Special Operations Unit (SOU) receive 16 hours of training per month. These officers are all cross trained on the use of less than lethal munitions. The SOU has been training in tactics for over six years now that are rooted in de-escalation. Strong communication skills are required to continue to be a member of the unit. The members of the SOU are additionally assigned to various units throughout the Department that allow them to put in place their training on a regular basis. This could mean providing advanced medical aid to the public or slowing down an incident to ensure the best and safest outcome for everyone involved.
- Finally, periodically officers receive roll call trainings mostly in the form of a debriefing of an incident to discuss what could have been done better.

Recommendation #4:

Data Reporting and Transparency

Track, analyze and present data to increase transparency and build public trust. Provide regular public reports (at least annually) on key areas related to equity, including use of force, stops and arrests, responses to 911 calls, and MPD demographics. Reports should be disaggregated by race, ethnicity, gender, ability, age, and language.

Response to #4:

The MPD will provide annual public reports with details as stated in the recommendation. The Department is currently working with QED, Inc. who is assisting with software focused on records management and better public reporting. Reports will categorize interactions and identify demographics, including race, ethnicity, gender, language, and age.

As to Use of Force reports specifically, the software will help to better organize information. There will be a “check box” that is required to be answered for all reports stating **“Use of Force, YES or NO.”** A **“No”** selection would allow the officer to validate and finish the report. A **“Yes”** selection would then bring up the remaining selection boxes with the type of force used, firearm used, reason for use of force, reason for firearm discharge and a few other variables. *(Use of Force reports are required when there is any resistance, no matter how slight, beyond compliant handcuffing).*

In addition, to further promote transparency, the implementation of [body worn cameras](#) has been mutually agreed upon by the City and its police officers. This agreement represents the strong commitment by the Department to use all available tools and resources to keep the community and police officers safe in a way that is fair, impartial, and transparent.

Recommendation #5:

Civilian Oversight Board

Follow through on the UniteMalden 2020 pledge to create a strong civilian oversight board for the MPD, which would engage the public, receive complaints, address accountability and disciplinary consequences, and review data and policy concerns.

Response to #5:

The MPD recommends a Citizen Engagement Group that meets regularly (maybe quarterly). The group should have equal representation, be fair, balanced with the mutual goal of discussing any police/community matters that may arise and address community concerns. The hope is to work with the City Council and the Mayor’s office to form such a group and establish its mission.

Civilian Oversight Boards are generally created and formed when a city or town is in receivership and/or the community has lost all faith in its police department (for whatever reason). Currently, there are four in Massachusetts. A major impetus for the creation of these boards is a direct result of Use of Force complaints. On average, the MPD receives approximately 9 complaints per year. Most of these complaints are for rudeness. Every complaint is thoroughly and impartially investigated, regardless of whether the complaint is internal or external. All complaints are recorded and on file with the POST Commission for public review.

Recommendation #6:

Inclusive Language

Use updated, inclusive, and respectful language, especially when referring to historically marginalized communities, including using gender-neutral terms.

Response to #6:

This Recommendation is outlined in MPD Policy #006, *Bias-free Professional Policing Policy*. Inclusive and respectful language is required and practiced by all MPD officers and will be updated.

Recommendation #7:

Language Access

Address the range of languages that people speak in Malden. This includes describing expectations around how officers communicate with subjects of enforcement and bystanders who are non-English speakers, including those who communicate through American Sign Language. This also includes the MPD communicating its policies in multiple languages.

Response to #7:

The MPD is committed to working with the City’s Language Access Coordinator to help with communicating information to the community and making information more accessible. MPD has also made every effort possible to maintain and build a diverse workforce that mirrors the community. Officers speak a wide variety of languages, including Haitian Creole, Mandarin, Cantonese, Portuguese, Spanish, and American Sign Language.

Recommendation #8:

Engaging Persons with Disabilities

Rewrite the section referring to persons with disabilities to include all vulnerable populations and to update the language to reflect best practices. The policy should include specific limits on use of force and how police officers should interact with people with disabilities, people experiencing homelessness, victims of domestic violence, people with unmet mental health needs, people under the influence of drugs or alcohol, pregnant people, youth, older people, and other vulnerable populations.

Response to #8:

The MPD will consider rewriting the section referring to persons with disabilities to include all vulnerable populations. However, updating language to reflect best practices is more difficult. Currently, the Use of Force Policy outlines an officer’s response to an unlimited range of circumstances. It also addresses individuals with disabilities and/or those who may have mental health issues. Homelessness, disabilities, domestic violence victims, intoxicated individuals, old, young, or all other vulnerable populations are all important factors, but the approach to Use of Force must consider the totality of the circumstances known to the officer at that time.

Recommendation #9:

Alternative Response Options

Identify and develop alternative (non-Police) response options that can be referenced and integrated into the Use of Force Policy, such as mental health response, substance abuse response, mediation and dispute resolution services, and multilingual crisis hotlines.

Response to #9:

The MPD currently utilizes a wide array of alternative response or team response options. The MPD’s Crime Analyst connects with the City’s Addiction Recovery Resource Specialist on all medical aid calls regarding substance abuse, alcoholism, mental health issues, etc. Together they provide a wide range of services to all who accept them. In addition, they bring all cases forward to the “HUB” meetings which are held weekly at the Lawrence Memorial Hospital in Medford. At these meetings, individual cases are presented to the group who have special training and services to support them. MPD now also includes [Addiction Resources](#) and [Mental Health Resources](#) on its website.

In addition, the MPD has partnered with Eliot Community Human Services (“Eliot”) to provide a team approach to calls that may be behavioral in nature, such as depression, suicide attempts, Section 12s, substance abuse, mental health issues, etc. Clinicians with Eliot act as a 24/7 resource to officers responding to emergency calls. Additionally, the MPD now has a dedicated clinician embedded within the Department to assist with alternative responses and follow-up with members of the community who may need further treatment assistance. To further aid in the follow-up process, officer reports involving individuals in need of resources are flagged in the reporting system and then referred to the appropriate agency.

Recommendation #10:

Full Community Assessment

Conduct a full community assessment of experiences and trust of the MPD in consultation with a professional organization doing this work.

Response to #10:

The MPD prides itself on transparency and accountability of its officers and operating procedures and would be open to participating in a community assessment.

In closing, the MPD looks forward to their continued work with the community to ensure more transparent and equitable public safety policies.

ATTACHMENT 1
MALDEN POLICE DEPARTMENT
POLICY #006
BIAS-FREE PROFESSIONAL POLICING
POLICY

MALDEN POLICE DEPARTMENT “BIAS-FREE” PROFESSIONAL POLICING POLICY

<p>Massachusetts police accreditation standards referenced: 1.2.9 a, b, c, d</p>	<p>GENERAL ORDER ----- POLICY NUMBER: 006</p>	
<p><u>Effective Date:</u> 08/09/2021 <u>Revised Date:</u></p> <p>Total Pages: 11</p>	<p><i>ISSUING AUTHORITY</i></p> <hr style="border: 1px solid black;"/> <p>Police Commissioner</p> <div style="background-color: #cccccc; padding: 5px; text-align: center; margin: 5px 0;">  </div> <p>Salvatore “Butch” Gennetti</p>	

I. GENERAL CONDITIONS AND GUIDELINES:

Zero Tolerance for Bias/Gender-Based Policing :

As duly sworn members of the Malden Police Department, we are unequivocally committed to protecting the constitutional and civil rights of all individuals located within our territorial jurisdiction and to those additional jurisdictions where we are allowed by statute, memorandum of understanding/agreement via mutual aid, case law or common law to execute sworn authority as Malden Police Officers. Any and all allegations of bias-based profiling in any form whatsoever or any other types of discriminatory enforcement practices, whether real or perceived, are detrimental to the valued relationships and partnerships that we have developed between the members of the Malden Police Department and the communities that we so faithfully serve and protect. Such discriminatory practices only function to erode the basic foundation of public trust and the spirit of cooperation that is essential to an effective community policing philosophy and formidable community building. Bias-based profiling is not only illegal, immoral and unethical, it is also a highly ineffective and counterproductive method of policing and law enforcement. Bias-based profiling results in increased safety risks to both officers and citizens alike and as such will not be tolerated under any set of circumstances.

Additionally, such improper methods violate the civil rights of the members of the general public and may lead to unnecessary and increased exposure to civil liability and exposure for our department, personnel and municipality. As a result no member of this Department shall endorse, train, instruct, support or condone any type of stereotyping or bias-based profiling whatsoever.

Officers shall always adhere to the principles of **Bias-Free Professional Policing** as described and outlined below. While recognizing that the members of the Malden Police Department take a sworn oath to perform our duties and responsibilities in a professional, ethical, moral and impartial manner at all times, we shall stand ready and always remain committed to identifying, investigating and holding those accountable who may have occasion to violate or intentionally deviate from any of our existing rules, policies, practices or laws in this important area.

II. DEFINITIONS:

- 1.) **“Bias-Based Profiling”**: Any prohibited pattern or practice, including but not limited to stopping, detaining, questioning, frisking, and searching by police officers, that is based upon a generalized belief that a person of a particular race, ethnicity, or national origin is more likely to commit certain types of crimes. This type of inappropriate reliance on certain characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, immigration status, gender identity or expression, socioeconomic status, age, professional level, cultural group, mental or physical disability or affiliation with any non-criminal group as the basis for providing differing law enforcement services or enforcement activity as outlined is **strictly prohibited** .
- 2.) **“Bias-Free Policing”**:¹ policing decisions made by and conduct of law enforcement officers that **shall not** consider a person’s race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level.
 - **Note**: This definition of Bias-Free Policing **shall also include** and allow policing decisions made by or conduct of law enforcement officers that:
 - (1) are based on a law enforcement purpose or reason which is non-discriminatory, or which justifies different treatment; or

• ¹ See MGL Chapter 6E Section 1 / Chapter 6 Section 116G

(2) consider a person's race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level because such factors are an element of a crime(s) under investigation.

- 3.) **"Suspect Specific Incident"**: An incident in which an officer is lawfully attempting to detain, apprehend, or otherwise be on the lookout (e.g., BOLO) for one or more specific suspects who have been identified and/or particularly described in part by national or ethnic origin, gender, age or race.
- 4.) **POST**: The **Massachusetts Peace Officer Standards and Training Commission** consisting of nine (9) members vested with various powers to oversee police training and allegations of misconduct including, but not limited to, conduct involving allegations of bias.

III. PURPOSE AND SCOPE

This policy provides specific guidance and direction to all Department members (including sworn and non-sworn) that affirms the Malden Police Department's continuing commitment to Constitutional Policing principles and practices that are always fair, impartial, objective, and fosters mutual respect, dignity and a spirit of cooperation between law enforcement personnel and members of all racial, identity, and cultural groups.

Outreach Note: Nothing in this policy prohibits the use of specified characteristics in law enforcement activities designed to strengthen the Department's relationship with its diverse communities. The members of the Department shall always emphasize an understanding, appreciation and respect for racial identity, and cultural differences (e.g., cultural and ethnicity awareness training, youth programs, community group outreach, partnerships).

IV. POLICY:

It shall be the policy of this Department to adhere to the principles of Bias-Free Professional Policing while always recognizing that any and all bias-based profiling is and shall be **strictly prohibited**. Except in "**suspect specific incidents**," (as defined in Section II (3) above) all Malden Police Officers and employees are **strictly prohibited** from considering the race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, immigration status, disability or any other arbitrary characteristic of members of the public when deciding to detain a person during a traffic stop or an investigative detention (e.g., field interview observations); or

in deciding upon the scope or substance of any law enforcement action. The Malden Police Department is committed to providing effective law enforcement services to the entire community with due regard for all racial, cultural, ethnic or other protected characteristics of those served. It shall be the policy of this Department to enforce the law equally, fairly, impartially, objectively and without discrimination toward any particular individual or group. **1.2.9 (a)**

Investigatory Note: Nothing in this policy is intended to prohibit or restrict an officer's ability to consider certain protected characteristics in combination with other credible, timely and distinct information connecting a person or a group of individuals of a specific characteristic to a specific unlawful incident(s), specific criminal patterns or a specific illegal scheme(s).

V. MEMBER RESPONSIBILITIES :

In furtherance of this policy all members of the Malden Police Department shall:

- Perform his/her duties in a fair, impartial and objective manner and is responsible for promptly reporting any suspected or known instances of bias-based profiling to a supervisor. Members should always, when reasonable and practicable to do so, intervene to prevent any biased-based actions by another member of this Department, other law enforcement agency or in general;
- Provide all individuals within this community with fair and impartial policing services consistent within all constitutional and statutory mandates;
- Assure the highest standard of integrity and ethics among all our Officers in all interactions with the public;
- Always respect the diversity and the cultural values of all people;
- Take affirmative and positive steps to identify, prevent, and eliminate any instances of bias-based profiling by Malden Police Department Officers and employees;
- Continue the valued commitment to a community policing philosophy and problem solving techniques (e.g., **S**canning, **A**nalyzing, **R**esponse, **A**ssessment), including probative, lawful and nondiscriminatory traffic enforcement that promotes public safety and strengthens public trust, confidence, and traffic safety awareness;

- Officers who have occasion to contact a person in the course of their duties and responsibilities shall be prepared to articulate sufficient reason(s) for the contact, independent of the protected characteristics of the individual;
- To the extent that written documentation would otherwise be completed (e.g., arrest report, field interview/observation (FIO), citation, parking ticket), the involved Officer should include those facts giving rise to the contact, as applicable;
 - **Note:** Except for required data-collection forms or methods, nothing in this policy shall require any Officer to document a contact that would not otherwise require reporting in accordance with existing law.

VI. PROCEDURES:

A. Prevention of Bias-Based-Profiling via Training 1.2.9 (b)

To prevent any occurrences of bias-based profiling, members of this Department shall always:

1. Utilize the Municipal Police Training Committee (MPTC) Basic Recruit Academy and any Department sponsored in-service training programs to help ensure that all employees receive the requisite training on the legal aspects of identification and prevention against any bias-based profiling practices and the mandatory standards as established by this policy; 1.2.9 (b)
2. Ensure that this policy is properly disseminated to all employees, sworn Officers, and emergency communications employees;
3. Ensure that all Supervisors will continually monitor employee conduct to guarantee that the standards of this policy are being carried out in a continuous manner by all personnel under their supervision;
4. Conduct a documented review by the Internal Affairs Lieutenant, when and where appropriate, to revise procedures that involve the stop, detention, apprehension or search and seizure of individuals or their property to ensure that such procedures are in compliance with the provisions of the laws of the Commonwealth and this policy;
5. Conduct a documented Annual Administrative Review by the Training Supervisor and the Internal Affairs Supervisor of all performance recognition and evaluation systems, training curricula, policies, citizen complaints or concerns and customs of the Department to determine if any practice encourages conduct that may support or lead to bias-based profiling. This

documented review shall be sent to the attention of the Accreditation Manager and Chief of Police for appropriate follow up if necessary. **1.2.9 (d)**

B. Identification of Bias-Based Profiling:

To assist in identifying instances or allegations of bias-based profiling, this department shall:

1. Utilize appropriate civilian complaint procedures to document and investigate allegations of bias-based profiling filed directly with the agency, referred through the Executive Office of Public Safety's statewide toll free complaint number or made directly to the POST Commission;
2. Utilize procedures for the proactive review of performance, complaint and other employment information to assist supervisors in identifying and modifying potentially problematic behavior and to promote professionalism in this department;
3. Utilize procedures to identify patterns of unprofessional police conduct, including, but not limited to, patterns of conduct that is biased on the basis of race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level;²
4. Any civilian complaints of bias-based policing, including whether the Officer's conduct was allegedly biased on the basis of race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level, shall be reported to the **POST Commission's Division of Police Standards** by the Internal Affairs Lieutenant **within two (2) days** of receiving stated complaint;³
5. The **POST Commission's Division of Police Standards** shall create and maintain a comprehensive database containing information related to an Officer's receipt of complaints and related information, including, but not limited to the officer's appointing agency, date, a description of circumstances of the conduct that is the subject of the complaint and whether the complaint alleges that the officer's conduct was biased on the basis of race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level;⁴
6. The **POST Commission** may, after a hearing, **suspend or revoke** an Officer's **Certification** if the Commission finds by the legal standard of **clear and convincing evidence** that the officer was biased on the basis of race, ethnicity,

• ² See MGL Chapter 6E Section 3 (Powers of POST)

• ³ See MGL Chapter 6E Section 8 (b)(1) (Division of Police Standards]

• ⁴ See MGL Chapter 6E Section 8 (e) (Division of Police Standards Database]

sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level in their conduct.

C. **Enforcement of Bias-Based Profiling Policy:** [1.2.9 \(c\)](#)

To enforce the provisions of this policy, this Department shall:

1. Take the appropriate actions to address documented incidents or allegations of bias-based profiling;
2. Utilize a system and approach of early intervention to enable and encourage an employee to undertake a voluntary modification of his or her conduct or performance; and
3. Take the appropriate measures to correct any institutional practice, pattern or policy that has led to the utilization of any bias-based profiling practice.

D. **Civil Liability [Legal Statutory Right to Bias-Free Policing]:**

- 1.) All persons shall have the legal right to **Bias-Free Professional Policing** as defined in this policy in Section (2) and as outlined in MGL Chapter 6E Section 1.
 - Any conduct taken in relation to an aggrieved person by a law enforcement officer acting under color of law that results in the **Decertification** of said law enforcement officer by the **POST Commission** pursuant to MGL Chapter 6E Section 10 shall constitute interference with said person's right to bias-free professional policing and shall be a prima facie violation of said person's right to bias-free professional policing and a prima facie violation of subsection (a).⁵

⁵ See Chapter 12 Section 11H (a)(1):

"Whenever any person or persons, whether or not acting **under color of law**, interfere by threats, intimidation or coercion, or attempt to interfere by threats, intimidation or coercion, with the exercise or enjoyment by any other person or persons of rights secured by the constitution or laws of the United States, or of rights secured by the constitution or laws of the commonwealth, the **Attorney General may bring a civil action** for injunctive or other appropriate equitable relief in order to protect the peaceable exercise or enjoyment of the right or rights secured. Said civil action shall be brought in the name of the commonwealth and shall be instituted either in the superior court for the county in which the conduct complained of occurred or in the superior court for the county in which the person whose conduct complained of resides or has his principal place of business. (Emphasis added)

Section 11H (a)(2): If the Attorney General prevails in an action under this section, the Attorney General shall be entitled to: (i) an award of **compensatory damages** for any aggrieved person or entity; and (ii) **litigation costs and reasonable attorneys' fees** in an amount to be determined by the court. In a matter involving the interference or attempted interference with any right

- No law enforcement officer shall be immune from civil liability for any conduct under color of law that violates a person’s right to bias-free professional policing if said conduct results in the law enforcement officer’s decertification by the POST Commission pursuant to MGL Chapter 6E Section 10;
 - Provided, however, that nothing noted herein shall be construed to grant immunity from civil liability to a law enforcement officer for interference by threat, intimidation or coercion, or attempted interference by threats, intimidation or coercion, with the exercise or enjoyment any right secured by the constitution or laws of the United States or the constitution or laws of the Commonwealth if the conduct of said officer was knowingly unlawful or was not objectively reasonable.

2.) Pursuant to Section 83 of the newly enacted Police Reform Legislation [**An Act Relative to Justice, Equity, and Accountability in Law Enforcement in the Commonwealth**], Section 63 of Chapter 90 of the MGLs, inserted by section 10 of Chapter 122 of the Acts of 2019, is hereby amended by adding the following subsection: to the so-called “Hands Free / Data Collection Law”.

(h) A law enforcement agency, as defined in MGL Chapter 6E Section 1, **shall not** engage in racial or other profiling. The Attorney General may bring a civil action in the superior court for injunctive or other equitable relief to enforce this subsection. For the purposes of this subsection, **“racial or other profiling”** shall mean differential treatment by a law enforcement officer based on actual or perceived race, color, ethnicity, national origin, immigration or citizenship status, religion, gender, gender identity or sexual orientation in conducting a law enforcement action, whether intentional or evidenced by statistically-significant data showing disparate treatment;

- Provided, however, that **“racial or other profiling”** shall not include the use of such characteristics, in combination with other factors, to apprehend a specific suspect based on a description that is individualized, timely and reliable.

protected by the constitution of the United States or of the commonwealth, the court may also award civil penalties against each defendant in an amount not exceeding \$5,000 for each violation.

3.) The **POST Commission** shall have the power to refer patterns of **racial profiling** or the mishandling of complaints of unprofessional police **conduct by a** law enforcement **agency for** investigation and possible prosecution to the Attorney General or the appropriate federal, state or local authorities;

- Provided, however, that if the Attorney General has reasonable cause to believe **that such** a pattern exists based on information received from any other source, the Attorney General may bring a civil action for injunctive or other appropriate equitable and declaratory relief to eliminate the pattern or practice.⁶

VII. SUPERVISOR RESPONSIBILITIES :

- Supervisors should monitor those individuals under their command for compliance with this policy and shall handle any alleged or observed violations in accordance with the steps outlined in the Internal Affairs Investigation Policy.
- Supervisors shall always discuss any concerns with the involved Officer face to face - in private whenever possible - in a timely manner.
- Supervisors shall initiate investigations of any actual or alleged violations of this policy.
- Supervisors shall take prompt and reasonable steps to address any retaliatory action that may be taken against any member of this Department who discloses information concerning any bias-based policing practice by another member.

VIII. TRAINING :

- The **Municipal Police Training Committee (MPTC)** , in consultation with the Executive Office of Public Safety and Security (EOPSS), shall establish and develop an **In-Service Training Program** designed to train local law enforcement officials in practices and procedures related to **Bias-Free Policing** which shall include **examining attitudes and stereotypes that affect the actions and decisions of law enforcement of ficers**;⁷
- Training on fair and impartial policing and review of this policy should be conducted at periodic intervals as directed by the Professional Standards Division during In-Service Training and Roll Call Training Sessions.

• ⁶ See MGL Chapter 6E Section 3

• ⁷ See MGL Chapter 6 Section 116G (b)

- All sworn members of this Department shall attend training on the subject of Bias-Free Professional Policing at the MPTC ROC and at applicable intervals at Department In-Service Training.
- All Malden School Resource Officers (SROs) shall be trained in **anti-bias, anti-racism and a nti-harassment strategies.** ⁸
- All members of this Department are encouraged to familiarize themselves with and consider racial and cultural differences among members of this community.
- Each sworn member of this Department who received initial bias-based policing training will thereafter be required to complete an approved refresher course three (3) years, or sooner if deemed necessary, in order to keep current with changing racial, identity and cultural trends.

• ⁸ See MGL Chapter 6 Section 116H

ATTACHMENT 2
MALDEN POLICE DEPARTMENT
POLICY #005
CROWD MANAGEMENT POLICY

MALDEN POLICE DEPARTMENT CROWD MANAGEMENT POLICY

Massachusetts police accreditation standards referenced:	GENERAL ORDER ----- POLICY NUMBER: 005	
Effective Date: 05/30/2020 Total Pages: 8	ISSUING AUTHORITY <hr style="width: 80%; margin: 0 auto;"/> Police Commissioner  Salvatore "Butch" Gennetti	

I. PURPOSE

The purpose of this policy is to establish guidelines for managing crowds, protecting individual rights, and preserving the peace during demonstrations and civil disturbances.

II. POLICY

It is the policy of the Malden Police Department to protect individual rights related to assembly and free speech; effectively manage crowds to prevent loss of life, injury, or property damage; and minimize disruption to persons who are not involved.

III. DEFINITIONS

Civil Disturbance: A gathering that constitutes a breach of the peace or any assembly of persons where there is a threat of collective violence, destruction of property, or other unlawful acts. Such a gathering may also be referred to as a riot or unlawful assembly.

Crowd Control: Techniques used to address civil disturbances, to include a show of force, crowd containment, dispersal equipment and tactics, and preparations for multiple arrests.

Crowd Management: Techniques used to manage lawful assemblies before, during, and after the event for the purpose of maintaining lawful status through event planning, pre-event contact with event organizers, issuance of permits when applicable, information gathering, personnel training, and other means.

Demonstration: A lawful assembly of persons organized primarily to engage in free speech activity. These may be scheduled events that allow for law enforcement planning. They include, but are not limited to, marches, protests, and other assemblies intended to

attract attention. Lawful demonstrations can devolve into civil disturbances that necessitate enforcement action.

Impact Projectiles: Projectiles designed and intended to deliver non-penetrating impact energy from safer than contact range. These may include direct fire or non-direct skip-fired rounds. The latter are projectiles that are discharged toward the ground in front of a target, theoretically delivering the energy to the subject following contact with the ground.

IV. PROCEDURES

A. Preparation and Planning

1. Every effort should be made to make advance contact with event organizers and to gather the following necessary information about the event to ensure accurate assignment of personnel and resources:
 - a. What type of event is involved?
 - b. When is it planned?
 - c. Will the event coincide with other routine, large-scale events (e.g., sporting events)?
 - d. Is opposition to the event expected?
 - e. How many participants are expected?
 - f. What are the assembly areas and movement routes?
 - g. What actions, activities, or tactics are anticipated, to include use of demonstrator devices designed to thwart arrest?
 - h. What critical infrastructures are in the proximity of the event?
 - i. Have permits been issued?
 - j. Have other agencies such as fire and EMS been notified?
 - k. Is there a need to request mutual aid?
 - l. Has the appropriate level of properly equipped personnel been allocated to ensure safety of bystanders, officers, and demonstrators?
 - m. Will off-duty personnel be required?
 - n. What is the history of conduct at such events?
 - o. Are event organizers cooperative?
 - p. Who are the potential counter-protest groups?
 - q. Is there a history of violence between the group demonstrating and potential counter-protest groups?
2. The incident commander (IC) or a designee, shall prepare a written plan subject to the approval of the chief executive officer or his or her designee. The plan should address the following and be distributed to all participating agencies.
 - a. Command assignments and responsibilities
 - b. Personnel, unit structure, and deployment considerations to include the need for special response teams (i.e., SWAT, emergency medical personnel, and plainclothes officers).
 - c. Regular communication with legal advisors

- d. Liaison with event planners, to include their legal advisors, where applicable
- e. Liaison with outside agencies
- f. Communications plan, to include release of information to the media
- g. Pre-event intelligence analysis
- h. Weather and terrain at the event location
- i. Transportation, support, and relief of personnel
- j. Staging points for additional resources and equipment
- k. Traffic management, including perimeter security
- l. First aid stations established in coordination with emergency medical service providers
- m. Demonstrator devices, extrication teams, and equipment
- n. Transportation of prisoners
- o. Arrestee processing areas
- p. Any laws, ordinances, or administrative rules specific to the event

B. Management and Organization Principles

1. Government may impose reasonable restrictions on the time, place, and manner in which persons assemble and engage in free speech activity. This agency shall place only those limitations and restrictions on demonstrations necessary to maintain public safety and order and, to the degree possible, facilitate uninhibited speech, commerce, and freedom of movement.
2. An Incident Command System (ICS) shall be used in crowd management and civil disturbances to ensure control and unified command.
3. Organization of responsibilities shall be as follows:
 - a. The chief executive officer shall designate an incident commander (IC) responsible for overall control of a demonstration or civil disturbance.
 - b. The IC shall implement the written plan.
 - c. In the case of a widely dispersed demonstration or disturbance, or event with multiple locations, multiple ICs may be assigned at the discretion of the chief executive officer.
 - d. The IC shall be responsible for preparing operations plans and management details associated with planned demonstrations.
4. The primary objectives of the IC at a civil disturbance are to accomplish the following:
 - a. Protect persons, regardless of their participation in the disturbance.
 - b. Disperse disorderly or threatening crowds in order to eliminate the immediate risks of continued escalation and further violence.
 - c. Arrest law violators, including those responsible for property damage, and remove or isolate persons inciting violent behavior.
5. Officers shall be briefed on what to expect and appropriate responses. They shall be informed that the IC or their designee(s) shall be responsible for ordering any response deemed appropriate.

C. General Crowd Response

1. Officers shall be deployed to monitor crowd activity. Sufficient resources to handle multiple unruly persons should be available, depending on the fluidity of the situation and degree of actual or likely disruption.
2. Officers shall be positioned in such a manner as to minimize contact with the assembled crowds.
3. Officers should avoid engaging in conversations related to the demonstration with attendees, refrain from reacting in response to comments from demonstrators, and maintain a courteous and neutral demeanor.
4. Persons who reside, are employed, or have emergency business within the area marked off by a police line shall not be prevented from entering the area unless circumstances suggest that their safety would be in jeopardy or their entry would interfere with law enforcement operations.
5. Individuals designated by the IC should establish and maintain communication with event organizers and relay information on crowd mood to the IC.
6. Supervisors should maintain close contact with their assigned officers to ensure compliance with orders, monitor behavior and disposition, and ensure that they are aware of any changes in crowd behavior or intent.
7. Audio and video recording of agency crowd response should be considered for evidentiary purposes.
8. Mass arrests shall be avoided, unless necessary.
9. Officers shall ensure that a means of egress for all individuals is present at all times.

D. Response to Spontaneous Civil Disturbances

1. The first officer to arrive on the scene of a spontaneous civil disturbance should
 - a. observe the situation from a safe distance to determine if the gathering is currently or potentially violent;
 - b. notify communications of the nature and seriousness of the disturbance, particularly the availability of improvised or deadly weapons, the location and estimated number of participants, current activities (e.g., blocking traffic), direction of movement, and ingress and egress routes for emergency vehicles;
 - c. request the assistance of a supervisor and necessary backup;
 - d. attempt to identify crowd leaders and agitators engaged in criminal acts; and
 - e. at the first available opportunity, request the crowd to voluntarily disperse.
2. The first officer or supervisor in charge at the scene should
 - a. deploy officers at vantage points to report on crowd actions;
 - b. establish a perimeter sufficient to contain the disturbance and prohibit entrance into the affected area;
 - c. ensure that, to the degree possible, uninvolved individuals are evacuated from the immediate area of the disturbance;
 - d. establish a temporary command post;
 - e. provide ongoing assessment to communications;

- f. move and reroute pedestrian and vehicular traffic around the disorder;
 - g. control unauthorized ingress and egress by participants; and
 - h. prevent outside attempts to assist or reinforce participants.
3. The IC should also ensure that
- a. adequate security is provided to fire and EMS personnel in the performance of emergency tasks;
 - b. support and relief for personnel are available;
 - c. a secure staging area for emergency responders and equipment is designated;
 - d. liaison and staging points for media representatives are established and available information is provided as appropriate;
 - e. the IC event log is maintained to document activities and actions taken during the course of the incident;
 - f. photographic or video evidence is preserved, in accordance with applicable law and agency policy, of crowd actions and officer response;
 - g. photographs or videos are taken of any injuries sustained by law enforcement officers or the public; and
 - h. the need for full mobilization of sworn officers and the recall of off-duty officers are determined.

E. Use of Force

1. Officers should follow their agency's policy on use of force.
2. Unless exigent circumstances justify immediate action, officers shall not independently make arrests or employ force without command authorization.
3. The following restrictions and limitations on the use of force should be observed during demonstrations and civil disturbances. In all cases, weapons should be carried and deployed only by trained and authorized officers.
 - a. Canine teams may respond as backup when appropriate but should not be deployed for crowd control (i.e., containment or dispersal). Canines should remain in patrol vehicles or other secure locations and, whenever reasonably possible, out of the view of the crowd. Canines may be deployed in appropriate circumstances related to bomb detection, pursuit of suspects in buildings, and related situations.
 - b. Horses may be used to contain, control, and direct groups in nonviolent demonstrations as appropriate. They should not be used against passively resistant demonstrators, including those who are sitting or lying down. Unless exigent circumstances exist, horses should not be utilized when the use of chemical agents is anticipated or deployed, or in icy or snowy conditions or when similar lack of footing may jeopardize the animal, rider, or others.
 - c. Motor vehicles may be used to contain, control, and direct persons as appropriate but shall not be intentionally brought into contact with them unless the use of deadly force is authorized.
 - d. Bicycles may be used to control and move persons as appropriate.
 - e. Impact projectiles shall not be fired indiscriminately into crowds.

- (1) Non-direct (skip-fired) projectiles and munitions may be used in civil disturbances where life is in immediate jeopardy or the need to use the devices outweighs the potential risks involved.
 - (2) Direct-fired impact munitions, to include beanbag and related projectiles, may be used during civil disturbances against specific individuals who are engaged in conduct that poses an immediate threat of death or serious injury.
 - (3) A verbal warning should be given prior to the use of impact projectiles, when reasonably possible.
- f. Electronic control weapons (ECWs) should be used during civil disturbances only for purposes of restraint or arrest of actively resistant individuals when alternative less forceful means of control are not available or are unsuitable and only when the individual can be accurately targeted. ECWs shall not be fired indiscriminately into crowds.
 - g. Aerosol restraint spray, known as oleoresin capsicum (OC), may be used against specific individuals engaged in unlawful conduct or actively resisting arrest, or as necessary in a defensive capacity when appropriate. OC spray shall not be used indiscriminately against groups of people where bystanders would be unreasonably affected, or against passively resistant individuals. High-volume OC delivery systems (such as MK-9 and MK-46) are designed for and may be used in civil disturbances against groups of people engaged in unlawful acts or endangering public safety and security when approved by the IC. Whenever reasonably possible, a verbal warning should be issued prior to the use of these systems.
 - h. CS (2-chlorobenzalmalononitrile) chemical agents are primarily offensive weapons that shall be used with the utmost caution. CS may be deployed defensively to prevent injury when lesser force options are either not available or would likely be ineffective. Such munitions shall be deployed at the direction of the IC and only when avenues of egress are available to the crowd. When reasonably possible, their use shall be announced to the crowd in advance. CN (phenacyl chloride) shall not be used in any instance.
 - i. A baton or similar device can be used as a defensive weapon; as a means of overcoming resistance (e.g., used in the two-hand horizontal thrust on a police line); to stop, control, or neutralize perceived threatening resistance; as a show of force; or as a means to contain or disperse a crowd.
 - j. All uses of force shall be reported and investigated in accordance with agency policy.

F. Crowd Dispersal

1. Before ordering forced dispersal of a civil disturbance, the IC should determine whether lesser alternatives may be effective. These alternatives include the use of containment and dialogue, as follows:

- a. Establish contact with event organizers or crowd leaders to assess their intentions and motivations and develop a mutually acceptable plan for de-escalation and dispersal.
 - b. Communicate to the participants that their assembly is in violation of the law and that the agency wishes to resolve the incident peacefully, but that acts of violence will be dealt with swiftly and decisively.
 - c. Target specific violent or disruptive individuals for arrest.
2. Prior to issuing dispersal orders, the IC should ensure that all potentially necessary law enforcement, fire, and EMS equipment and personnel are on hand to successfully carry out tactical operations and that logistical needs for making mass arrests are in place.
3. When the IC has made a determination that crowd dispersal is required, he or she shall direct unit commanders, where time and circumstances permit, to issue warnings prior to taking action to disperse the crowd.
 - a. The warning shall consist of an announcement citing the offenses or violations being committed, an order to disperse, and designated dispersal routes.
 - b. A second and third warning should be issued at reasonable time intervals before designated actions are taken to disperse the crowd.
 - c. Where possible, the warnings should be audio or video recorded and the time and the names of the issuing officers recorded in the IC's event log.
4. Specific crowd dispersal tactics should be ordered as necessary where the crowd does not heed warnings. These include, but are not limited to, any one or combination of the following:
 - a. Display of forceful presence to include police lines combined with motorcycles, law enforcement vehicles, mounted units, bicycle units, and mobile field forces
 - b. Multiple simultaneous arrests
 - c. Use of aerosol crowd control chemical agents
 - d. Law enforcement formations and the use of batons for forcing crowd movement

G. Mass Arrest

During a civil disturbance, it may be necessary to make arrests of numerous individuals over a relatively short period of time. For this process to be handled efficiently, safely, and legally, the following should be observed:

1. Mass arrests should be conducted by designated squads.
2. An adequate secure area should be designated for holding arrestees after processing and while awaiting transportation to a detention center.
3. Arrest teams should be advised of the basic offenses to be charged in all arrests, and all arrestees shall be advised of these charges.

4. Arrestees who are sitting or lying down but agree to walk shall be escorted to the transportation vehicle for processing. Two or more officers should carry those who refuse to walk.
5. Arrestees shall be searched incident to arrest for weapons, evidence of the crime of arrest, and contraband.
6. Photographs should be taken of the arrestee and any arrestee property.
7. Anyone who is injured, to include arrestees, shall be provided medical attention. Photographs should be taken of all known injuries.

H. Deactivation

When the disturbance has been brought under control,

1. All personnel engaged in the incident shall be accounted for and an assessment and documentation made of personal injuries.
2. Witnesses, suspects, and others should be interviewed or questioned.
3. All necessary personnel should be debriefed as required.
4. Any equipment utilized by officers should be replaced.
5. All written reports shall be completed as soon as possible after the incident. Comprehensive documentation should include the basis for the incident and the agency's response to the incident, with a statement of impact to include the costs of equipment, personnel, and related items.

I. Training

Officers should receive both initial and ongoing training on appropriate response to crowd control and management. Joint training should also be conducted with all agencies who are involved in crowd management activities.