



Use of Force Recommendation #30

*Clarify Authorization to
use a firearm to stop a
“fleeing felon”*



Agenda

- Objective
- Recommendation Highlights
- Current Policy
- Gap Analysis
- Industry Trends
- Committee Feedback
- Final Guidance
- Discussion



Recommendation Highlights

PERF Recommendation:

- MPD should clarify that the authorization to use a firearm to “stop a fleeing felon” is permissible only when the officer has probable cause to believe the suspect poses a significant threat of death or serious physical injury to the officer of the general public

Current Policy

DPM 2.1.20 Firearms Use

- The use of firearms is authorized in accordance with DPM 2.1.5, Use of Force:
 - o In defense of life or to stop a fleeing felon.
 - o To dispatch seriously wounded or dangerous animals when other forms of disposition are impractical. Refer to DPM 2.5.45, Animal Related Incidents.
 - o At firearms training or department shoots.
 - o At approved Range.
 - o Test firing in the Crime Laboratory



Current Policy

DPM 2.1.5 Use of Force

- Dangerous Fleeing Felon: The officer reasonably believes that it is necessary to prevent the escape of a fleeing subject and the officer reasonably believes that:
 - o The subject has committed a felony involving the infliction or threatened infliction of serious physical injury or death; and
 - o The escape of the subject would pose an imminent danger of death or serious physical injury to the officer or to another person.



Gap Analysis

(List the differences between the current policy and the recommendation proposal)

- Recommendation

DPM 2.1.20 Firearms Use

- The use of firearms is authorized in accordance with DPM 2.1.5, Use of Force:

- o In defense of life or to stop a dangerous fleeing felon...

...when the officer has probable cause to believe the suspect poses a significant threat of death or serious physical injury to the officer or others.

- Current Policy

DPM 2.1.20 Firearms Use

The use of firearms is authorized in accordance with DPM 2.1.5, Use of Force: In defense of life or to stop a fleeing felon.



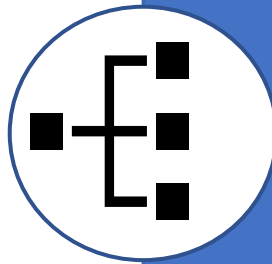
Industry Trends

- **Tennessee v. Garner, 471 U.S. 1 (1985)**

“Deadly Force may not be used unless necessary to prevent the escape and the officer has probable cause to believe that the suspect poses a significant threat of death or serious bodily harm to the officer or others.”

- **Graham v. Connor**

- Actions were objectively reasonable in light of the facts and circumstances confronting officer. Reasonableness must be judged from the perspective of a reasonable officer on the scene, not after the fact.
- Officers in the situation acted as other “reasonable and prudent” officers would act faced with a similar situation.

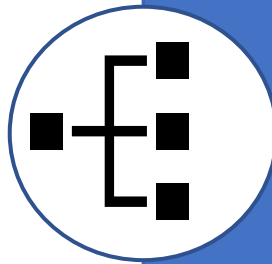


Industry Trends

Graham v. Connor (continued)

- Relevant factors for determining objective reasonableness:
 - Whether the suspect poses an immediate threat to the safety of the officers or others.
 - Did the suspect actively resist arrest?
 - The severity of the crime.
 - Was the suspect attempting to escape?

Considerations: The calculus of reasonableness must embody allowance for the fact that officers are often forced to make split second judgements in circumstances that are tense, uncertain and rapidly evolving.



Committee Feedback

- Discussion on community concern over officer's intent vs perception
 - Officer can justify any action through perception
 - Discussion on levels of scrutiny (criminal, administrative, and civil)
- Reminder that the policy is just aligning with current practice



Final Guidance

- *Add language to DPM 2.1.20 Firearms Use to align with case law and use of force policy:*

DPM 2.1.20 Firearms Use

The use of firearms is authorized in accordance with DPM 2.1.5, Use of Force:

- In defense of life or to stop a dangerous fleeing felon when the officer has probable cause to believe the suspect poses a significant threat of death or serious physical injury to the officer or others.



Discussion