

AGENDA  
SELECT BOARD  
January 11, 2022 – 7:00 p.m.  
Town Building & Zoom

**As a result of the rise of COVID cases, and following the Governor’s Executive Order Suspending Certain Provisions of the Open Meeting Law, this meeting of the Select Board will take place without any public present, but we will make every effort to ensure the public can adequately access non-executive session proceedings in real time via Zoom.**

Join Zoom Meeting

<https://us06web.zoom.us/j/88061063800?pwd=VnRkS1NjNUltRmJic1ZsTmtWQitRQT09>

Meeting ID: 880 6106 3800  
Passcode: 356529

1. Public input
2. Board Members comments
3. Recognition
  - o Certificate for Eagle Scout Jude Porter
4. Appointments:
  - o Benjamin Kelson to the position of Highway Truck Driver/Laborer pending successful pre-employment physical and drug test.
  - o Andrew DeMore to the Zoning Board of Appeals as a full member through June 30, 2026
  - o Andy Crosby to the Zoning Board of Appeals as an associate member through June 30, 2025
  - o Jeanne Genereux to the Council on Aging
  - o Susan Rondeau to the Randall Relief, Town Fund, and Town Farm Fund through June 30, 2022.
5. Town Administrator’s Report
6. Discussion and Possible Vote
  - o Discuss dates for Annual Town Meeting and Annual Town Election and open the warrant for 2022 Annual Town Meeting
  - o Police updated Use of Force Policy – Chief Sallese
  - o Police updated Deaf or Hard of Hearing Individuals Policy – Chief Sallese
  - o Car Lot Express – Class II License Amendment request
  - o Green Advisory Committee Update - Carol Lynn
  - o Minute Man Airport Update – Don McPherson
  - o Disposition of Surplus Goods and Equipment (Highway Department)
  - o ARPA Funding Allocation Request - \$50,000 additional for COVID Response
  - o ARPA Project Funding Guidelines and Form
  - o Approve and Sign Intermunicipal Agreement Extension for the Making Connections Program
  - o Vote to open a donation account for the Library Renovation Project and accept a \$1,000 donation from Charlestown Productions, LLC to be deposited in said account.
7. Personnel Policies
  - o COVID Vaccine Mandate Policy
8. Meeting minutes
  - o December 14, 2021
9. Correspondence
10. Adjournment

Posted Thursday, 1/6/2022  
2:30 p.m.

# RECOGNITION



Town of Stow  
**SELECT BOARD**

Stow Town Building  
380 Great Road  
Stow, Massachusetts 01775  
(978) 897-4515 [selectboard@stow-ma.gov](mailto:selectboard@stow-ma.gov)

January 11, 2022

Eagle Scout Jude Porter  
50 Lowell Drive  
Stow, MA 01775

Dear Jude,

The Select Board of the Town of Stow congratulates you on achieving the rank of Eagle Scout, the highest rank of the Boy Scouts of America.

As an exemplary scout who has performed a number of services for his community, the Board would like to acknowledge your accomplishments and express its best wishes for your continued success and involvement with the community.

Achieving Eagle Scout status is an accomplishment of which you can be extremely proud. The Board is confident that your experience as a Boy Scout will serve you well in your future endeavors.

Sincerely,

For the Select Board

# Certificate of Achievement

*Presented to*

*Jude Porter*

*in recognition of your achievement of attaining the rank of Eagle Scout*

*“CONGRATULATIONS Jude on achieving your goal!!*

*We are PROUD to have you as a member of our community and appreciate your efforts in working with the Recreation Department to build a Ga-Ga Pit at Pine Bluff. This octagonal playing area makes it possible for kids of all ages to play this fast-paced and easy game, allowing a large number of individuals to play at once. This Ga-Ga Pit has already benefitted children from Stow and surrounding communities, and can be enjoyed for years to come.*

*We wish you the Best of luck in the future!”*

*Stow Select Board*

*Ellen S. Sturgis, Chair*

*Zackory Burns*



*Megan Birch-McMichael, Clerk*

*Cortni Frecha*

*January 11, 2022*

*James H. Salvie*

# **APPOINTMENTS**



Denise M. Dembkoski  
Town Administrator  
[townadministrator@stow-ma.gov](mailto:townadministrator@stow-ma.gov)

***Town of Stow***  
*Office of the*  
***Town Administrator***

380 Great Road  
Stow, MA 01775  
Tel: 978-897-2927

I am pleased to recommend Benjamin Kelson to the position of Highway Truck Driver/Laborer, pending successful pre-employment physical and drug test. Ben comes to us with a very impressive background in grounds maintenance, possesses his CDL, and holds a pesticide and herbicide license. I believe he will be a great addition to the highway department and I respectfully ask for your ratification of the recommendation.

*Denise M Dembkoski*



**Town of Stow**  
*Office of the*  
**Town Administrator**

380 Great Road  
Stow, MA 01775  
Tel: 978-897-2927

Denise M. Dembowski  
Town Administrator  
[townadministrator@stow-ma.gov](mailto:townadministrator@stow-ma.gov)

Dolores Hamilton  
Assistant Town Administrator  
[assttownadmin@stow-ma.gov](mailto:assttownadmin@stow-ma.gov)

January 4, 2022

Mr. Benjamin Kelson  


Dear Mr. Kelson,

Thank you for your application for the position of Truck Driver/Laborer for the Town of Stow Highway Department. I am pleased to offer you the position with the following terms:

- Your start date will be determined upon successful completion of your DOT Physical and Drug test and approval by the Select Board.
- Your starting salary will be grade 3, step 1 which is \$21.22 per hour, annualized to \$44,137.62.
- Upon providing proof of Pesticide and herbicide license, you will move to step 2 which is \$21.75, annualized to \$45,240.
- Your overtime rate will be \$32.63.
- As a new employee there will be a 90-day probationary period.
- The position is a full-time position scheduled at 40 hours per week. All employees are required to work during snow and ice operations.
- Your normal work schedule will be Monday through Friday, from 6:30 AM to 2:30 PM.
- This position is a benefit eligible position. You will accrue twelve days of vacation per year, prorated to six days for this fiscal year and fifteen sick leave days per fiscal year, accrued at a rate of 1.25 days per month through June 30th, 2022.

This offer is contingent upon your passing a pre-employment background check, DOT physical and drug testing. I look forward to working with you. I am sure you will be an asset to the Town of Stow!

Sincerely,



Dolores Hamilton,  
Assistant Town Administrator/HR Director



Denise M. Dembkoski  
Town Administrator

[townadministrator@stow-ma.gov](mailto:townadministrator@stow-ma.gov)

***Town of Stow***  
***Office of the***  
***Town Administrator***

380 Great Road  
Stow, MA 01775  
Tel: 978-897-2927

I am recommending the appointment of Andy DeMore to the Zoning Board of Appeals as a Full Member. Andy has been an Associate Member on the ZBA since 2009. In addition, he has been filling in as a full-member for the last several months. I have been very impressed with Andy's knowledge and participation on the ZBA and am very pleased that he would like to fill the full-member role. I respectfully ask for your ratification of the recommendation.

*Denise M Dembkoski*



Andrew J DeMore  
33 Saw Mill Road  
Stow Massachusetts  
978-897-8561

Date: September 21, 2021  
Subject: Stow Zoning Board Member Position

To: Stow Select Board

At this time I would like the Stow Select Board to consider my request to become a Board Member of the Stow Zoning Board of Appeals (ZBA).

I have been an Associate Member of the Stow ZBA for a number of years now. During this time I have been an active participant in reviewing, evaluating, and disposing the articles (some simple and some complex) that have come before the ZBA. Each case provided an opportunity to learn and contribute to the process.

I believe that having had this time and experience to participate in ZBA decisions offers a sound basis for me to join the ZBA as a Member.

Please let me know if there are questions or if additional information is needed.

Sincerely,

Andrew J. DeMore

Note: sent electronically in a PDF format to [Selectboard@stow-ma.gov](mailto:Selectboard@stow-ma.gov)



Town of Stow  
**SELECT BOARD**  
Stow Town Building  
380 Great Road  
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(978) 897-4515    [selectboard@stow-ma.gov](mailto:selectboard@stow-ma.gov)

## NOTICE OF VACANCY

### ZONING BOARD OF APPEALS One Member; Two Associate Members

**Duties:** The Zoning Board of Appeals is a quasi-judicial board as established by state law and has specific duties and responsibilities including:

- Hear appeals from parties aggrieved by the decision of an administration official concerning zoning issues.
- Hear and decide applications for certain special permits as provided by the zoning bylaws.
- Hear and decide petitions to vary specific requirements of the zoning bylaws.
- Hear and decide applications for comprehensive permits.

**Qualifications:** Registered voter of Stow. Sound independent judgment, a sense of fairness and an ability to act on the evidence (and information) as determined with reference to the applicable sections of the Town of Stow's zoning bylaws and the Commonwealth of Massachusetts General Laws Chapter 40A, The Zoning Act.

Associates must be prepared to assume the position of full-time member of the Board if a vacancy occurs and subsequently the office of clerk and/or chairman.

**Term:** One Member to complete an unexpired five-year term ending June 30, 2026, one Associate to complete an unexpired five-year term ending June 30, 2022, and one Associate to complete an unexpired five-year term ending June 30, 2025, upon appointment by the Select Board.

**Application:** The Select Board will accept letters of application until the positions are filled. If you are interested, please contact the Select Board Office at [selectboard@stow-ma.gov](mailto:selectboard@stow-ma.gov) or 978-897-4515.

Posted September 16, 2021



Denise M. Dembko  
Town Administrator  
[townadministrator@stow-ma.gov](mailto:townadministrator@stow-ma.gov)

***Town of Stow***  
*Office of the*  
***Town Administrator***

380 Great Road  
Stow, MA 01775  
Tel: 978-897-2927

I am recommending the appointment of Andy Crosby to the Zoning Board of Appeals as an Associate Member. Andy is currently serving in a number of roles with the Town and previously served on the CPC. In anticipation of his request for appointment, Andy has been attending the ZBA meetings. I think he will be a valuable addition to the ZBA and ask for your ratification of the recommendation.

*Denise M Dembko*

## Denise Dembkoski

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**From:** abcrosbystowma@gmail.com  
**Sent:** Tuesday, November 2, 2021 7:49 PM  
**To:** Denise Dembkoski  
**Cc:** Karen Kelleher  
**Subject:** Interest in joining the Zoning Board of Appeals

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hi Denise:

I am writing to express my interest in joining the Zoning Board of Appeals as a Associate Member.

I have spoken with Karen Kelleher, copied here, and spoke to Mark Jones, as well as other members on the board at their last meeting. I am also reading through the Zoning Bylaws as well as the minutes from earlier meetings. Based on what I have heard and read so far, I am very interested in the work the Board does and I recognize and am willing to make the level of commitment to the Board required.

I do have experience with town committees. I am currently a member of the Historical Commission and I am the Commission's member to the Town Hall Restoration Committee. I was also a member of CPC for a number of years.

Please contact me with any questions or if you need any additional information.

Thank you very much for your consideration.

Sincerely,

Andy Crosby  
Member, Stow Historical Commission  
Member, Town Hall Restoration Committee  
[abcrosbystowma@gmail.com](mailto:abcrosbystowma@gmail.com)  
(978) 457-3467



***Town of Stow***  
***Office of the***  
***Town Administrator***

*380 Great Road  
Stow, MA 01775  
Tel: 978-897-2927*

*Denise M. Dembkoski*  
*Town Administrator*  
[townadministrator@stow-ma.gov](mailto:townadministrator@stow-ma.gov)

I am recommending the appointment of Jeanne Genereux to the Council on Aging as a Full Member. Jeanne has been an Associate Member on the COA and has been very active in that role. I believe Jeanne will be a valuable full Board member and I respectfully ask for your ratification of the recommendation.

*Denise M Dembkoski*

## Denise Dembkoski

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**From:** selectboard  
**Sent:** Friday, December 10, 2021 11:10 AM  
**To:** Denise Dembkoski  
**Subject:** FW: Interested in a Board/Committee

Hi Denise,

Here is a letter of application for the COA vacancy, for your consideration. I will acknowledge receipt of the letter.

Thank you,  
Phoebe

-----Original Message-----

**From:** Jeanne Genereux <jcgen55@gmail.com>  
**Sent:** Friday, December 10, 2021 10:25 AM  
**To:** selectboard <selectboard@stow-ma.gov>  
**Subject:** Interested in a Board/Committee

Hello: My name is Jeanne Genereux and I am a 36-year resident of Stow. At this time, I am interested in becoming a Council on Aging Board member, having been an Associate Board member since April, 2021. Past volunteer experience in Stow includes extensive school-based volunteering, Pompo/Center PTO Chair, Boy/Girl Scout volunteer, founding member of Friends of Troop 1, Stow, past Board Member of the Stow Food Pantry, past Board member of the Nashoba Regional Endowment Fund, past Board Member of Nashoba Dollars for Scholars chapter, and Stow Conservation Trust volunteer.

I am a retired speech/language pathologist, having worked with both children and adult populations. As a resident for many years, I've certainly been aware of the COA and its many activities, but now having now been retired for 3 years, the issues of aging in place and also supporting an elderly parent have become more real. After becoming involved with the COA by attending monthly Board meetings since April, I have been impressed with how active the COA is and the level of outreach they do. I am interested in serving as a Board member to further support their mission.

Thank you for your consideration,  
Jeanne Genereux  
285 Taylor Road  
Stow, MA  
978.897.8062

Sent from my iPad



Town of Stow  
**SELECT BOARD**

Stow Town Building  
380 Great Road  
Stow, Massachusetts 01775  
(978) 897-4515 [selectboard@stow-ma.gov](mailto:selectboard@stow-ma.gov)

**NOTICE OF VACANCY**

**COUNCIL ON AGING**  
**One member**

**Duties:** To coordinate and carry out programs designed to meet the needs of the senior population in coordination with programs of the Massachusetts Department of Elder Affairs as established under the Massachusetts General Laws.

**Qualifications:** Registered voter of Stow. A sincere interest in the welfare, health and well being of senior citizens. A willingness to accept and carry out assignments in that regard. A commitment of time and attendance at monthly meetings held the second Thursday of the month at 10:00 A.M.

**Term:** Appointment by the Select Board to fill an indefinite term.

**Application:** Applicants should arrange to attend a monthly Council meeting, held on the second Thursday of each month at 10:00 a.m. Currently meetings are being conducted via Zoom, with the meeting link listed on the posted meeting agenda. The Select Board will accept letters of application until the position is filled. If you are interested, please contact the Select Board Office at [selectboard@stow-ma.gov](mailto:selectboard@stow-ma.gov) or 978-897-4515.

Posted July 2, 2021



*Denise M. Dembkoski*  
*Town Administrator*

[townadministrator@stow-ma.gov](mailto:townadministrator@stow-ma.gov)

***Town of Stow***  
*Office of the*  
***Town Administrator***

*380 Great Road*  
*Stow, MA 01775*  
*Tel: 978-897-2927*

I am recommending the appointment of Susan Rondeau to the Randall Relief, Town Fund, and Town Farm Fund. Susan has been serving the Stow Friends of the COA for the last eight years and has done a fantastic job managing the Friends gift shop. I think she will make a wonderful addition to the Randall Relief, Town Fund, and Town Farm Fund and ask for your ratification of the recommendation.

*Denise M Dembkoski*



# LETTER OF INTEREST, RANDALL RELIEF FUND, TOWN FUND & TOWN FARM FUND TRUSTEE

November 4, 2021

Town of Stow  
SELECT BOARD  
Stow Town Building  
380 Great Road  
Stow, Massachusetts

Dear Board Members,

I ask that you consider me for the open position on the Randall Relief Fund, Town Fund and Town Farm Fund Board of Trustees.

Residency: Stow resident since 1984

Qualifications: Registered to Vote

Experience:

- Stow Friends of the COA (SFCOA) volunteer for the past eight years.
- Support SFCOA in their fundraising efforts on behalf of the COA and senior population of Stow.
  1. I have managed the SFCOA Gift Shop for the past eight years.
  2. Sales have increased each year.
  3. We now have approximately 30 volunteers who support us by making handmade items for the shop. These same volunteers create items for the Holiday Craft Fair and Volunteer their time working at the fair.
- I oversee "Free" donations of handmade items and craft items from the general public in order to keep our cost down.
- I also assist SFCOA with advertising, webpage and volunteering my time for other fundraising events they sponsor.

It will be my pleasure to support Louise Peacock and Jeff Smith (current Trustees) in their task to review requests for financial assistance for Stow families eligible for aid from charitable funds, referred by Town departments and local agencies. I understand that confidentiality is essential.

Singerley,



Susan Rondeau

1(978)897-5338

countrypickns@yahoo.com



Town of Stow  
**SELECT BOARD**

Stow Town Building  
380 Great Road  
Stow, Massachusetts 01775  
(978) 897-4515 [selectboard@stow-ma.gov](mailto:selectboard@stow-ma.gov)

**NOTICE OF VACANCY**

**RANDALL RELIEF FUND, TOWN FUND, & TOWN FARM  
FUND TRUSTEE**  
**One member**

**Duties:** Review requests for financial assistance for Stow families eligible for aid from these charitable funds, referred by Town departments and local agencies. Confidentiality and discretion essential.

**Qualifications:** Registered voter of Stow.

**Term:** Appointment by the Select Board, one member for the remainder of a 3-year term expiring June 30, 2022.

**Application:** The Select Board will accept letters of application until the position is filled. If you are interested, please contact the Select Board Office at [selectboard@stow-ma.gov](mailto:selectboard@stow-ma.gov) or 978-897-4515.

Posted October 25, 2021

**DISCUSSION &  
POSSIBLE VOTE**

# Dates for Annual Town Meeting and Annual Town Election

## Open Warrant for 2022 Annual Town Meeting

## 2022 Annual Town Meeting and Election Information

### **Town Meeting – Saturday, May 14, 2022, beginning at 9am**

Open the Warrant today, January 11, 2022 and close the Warrant on Friday, April 1, 2022

### **Town Election – Saturday, May 21, 2022, Polls open 10am to 4pm**

#### **Open Races:**

Moderator: One – three year term

Select Board: Two - three year terms

Board of Assessors: One - three year term

Board of Health: One - three year term

Nashoba Regional School District Committee: One - three year term

Stow Housing Authority: One- unexpired five year term expiring 2024 (formerly Larkin)

Stow Housing Authority: One unexpired five year term expiring 2026 (formerly Kendra)

Randall Library Trustee: Three - three year terms

Planning Board: One – five year term

**Stow Annual Election 2022 – The following terms expire 2022**

**Select Board – 3 yr. term (elect 2)**

Cortni Frecha  
Jim Salvie

**Board of Assessors – 3 yr. term**

Bruce Morgan

**Board of Health – 3 yr. term**

Mary McDowell

**Nashoba School District – 3 yr. term**

Leah Vivirito

**Stow Housing Authority – unexpired 5 yr. term expiring in 2024 (formerly Larkin)**

**Stow Housing Authority – unexpired 5 yr. term expiring in 2026 (formerly Kendra)**

**Randall Library Trustee – 3 yr. term (elect 3)**

Marianne Sharin  
Morgan Hillman  
Andy Riecker

**Planning Board – 5 yr. term**

Karen Kelleher

**\*Moderator – 3 yr term**

David Walrath

Revised Jan 6, 2022 added the Moderator

# Use of Force Policy Update

## Chief Sallese



Town of Stow  
POLICE DEPARTMENT

305 Great Road  
Stow, Massachusetts 01775

(978) 897-4545  
FAX (978) 897-3692

Michael Sallese  
Chief of Police

December 2, 2021

Select Board  
380 Great Road  
Stow, MA 01775

RE: Policy 1.01 Use of Force Update

On October 1, 2021 the Massachusetts Peace Officer Standards and Training Commission and the Massachusetts Police Training Council published 550 CMR 6.00 Use of Force Code of Massachusetts Regulation.

*This CMR 6.10(2) states "All law enforcement agencies shall have a written use of force policy consistent with the model policy and the agency's particular mission; provided, however, that an agency's use of force policy shall comply with 550 CMR 6.00 and all relevant state and federal laws."*

While I await the drafting and eventual dissemination of such a Model Use of Force Policy by POST/MPTC in the coming months, in the interim I thought it was extremely important for the Stow Police Department to once again update our existing Use of Force Policy to confirm with both M.G.L. Chapter 6E as well as 550 CMR 6.00.

I have attached the new updated policy, 550 CMR 6.00, and a summary list of changes which are highlighted in yellow. One update that I added that is not part of the CMR, was to allow those officers who are pregnant, with the approval of the Chief, to be exempt from one of the semi-annual firearms training. This is to allow those officers who are pregnant to be allowed to continue to carry their firearm while working Patrol or modified duty during their pregnancy, without unnecessarily exposing them to lead. However, once returning from leave, those officers will be required to qualify before returning to duty.

I respectfully request the Select Board approve this update as presented. A copy of the new policy was presented to the Union on November 8, 2021. The Union reported having no concerns or issues with the update.

Respectfully Submitted,

Michael Sallese, Chief of Police



## Summary of changes to 1.01 Use of Force Response to Resistance

Highlighted is what has been added/or changed

# DEFINITIONS

**Commission:** The Massachusetts Peace Officer Standards and Training Commission as established in M.G.L. c. 6E, s.2.

**Committee:** The Municipal Police Training Committee as established in M.G.L. c. 6, s.116.

**De-escalation Tactics:** Proactive actions and approaches used by an officer to stabilize a law enforcement situation so that more time, options and resources are available to gain a person's voluntary compliance and to reduce or eliminate the need to use force including, but not limited to, verbal persuasion, warnings, slowing down the pace of an incident, waiting out a person, creating distance between the officer and a threat and requesting additional resources to resolve the incident, including, but not limited to, calling in medical or licensed mental health professionals, as defined in subsection (a) of section 51½ of chapter 111, to address a potential medical or mental health crisis. De-escalation shall include, but is not limited to, issuing a summons instead of executing an arrest where feasible.

**Dog:** For purposes herein, shall also refer to a K-9, canine or police dog.

**Kettling:** Confinement or corralling by law enforcement of a group of demonstrators or protesters in a small area without any means of egress as a method of crowd control, management, or restraint.

**Non-Deadly Force (Changed from Less-Lethal Force):** Use of force that is not intended to cause serious bodily harm/serious physical injuries or death. Sworn personnel are authorized to use less-lethal force in accordance with the law and this Policy.

**Tear Gas or Other Chemical Weapons (CW):** Any weapon that contains chemical compounds that temporarily make people unable to function by causing irritation to the eyes, mouth, throat, lungs, and skin, or that otherwise restrain a person by causing pain. This shall not include oleoresin capsicum (OC) spray.

# PROCEDURES

## LESS-LETHAL FORCE

### A. PROCEDURES FOR THE USE OF ALL LESS-LETHAL FORCE

1. A law enforcement officer shall not use physical force upon another person unless de-escalation tactics have been attempted and failed or are not feasible based on the totality of the circumstances and such force is necessary and proportionate to:
  - a. to effect the lawful arrest or detention of a person;
  - b. to prevent the escape from custody of a person;
  - c. to prevent imminent harm and the amount of force used is proportionate to the threat of imminent harm, while protecting the safety of the officer or others; or
  - d. defend against an individual who initiates force against an officer.

*Removed, d, and proportionate in accordance with the regulations promulgated jointly by the commission and MPTC*

2. It is preferred that less-lethal force not be used if resistance is minor and not hazardous, or if a lesser degree of force would reasonably achieve the same result. Officers should issue a verbal warning and allow a reasonable amount of time for response unless a warning could endanger the officer or others.
3. Each less-lethal force option is not intended to be a substitute for other options in situations in which the use of other force options are more appropriate.
4. Absent exceptional circumstances, officers shall not use less-lethal force on susceptible population groups, or for the sole purpose of protecting property.
5. The use of less-lethal force is not authorized for indiscriminate use, non-violent behavior or when an individual is handcuffed unless a threat to the officer or others exists.
6. A subject who is exposed to less-lethal force shall be actively monitored while in police custody after they have received medical care. If the subject requests further medical attention, they shall be transported immediately by EMS to a medical facility. [1.3.5]

7. Except to temporarily gain, regain, or maintain control of an individual and apply restraints, a law enforcement officer shall not intentionally sit, kneel, or stand on an individual's chest, neck, or spine, and shall not force an individual to lie on their stomach.
8. A law enforcement officer shall not obstruct the airway or limit the breathing of any individual, nor shall a law enforcement officer restrict oxygen or blood flow to an individual's head or neck. An individual placed on their stomach during restraint should be moved into a recovery position or seated position as soon as practicable.

#### IV. DEADLY FORCE / LETHAL FORCE

##### A. PARAMETERS FOR THE USE OF LETHAL FORCE

1. A sworn member of this Department is authorized to use lethal force only after de-escalation tactics have been attempted and failed or are not feasible based on the totality of the circumstances, and such force is necessary to prevent imminent harm to a person and the amount of force used is proportionate to the threat of imminent harm. This may include situations in which there are no viable alternatives available and lethal force is necessary for the officer to:

- a. Defend himself/herself or another from unlawful attack which he/she reasonably perceives as an imminent threat of death or serious bodily injury;

OR

- b. Effect an arrest, **only** when:
  - i. The arrest is for a felony; and
  - ii. The officer reasonably believes that:
    - a) The force employed creates no substantial risk of injury to innocent persons; and
    - b) The crime for which the arrest is made involved the use or attempted use, or threatened use of lethal force; and

- c) There is substantial risk that the person to be arrested will cause death or serious bodily injury if his/her apprehension is delayed.
2. Where practical, and if time and circumstances permit, officers shall verbally identify themselves as police officers and give some warning before using deadly force.
3. A law enforcement officer shall not use a chokehold or other tactics that restrict or obstruct an individual's breathing or oxygen or blood flow to an individual's head or neck. A law enforcement officer shall not be trained to use a lateral vascular neck restraint, carotid restraint or other action that involves the placement of any part of law enforcement officer's body on or around a person's neck in a manner that limits the person's breathing or blood flow. [1.3.4]
4. An officer may not use deadly force against a person who poses only a danger to themselves.
5. A law enforcement officer shall not use deadly force at any point in time when there is no longer an objectively reasonable belief that an individual currently and actively poses an immediate threat of serious bodily harm or death, even if deadly force would have been justified at an earlier point in time.
6. Officers shall always provide appropriate medical response to an individual following a use of deadly force when safe and tactically feasible.

## VI DUTY TO INTERVENE

- A. An officer present and observing another officer using physical force, including deadly force, beyond that which is necessary or objectively reasonable based on the totality of the circumstances, shall intervene to prevent the use of unreasonable force unless intervening would result in imminent harm to the officer or another identifiable individual.
- B. An officer who observes another officer using physical force, including deadly force, beyond that which is necessary or objectively reasonable based on the totality of the circumstances shall report the incident to an appropriate supervisor as soon as reasonably possible but not later than the end of the officer's shift. The officer shall prepare a detailed written statement describing the incident consistent with this Department's policy. The officer's written statement shall be included in the supervisor's report.

- C. Any harassment, intimidation, or retaliation against any officer who either intervened to prevent or stop an excessive force incident, or made a report regarding the witnessed excessive force incident, shall be a violation of this Department policy and shall, upon a sustained internal administrative investigation, be subjected to the imposition of departmental discipline up to and including termination.
- D. This section shall apply to all Officers/Employees/Civilians/Volunteers or any official associated with the police department.
- E. The failure of a law enforcement officer to intervene as set forth in 550 CMR 6.05 may subject the officer to de-certification by the Commission.

## VII USE OF FORCE CONSIDERATIONS INVOLVING PLANNED MASS DEMONSTRATIONS

- A. When a police department has advance knowledge of a planned mass demonstration, it shall attempt in good faith to communicate with organizers of the event to discuss logistical plans, strategies to avoid conflict and potential communication needs between police and event participants.
- B. The department shall make plans to avoid and de-escalate potential conflicts and designate an officer in charge of de-escalation planning and communication about the plans within the department.
- C. A law enforcement officer shall not discharge or order the discharge of tear gas or any other chemical weapon, discharge or order the discharge of a kinetic impact device or rubber pellets from a propulsion device or release or order the release of a dog to control or influence a person's behavior unless:
  - 1. de-escalation tactics have been attempted and failed or are not feasible based on the totality of the circumstances; and
  - 2. the measures used are necessary to prevent imminent harm and the foreseeable harm inflicted by the tear gas or other chemical weapon, kinetic impact device, rubber pellets or dog is proportionate to the threat of imminent harm.
- D. If a law enforcement officer utilizes or orders the use of kinetic impact devices, rubber pellets, CEDs, CWs, ECWs, or a dog against a crowd, the law enforcement officer's appointing agency shall file a report with the Massachusetts Peace Officer Standards and Training Commission (POST) detailing all measures that were taken in advance of the event to reduce the probability of disorder and all de-escalation tactics and other measures that were taken at the time of the event to de-escalate tensions and avoid the necessity of using the tear gas or other chemical weapon, rubber pellets or dog.

- E. The Commission shall review the report and may make any additional investigation. After such review and investigation, the commission shall, if applicable, make a finding as to whether the pre-event and contemporaneous de-escalation tactics were adequate and whether the use of or order to use such tear gas or other chemical weapon, rubber pellets or dog was justified.
- F. Canines should not be utilized for crowd control, restraint, or management of peaceful demonstrations, but may be deployed for crowd control, restraint or management of peaceful demonstrations in isolated circumstances related to bomb detection, pursuit of suspects in buildings, and related situations. Utilization does not include circumstances in which a canine remains on a short lead in close proximity to the handler and is well behind the line of contact between law enforcement and civilian personnel.
- G. The use of Kettling as a means of crowd control, crowd management, or crowd restraint is prohibited.

## IX POST USE OF FORCE INCIDENT PROCEDURES

### A. INVOLVED OFFICER RESPONSIBILITY

In all incidents involving: (1) weaponless physical force where either the officer or the suspect is noticeably injured or claims to be injured at the time force is used; (2) the deployment of less-lethal force; or (3) the deployment of lethal force, the involved officer(s) shall: [1.3.6 (c); 1.3.6 (d)]

1. Notify the Patrol Supervisor;
2. Request that sufficient officers be dispatched to the scene;
3. Activate EMS, render medical assistance to the subject and arrange for transportation to a medical facility for evaluation and/or treatment;
4. Identify involved officers and witnesses;
5. Preserve any evidence;
6. Secure the scene until the Patrol Supervisor has arrived;

7. File the appropriate incident or arrest report and Use of Force Report Form pursuant to this Policy.

8. An officer who knowingly makes an untruthful statement concerning a material fact or knowingly omits a material fact from a use of force report may be subject to decertification.

#### D. DEPARTMENT RESPONSE TO INCIDENTS RESULTING IN DEATH OR SERIOUS BODILY INJURY

In any event resulting in the death or serious bodily injury of an officer or subject, the following protocols shall be adhered to:

1. Involved officers shall refrain from speaking or discussing the incident with anyone except with those directly involved, medical or mental health professionals, legal counsel, or union representatives.
2. Involved officers shall remain available, at reasonable times, for interviews and statements regarding the incident.
3. During any period where the involved officers are required to remain on the scene, but have no immediate duties to fulfill, the officer(s) should be taken to a quiet area away from the scene of the incident. A peer counselor or other supportive officer should remain with the involved officer, but should be advised not to discuss details of the incident.
4. If involved officers are not required at the scene, a supervisor should arrange for the officers directly involved in the incident to leave the scene as soon as possible, and be taken to a quiet, secure setting, such as police headquarters. The supervisor shall:
  - a. Require that involved officers abstain from ingesting caffeine or other stimulants or depressants unless administered by medical personnel.
  - b. Conduct a brief interview of the involved officer consisting of only minimal, preliminary questions. The officer should be advised that a more detailed debriefing will be conducted later (but as soon as possible).
  - c. Advise all officers not to discuss the incident with anyone except a personal attorney, an attorney appointed by the Department, a union representative, a departmental or authorized investigator until the conclusion of the preliminary investigation.

- d. Instruct involved officers to notify their families about the incident as soon as possible and assist them with the notification. Where an officer or officers is unable to do so, an agency official shall personally notify the officer(s) family, and arrange for their transportation to the hospital.
  - e. At all times, when at the scene of the incident, handle the officer and all involved personnel in a manner that acknowledges the stress caused by the incident.
5. Debriefings shall be held as soon as possible after the incident. The Department shall ensure that there are officers on-call or on-duty at all times so that someone is available shortly after an incident.
  6. Any Department or authorized outside agency investigation of the incident shall be conducted as soon and as quickly as practical.
  7. The Department should privately brief other department Sworn personnel concerning the incident so that rumors are kept to a minimum. Department Sworn personnel are encouraged to show the involved officers their concern.
  8. All personnel involved in a shooting incident should be advised that they are not permitted to speak with the media about the incident.
  9. In order to protect against harassing or abusive calls, personnel should be advised to have phone calls answered by another person for several days if their names are released to the public.
  10. Personnel directly involved in a shooting incident shall be required to re-qualify with firearms as soon as practical.
  11. The Stow Police Department shall report to the National Use of Force Data Collection Database when actions by a law enforcement officer resulted in the death or serious bodily injury of an individual, or when a law enforcement officer, in the absence of death or serious bodily injury, discharged a firearm at or in the direction of a person.
  12. All use of force reports shall be retained and maintained by the Stow Police Department and are subject to discovery and access through the Massachusetts Public Records Law M.G.L. c. 66.

## XI TRAINING

### D. FIREARMS TRAINING



1. All recruit officers shall receive training on firearms mandated by the Municipal Police Training Committee during the recruit officer training academy.
2. All personnel authorized to carry a Department-issued weapon shall qualify with their issued weapon and any other weapon they are authorized to carry while on duty at least semiannually. Exemptions may be made at the approval of the Chief of Police for those officers who are pregnant. Officers returning from pregnancy leave will qualify upon returning to full duty status. [1.3.10; 1.3.11 (a); 16.3.6]

# USE OF FORCE

## (RESPONSE TO RESISTANCE)

### BY SWORN PERSONNEL

<b>POLICY &amp; PROCEDURE NO.</b> <b>1.01</b>	ISSUE 2/24/2021 DATE: _____
MASSACHUSETTS POLICE ACCREDITATION STANDARDS <b>REFERENCED: 1.2.2; 1.3.1; 1.3.2; 1.3.3;</b> <b>1.3.4; 1.3.5; 1.3.6; 1.3.7; 1.3.8; 1.3.9; 1.3.10;</b> <b>1.3.11; 1.3.12; 1.3.13; 11.4.1; 16.3.5; 22.2.3;</b> <b>22.2.4; 22.2.6; 33.1.2; 33.5.1; 33.6.1</b>	EFFECTIVE 2/24/2021 DATE: _____
	REVISION DATE: _____

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# POLICY

It is the policy of the Department that officers use only the force that is permissible under applicable federal and state laws and regulations. [1.3.1]

This Policy requires strict adherence by all sworn personnel.

When exigent and unforeseen circumstances cause officers to deviate from the provisions of this Policy, officers are still expected to act with intelligence, sound judgment and in full conformity with both state and federal laws and constitutional provisions. Any such deviations from the provisions of this Policy shall be examined on a case-by-case basis.

In order to comply with this Policy, the attached Response to Resistance Report shall be utilized.

# DEFINITIONS

- A. **Actively Resistant Individual:** An individual who uses physical strength and/or body movement to resist a Department member. Examples of active resistance include pulling, turning, or walking away from an officer.
- B. **Aggravated Assaultive Individual (Serious Bodily Harm/Death):** An individual who engages in conduct that is likely to produce death or serious bodily harm to a member of the Department or another person.
- C. **Assaultive Individual (Bodily Harm):** An individual who attempts to injure a Department member or another person or engages in conduct that has the potential to injure a Department member or another person.
- D. **Chokehold:** The use of a lateral vascular neck restraint, carotid restraint or other action that involves the placement of any part of law enforcement officer's body on or around a person's neck in a manner that limits the person's breathing or blood flow with the intent of or with the result of causing bodily injury, unconsciousness or death.
- E. **Commission:** The Massachusetts Peace Officer Standards and Training Commission as established in M.G.L. c. 6E, s.2.
- F. **Committee:** The Municipal Police Training Committee as established in M.G.L. c. 6, s.116.

- G. **Compliant Individual:** An individual who is fully cooperative with a Department member.
- H. **Deadly Force / Lethal Force:** Physical force that can reasonably be expected to cause death or serious bodily injury. Sworn personnel are authorized to use lethal force in accordance with the law and this Policy. [1.3.2]
- I. **De-escalation Tactics:** Proactive actions and approaches used by an officer to stabilize a law enforcement situation so that more time, options and resources are available to gain a person's voluntary compliance and to reduce or eliminate the need to use force including, but not limited to, verbal persuasion, warnings, slowing down the pace of an incident, waiting out a person, creating distance between the officer and a threat and requesting additional resources to resolve the incident, including, but not limited to, calling in medical or licensed mental health professionals, as defined in subsection (a) of section 51½ of chapter 111, to address a potential medical or mental health crisis. De-escalation shall include, but is not limited to, issuing a summons instead of executing an arrest where feasible.
- J. **Dog:** For purposes herein, shall also refer to a K-9, canine or police dog.
- K. **Drive Stun Deployment:** In Drive Stun mode, the ECW is a pain-compliance facilitator rather than an electro-muscular disruptor. Drive stun occurs when the ECW is held against the subject, whether or not probes are deployed. Drive stun may be utilized in response to active resistance or assaultive behavior.
- L. **Electronic Control Weapon (ECW):** A weapon that uses electricity to override voluntary motor responses or applies pain in order to gain compliance or overcome resistance. ECWs are designed to incapacitate without causing serious bodily injury or death. [1.3.9 (a)]
- M. **ECW Activation:** Any time an ECW is turned on, exclusive of training and routine maintenance/readiness checks.
- N. **ECW Cycle:** Occurs when probe deployment delivers energy to an individual.
- O. **Force:** The amount of effort required by police to compel compliance by an unwilling subject.
- P. **Kettling:** Confinement or corralling by law enforcement of a group of demonstrators or protesters in a small area without any means of egress as a method of crowd control, management, or restraint.

- Q. **Kinetic Energy Impact Projectiles:** Flexible or non-flexible projectiles, which are intended to incapacitate a subject with a minimal potential for causing death or serious bodily injury, when compared to conventional projectiles.
- R. **Laser Activation:** The ECW is turned on, activating the light and/or laser beam. Laser activation may be utilized as a warning technique if drive stun deployment and/or probe deployment is objectively reasonable.
- S. **Non-deadly Force:** Any use of force other than that which is considered deadly force that involves physical effort to control, restrain, or overcome the resistance of another
- T. **Objectively Reasonable:** This term means that, in determining the necessity for and appropriate level of force, officers shall evaluate each situation in light of the known circumstances, including, but not limited to, the seriousness of the crime, the level of threat or resistance presented by the subject, and the danger to the officer, subject, and/or community. The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on scene, rather than with the 20/20 vision of hindsight. Determining reasonableness of force must allow for the fact that police officers are forced to make split second judgments in circumstances that are tense, uncertain and rapidly evolving. The force used must be reasonable under the circumstances known to the officer at the time force is used.
- U. **Officer-Involved Injury or Death:** Any event during which an officer:
- 1) discharges a firearm, as defined in section 121 of chapter 140, actually or proximately causing injury or death to another;
  - 2) discharges any stun gun as defined in said section 121 of said chapter 140, actually or proximately causing injury or death to another;
  - 3) uses a chokehold, actually or proximately causing injury or death of another;
  - 4) discharges tear gas or other chemical weapon, actually or proximately causing injury or death of another;
  - 5) discharges rubber pellets from a propulsion device, actually or proximately causing injury or death of another;
  - 6) deploys a dog, actually or proximately causing injury or death of another;
  - 7) uses deadly force, actually or proximately causing injury or death of another;

- 8) fails to intervene, as required by section 15, to prevent the use of excessive or prohibited force by another officer who actually or proximately causes injury or death of another; or
  - 9) engages in a physical altercation with a person who sustains serious bodily injury or requests or receives medical care as a result.
- V. **Passively Resistant Individual:** An individual who is uncooperative but does not use physical strength or body movement to resist a Department member.
- W. **Probe Deployment:** In Probe Deployment mode, the ECW uses electricity to override voluntary motor responses. Probe Deployment occurs when probes deploy from an ECW, whether or not the probes strike their intended target. This includes follow-up drive stuns when a single probe is attached to an individual. Probe deployment may be utilized in response to assaultive behavior.
- X. **Public Safety Statement:** A statement to ascertain the threat level at the scene of the incident, to identify witnesses or other injured officers or civilians, and to facilitate the collection of evidence and preservation of the scene. This public safety statement is a brief explanation of what has transpired and what is presently happening. The Public Safety statement may be given by the Chief of Police/Lieutenant/ Town Administrator or his/her designee who has gathered this information. The Public Safety Statement should include the following in substance and where applicable:
- 1) The identity of officers and other involved parties to the incident who discharged firearms and their approximate position at the time of the discharge.
  - 2) The direction and number of shots fired
  - 3) A description of any suspects and direction of flight
  - 4) The identity and location of any injured officers or civilians
  - 5) The identity of potential witnesses
  - 6) The location of any unsecured weapons or contraband at the scene.
- Y. **Reasonable Force:** Reasonable force is determined under the legal standard set forth in Graham v. Connor, 490 U.S. 386, 395 (1989). Reasonable force is defined as force which is objectively reasonable because it is necessary to overcome resistance offered in a lawful police action to compel an unwilling subject's compliance with an officer's lawful exercise of police authority.
- Z. **Safety Priorities:** The Police Department safety priorities are established as follows:
- 1) Hostages and Involved non-subject civilians
  - 2) Police officers
  - 3) Subject (the person who is the focus of the police operation)

- AA. **Serious Bodily Injury:** Bodily injury that results in: (i) permanent disfigurement; (ii) protracted loss of impairment of a bodily function, limb or organ; or (iii) a substantial risk of death. This may also be referred to as “serious physical injury”.
- BB. **Spark Display:** The ECW is activated and the arc switch is depressed, activating the electrical arc. Spark display may be utilized as a warning technique if drive stun deployment and/or probe deployment is objectively reasonable.
- CC. **Stress Disorder:** An anxiety disorder that can result from exposure to short-term severe stress, or the long-term buildup of repetitive and prolonged milder stress. The person must have experienced, witnessed, or was confronted with an event or events that involved actual or threatened death or serious injury, or a threat to the physical integrity of one’s self or others. The person’s response to the event(s) will have involved intense fear, helplessness, or horror.
- 1) **Acute Stress Disorder:** A category of stress disorder lasting for a minimum of two days and a maximum of four weeks occurring within four weeks of the event(s).
  - 2) **Post-Traumatic Stress Disorder:** A category of stress disorder in which the symptoms last more than one month.
- DD. **Susceptible Population Groups:** Susceptible population groups include those who reasonably appear to be, or are known to be, children, elderly, medically infirm, pregnant, or users of a cardiac pacemaker.
- EE. **Sworn Personnel:** An employee of a law enforcement agency who has sworn to carry out law enforcement duties and has full arrest powers. For the purposes of this Policy, the term “sworn personnel” and “officer” are used interchangeably.
- FF. **Tear Gas or Other Chemical Weapons (CW):** Any weapon that contains chemical compounds that temporarily make people unable to function by causing irritation to the eyes, mouth, throat, lungs, and skin, or that otherwise restrain a person by causing pain. This shall not include oleoresin capsicum (OC) spray.

## PROCEDURES

### I. FORCE OPTIONS

- A. The amount and degree of force, which may be employed, will be determined by the totality of circumstances including, but not limited to:

1. The nature and seriousness of the offense;
  2. The behavior of the subject against whom force is to be used;
  3. Actions by third parties who may be present;
  4. Physical odds against the officer;
  5. The feasibility or availability of alternative actions; and
  6. The opportunity to use de-escalation tactics at any time during the encounter.
- B. An officer should only use that amount of force that the officer feels would be reasonable in a particular situation to accomplish his/her lawful objective or to protect the officer or another from serious bodily injury or death. Officers should continuously evaluate the circumstances of the encounter with the goal of exploiting both verbal and tactical opportunities with the intent of de-escalating to a lower force level.

### **C. Equipment, Weapons and Ammunition Generally**

1. Only issued or authorized equipment will be carried on-duty and used when applying any level of less-lethal force. [1.3.4]
2. Only weapons and ammunition authorized by the Police Department will be used by agency personnel in the performance of their responsibilities (listed in "Appendix A" of this Policy) while on duty unless exigent circumstances compel the officer to utilize other options. [1.3.9 (a); 1.3.9 (b)]
3. An officer shall not alter or modify his/her firearm or ammunition in any way without the express permission of the Chief of Police.
4. Sworn personnel of the Department shall take all reasonable precautions to ensure that weapons issued to them by the Department are properly secured, protected from loss, misuse, or theft. Attention is drawn to G.L. c. 140, §§ 131C and 131L. [1.3.9 (f)]
5. Officers are responsible for keeping their issued weapons clean and in good working order. A weapon that malfunctions shall be returned to the Department Armorer forthwith for the necessary repairs, and a replacement weapon shall be issued by the Armorer. The officer shall qualify with the replacement weapon prior to carrying it on duty. [1.3.9 (d)]



6. Prior to the issuance of any weapons to the officer, the Department Armorer shall review, inspect and approve each individual weapon. If any malfunctions or defects are found, or if the weapon is found to be unsafe in any manner, the deficiency shall either be rectified, or the weapon shall be returned to the manufacturer for a replacement weapon. [1.3.9 (c); 1.3.9 (d)]
7. The Department Armorer shall maintain a log for each weapon that is owned or authorized by the Department. This log should list the make, model, and serial number and shall indicate the condition of the weapon. A file shall also be maintained by the Training Coordinator documenting the make, model and serial numbers of the issued and authorized duty weapons to each member of the Department and a log of each officer's qualifications and re-qualifications. [1.3.9 (e)]

## II. ENCOUNTERS WITH MINORS, EMOTIONALLY DISTURBED, MENTALLY ILL AND PHYSICALLY DISABLED PERSONS

- A. Encounters may arise between law enforcement and those individuals who are known or suspected of being minors, emotionally disturbed, mentally ill or physically disabled. Such encounters may require special police skills and abilities to effectively and legally respond to the given situation. Officers should never, however, compromise or jeopardize their safety or the safety of others when dealing with individuals displaying symptoms of emotional, mental and/or physical illness.
- B. Should the officer determine that an individual may be a minor, emotionally disturbed, mentally ill and/or physically disabled and a potential threat to himself/herself, the officer, or others; or may otherwise require law enforcement intervention for humanitarian reasons, the following responses should be taken, bearing in mind officer safety is most important:
  1. Request a backup officer.
  2. Take steps to utilize de-escalation tactics. Where possible, eliminate emergency lights and sirens, disperse crowds, and assume a quiet non-threatening manner when approaching or conversing with the individual. Where violence or destructive acts are not occurring, avoid physical contact, and take time to assess the situation.
  3. Move slowly and do not excite the person. Provide reassurance that the police are there to help and that he/she will be provided with appropriate care.

4. Communicate with the individual in an attempt to determine the root of the person's actions. Relate your concern for his/her feelings and allow the person to express their feelings. Where possible, gather information on the subject from acquaintances or family sworn personnel and/or request professional assistance, if available and appropriate to assist in communicating with the person and/or de-escalating the situation.
  5. Do not threaten the individual with arrest or in any other manner as this will create additional fright, stress, and potential aggression.
  6. Avoid topics that may agitate the person and guide the conversation toward topics that may help ease the individual.
  7. Always attempt to be truthful. If the subject becomes aware of a deception, he/she may withdraw from the contact in distrust and may become hypersensitive or retaliate in anger.
  8. Consider containing the situation, establishing distance, waiting for additional help, and/or the arrival of trained medical staff.
- C. While the policies and guidelines regarding the use of force do not change due to a subject's mental or physical status, officers should take this status into account (where the status is known) in their approach of the subject in an effort to de-escalate the situation.
- D. Once a person is under control, officers should consider whether common restraint tactics may be more dangerous to the individual due to the subject's age, mental, emotional or physical status, and consider available and appropriate reasonable accommodations.
- E. As with any use of force, officers should always provide an immediate medical response to individuals who are exhibiting signs or complaining of injury or illness following a use of force.

### III. LESS-LETHAL FORCE

#### A. PROCEDURES FOR THE USE OF ALL LESS-LETHAL FORCE

1. A law enforcement officer shall not use physical force upon another person unless de-escalation tactics have been attempted and failed or are not feasible based on the totality of the circumstances and such force is necessary and proportionate to:

- a. to effect the lawful arrest or detention of a person;
  - b. to prevent the escape from custody of a person;
  - c. to prevent imminent harm and the amount of force used is proportionate to the threat of imminent harm while protecting the safety of the officer or others; or
  - d. defend against an individual who initiates force against an officer.
2. It is preferred that less-lethal force not be used if resistance is minor and not hazardous, or if a lesser degree of force would reasonably achieve the same result. Officers should issue a verbal warning and allow a reasonable amount of time for response unless a warning could endanger the officer or others.
  3. Each less-lethal force option is not intended to be a substitute for other options in situations in which the use of other force options are more appropriate.
  4. Absent exceptional circumstances, officers shall not use less-lethal force on susceptible population groups, or for the sole purpose of protecting property.
  5. The use of less-lethal force is not authorized for indiscriminate use, non-violent behavior or when an individual is handcuffed unless a threat to the officer or others exists.
  6. A subject who is exposed to less-lethal force shall be actively monitored while in police custody after they have received medical care. If the subject requests further medical attention, they shall be transported immediately by EMS to a medical facility. [1.3.5]
  7. Except to temporarily gain, regain, or maintain control of an individual and apply restraints, a law enforcement officer shall not intentionally sit, kneel, or stand on an individual's chest, neck, or spine, and shall not force an individual to lie on their stomach
  8. A law enforcement officer shall not obstruct the airway or limit the breathing of any individual, nor shall a law enforcement officer restrict oxygen or blood flow to an individual's head or neck. An individual placed on their stomach during restraint should be moved into a recovery position or seated position as soon as practicable.

## **B. LESS-LETHAL FORCE OPTIONS**

1. All officers shall be properly trained and certified, when appropriate, in the use of any less-lethal weapons before being authorized to carry such weapons. [1.3.4; 1.3.10]

### **2. CHEMICAL SUBSTANCES**

- a. Chemical substances or sprays (e.g. oleoresin capsicum, commonly known as "OC") may be used when physical force is necessary to:
  - i. Protect an officer or other person from an assault;
  - ii. Subdue a person who actively resists arrest; or
  - iii. Control persons engaged in riotous or violent conduct.
- b. When a chemical substance is used, it should be aimed at the subject's face and upper torso. Officers are required to utilize only two (2), one second bursts from at least 3 feet away from the subject unless exceptional circumstances require otherwise. Each deployment of OC spray constitutes a separate use of force and must be justifiable.
- c. First aid shall be administered as soon as practicable under the circumstances. Upon arrival at the police station, the subject shall be given the opportunity to wash his/her face with warm water. Officers shall transport sprayed subjects to the hospital for treatment when they complain of continued effects after decontamination or they indicate that they have a pre-existing medical condition (e.g., asthma, emphysema, bronchitis, heart ailment, etc.) that may be aggravated by the application of chemical spray. [1.3.5]
- d. Once handcuffed, a contaminated subject should not be placed faced down. Officers shall monitor handcuffed subjects.

### **3. BATONS: EXPANDABLE BATON (ASP), PR-24, STRAIGHT BATON**

- a. The Expandable Baton, PR-24 or the straight baton may be used:
  - i. As a restraining or come-along tool in instances where verbalization and physical strength have failed or would obviously be futile;
  - ii. As a defensive weapon to ward off blows;

- iii. As a defensive weapon to deliver disabling blows to non-vital areas of the body as a means to halt or deter a subject. An officer is justified in using this type of force under the following circumstances:
  - a) To overcome the violent resistance of an arrestee;
  - b) To overcome an assault on an officer or a third party;
  - c) To deter persons engaged in riotous or violent conduct.
- b. For guidance on the use of the baton, please refer to the MPTC/Monadnock chart for appropriate striking areas and descriptions of “Green,” “Yellow,” and “Red” target areas, a copy of which appears in the Appendix of this Policy.

#### 4. ELECTRONIC CONTROL WEAPONS (ECWS)

- a. Only those officers who have successfully completed the requisite ECW training are authorized to carry and use an ECW.
- b. Officers issued and authorized to use an ECW shall:
  - i. Ensure the ECW is carried in an approved holster on the side of the body opposite the service handgun;  
  
**Note:** members not assigned to uniformed duty may use other Department-approved holsters and carry the weapon consistent with Department training.
  - ii. Ensure the ECW is fully armed with the safety on in preparation for immediate use;
  - iii. Ensure one spare cartridge is available as backup in case of cartridge failure or the need for reactivation;
  - iv. Ensure the spare cartridge is stored, carried, and used in a manner consistent with training;
  - v. Ensure cartridges are replaced following the manufacturer’s expiration requirements;
  - vi. Ensure only manufacturer-approved battery power sources are used for the ECW;

- vii. Prior to each regular tour of duty shift, confirm that the ECW is functioning properly by performing all tests as defined in training; and
  - viii. Not make any modifications or repairs on the ECW unless authorized in writing by the Armorer.
- c. In accordance with the law, and this Policy, and when it is objectively reasonable to do so, Department members are authorized to utilize an ECW to arrest and/or detain an individual that has and/or continues to exhibit behavior that leads the officer to believe the individual is actively resisting or assaultive and will resist being arrested or detained.
- d. ECW Use of Force Response Table

If the subject is:	Then the response may include:
Actively Resistant	Laser Activation Spark Display Drive Stun
Assaultive – Bodily Harm	Laser Activation Spark Display Drive Stun Probe Deployment
Aggravated Assaultive – Serious Bodily Harm/Death	Laser Activation Spark Display Drive Stun Probe Deployment

NOTE: Department members are not required to use a weapon of less-lethal force if use of lethal force is objectively reasonable.

- e. Situations in which the ECW may be activated in accordance with the above table include but are not limited to:
- i. When an individual uses force or violence against the member or another person(s);
  - ii. When an individual exhibits violent, threatening, or potentially violent behavior;
  - iii. When an individual actively resists an arrest or detention;

- iv. When an individual flees in order to avoid arrest or detention in circumstances where the member would pursue on foot and physically effect the arrest or detention;
  - v. When an individual expresses intent and has the means to commit suicide or inflict serious bodily harm to themselves or others and ECW activation does not create additional risk;
  - vi. To protect officers or others against an aggressive animal; and
  - vii. In the course of Department-authorized training exercises or demonstrations.
- f. Officers shall:
- i. Give the individual a warning prior to activating the ECW, unless doing so would place any member or person(s) at risk;
  - ii. Adhere to the Department's training regarding warnings, which may include verbal warnings, display of the ECW, laser painting, arcing, spark display, or a combination thereof;
  - iii. When feasible, make an announcement to other officers or personnel on the scene that an ECW is going to be activated;
  - iv. Not intentionally activate more than one ECW at a time against an individual;
- Note:** Be aware that an individual subjected to an ECW Cycle may not be able to respond to commands during or immediately following an ECW Cycle exposure;
- v. Limit the number of ECW cycles to the least number of exposures and should last no longer than necessary to bring an individual under control. Each 5-second cycle is considered an independent use of force and must be objectively reasonable and be documented in writing.
  - vi. Avoid continued ECW use as an attempt to facilitate compliance if circumstances indicate that drive stun deployment is ineffective as a pain-compliance technique.

**Note:** Officers should be aware that pain compliance may not be effective against an individual in a mental health crisis state, under the influence of a mind-altering substance, or when extremely focused.

- vii. Consider potential risk(s) to third parties or bystanders when activating ECWs.
- viii. Be aware that a subject's heavy clothing may impede the effectiveness of ECWs.
- ix. Aim, to the degree possible, for the following target areas: (a) lower center mass below the chest; (b) back; or (c) legs.

**Note:** To the extent possible, Department members should avoid sensitive areas such as the eyes, face, head, throat, neck, breasts, groin and genitals.

g. Officers shall not use the ECW:

- i. On a passively resistant individual;
- ii. On a handcuffed or secured prisoner; except where the individual exhibits overtly assaultive, self-destructive, or violently resistive behavior that cannot reasonably be controlled by other readily available means.
- iii. In any environment where the member reasonably believes that a flammable, volatile, or explosive material is present, including but not limited to OC spray with volatile propellant, gasoline, natural gas, propane;
- iv. When the individual is located in water;
- v. In any situation where the member has a reasonable belief that the subject might fall resulting in death or serious bodily injury, and the circumstances presented do not justify that risk; or
- vi. On individuals in physical control of a vehicle in motion (e.g., automobiles, trucks, motorcycles, ATVs, bicycles, scooters) unless exigent circumstances exist.

h. ECW Post-Activation



- i. After a probe deployment, officers shall seek medical attention for the individual and ensure that ECW probes are removed by qualified medical personnel or by a Department Member trained to do so.
- ii. In any case of Drive Stun deployment or Probe deployment from an ECW on an individual, officers shall:
  - Transport the individual to an emergency care facility for evaluation and/or treatment if any of the following apply:
    - The individual requests medical attention or there is an obvious need for medical attention;
    - The ECW was deployed in a sensitive area (e.g., eye, face, head, throat, neck, breasts, groin, genitals);
    - The individual is part of a susceptible population group;
    - More than three ECW cycles were deployed on the individual or the ECW was deployed for continuous cycles amounting to 15 seconds or more; or
    - More than one ECW device has been deployed on an individual.
  - Use restraint techniques that minimize risk of impairing a subject's respiration.

## 5. KINETIC ENERGY IMPACT PROJECTILES

### a. Evaluation of Projectiles

Kinetic energy impact projectiles will be evaluated on the following criteria:

- i. *Accuracy*: This is the primary consideration, since proper shot placement greatly assists in controlling the other two evaluation criteria. This will be evaluated based on the anticipated ranges of deployment. A minimal standard of accuracy for such rounds is a 12-inch group at 15 yards in a secure rest.

- ii. *Effectiveness*: This is the potential of the round to cause incapacitation and reduce the subject's ability to continue their inappropriate behavior. The level of energy to cause incapacitation creates the potential for injury, but when properly deployed, with low probability for causing serious bodily injury or death.
- iii. *Potential for Causing Death or Serious Bodily Injury*: The potential for causing death or serious bodily injury with such projectiles is a reality. This potential is greatly reduced when impacts to the head and neck are avoided, and when appropriate medical examination is provided in cases where the subject is struck in an area that might conceal a closed injury, including such areas as the chest, back and abdominal cavities and the groin.
- iv. *Deployment Areas*: The less-lethal projectiles will be delivered to suspect target areas based on the circumstances, the established safety priorities, and the level of force authorized.

b. Deployment

- i. Kinetic energy impact projectiles may be used by an officer to defend himself/herself or others from the threat of serious bodily injury.
- ii. The issued kinetic energy impact weapon to be determined will be dedicated to kinetic energy impact projectiles, and marked with ORANGE tape on the butt and barrel of the weapon. At NO TIME will lethal ammunition be stored with these weapons. Officers assigned will visually/physically inspect the chamber and magazine, each time the weapon comes under their control (i.e., beginning of the shift, and/or any time the weapon was out of their direct control), to ensure the total absence of lethal ammunition.
- iii. The use of the kinetic energy impact projectile weapon SHALL only be used when authorized by an individual of the rank of Patrol Officer or above.
- iv. The kinetic energy impact projectile weapon shall be secured in hard rifle or gun cases which are then secured in the assigned officer's cruiser.
- v. When engaging a target, the officer should evaluate the effectiveness of each round during the volley. Compliance and/or incapacitation are the desired goal, and alternative target areas/response should be considered when rounds are not effective. Alternative target and/or

response considerations will be based on the circumstances the officer is encountering and the established department safety priorities.

## IV. DEADLY FORCE / LETHAL FORCE

### A. PARAMETERS FOR THE USE OF LETHAL FORCE

1. **A sworn member of this Department is authorized to use lethal force only after de-escalation tactics have been attempted and failed or are not feasible based on the totality of the circumstances, and such force is necessary to prevent imminent harm to a person and the amount of force used is proportionate to the threat of imminent harm. This may include situations in which there are no viable alternatives available and lethal force is necessary for the officer to:**
  - a. Defend himself/herself or another from unlawful attack which he/she reasonably perceives as an imminent threat of death or serious bodily injury;
  - OR
  - b. Effect an arrest, **only** when:
    - i. The arrest is for a felony; and
    - ii. The officer reasonably believes that:
      - a) The force employed creates no substantial risk of injury to innocent persons; and
      - b) The crime for which the arrest is made involved the use or attempted use, or threatened use of lethal force; and
      - c) There is substantial risk that the person to be arrested will cause death or serious bodily injury if his/her apprehension is delayed.
2. Where practical, and if time and circumstances permit, officers shall verbally identify themselves as police officers and give some warning before using deadly force.
3. A law enforcement officer shall not use a chokehold or other tactics that restrict or obstruct an individual's breathing or oxygen or blood flow to an individual's head or neck. A law enforcement officer shall not be trained to use a lateral vascular neck restraint, carotid restraint or other action that involves the

placement of any part of law enforcement officer's body on or around a person's neck in a manner that limits the person's breathing or blood flow. [1.3.4]

4. An officer may not use deadly force against a person who poses only a danger to themselves.
5. A law enforcement officer shall not use deadly force at any point in time when there is no longer an objectively reasonable belief that an individual currently and actively poses an immediate threat of serious bodily harm or death, even if deadly force would have been justified at an earlier point in time.
6. Officers shall always provide appropriate medical response to an individual following a use of deadly force when safe and tactically feasible.

## **B. FIREARMS**

1. In addition to those circumstances provided for in the PARAMETERS FOR THE USE OF LETHAL FORCE, a police officer may discharge a Department-issued and/or authorized firearm in the following instances:
  - a. At a firearms range for authorized training, target practice or competition; or
  - b. To destroy a dangerous animal or an animal so badly injured that it should be destroyed to prevent further suffering. All other options shall be exhausted, however, before shooting the animal, and the officer shall adhere to the following guidelines:
    - i. Officers shall exercise due care for the safety of persons and property in the area and shall fire only when reasonably certain that there is no substantial risk to bystanders.
    - ii. Where feasible, ensure children are not present.
2. **Warning shots and signaling shots are strictly prohibited.** [1.3.3]
3. **MOVING VEHICLES**
  - a. Officers shall not discharge a firearm **from inside any moving vehicle.**
  - b. Officers shall not discharge a firearm **at a moving vehicle** unless, based upon the totality of the circumstances, such discharge is necessary to prevent imminent harm to a person and the discharge is proportionate to the threat

of imminent harm to a person and all of the following conditions have been met:

- i. The occupants of the vehicle are employing deadly force, which the officer reasonably perceives as an immediate threat of death or serious bodily injury to themselves or another;
- ii. There is no substantial risk to the safety of other persons, including risks associated with motor vehicle accidents;
- iii. Officers have not positioned themselves in such a way as to create a likelihood of being struck by an occupied vehicle (e.g., surrounding a vehicle at close proximity while dismounted);
- iv. The officer is not firing strictly to disable the vehicle; and
- v. The circumstances provide a high probability of stopping or striking the intended target.

**4. DRAWING & POINTING OF FIREARMS:** An officer shall not draw a firearm except when there is justification for its use to accomplish a proper police purpose. However, in responding to any potentially dangerous situation (e.g., searching a building pursuant to a burglar alarm or approaching a business establishment on a report of a robbery in progress etc.) the officer should carry their firearm in a position that will facilitate its speedy, effective, and safe use. Officers shall not point firearms at persons in circumstances, which are clearly unjustifiable. **In the event it is necessary to point a firearm at a subject, officers shall note justification for the use of force within a Use of Force report.**

#### **5. OFF-DUTY FIREARMS**

- a. Any weapon that an officer carries while off-duty for protection or to enable them to take official action as a police officer, excluding the officer's issued service weapon, will be considered an off-duty weapon.
- b. Any officer who desires to carry an off-duty weapon and be indemnified with that weapon must first obtain written permission from the Chief of Police by submitting a written request providing a complete description of the firearm, and must qualify with the weapon at the range, at least semiannually. [1.3.9 (e); 1.3.10]
- c. All ammunition carried in an approved off-duty weapon must be of a type approved by the Chief of Police. [1.3.9 (b)]

## **V. SPECIAL WEAPONS**

- A. When not carried in the locked rack in the patrol vehicle, special weapons will only be issued, with the knowledge and permission of the Officer-in-Charge to officers who have qualified with them.
- B. Special weapons may be selectively issued by the Officer-in-Charge if, in his/her opinion, they are necessary to ensure the safety and effectiveness of police operations. Officers armed with special weapons shall use those weapons in accordance with the provisions of this Policy as well as any applicable policies and guidelines issued at the time.
- C. Prior to issuing any special weapon, the Officer-in-Charge of the police station shall inquire of any officer to whom he/she intends to issue the weapon whether or not that officer is currently qualified in its use. It is the responsibility of a police officer not to accept a special weapon unless he/she is qualified in its use.

## VI. DUTY TO INTERVENE

- A. An officer present and observing another officer using physical force, including deadly force, beyond that which is necessary or objectively reasonable based on the totality of the circumstances, shall intervene to prevent the use of unreasonable force unless intervening would result in imminent harm to the officer or another identifiable individual.
- B. An officer who observes another officer using physical force, including deadly force, beyond that which is necessary or objectively reasonable based on the totality of the circumstances shall report the incident to an appropriate supervisor as soon as reasonably possible but not later than the end of the officer's shift. The officer shall prepare a detailed written statement describing the incident consistent with this Department's policy. The officer's written statement shall be included in the supervisor's report.
- C. Any harassment, intimidation, or retaliation against any officer who either intervened to prevent or stop an excessive force incident, or made a report regarding the witnessed excessive force incident, shall be a violation of this Department policy and shall, upon a sustained internal administrative investigation, be subjected to the imposition of departmental discipline up to and including termination.
- D. This section shall apply to all Officers/Employees/Civilians/Volunteers or any official associated with the police department

- E. The failure of a law enforcement officer to intervene as set forth in 550 CMR 6.05 may subject the officer to de-certification by the Commission.

## VII. USE OF FORCE CONSIDERATIONS INVOLVING PLANNED MASS DEMONSTRATIONS

- A. When a police department has advance knowledge of a planned mass demonstration, it shall attempt in good faith to communicate with organizers of the event to discuss logistical plans, strategies to avoid conflict and potential communication needs between police and event participants.
- B. The department shall make plans to avoid and de-escalate potential conflicts and designate an officer in charge of de-escalation planning and communication about the plans within the department.
- C. A law enforcement officer shall not discharge or order the discharge of tear gas or any other chemical weapon, discharge or order the discharge of a kinetic impact device or rubber pellets from a propulsion device or release or order the release of a dog to control or influence a person's behavior unless:
  - 1. de-escalation tactics have been attempted and failed or are not feasible based on the totality of the circumstances; and
  - 2. the measures used are necessary to prevent imminent harm and the foreseeable harm inflicted by the tear gas or other chemical weapon, kinetic impact device, rubber pellets or dog is proportionate to the threat of imminent harm.
- D. If a law enforcement officer utilizes or orders the use of kinetic impact devices, rubber pellets, CEDs, CWs, ECWs, or a dog against a crowd, the law enforcement officer's appointing agency shall file a report with the Massachusetts Peace Officer Standards and Training Commission (POST) detailing all measures that were taken in advance of the event to reduce the probability of disorder and all de-escalation tactics and other measures that were taken at the time of the event to de-escalate tensions and avoid the necessity of using the tear gas or other chemical weapon, rubber pellets or dog.
- E. The Commission shall review the report and may make any additional investigation. After such review and investigation, the commission shall, if applicable, make a finding as to whether the pre-event and contemporaneous de-escalation tactics were adequate and whether the use of or order to use such tear gas or other chemical weapon, rubber pellets or dog was justified.

- F. Canines should not be utilized for crowd control, restraint, or management of peaceful demonstrations, but may be deployed for crowd control, restraint or management of peaceful demonstrations in isolated circumstances related to bomb detection, pursuit of suspects in buildings, and related situations. Utilization does not include circumstances in which a canine remains on a short lead in close proximity to the handler and is well behind the line of contact between law enforcement and civilian personnel.
- G. The use of Kettling as a means of crowd control, crowd management, or crowd restraint is prohibited.

## VIII. ADMINISTRATIVE RELIEF FROM DUTY AFTER FORCE RESULTING IN DEATH OR SERIOUS BODILY INJURY

- A. In every instance in which any officer acting in an official capacity uses force which results in death or serious bodily injury to another person, the following steps shall be taken: [1.3.8]
  - 1. Any employee whose action(s) or use of force in an official capacity results in death or serious bodily injury will be removed from line-duty assignment, pending an administrative review of the incident by a supervisor not directly involved in the incident or such other period of time as the Chief of Police deems necessary. [1.3.8]
  - 2. The officer will be given the opportunity to call his/her family as soon as possible.
  - 3. The officer shall not be allowed to talk to the press. All information regarding the incident will be disseminated through the Office of the Chief of Police or the Public Information Officer.
- B. Assignment to Administrative Leave status shall be with no loss of pay or benefits.
- C. Relief from operational assignment with full pay and benefits is intended to: (i) address the personal and emotional needs of an officer and his/her involved in the use of force which results in serious bodily injury or death; and (ii) assure the community that verification of all the facts surrounding such incidents are fully and professionally explored.
- D. Officers on administrative leave shall remain available to the Department and/or State Police Investigators to assist in the investigation of the incident.



- E. Whenever an officer is involved in a use of force incident that results in death or serious injury the Chief of Police or his/her designee will make arrangements for stress counseling. (Massachusetts State Police Employee Assistance Unit @ 781-821-5496 or MSP Headquarters @ 508-820-2121 or Boston Police Peer Support Unit 617-343-5175 Monday Friday 8:00AM – 5:00PM (all other times 617-594-9091 ask to speak to the “on call peer counselor) or any appropriate psychological assistance provider for the officer and members of his or her immediate family, authorized by the Chief of Police.

## IX. POST USE OF FORCE INCIDENT PROCEDURES

### A. INVOLVED OFFICER RESPONSIBILITY

In all incidents involving: (1) weaponless physical force where either the officer or the suspect is noticeably injured or claims to be injured at the time force is used; (2) the deployment of less-lethal force; or (3) the deployment of lethal force, the involved officer(s) shall: [1.3.6 (c); 1.3.6 (d)]

1. Notify the Patrol Supervisor;
2. Request that sufficient officers be dispatched to the scene;
3. Activate EMS, render medical assistance to the subject and arrange for transportation to a medical facility for evaluation and/or treatment;
4. Identify involved officers and witnesses;
5. Preserve any evidence;
6. Secure the scene until the Patrol Supervisor has arrived;
7. File the appropriate incident or arrest report and Use of Force Report Form pursuant to this Policy.
8. An officer who knowingly makes an untruthful statement concerning a material fact or knowingly omits a material fact from a use of force report may be subject to decertification.

## **B. PATROL SUPERVISOR / OFFICER-IN-CHARGE RESPONSIBILITY**

### **1. LESS-LETHAL FORCE**

In any incident involving an officer's use of less lethal force including: weaponless physical force where either the officer or the suspect(s) are injured or claim to be injured; or a chemical substance; or less-lethal impact weapons, or an electronic control weapon (ECW), the Patrol Supervisor / Officer-in-Charge shall: **[1.3.5; 1.3.6 (b); 1.3.6 (c); 1.3.6 (d); 1.3.7; 1.3.13]**

- i. Immediately respond to the scene.
- ii. Ensure that the officer(s) receives any necessary assistance, including medical treatment, and that any injuries to the officer(s) are properly documented. **[1.3.5]**
- iii. Ensure that the subject(s) receives the necessary medical treatment and that any injuries to the subject(s) are properly documented. **[1.3.5]**
- iv. Conduct an initial review of the circumstances for the use of force.
- v. Identify and interview officers and witnesses.
- vi. Photograph the scene. Officers should make reasonable efforts to protect the subject's privacy.
- vii. Gather and collect evidence. For ECW deployments, take custody of the ECW and discarded cartridge that was deployed and submit the device to the Department Armorer for data downloading. The Department Armorer or his designee will print the data and attach it to the Supervisor's After Action Report, as soon as practical thereafter.
- viii. Determine if a detective should respond to the scene and the level of investigative services to be utilized (including photographs, measurements and diagrams). If an injury or complaint of pain exists, supervisors are encouraged to obtain photographs.

**NOTE:** A photograph showing no injury may be as important as one, which shows injury.

- ix. File a report prior to the conclusion of their tour of duty.

- x. If the subject is admitted to a medical facility for treatment, respond to the facility and document the condition or injuries. [1.3.5]
- xi. Ensure Incident or Arrest and Use of Force Reports are completed by the deploying officer prior to the conclusion of his/her tour of duty or immediately after their detail assignment.
- xii. Complete the Supervisor After Action Report and submit the report with any evidence to the Chief or Police or Lieutenant.

## 2. LETHAL FORCE AND FIREARMS

In any incident involving the use of lethal force; or discharge of firearms, including a kinetic energy impact projectile, the Patrol Supervisor / Officer-in-Charge shall: [1.3.5; 1.3.6 (b); 1.3.6 (c); 1.3.6 (d); 1.3.7; 1.3.13]

- i. Immediately respond to the scene.
- ii. Ensure that the officer(s) receives any necessary assistance, including medical treatment, and that any injuries to the officer(s) are properly documented. [1.3.5]
- iii. Ensure that the subject(s) receives the necessary medical treatment and that any injuries to the subject(s) are properly documented. [1.3.5]
- iv. Conduct an initial review of the circumstances for the deployment of force.
- v. Identify involved officers and witnesses.
- vi. **FOR INCIDENTS RESULTING IN DEATH OR EXPECTED DEATH:** In any incident involving the death or expected death of an officer or subject, the Patrol Supervisor shall also notify the Massachusetts State Police CPAC Unit and the District Attorney as soon as possible, and secure the scene until such time that the CPAC Units arrives. In any incident involving the death or expected death of an officer or subject, the Chief of Police or Lieutenant shall respond, assume control of the scene and conduct an investigation.
- vii. **FOR INCIDENTS NOT RESULTING IN DEATH OR EXPECTED DEATH:** In any incident not involving the death or expected death of an officer or subject, the Chief of Police or Lieutenant shall respond, assume control of the scene and conduct an investigation.

- viii. **FOR OFFICER-INVOLVED SHOOTING INCIDENTS:** In any officer-involved shooting incident, obtain a Public Safety Statement from any officer who has discharged a firearm or witnessed an officer-involved shooting incident, unless that officer is medically incapacitated, invokes his/her constitutionally-protected right to remain silent, or requests to consult with legal counsel.

### **C. SHIFT COMMANDER OR SENIOR OFFICER RESPONSIBILITIES**

1. The Shift Commander may respond to the scene of any incident involving weaponless physical force or instances of less-lethal force.
2. The Shift Commander shall respond to all incidents involving the use of lethal force, whether such force results in death or serious bodily injury.
3. The Shift Commander shall make all resources, facilities, and personnel of the Department available to assigned investigators;
4. The Shift Commander shall ensure that the involved officer(s) is provided with appropriate Federal/State civil rights protection.
5. The Shift Commander shall politely refer all media requests for information to the Public Information Officer (PIO).
6. If the circumstances are such that the continued presence of the officer at the scene might cause a more hazardous situation to develop, (unruly/violent bystanders/crowd), that officer should be transported to another, more appropriate location.
7. The Shift Commander or authorized investigator shall determine whether the circumstances of the incident require that the officer's duty weapon be taken for laboratory analysis. Where the duty weapon is taken, the OIC shall:
  - a. Take custody of the weapon(s) in a discrete manner; and
  - b. Replace it with another weapon, or advise the officer that it will be returned or replaced at a later time, as appropriate.
8. The Shift Commander shall immediately institute an investigation into any incident involving the use of lethal force whether such force results in death, serious bodily injury or no injury at all, and shall notify the Chief of Police and the Lieutenant of the situation.

#### D. DEPARTMENT RESPONSE TO INCIDENTS RESULTING IN DEATH OR SERIOUS BODILY INJURY

In any event resulting in the death or serious bodily injury of an officer or subject, the following protocols shall be adhered to:

1. Involved officers shall refrain from speaking or discussing the incident with anyone except with those directly involved, medical or mental health professionals, legal counsel, or union representatives.
2. Involved officers shall remain available, at reasonable times, for interviews and statements regarding the incident.
3. During any period where the involved officers are required to remain on the scene, but have no immediate duties to fulfill, the officer(s) should be taken to a quiet area away from the scene of the incident. A peer counselor or other supportive officer should remain with the involved officer, but should be advised not to discuss details of the incident.
4. If involved officers are not required at the scene, a supervisor should arrange for the officers directly involved in the incident to leave the scene as soon as possible, and be taken to a quiet, secure setting, such as police headquarters. The supervisor shall:
  - a. Require that involved officers abstain from ingesting caffeine or other stimulants or depressants unless administered by medical personnel.
  - b. Conduct a brief interview of the involved officer consisting of only minimal, preliminary questions. The officer should be advised that a more detailed debriefing will be conducted later (but as soon as possible).
  - c. Advise all officers not to discuss the incident with anyone except a personal attorney, an attorney appointed by the Department, a union representative, a departmental or authorized investigator until the conclusion of the preliminary investigation.
  - d. Instruct involved officers to notify their families about the incident as soon as possible and assist them with the notification. Where an officer or officers is unable to do so, an agency official shall personally notify the officer(s) family, and arrange for their transportation to the hospital.
  - e. At all times, when at the scene of the incident, handle the officer and all involved personnel in a manner that acknowledges the stress caused by the incident.

5. Debriefings shall be held as soon as possible after the incident. The Department shall ensure that there are officers on-call or on-duty at all times so that someone is available shortly after an incident.
6. Any Department or authorized outside agency investigation of the incident shall be conducted as soon and as quickly as practical.
7. The Department should privately brief other department Sworn personnel concerning the incident so that rumors are kept to a minimum. Department Sworn personnel are encouraged to show the involved officers their concern.
8. All personnel involved in a shooting incident should be advised that they are not permitted to speak with the media about the incident.
9. In order to protect against harassing or abusive calls, personnel should be advised to have phone calls answered by another person for several days if their names are released to the public.
10. Personnel directly involved in a shooting incident shall be required to re-qualify with firearms as soon as practical.
11. The Stow Police Department shall report to the National Use of Force Data Collection Database when actions by a law enforcement officer resulted in the death or serious bodily injury of an individual, or when a law enforcement officer, in the absence of death or serious bodily injury, discharged a firearm at or in the direction of a person.
12. All use of force reports shall be retained and maintained by the Stow Police Department and are subject to discovery and access through the Massachusetts Public Records Law M.G.L. c. 66.

## **E. OFFICER WELLNESS CONSIDERATIONS**

1. Law enforcement duties can often expose officers and support personnel to mentally painful and highly stressful situations that cannot be resolved through normal stress coping mechanisms. Unless adequately treated, these situations can cause disabling emotional and physical problems. It has been found that any action in an official capacity resulting in death or serious bodily injury to a citizen or a fellow officer may precipitate such stress disorders. However, such disorders can also be created by accumulated stressors from seemingly minor incidents as well. Consequently, it is the responsibility of this Department to

provide all personnel with information on stress disorders and to guide and assist in their deterrence.

2. This section is meant to provide guidelines that shall be uniformly applied following any officer-involved incident that has resulted in death or serious bodily injury, in order to minimize the chances that involved personnel will develop or suffer from post-traumatic stress disorder. Moreover, officers are expected to monitor their peers with the goal of interdicting potentially debilitating and harmful stress disorders that can severely impact the fellow officer's career, family, and health.
3. Since some post-traumatic stress disorders may not arise immediately, or the officer/officer may attempt to hide the problem, each supervisor is responsible for monitoring the behavior of unit personnel for symptoms of the disorder.
4. Some symptoms of post-traumatic stress disorder include:
  - a. A feeling of being numb;
  - b. Feeling out of touch with what is going on around them;
  - c. A feeling that this is happening to someone else;
  - d. Withdrawing and avoiding anything to do with the traumatic situation or police work;
  - e. Avoiding other people, including one's family;
  - f. Intrusive and recurring thoughts of the event and feeling that it may be happening again;
  - g. Irritability;
  - h. Sleep problems;
  - i. Difficulty in concentrating; and
  - j. Hyper-vigilance.
5. The Chief of Police may order an officer to seek assistance or counseling from a mental health specialist upon a reasonable belief that stress may be disrupting the officer or officer's job performance. [22.2.3; 22.2.6]
6. Any officer whose action(s) or use of force in an official capacity results in death or serious bodily injury will be removed from line-duty assignment, pending an administrative review of the incident, or such other period of time as the Chief of Police deems necessary, after the officer or officer has completed his/her report of the incident. [1.3.8]
7. All officers directly involved in a shooting incident should contact a department designated specialist for counseling and evaluation as soon as practical after the incident, even if they believe the incident did not impact them negatively. Involved support personnel should also be encouraged to contact such

specialists after a shooting incident. [22.2.3; 22.2.6]

8. The Department strongly encourages the families of sworn personnel and civilians to take advantage of available counseling services, as well. [22.2.4]

## X. USE OF FORCE REPORTING

### A. FORM OF USE OF FORCE REPORT

All Use of Force Reports filed in compliance with this Policy shall be on the Form attached to this Policy and accompany any incident or arrest reports filed by the officers involved.

### B. USE OF WEAPONLESS PHYSICAL FORCE

The handcuffing of a compliant detainee will not be construed to be a use of physical force. All officers shall complete a Use of Force Report if they are involved in any instance where physical force greater than handcuffing of a compliant detainee, such as “soft hand physical compliance techniques” or “come-alongs” are utilized, or where the application of weaponless physical force results in an injury (either noticeable or complained of) to the officer or detainee. [1.3.4]

### C. USE OF LESS-LETHAL FORCE

1. In all incidents involving the use of less-lethal force, all involved officers shall prepare and submit a Use of Force Report. This includes spark displays of an ECW, except when a spark display check is conducted to test the device at the beginning of an officer’s shift. [1.3.4; 1.3.6 (a); 1.3.6 (b); 1.3.6 (c); 1.3.6 (d)]
2. Always remember that each application of the ECW is a separate application of a use of force and a separate Use of Force Report must be filed for each application.
3. **If an ECW is deployed, including a spark display of an ECW**, the supervisor(s) of the officers involved must file an After Action Report (AAR). [1.3.6 (a); 1.3.6 (b); 1.3.6 (c); 1.3.6 (d)]
4. All Officers-in-Charge, subordinate supervisors and the Internal Affairs Supervisor will conduct a written review of all reports concerning each incident where less-lethal force has been utilized. [1.3.7]



5. The Department shall ensure that the Executive Officer of Public Safety and Security (EOPSS) *ECW Use Reporting Form* is completed and submitted as required by EOPSS in accordance with G.L. c. 140, section 131J and St. 2004, c. 170, section 2.

#### D. USE OF LETHAL FORCE

1. All officers involved in the use of lethal force shall file a separate Use of Force Report. [1.3.6 (a); 1.3.6 (b); 1.3.6 (c); 1.3.6 (d)]
2. All supervisors shall file a report on the incident and his/her observations with the Officer-in-Charge (OIC) at Police Headquarters. [1.3.6 (a)]
3. It is not necessary to complete a Use of Force Report when a badly injured animal is destroyed. However, the officer shall submit an Incident Report according to current departmental procedures. [1.3.6 (b)]
4. All officers involved in any instance where a firearm was pointed at a subject shall file a separate Use of Force Report. [1.3.6 (a); 1.3.6 (b); 1.3.6 (c); 1.3.6 (d)]

#### F. USE OF FORCE INCIDENT REVIEW

1. All reports concerning any use of force incidents shall be forwarded to the Internal Affairs function, who, after reviewing these reports, along with any accompanying comments or recommendations, shall take appropriate action. [1.3.6]
2. With respect to all instances of use of force, the Chief of Police or Lieutenant shall be responsible for the following: [1.3.7]
  - a. Ensuring that a thorough investigation was conducted and that all reports were prepared and submitted; and
  - b. Reviewing all reports submitted to determine whether the use of force was in compliance with department policy and procedures.
3. The Department will adhere to at least the minimum standards for internal agency review of complaints of officer-involved injuries or deaths as established by the Commission.

4. The Department shall adhere to all reporting requirements established pursuant to G.L. c. 6E, and such further requirements as may be promulgated by the Commission.

## **G. ANNUAL ANALYSIS**

The Chief of Police or Lieutenant will conduct an annual analysis of all Use of Force Reports, activities, policies and practices. A review of incidents of force may reveal patterns or trends that could indicate training needs, equipment upgrades, and/or policy modifications. The review should identify: [1.3.7; 1.3.11 (a); 1.3.11 (b); 1.3.11 (c); 1.3.13; 11.4.1 (b); 11.4.1 (c); 11.4.1 (d)]

- o Date and time of incidents;
- o Types of encounters resulting in use of force;
- o Trends or patterns related to race, age and gender of subjects involved;
- o Trends or patterns resulting in injury to any person including employees; and
- o Impact of findings on policies, practices, equipment, and training.

Such analysis and conclusions shall be documented annually to the Chief of Police and appropriate action taken. [1.3.13; 11.4.1 (e)]

# **XI. TRAINING**

## **A. GENERALLY**

1. No officer of this Department will be authorized to carry any lethal or less-lethal weapon until he/she has: [1.3.12; 16.3.6]
  - a. Been issued a copy of this Use of Force Policy, received instruction and successfully passed a written examination on same; and
  - b. Completed the necessary training and qualifications promulgated by the Municipal Police Training Committee (MPTC); and
  - c. Signed a receipt indicating that he/she has received a copy of this Use of Force Policy and has been afforded the opportunity to discuss it and ask questions regarding the policy, which shall be maintained by the instructor and Training Coordinator. [1.3.12]

2. All weapons qualification records and officer scores shall be documented and maintained by the Training Coordinator. [1.3.11 (b)]
3. All training in use of force shall be conducted by MPTC-approved instructors and shall comply with MPTC standards. [1.3.11]
4. At least annually, all officers authorized to carry weapons are required to receive in-service training on the Department's Use of Force Policy and demonstrate proficiency with all approved lethal weapons and ECWs that the officer is authorized to use. In-service training for other less lethal weapons and weaponless control techniques shall occur at least biennially. [1.3.11]
5. A law enforcement officer shall not be trained to use a lateral vascular neck restraint, carotid restraint or other action that involves the placement of any part of law enforcement officer's body on or around a person's neck in a manner that limits the person's breathing or blood flow.

## **B. DEFENSIVE TACTICS AND DE-ESCALATION**

1. All recruit officers shall receive training on defensive tactics and de-escalation mandated by the Municipal Police Training Committee during the recruit officer training academy.
2. Annually, all officers shall continue to receive the in-service training on defensive tactics and de-escalation mandated by the Municipal Police Training Committee.

## **C. ECW TRAINING**

1. **Basic User Training:** Six (6) hour certification course is mandatory training for all officers. [16.3.5; 33.1.2]
2. **In-Service Training:** All officers who are certified to carry and deploy the ECW shall complete annually a minimum of one (1) hour in-service documented proficiency and legal update training, conducted by certified weapons instructor with remedial training available, if needed. [1.3.11 (a); 1.3.11 (b); 1.3.11 (c); 33.1.2; 33.5.1; 33.6.1 (a); 33.6.1 (b)]
3. **Instructor Training:** All department instructors are required to complete a sixteen (16) hour ECW manufacturer certification course, and an additional instructor training course from the Municipal Police Training Committee (MPTC). Instructors are required to be trained and re-certified biennially. [33.1.2; 33.6.1 (a); 33.6.1 (b)]

4. **Supervisor Training:** Annually, superior officers of all ranks shall receive specialized ECW awareness and After Action Report (AAR) in-service training by qualified instructors so they can intelligently investigate, properly document and report ECW deployment incidents. This training shall be in addition to the annual ECW in-service training requirement and shall be not less than two (2) hours in length. [33.1.2; 33.6.1 (a); 33.6.1 (b)]

#### D. FIREARMS TRAINING

1. All recruit officers shall receive training on firearms mandated by the Municipal Police Training Committee during the recruit officer training academy.
2. All personnel authorized to carry a Department-issued weapon shall qualify with their issued weapon and any other weapon they are authorized to carry while on duty at least semi-annually, every 6 months. Exemptions may be made at the approval of the Chief of Police for those officers who are pregnant. Officers returning from pregnancy leave will qualify upon returning to full duty status. [1.3.10; 1.3.11 (a); 16.3.6]
3. All approved lethal weapons shall be under the direction of the department's Training Coordinator and approved Municipal Police Training Committee (MPTC) weapons and tactics instructors. [1.3.11 (a); 16.3.6]
4. Following a period of training and practice, all officers will be expected to qualify in accordance with the standards established by the MPTC.
5. Only officers demonstrating proficiency in the use of Department-issued or authorized weapons will be authorized to carry or use those weapons. [1.3.10; 1.3.11 (a)]
6. Qualification and proficiency shall include an inspection of any firearm used by the officer to ensure that it is in good working condition.
7. If the Chief of Police approves an off-duty weapon, the officer must qualify with the weapon at the range, at least semiannually. [1.3.10]
8. All officers authorized to use any of the Department's special weapons, such as shotguns, will qualify with the weapon(s) they are authorized to use, in accordance with the standards established by the Municipal Police Training Committee (MPTC), the manufacturer, or the Department's Weapons and Tactics Instructor, at least annually. [1.3.9 (a)]
9. A listing of all officers who have qualified with each special weapon will be maintained with the weapons and with the Training Coordinator.

10. Training in the use of extended range kinetic energy impact projectiles will consist of an annual recertification by department firearms instructors.

#### **E. POST TRAUMATIC STRESS DISORDER TRAINING**

The Police Department shall provide officers with training pertaining to post-traumatic stress disorders and the uniform practices contained in this Policy on a regular basis.

#### **F. ADDITIONAL TRAINING**

Any officer who requires additional training instruction will be given an additional amount of time to demonstrate proficiency and if necessary, remedial training, while removed from line duty assignment. If it becomes necessary, the officer will be sent to additional remedial firearms training until such time as he/she successfully passes the MPTC qualification course. [1.3.11 (c)]

#### **G. SPECIAL WEAPONS**

Any officer authorized to carry or use any special weapon shall be complete training on such special weapon at least annually. [1.3.11]

## APPENDIX A

### *Authorized Weapons and Ammunition*

<u>Sidearm</u>			
MANUFACTURER	MODEL	CALIBER	CAPACITY
Glock	22	40 S&W	15+1
Glock	23	40 S&W	13+1
Glock	27	40 S&W	9+1

<u>Sidearm Ammunition</u>			
MAKE	CALIBER	TYPE	DUTY/TRAINING
Winchester Ranger	40 S&W	JHP	Duty/Training
Winchester	40 S&W	FMJ	Training

<u>Patrol Shotgun</u>			
MAKE	MODEL	CALIBER	CAPACITY
Mossberg	590A1	12 GUAGE	5

<u>Shotgun Ammunition</u>			
MAKE	CALIBER	TYPE	DUTY/TRAINING
Winchester	12 gauge	Slug	Duty/Training
Federal	12 gauge	Buckshot	Duty/Training

<u>Patrol Rifle</u>			
MAKE	MODEL	CALIBER	CAPACITY
Colt	M4 Commando	5.56 mm	20/30

<u>Patrol Rifle Ammunition</u>			
MAKE	CALIBER	TYPE	DUTY/TRAINING
Winchester	5.56 mm	FMJ	Duty/Training

<u>Taser and Cartridge - Less Lethal</u>				
MANUFACTURER	MODEL	CARTRIDGE	LENGTH	DUTY
Taser	X26P	XP 21 Foot	21 Feet	Duty

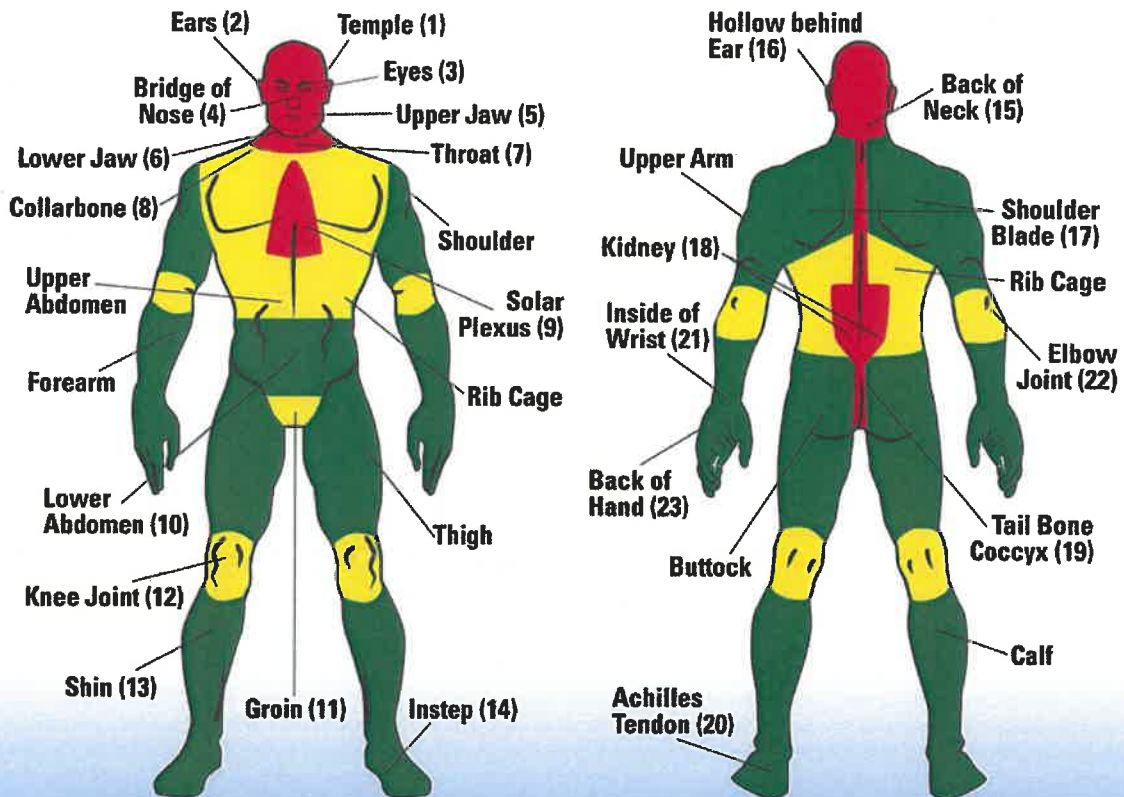
<u>BATONS - LESS-LETHAL</u>				
MAKE	MODEL	STYLE	LENGTH	DUTY
ASP	Friction-lock	Collapsible	16	Duty
ASP	Friction-lock	Collapsible	21	Duty
Monadnock	Auto-lock	Collapsible	21	Duty
Monadnock	Auto-lock	Collapsible	24	Duty

<u>AUTHORIZED CHEMICAL SPRAY - LESS-LETHAL</u>				
MAKE	MODEL	SIZE	STYLE	DUTY
Sabre	Crossfire	MK3	Stream	Duty

# APPENDIX B

## BATON CHART

Escalation of Trauma By Vital And Vulnerable Striking Areas



### STRIKING AREAS

GREEN	YELLOW	RED
<p><b>REASONING</b> Minimal level of resultant trauma. Injury tends to be temporary rather than long-lasting, however exceptions can occur.</p> <p>Except for the HEAD, NECK, SPINE, the whole body is a Green Target Area for the application of baton blocking and restraint skills.</p>	<p><b>REASONING</b> Moderate to serious level of resultant trauma. Injury tends to be more long-lasting, but may also be temporary.</p>	<p><b>REASONING</b> Highest level of resultant trauma. Injury tends to range from serious to long-lasting rather than temporary and may include unconsciousness, serious bodily injury, shock or death.</p>

When performing Static /Dynamic training techniques utilizing this baton chart as a reference, it is suggested to use training batons while performing any technique. If utilizing a training suit it is also recommended to utilize training batons while performing striking, jabbing techniques.

## APPENDIX C SUPERVISOR AFTER ACTION REPORT

DATE	TIME	LOCATION	CASE #
SUBJECT'S NAME		DATE OF BIRTH	HEIGHT WEIGHT PHONE NUMBER
REASON THE USE OF FORCE WAS NECESSARY (check all that apply):			
<input type="checkbox"/> TO EFFECT AN ARREST <input type="checkbox"/> TO DEFEND SELF <input type="checkbox"/> PREVENT ESCAPE <input type="checkbox"/> TO DEFEND ANOTHER OFFICER / PERSON <input type="checkbox"/> PROTECTIVE CUSTODY / SUBJECT SAFETY <input type="checkbox"/> TO DISPATCH ANIMAL <input type="checkbox"/> OTHER:			
CHARGES:			BOOKED? <input type="checkbox"/> YES <input type="checkbox"/> NO
DEPLOYING OFFICERS:		SUPERVISOR NOTIFIED / TIME / BY WHOM:	
TYPE OF INCIDENT (check all that apply):			
<input type="checkbox"/> CIVIL DISTURBANCE <input type="checkbox"/> SUICIDAL <input type="checkbox"/> SUICIDE BY GOP <input type="checkbox"/> VIOLENT SUSPECT <input type="checkbox"/> BARRICADED SUSPECT <input type="checkbox"/> WARRANT SERVICE <input type="checkbox"/> EDP <input type="checkbox"/> OTHER - EXPLAIN:			
AT THE TIME OF ARREST, THE SUBJECT WAS:			
<input type="checkbox"/> SUSPECTED TO BE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS <input type="checkbox"/> MENTALLY IMPAIRED / EMOTIONALLY DISTURBED <input type="checkbox"/> UNDER THE INFLUENCE OF ALCOHOL OR DRUGS <input type="checkbox"/> OTHER: _____			
LIGHTING: <input type="checkbox"/> NATURAL <input type="checkbox"/> ARTIFICIAL    EXPLAIN:			
LOCATION (check all that apply): <input type="checkbox"/> INDOOR <input type="checkbox"/> OUTDOOR <input type="checkbox"/> STATION <input type="checkbox"/> RESIDENCE <input type="checkbox"/> BUSINESS <input type="checkbox"/> HOSPITAL			
FORCE USED PRIOR TO ECW DEPLOYMENT:			
<input type="checkbox"/> VERBAL COMMANDS: <input type="checkbox"/> COMPLIANCE TECHNIQUES: (Force used to gain control – restraint, come-alongs, takedowns – use of hands, arms, feet, legs) <input type="checkbox"/> CHEMICAL SPRAY / CHEMICAL AGENT: Number of Bursts:                      Duration of Bursts:                      Distance from Subject: Impact Location:                      Time between application / decontamination: <input type="checkbox"/> IMPACT WEAPON / TEMP. INCAPACITATION: <input type="checkbox"/> FIREARM DISPLAY: <input type="checkbox"/> OTHER:			
ECW DEPLOYMENT:			
ECW MODEL:	ECW SERIAL #:	ECW AIR CARTRIDGE TYPE:	ECW AIR CARTRIDGE XP#:
ECW USE: <input type="checkbox"/> SUCCESS <input type="checkbox"/> FAILURE SUSPECT WEARING HEAVY OR LOOSE CLOTHING? <input type="checkbox"/> YES <input type="checkbox"/> NO NUMBER OF CARTRIDGES FIRED: NUMBER OF CYCLES APPLIED: USAGE (check all that apply): <input type="checkbox"/> ARC DISPLAY <input type="checkbox"/> LASER/LIGHT DISPLAY <input type="checkbox"/> DRIVE STUN <input type="checkbox"/> DART PROBE IF DART PROBE APPLICATION, APPROXIMATE DISTANCE TO TARGET (FEET): NEED FOR ADDITIONAL APPLICATION? <input type="checkbox"/> YES <input type="checkbox"/> NO DID DART PROBES PENETRATE SUBJECT'S SKIN? <input type="checkbox"/> YES <input type="checkbox"/> NO PROBES REMOVED ON-SCENE? <input type="checkbox"/> YES <input type="checkbox"/> NO PROBES REMOVED BY: DID THE ECW RESPOND SATISFACTORILY? <input type="checkbox"/> YES <input type="checkbox"/> NO IF DART PROBE DEPLOYMENT WAS UNSUCCESSFUL, WAS A DRIVE STUN APPLICATION USED? <input type="checkbox"/> YES <input type="checkbox"/> NO			
OFFICERS PRESENT AT SCENE DURING FORCE APPLICATION:		SHIFT SUPERVISOR(S):	
OTHER WITNESS(ES) / PERSON(S) PRESENT AT SCENE:		SHIFT OFFICER(S):	
AUDIO-VISUAL EVIDENCE: <input type="checkbox"/> YES <input type="checkbox"/> NO If NO, explain _____		SUPERVISOR(S) WHO RESPONDED TO SCENE:	

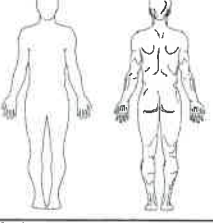


**COMPLETING SUPERVISOR(S): IF ADDITIONAL SPACE IS REQUIRED IN ANY BOX USE THE SUPPLEMENTAL REPORT; ATTACH ALL RELATED NARRATIVE REPORTS, SUPPLEMENTS AND STATEMENTS AND FORWARD TO SHIFT SUPERVISOR PRIOR TO END OF TOUR OF DUTY**

**CASE #**

**WAS SUBJECT(S) INJURED?** \*  YES  NO      **OFFICER(S) TAKING PHOTOS**      **TOTAL # OF PHOTOS**  
 \* (Complete Diagram Below)

**DESCRIBE THE EXTENT OF THE SUBJECT'S INJURIES AND PLACE ON THE DIAGRAM:**



\_\_\_\_\_

\_\_\_\_\_

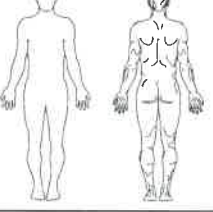
\_\_\_\_\_

\_\_\_\_\_

**IF SUBJECT WAS INJURED, WAS THE SUBJECT PROVIDED MEDICAL TREATMENT?**  YES  NO  
**IF YES, DESCRIBE THE MEDICAL TREATMENT PROVIDED:**

**WAS OFFICER(S) INJURED?** \*  YES  NO \* (Complete Diagram Below)

**DESCRIBE THE EXTENT OF THE SUBJECT'S INJURIES AND PLACE ON THE DIAGRAM:**



\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

<b>WITNESS(ES) OR PERSON(S) WITH KNOWLEDGE:</b>	<b>ADDRESS:</b>	<b>PHONE #:</b>

**SYNOPSIS:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**POST ECW DEPLOYMENT:**

**DESCRIBE SUSPECT'S DEMEANOR AFTER ECW DEPLOYMENT:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**FORCE USED AFTER ECW DEPLOYMENT:**

**COMPLIANCE TECHNIQUES:**  
 (Force used to gain control – restraint, come-alongs, takedowns – use of hands, arms, feet, legs)

**CHEMICAL SPRAY / CHEMICAL AGENT:**  
 Number of Bursts:      Duration of Bursts:      Distance from Subject:  
 Impact Location:      Time between application / decontamination:

**IMPACT WEAPON / TEMP. INCAPACITATION:**

**FIREARM:**

**OTHER:**

**PHOTOGRAPHS TAKEN:**  YES  NO **DESCRIBE:**      **EVIDENCE SEIZED:**  YES  NO **DESCRIBE:**

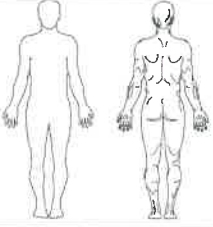
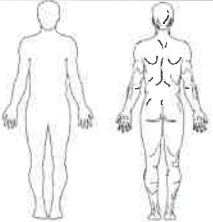
**SUPERVISOR REVIEW (Print / Sign / Date):**      **OFFICER-IN-CHARGE REVIEW (Print / Sign / Date):**

**SUPERVISORS: REVIEW & CRITIQUE USE OF FORCE WITH INVOLVED OFFICER(S).**

NOTE FINDINGS ABOVE AND FORWARD COMPLETED PACKET TO CHIEF OF POLICE  
 ECW deployment requires an ON-SCENE review, including a narrative report from the responding supervisor.

## APPENDIX D USE OF FORCE REPORT FORM

DATE	TIME	LOCATION	CASE #
SUBJECT'S NAME		DATE OF BIRTH	HEIGHT
		WEIGHT	RACE / ETHNICITY
REASON THE USE OF FORCE WAS NECESSARY (check all that apply):			
<input type="checkbox"/> TO EFFECT AN ARREST <input type="checkbox"/> TO DEFEND ANOTHER OFFICER / PERSON <input type="checkbox"/> TO DISPATCH ANIMAL		<input type="checkbox"/> TO DEFEND SELF <input type="checkbox"/> PROTECTIVE CUSTODY / SUBJECT SAFETY <input type="checkbox"/> OTHER: _____	
LIST MOST SERIOUS OFFENSE(S) AT TIME FORCE USED:			
WAS SUBJECT INJURED? <input type="checkbox"/> YES <input type="checkbox"/> NO DESCRIBE INJURIES:	WAS REPORTING OFFICER INJURED? <input type="checkbox"/> YES <input type="checkbox"/> NO DESCRIBE INJURIES:	MEDICAL TREATMENT PROVIDED TO/BY:	PHOTOS TAKEN BY:
SUBJECTS THAT RESISTED:	# OFFICERS PRESENT:	SUPERVISOR NOTIFIED / TIME / BY WHOM:	
AT THE TIME OF ARREST, THE SUBJECT WAS:			
<input type="checkbox"/> SUSPECTED TO BE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS <input type="checkbox"/> UNDER THE INFLUENCE OF ALCOHOL OR DRUGS		<input type="checkbox"/> MENTALLY IMPAIRED / EMOTIONALLY DISTURBED <input type="checkbox"/> OTHER: _____	
OFFICER'S PERCEPTION OF INDIVIDUAL'S ACTIONS (USE NARRATIVE TO DESCRIBE PERCEIVED THREAT(S) POSED BY INDIVIDUAL):			
<input type="checkbox"/> <b>PASSIVE RESISTANCE –</b> (dead weight or non-compliance to Officer's lawful verbal direction, but offering no actively resistive movement) <input type="checkbox"/> <b>ACTIVE OR ESCAPE RESISTANCE –</b> (actions such as pushing, pulling, evasive arm movement, flailing, flight, muscle tension, etc. to avoid control) <input type="checkbox"/> <b>ASSAULTIVE / HIGH-RISK –</b> (agitated, combative state, physically assaultive actions and/or behavior that poses threat of injury to another – e.g. punching, kicking, etc.) <input type="checkbox"/> <b>LIFE THREATENING / SERIOUS BODILY INJURY –</b> (actions that may result in death or serious bodily injury)			
OFFICER'S RESPONSE OPTION(S) (PROVIDE FURTHER DETAILS IN ATTACHED NARRATIVE REPORT(S)):			
<input type="checkbox"/> <b>PRESENCE:</b> <input type="checkbox"/> FULL UNIFORM <input type="checkbox"/> PARTIAL UNIFORM <input type="checkbox"/> PLAINCLOTHES _____ NOTE: Officers not in full uniform, describe means of visual police identification (e.g. raid vest or jacket, displayed badge/ID, etc.) <input type="checkbox"/> <b>VERBAL COMMANDS (Describe details in Narrative Report):</b> <input type="checkbox"/> <b>COMPLIANCE TECHNIQUES (Describe details in Narrative Report):</b> (Force used to gain control – restraint, come-alongs, takedowns – use of hands, arms, feet, legs) <input type="checkbox"/> <b>CHEMICAL SPRAY / CHEMICAL AGENT (Describe details in Narrative Report):</b> Number of Bursts: _____ Duration of Bursts: _____ Distance from Subject: _____ Impact Location: _____ Time between application / decontamination: _____ <input type="checkbox"/> <b>IMPACT WEAPON / TEMP. INCAPACITATION (Describe details in Narrative Report):</b> <input type="checkbox"/> <b>ELECTRONIC CONTROL WEAPON / DEVICE (Describe details in Narrative Report):</b> <input type="checkbox"/> Laser Only <input type="checkbox"/> Spark Check <input type="checkbox"/> Drive Stun <input type="checkbox"/> Probe Deployment Impact Location: _____ Number of Cycles: _____ Unit #: _____ Serial #: _____ Cartridge Serial #: _____ Distance from Subject: _____ <input type="checkbox"/> <b>POINT A FIREARM (Describe details in Narrative Report):</b> <input type="checkbox"/> <b>DEADLY FORCE – Firearm or other (Describe details in Narrative Report):</b> <input type="checkbox"/> <b>OTHER:</b>			
RESTRAINT METHOD USED: <input type="checkbox"/> HAND or FLEX CUFFS <input type="checkbox"/> LEG RESTRAINTS <input type="checkbox"/> BODY GUARD <input type="checkbox"/> SPIT SHIELD <input type="checkbox"/> NONE <input type="checkbox"/> OTHER:			
OFFICERS PRESENT AT SCENE DURING FORCE APPLICATION:		SHIFT SUPERVISOR(S):	
OTHER WITNESS(ES) / PERSON(S) PRESENT AT SCENE:		SHIFT OFFICER(S):	
AUDIO-VISUAL EVIDENCE: <input type="checkbox"/> YES <input type="checkbox"/> NO If NO, explain _____		SUPERVISOR(S) WHO RESPONDED TO SCENE:	
<b>COMPLETING OFFICER(S): IF ADDITIONAL SPACE IS REQUIRED IN ANY BOX USE THE SUPPLEMENTAL REPORT;          ATTACH ALL RELATED NARRATIVE REPORTS, SUPPLEMENTS AND STATEMENTS AND          FORWARD TO SHIFT SUPERVISOR PRIOR TO END OF TOUR OF DUTY</b>			

<b>CASE #</b>		
<b>WAS SUBJECT(S) INJURED?</b> * <input type="checkbox"/> YES <input type="checkbox"/> NO <small>* (Complete Diagram Below)</small>	<b>OFFICER(S) TAKING PHOTOS</b>	<b>TOTAL # OF PHOTOS</b>
	<b>DESCRIBE THE EXTENT OF THE SUBJECT'S INJURIES AND PLACE ON THE DIAGRAM:</b> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>	
<b>WAS OFFICER(S) INJURED?</b> * <input type="checkbox"/> YES <input type="checkbox"/> NO * (Complete Diagram Below)		
	<b>DESCRIBE THE EXTENT OF THE SUBJECT'S INJURIES AND PLACE ON THE DIAGRAM:</b> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>	
<b>WITNESS(ES) OR PERSON(S) WITH KNOWLEDGE:</b>	<b>ADDRESS:</b>	<b>PHONE #:</b>
<hr/> <hr/>	<hr/> <hr/>	<hr/> <hr/>
<b>OFFICER'S NARRATIVE:</b> Did Officer prepare a detailed incident report describing facts and circumstances leading to the use of force? <input type="checkbox"/> YES <input type="checkbox"/> NO If no, explain: <hr/> <hr/> <hr/>		
<b>SUPERVISORY / COMMAND REVIEW</b>		
<b>REPORTING SUPERVISOR</b> (Name and Badge #)	<b>DATE AND TIME OF SUPERVISOR REPOSE</b>	<b>LOCATION</b>
<b>OFFICER WHO USED FORCE</b> (Name and Badge #)	<b>WAS SUBJECT(S) INJURED?</b> <input type="checkbox"/> YES <input type="checkbox"/> NO	<b>WAS OFFICER(S) INJURED?</b> <input type="checkbox"/> YES <input type="checkbox"/> NO
<b>SUPERVISOR'S NARRATIVE:</b> (Document steps taken to review and evaluate Officer's use of force.) <hr/> <hr/> <hr/> <hr/> <hr/>		
<b>A/V EVIDENCE AVAILABLE / REVIEWED BY SUPERVISOR:</b> <input type="checkbox"/> YES <input type="checkbox"/> NO Date:	<b>A/V EVIDENCE AVAILABLE / REVIEWED BY OFFICER:</b> <input type="checkbox"/> YES <input type="checkbox"/> NO Date:	<b>A/V EVIDENCE AVAILABLE / REVIEWED BY LIEUTENANT:</b> <input type="checkbox"/> YES <input type="checkbox"/> NO Date:
<b>LIEUTENANT REVIEW NARRATIVE:</b> (Confirm proper and complete investigation was conducted.) <hr/> <hr/> <hr/> <hr/>		
<b>OFFICER REVIEW</b> (Print / Sign / Date):	<b>SUPERVISORY REVIEW</b> (Print / Sign / Date):	<b>LIEUTENANT'S REVIEW</b> (Print / Sign / Date):
<hr/> <hr/>	<hr/> <hr/>	<hr/> <hr/>

**SUPERVISORY / COMMAND: REVIEW & CRITIQUE USE OF FORCE WITH INVOLVED OFFICER(S).**  
**NOTE FINDINGS ABOVE AND FORWARD COMPLETED PACKET TO CHIEF OF POLICE**

Use of force requires an ON-SCENE review, including a narrative report from the responding supervisor. This is REQUIRED for incidents involving- Chemical Spray, ECW/ECD deployment or Drive Stun; any incident resulting in injury or complaint of injury; or any other time deemed appropriate by a supervisor.

**Deaf or Hard of Hearing  
Individuals Policy Update  
Chief Sallese**



**Town of Stow  
POLICE DEPARTMENT**

305 Great Road  
Stow, Massachusetts 01775

(978) 897-4545  
FAX (978) 897-3692

Michael Sallese  
Chief of Police

January 4, 2021

Select Board  
380 Great Road  
Stow, MA 01775

**RE: Policy 2.19 Deaf or Hard of Hearing Individuals**

Continuing to update our policies and ensuring all community members are treated with the respect they deserve; I am submitting an updated policy on Deaf or Hard of Hearing Individuals to the Select Board.

This is an update to the existing policy with updated contact numbers, and guidance on how officers can effectively communicate with those who are deaf or hard of hearing. Also, this policy helps guide officers to ensure all the rights of those who are deaf or hard of hearing are upheld.

I respectfully request the Select Board approve this update as presented. A copy of the new policy was presented to both the Police and Dispatch Union on December 23, 2021. The Union reported having no concerns or issues with the update.

Respectfully Submitted,

Michael Sallese, Chief of Police

## 2.19 Deaf or Hard of Hearing Individuals

POLICY & PROCEDURE NO. <b>2.19</b>	DATE: _____12/31/2015_____
	EFFECTIVE DATE: __12/31/2015_____
MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED:	REVISION DATE: __2022__

### **POLICY**

In accordance with the Americans with Disabilities Act, 42 U.S.C. §12101, *et seq.* (ADA), the Stow Police Department is committed to serving all individuals according to their needs. Recognizing that persons who are deaf or hard of hearing have may require auxiliary aids or services to ensure effective communication, the Department recognizes its obligations to provide necessary auxiliary aids or services and is committed to meeting those needs. Individuals who are deaf or hard of hearing are entitled to a level of service equivalent to that provided to other individuals without disabilities.

It is the policy of this police department that:

- Persons who are deaf or hearing impaired (hard of hearing) - whether they be victims, witnesses, or suspects – shall be treated with respect, and in any encounters with such individuals, an officer's conduct shall conform to applicable provisions of federal and state law and this policy.
- This department shall make available access to speech language interpreters as coordinated by the Office of Deafness.
- All calls from persons who are deaf or have hearing loss or speech impairments must be accepted through the department's enhanced 9-1-1 communication center.

## 2.19 Deaf or Hard of Hearing Individuals

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### DEFINITIONS

*Auxiliary aids and services:* Various types of communication aids that assist people who are deaf or hard of hearing to communicate effectively. Examples include qualified interpreters on-site or through video remote interpreting (VRI) services; notetakers; real-time computer-aided transcription services; written materials; exchange of written notes; telephone handset amplifiers; assistive listening devices or systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning, including real-time captioning; voice, text, and video-based telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones, or equally effective telecommunications devices; videotext displays; accessible electronic and information technology; or other effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing.

*Deaf or Hard of Hearing:* An individual who has or is regarded as having substantially limited hearing with or without assistance within the meaning of the ADA. This includes a person who does not hear well enough to rely on their hearing to process speech and language, even with the assistance of hearing aids

*Lip Reading:* (also referred to as speech reading): The ability to use information gained from movements of the lips, face, and body to increase understanding. It is important to note that while lip-reading may be effective for some individuals who are deaf or hard of hearing, for many it will be insufficient. Some assessments have determined that only one third of spoken words can be understood by speech or lip-reading.

*Qualified Interpreter:* An interpreter who, via a video remote interpreting service or an on-site appearance, is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. Qualified interpreters include, for example, sign language interpreters, oral transliterators, and cued-language transliterators.

The Massachusetts Commission for the Deaf and Hard of Hearing (MCDHH) is the state agency that determines who is qualified as an interpreter for Stow Police Department.

MCDHH – Executive Office  
600 Washington Street, 3rd Floor

## 2.19 Deaf or Hard of Hearing Individuals

Phone: (617) 740-1600

Fax: (617) 740-1810

TTY: (617) 740-1700

Videophone: (617) 326-7546

**Emergency / After Hours: (800) 249-9949**

Online Requests may be submitted at

<https://www.mcdhh.net/request/>

*Sign language:* Communication through the use of standardized hand or finger signs or gestures. American Sign Language (ASL) is a form of sign language frequently used in the United States. Signs convey concepts or ideas, even though a sign may stand for a separate English word. Signing individual letters by finger spelling can supplement sign language. Just as there are regional variations (dialects) in spoken English, there are regional differences in sign language.

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### **GENERAL CONSIDERATIONS AND GUIDELINES;**

If a Stow Police Employee (Officer, Dispatcher, Civilian Employee, Volunteer) has any reason to believe that a person who has a need to communicate with the Department is deaf or hard of hearing, the employee must advise the person that appropriate auxiliary aids and services, including interpreters, will be provided free of charge when necessary for effective communication. The employee will ensure that such aids and services including interpreters are offered, utilized, and documented. Primary consideration will be given to the auxiliary aid requested by the person who is deaf or hard of hearing unless there is another equally effective means of communication available. This means that, upon initiating contact, the employee should ask the individual who is deaf or hard of hearing about their preferred method of communication.

Employees encountering people they believe are deaf or hard of hearing should never assume that that the person understands what is being communicated. This caution applies to all forms of communication, whether sign language, speech, writing, or reading.

Communication problems in police-public encounters may result in violations of an individual's civil rights, and provide the potential basis for misunderstandings, problems, frustration, and embarrassment. Therefore, it is important that employees are able to identify when they may be interacting with an individual who is deaf or hard of hearing in



## 2.19 Deaf or Hard of Hearing Individuals

order to differentiate their actions and demeanor from other causes, and then take appropriate measures to facilitate effective communication.

Some deaf and hard of hearing persons have limited written language skills, particularly involving complex matters such as legal warnings and admonitions. Therefore, employees should not assume the effectiveness of this form of communication and should gain confirmation of a person's understanding whenever possible.

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### **EMERGENCY CALL TAKERS AND DISPATCHERS**

- The dispatch center is equipped to receive E9-1-1 calls from TDD/TTY and computer modem users. All certified E9-1-1 call takers are trained to communicate with callers using the systems TTY and TDD equipment.
- Upon receiving an E9-1-1 TTY call, dispatchers shall communicate using TTY communications procedures set by State 911.
- Dispatchers shall place a high priority on response to emergency calls for service from persons who are deaf or who have hearing impairment.
- The deaf and hearing impaired shall be provided with direct, equal access to all emergency services provided by this department.

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### **ENCOUNTERING AND COMMUNICATION WITH DEAF OF HARD OF HEARING PERSONS;**

Deaf persons may attempt to gain the attention of an employee by touching him/her when the employee is not facing them. This is how deaf and hard of hearing persons commonly gain the attention of others, so that they can see the other person's face and attempt to communicate. Employees should not interpret this touching alone as offensive or possibly threatening behavior unless additional factors suggest otherwise.

Employees should never assume that the person understands verbal communications until comprehension can be confirmed by appropriate responses to questions or directives. Even where an individual may appear to be comprehending some portion of the communication, verbal communication should not be solely relied upon where an individual has indicated a need for auxiliary aids or services.

## 2.19 Deaf or Hard of Hearing Individuals

Employees should not assume that persons who wear hearing aids or cochlear implants (an electronic device that partially restores hearing) can hear and fully understand information that is verbally communicated. Some people use these devices to provide sound awareness rather than to increase speech understanding. Highly stressful situations, background noise, multiple speakers, and complex information and instructions can compromise the effectiveness of hearing aids and cochlear implants. Employees can assess comprehension by seeking appropriate responses to simple questions or directives as indicated above.

Once someone is identified as a deaf or hard of hearing person, employees should attempt to determine (by written or other forms of communication) the person's preferred means of communication (e.g., sign language, lip reading, reading and note writing, using a laminated communication card, or speech).

Deaf or hard of hearing persons may require additional time to respond to commands, instructions, and questions. Employees must be alert to indications that a person may be deaf or hard of hearing. Such indications may include, but are not limited to the following:

- The appearance of bumper stickers, rear window decals, or visor notices/symbols indicating the disability;
- Failure of persons to appropriately respond to spoken commands or signals;
- Use of signs, hand signals, or gestures in an attempt to communicate;
- Display of cards by the person noting his or her hearing disability;
- Inability or difficulty of a person to consistently follow verbal instruction or requests for information;
- A need to see the employees face directly, suggesting that the person is attempting to lip read;
- Evidence of assistive devices such as hearing aids, cochlear implants, or picture symbols; and
- Evidence of behaviors that indicate an individual is not receiving effective communication access such as increased agitation or

## 2.19 Deaf or Hard of Hearing Individuals

irritability, low frustration levels, withdrawal, or decreased attention.

Employees should be cognizant of the fact that some persons who are deaf or hard of hearing may also suffer from inner ear impairments that can affect their balance, or speech may be slurred or otherwise difficult to understand.

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### LIP READING

Employees attempting to communicate with a person who can lip read should:

- Select a location that minimizes interference and distractions;
- Face the person so that eyes and mouth are clearly visible;
- Stand about three to six feet from the person;
- Avoid excessive body movement;
- Speak only after getting the person's full attention;
- Make questions and instructions short and simple;
- Speak clearly and slightly slower than usual;
- Be prepared to repeat oneself using different words to rephrase any question; and
- Recognize that lip reading is ineffective for most individuals, so be sure to inquire with the individual who is deaf or hard of hearing to determine whether they may need more effective auxiliary aids or services.

Employees should address all questions and directives to persons who lip read by facing them directly and speaking in a moderately paced conversational tone.

- Shouting or using exaggerated mouth movements interferes with the ability to lip read.
- Understanding can be further degraded by the presence of facial hair or items in the mouth such as chewing gum, etc.

## 2.19 Deaf or Hard of Hearing Individuals

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### **SIGN LANGUAGE**

Generally, employees should not rely on family members or friends for sign language interpretation due to their potential emotional involvement, conflict of interest, and legal requirements.

A family member or friend may only be asked to interpret for a deaf individual where there is an urgent need to communicate immediately and that is the only option.

In nonemergency situations, an adult family member or friend may interpret if the deaf person requests that arrangement, the other person agrees, and it is appropriate under the circumstances.

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### **INTERPRETER REQUIREMENTS**

G.L. c. 221, § 92A requires a police department to procure and pay for the services of a qualified interpreter for a deaf or hard of hearing person whenever such person is arrested. The Stow Police Department will make available access to speech language interpreters as coordinated by the Massachusetts Commission for the Deaf and Hard of Hearing.

Employees should be certain that when any deaf or hard of hearing person executes a waiver, such person does so knowingly, intelligently, and voluntarily. In fact, in the case of a waiver of an interpreter, the court must make a special finding that any statement made by such deaf or hard of hearing person was made knowingly, voluntarily, and intelligently.

In simple enforcement situations, such as traffic stops, driver's license checks, or consensual police-public encounters, a notepad and pencil may provide effective communication for any individuals who are deaf or hard of hearing. Employees should document the steps they took to provide effective communication with the deaf or hard of hearing individual.

During questioning or interrogation of a suspect in a criminal case, a qualified legal sign language interpreter.

## 2.19 Deaf or Hard of Hearing Individuals

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### FIELD RESOURCES

Examples of methods in the field that may be sufficient for transactions, such as checking a license or giving directions to a location, or for urgent situations such as responding to a violent crime in progress, may include simple actions such as:

- Hand gestures or visual aids;
- Exchange of written notes or communications;
- Verbal communication with an individual who can lip read by facing the individual and speaking slowly and clearly; and/or
- Use of computer, word processing, personal handheld communication device or similar device to exchange texts or messages.

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### ARRESTS

Deaf and hard of hearing people may be subject to arrest like any person without a disability in situations where an officer has the right to make an arrest. Except in cases where arrest is mandated by law, given the complexities associated with the arrest, booking, and housing of a deaf or hard of hearing person, employees should consider exercising discretion and utilizing alternatives to arrest that may include, but not be limited to, an application for a criminal complaint instead of making an arrest. This decision will depend on the facts and circumstances of the particular case and ultimately the arresting officer's discretion.

A qualified interpreter need not be available in order for an officer to arrest a subject where probable cause is established independent of interrogating the deaf or hard of hearing suspect.

If probable cause to make an arrest can only be established through questioning or interrogating a deaf or hard of hearing person, a qualified interpreter will be required except in emergency situations.

Some deaf and hard of hearing persons have limited written language skills, particularly involving complex matters such as legal warnings and

## 2.19 Deaf or Hard of Hearing Individuals

admonitions. Therefore, employees should not assume the effectiveness of this form of communication and should gain confirmation of a person's understanding whenever possible.

All essential communication with the suspect should be completed prior to the application of handcuffs, if possible.

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### **BOOKING**

When booking a deaf or hard of hearing person, officers may communicate with the person being booked in order to obtain minimally necessary information required to complete the booking process through the following means:

- Written communications;
- Verbal communications (if possible);
- A companion of the suspect acting as an interpreter, if requested by the suspect;
- A non-certified interpreter; or
- A certified interpreter.

As noted in the "Arrests" section above, some deaf and hard of hearing persons have limited written language skills, particularly involving complex matters such as legal warnings and admonitions.

Rights: An officer should advise a deaf or hard of hearing person of his or her rights pursuant to *Miranda* and all other required rights, including 5a rights through a qualified interpreter to appropriately ensure that a waiver of those rights is deemed valid by a court.

Any statements made by a deaf or hard of hearing person, which are elicited without the use of a qualified interpreter, may be challenged in court.

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### **FIELD SOBRIETY TESTING**

Some deaf or hard of hearing persons have reduced verbal communication skills, and/or speech that may be incoherent or

## 2.19 Deaf or Hard of Hearing Individuals

otherwise resemble intoxication. These individuals may also have difficulty with equilibrium, which would impact their ability to perform a balance test.

Officers should be aware of the following when administering the standardized field sobriety tests to such persons;

- Avoid using balance tests when equilibrium is an issue.
- Factor in speech impediments when evaluating a suspect's speech.
- Use the horizontal gaze Nystagmus test.
- Breathalyzer and/or blood alcohol measurements (PBTs) should be employed as alternative tests when available.

Officers administering standardized field sobriety tests should avoid any evidentiary questions during the testing process, as such questions may require an interpreter. Further, if applicable, officers must document in their reports these and any other extenuating circumstances that impacted the administration of field sobriety tests.

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### INTERPRETER CONTACT INFORMATION

In situations involving the need for an interpreter, a request shall be made through the Massachusetts Commission for the Deaf and Hard of Hearing.

The contact information is listed below:

MCDHH – Executive Office  
600 Washington Street, 3rd Floor  
Phone: (617) 740-1600  
Fax: (617) 740-1810  
TTY: (617) 740-1700  
Videophone: (617) 326-7546  
**Emergency / After Hours: (800) 249-9949**  
Online Requests may be submitted at  
<https://www.mcdhh.net/request/>

**Car Lot Express**  
**Class II License Amendment Request**



Selectboard Members,

I attended two Selectboard meetings ( July 27 and August 10) at which the transfer of the existing Class II (used car license) for 102 Great Rd was discussed.

At the second meeting , although the transfer was approved, the number of vehicles was reduced from the previously approved "over 100 vehicles" allowance, down to just 60 outside vehicles.

Although I tried to convey the hardship and limitation this reduction creates for my business ( I cannot sell inventory I do not have on the lot) , the license approval went forward with this restriction.

Prior to the closing of the meeting , I believe there was both discussion and general agreement among the Board members that upon the "renewal" of my license , the topic of allowed inventory would be revisited ...and perhaps increased.

I would very much appreciate this consideration from the Board.

In support of this request , I'd like to call attention to the dramatically different condition of the property in general , and specifically the used car areas of the property , in how well they are organized/ arranged, the types/ worth of vehicles being stored/displayed, and the overall improvement in visual impact and professionalism demonstrated at the site.

Although we are now heading into the winter months ( a traditionally slow vehicle sales period) , it would help me tremendously to understand that I could increase my outside inventory to 80 vehicles . This would allow me to try to acquire vehicles over the next 90 days, and with some economic luck , be ready for a good spring season.

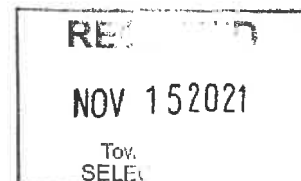
I would appreciate your consideration of this request. Thank you.

Sincerely ,

Alex Savchenko

*Car Lot Express inc.*

*92 Great rd, Stow, MA*





**Town of Stow**  
*Office of the*  
**Town Administrator**

380 Great Road  
Stow, MA 01775  
Tel: 978-897-2927

*Denise M. Dembkoski*  
Town Administrator  
[townadministrator@stow-ma.gov](mailto:townadministrator@stow-ma.gov)

*Dolores Hamilton*  
Assistant Town Administrator  
[assttownadmin@stow-ma.gov](mailto:assttownadmin@stow-ma.gov)

To: Select Board

From: Denise M. Dembkoski, Town Administrator

Re: Car Lot Express Class II License

Date: November 16, 2021

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With Oleksii Savchenko's Class II License renewal for Car Lot Express at 92 Great Road, he submitted a letter requesting an increase in vehicles which can be sold at his lot (see attached). When the license was issued in August, the SB granted him five (5) cars in the showroom, five (5) cars in the garage, and sixty (60) cars outside in the lot, which could be for sale at any one time. Mr. Savchenko is now requesting his outside capacity to 80 vehicles.

At the time of the original license, Board members encouraged him to come back at renewal time for any increase, however, in my opinion, such a change is not appropriate during the renewal period. At this time, you could re-allocate where he can store the vehicles (ie. all seventy (70) vehicles could be outside), but I believe increasing the capacity would stretch beyond the renewal capacity.

I would recommend that after the renewals are completed, the Board schedule time on an upcoming agenda to review and act upon Mr. Savchenko's request. I would add, however, that I do believe the site has been dramatically improved with Mr. Savchenko's business and would encourage the Board to consider granting the increase in vehicles to eighty (80) outside, with ten (10) inside.

# Green Advisory Committee Update

Carol Lynn

Minute Man Airport Update

Don McPherson

Disposition of Surplus Goods  
and Equipment  
Highway Department



Town of Stow  
HIGHWAY DEPARTMENT

88 South Acton Road  
Stow, Massachusetts 01775  
(978) 897-8071  
FAX (978) 897-5682

Steve Nadeau  
Superintendent of Streets

Mailing Address:  
88 S. Acton Road  
Stow, MA 01775

December 16<sup>th</sup>, 2021

To: Denise Dembkoski, Town Administrator

From: Steve Nadeau, Superintendent of Streets

Re: Disposal of Retired Equipment

This memo is a request for authorization for the disposal of two pieces of Highway Department equipment. The first being a TYMCO Street Sweeper (Plate: M52915 / VIN: 1FVAB6BVX4DN04438). This street sweeper has failed to pass inspection, as there are multiple issues with both the truck engine and the sweeper engine. There are multiple rotted out steel frame and sub-frame members and the sweeper pick-up head needs to be replaced, as well. Finally, there are electrical issues that prevent the street sweeper body from running at the same time as the truck motor, rendering the piece of equipment effectively useless without a significant investment of time and resources. The only salvageable part that might be of any value is the stainless-steel sweeper containment body, which we estimate to be worth between \$2,000.00 and \$4,000.00.

The second being a 20kV single-phase, gasoline powered Onan Generator with a Ford Industrial Products motor (Serial: 05079 L-8-HG). The generator does not have an auto-start feature and other features that allow it to run unmanned in an emergency; thereby not meeting current standards for a generator installed in a public building. Being gasoline powered, the amount of fuel needed to run this generator for a power outage event of significant length would exceed what is generally considered a safe volume of fuel to store. It also does not have a sound-attenuating closure and will likely be hazardous to individuals' hearing if run near people. The generator is estimated to be worth \$500.00 to \$1,000.00.

We plan to list both pieces of equipment on Municibid.

The equipment has outlived its useful life and has become too costly to maintain.

Thank you for your support in this matter.

Steve Nadeau  
Superintendent of Streets

# ARPA Funding Allocation Request

# ARPA Project Funding Guidelines and Form





## TOWN OF STOW ARPA PROJECT FUNDING REQUEST GUIDELINES

On March 11, 2021, the President of the United States signed into law the American Rescue Plan Act of 2021 (ARPA), Pub. L. No. 117-2. This law provides resources through the new Coronavirus Local Fiscal Recovery Fund (CLFRF) to local governments to respond to the public health emergency caused by the Coronavirus Disease (COVID-19). This fund is administered by the US Department of the Treasury (hereafter, "US Treasury" or "Treasury"). **The U.S. Treasury Department announced that the Town of Stow will receive \$2,162,292 in federal funding as part of the American Rescue Plan Act.**

The Select Board has sole discretion on how to spend these funds and has decided to solicit requests from Departments, Boards and Committees, and the general public. All submitted projects must have ownership by a town department, who will procure and facilitate the project, oversee implementation of, and maintain the project going forward, if necessary.

To request funding for a project using ARPA funds, submitters must complete the attached form and return it to the Town Administrator. Projects will be vetted and approved on a rolling basis until all funds are fully allocated.

All of the funding must be obligated by December 31, 2024 and fully spent by December 31, 2026. The broadly acceptable categories of use include costs incurred to:

1. Respond to the COVID-19 public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;
2. Pay workers providing essential work during the COVID-19 public health emergency;
3. Provide government services to the extent of the reduction in revenue to the Town due to the COVID-19 public health emergency in the most recent full fiscal year; and
4. Make necessary investments in water, sewer, or broadband infrastructure.
5. Revenue Loss Funds which may be used to provide government services to the extent of the reduction in revenue. Government services can include but are not limited to, maintenance of infrastructure, modernization of cybersecurity, health services, school or educational services, and public safety services.

***Funding requests should be based on the department's short or long term needs, or have a significant benefit/impact to the community, as a whole.***

The Select Board may convene a sub-committee to assist in vetting and prioritizing the requests. Presentations to the sub-committee and/or Select Board on the project requests should be expected.

Projects that meet the Town's requirements as Capital assets will require review by the Capital Planning Committee. Which will be coordinated after the project has been submitted to the Town Administrator.



# TOWN OF STOW

## American Rescue Plan Act Project Funding Request

*draft*

**Submitter:** \_\_\_\_\_  
(Print Name or Board/Committee Name)

**Department to Oversee/Maintain the Project:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Amount Requested:** \_\_\_\_\_

**Project being Requested:** \_\_\_\_\_  
(Provide a full description below)

### FUNDING CATEGORY

- Support Public Health
- Address COVID-19 Negative Economic Impacts
- Provide premium pay for essential workers
- Investments in water, sewer, and broadband infrastructure
- None of the Above (Would fall under Revenue Replacement funds)

### Priority Ranking (Check One):

- Very High (Needed ASAP)
- High (Needed in 1 year)
- Medium (Needed in the next 2 years)
- Was Planned for in the next 10 years

### Does this project meet the bylaw requirements for Capital Planning?

Yes  No

(Acquisition of land and any expenditure of \$10,000 or more having a useful life of at least three years)

**Has this project been on a Department or Board's priority list? (ie. Master Plan, OSRP, Established Goals)**

Yes  No

Have you received an estimate as a basis for cost? Yes  No  If Yes, please provide estimate

Are grant or other funds available to offset this cost? Yes  No  If Yes, please specify source of funds

Will this require annual maintenance or ongoing costs? Yes  No  If Yes, please articulate below

**Project Description:**

*Provide project description and articulate funding category, include an overview of proposed timeline, location(s), and supporting detail. If requested equipment is a replacement, please provide the age (based on first in service date) and condition of current item. Be as specific as possible; attach all backup supporting material.*


**Benefits of Project/Requested Equipment:**

*Highlight project benefits, including efficiencies created, service enhancements, etc. Be as specific as possible; attach all backup supporting material.*


**Ongoing maintenance costs of project or equipment:**

*Describe any expected ongoing costs associated with this request. Be as specific as possible; attach all backup supporting material.*


\_\_\_\_\_  
Signature of Submitter

\_\_\_\_\_  
Signature of Department Representative

Intermunicipal Agreement  
Extension for  
Making the Connections  
Program

# Memo

**To:** Select Board  
**From:** Jesse Steadman – Town Planner  
**Date:** 12.30.2021  
**Re:** Extension of Making the Connections IMA

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The purpose of this memo is to request that the Select Board extend an Inter-Municipal Agreement governing the implementation of the Making the Connections Transportation Pilot program of which Stow is an active participant. A copy of the last signed IMA, as well as proposed signature page is attached.

## **Overview**

The Town of Sudbury was awarded a Community Compact Best Practices grant by the Commonwealth of Massachusetts in the spring of 2019 to create a multijurisdictional program of on-demand transportation pilots, called *Making the Connections*. An Intermunicipal Agreement (IMA) was then entered into by and between the Towns of Acton, Bolton, Concord, Maynard, Stow, and Sudbury to participate in the Program. The initiative is focused on connecting seniors, people with disabilities, financially vulnerable residents, and veterans to health services, community resources, and economic opportunities with on-demand transportation services via partnerships with local taxi companies.

The IMA was set to expire when the Community Compact Best Practices Agreement entered into between the Town of Sudbury, as the Lead Municipality, and the Commonwealth of Massachusetts expired, which was scheduled for May 21, 2021, or when the funds for the Program were no longer available, whichever was earlier.

However, the Senior Deputy Commissioner of Local Services for the Division of Local Services has granted an extension of the Community Compact Best Practices Agreement through June 30, 2022. Therefore, the Town of Sudbury, as the Lead Municipality, is proposing an extension of the IMA through June 30, 2022 to align with the extension granted by the Division of Local Services. This provides communities the opportunity to complete all remaining tasks in the IMA and to expend all funds associated with the Community Compact Best Practices Agreement.

## Intermunicipal Agreement Extension for the Making the Connections Program

Per Section 2: Term, of the original, signed, attached Intermunicipal Agreement between the **Towns of Acton, Bolton, Concord, Maynard, Stow, and Sudbury** with an effective date of December 15, 2020, the Intermunicipal Agreement was set to expire when the Community Compact Best Practices Agreement entered by and between the Town of Sudbury, as the Lead Municipality, and the Commonwealth of Massachusetts expired, which was scheduled to expire on May 21, 2021, or when the funds for the Program were no longer available, whichever was earlier.

However, the Senior Deputy Commissioner of Local Services for the Division of Local Services has granted an extension of the Community Compact Best Practices Agreement through **June 30, 2022**. As such, the Town of Sudbury, as the Lead Municipality, is proposing an extension of the Intermunicipal Agreement through **June 30, 2022** to align with the extension granted by the Division of Local Services in order to allow for the completion of all remaining tasks in the Intermunicipal Agreement and to expend all funds associated with the Community Compact Best Practices Agreement.

If the Town of Stow's Select Board is in agreement with this proposal to extend the Term of the Intermunicipal Agreement to **June 30, 2022**, please execute this Agreement Extension document and return it to the Town of Stow's Planning Department as soon as possible.

WITNESS OUR HANDS AND SEALS on this \_\_\_\_\_ day of \_\_\_\_\_, 2022

TOWN OF STOW SELECT BOARD:

\_\_\_\_\_  
Ellen S. Sturgis, Chair

\_\_\_\_\_  
Megan Birch-McMichael, Clerk

\_\_\_\_\_  
Zack Burns

\_\_\_\_\_  
Cortni Frecha

\_\_\_\_\_  
James H. Salvie

### COMMONWEALTH OF MASSACHUSETTS

Middlesex County, ss:

On this \_\_\_\_\_ day of \_\_\_\_\_, 2022, before me, the undersigned notary public, personally appeared \_\_\_\_\_, and proved to me through satisfactory evidence of identification which was \_\_\_\_\_ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public  
My Commission Expires:

**Open a Library Renovation  
Project Donation Account**

**Accept a \$1,000 donation from  
Charlestown Productions, LLC**



# **PERSONNEL POLICIES**

## Mandatory Vaccination Policy



Effective Date: 1/12/2021

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### PURPOSE:

The Town of Stow is committed to providing a safe, healthy working environment for our employees, their families, our residents, and other visitors to our facilities, while promoting economic recovery for the Town and working together to reduce the spread of COVID-19. The Town, like the state, is trying to control an as-yet-uncontrollable virus that has killed over 800,000 Americans since March of 2020. As stated by Governor Baker in his order to Commonwealth employees, "widespread vaccination is the only means the Commonwealth has over the long-term to ensure protection from COVID-19 in all its variations and to end the many negative consequences COVID-19 produces in our daily lives." To control outbreaks among our workforce, we anticipate achieving full vaccination is necessary to ensure that Town employees can provide the full measure of public services our residents require and deserve. Employees for whom vaccination is medically contraindicated or who object to vaccination on the grounds of sincerely held religious beliefs may be entitled to an exemption.

### SCOPE:

This Mandatory COVID-19 Vaccination Policy applies to all paid employees of the Town of Stow, including full time, part time, temporary and per diem employees. The policy is based upon the guidance provided by the Occupational Safety and Health Administration (OSHA) and the Centers for Disease Control and Prevention (CDC).

### DEFINITIONS:

**Fully vaccinated:** Employees are considered fully vaccinated two weeks after completing primary vaccination with a COVID-19 vaccine, with, if applicable, at least the minimum recommended interval between doses. For example, this includes two weeks after a second dose in a two-dose series, such as the Pfizer or Moderna vaccines, two weeks after a single-dose vaccine, such as the Johnson & Johnson vaccine, or two weeks after the second dose of any combination of two doses of different COVID-19 vaccines as part of one primary vaccination series.

**Booster:** In addition, as new guidance regarding vaccine recommendations are updated by the CDC to include booster doses in the future, Town of Stow employees will be required to provide proof they have received such doses by a deadline to be established.

### POLICY DESCRIPTION:

Employees must provide truthful and accurate information about their COVID-19 vaccination status. Employees not in compliance with this policy will be subject to discipline action, up to and including termination.

## **PROCEDURE:**

All Town of Stow employees must be fully vaccinated no later than March 31, 2022. To be fully vaccinated by March 31, 2022, an employee must:

- Obtain the first dose of a two-dose vaccine no later than February 15, 2022, and the second dose no later than March 15, 2022.
- Obtain one dose of a single dose vaccine no later than March 15, 2022.

Employees will be considered fully vaccinated two weeks after receiving the requisite number of doses of a COVID-19 vaccine. An employee will be considered partially vaccinated if they have received only one dose of a two-dose vaccine.

Employees may schedule vaccination appointments during the workday, with up to four (4) hours of paid time off. You can use the state website: <https://vaxfinder.mass.gov/>

### **Vaccination Status and Acceptable Forms of Proof of Vaccination**

All vaccinated employees are required to provide proof of COVID-19 vaccination, regardless of where they received vaccination. Proof of vaccination status can be submitted to your department head, the Town Administrator's office, or to the Assistant Town Administrator/HR Director. This information will remain confidential and separate from the employee's personnel file.

Acceptable proof of vaccination status is a vaccination card and/or other official vaccination documentation submissions must include:

- Employee name
- Employee date of birth
- The manufacturer of the vaccine
- The date(s) on which the vaccine(s) were received

### **Supporting COVID-19 Vaccination**

An employee may take up to four (4) hours of work/duty time per dose to travel to the vaccination site, receive a vaccination, and return to work. If an employee spends less time getting the vaccine, only the necessary amount of duty time will be granted. Employees who take longer than four (4) hours to get the vaccine must send their department head an email documenting the reason for the additional time (e.g., they may need to travel long distances to get the vaccine). Any additional time requested will be granted, if reasonable, but will not be paid; in that situation, the employee can elect to use accrued leave, e.g., sick leave, to cover the additional time. If an employee is vaccinated outside of their approved work time they will not be compensated.

Employees may utilize up to two (2) workdays of sick leave immediately following each dose if they have side effects from the COVID-19 vaccination that prevent them from working. Employees who have no sick leave will be granted up to two (2) days of additional sick leave immediately following each dose if necessary. Please document the sick leave on your timesheet, signed by your supervisor or department head.

### **COVID-19 Vaccination Exemption**

If an employee covered by this policy cannot be vaccinated due to a disability or medical condition, or a sincerely held religious belief, the employee may apply for an exemption.

### **Reasonable Accommodation**

Applicants and employees in need of an exemption from this policy due to a medical reason, or because of a sincerely held religious belief, must submit a completed request for accommodation form to the Town Administrator as soon as possible in advance of the February 15, 2022 deadline to begin the interactive accommodation process. The Town may require additional documentation of requested exemptions to aid it in responding appropriately to the request. As with the documentation of vaccination status, employees must certify that any request for exemption and documentation of the same is true and correct. Submission of false information may subject an employee to discipline, up to and including termination. Accommodations for legitimate reasons will be granted where they do not cause the Town undue hardship or pose a direct threat to the health and safety of others.

Employees who receive an exemption:

- (A) must be tested for COVID-19 at least once every seven (7) days; and
- (B) must provide documentation of the most recent COVID-19 test result to the Assistant Town Administrator/HR Director no later than the seventh day following the date on which the employee last provided a test result.

Beginning March 15, 2022, employees who received an exemption for medical or religious reasons must have a polymerase chain reaction (PCR) test every 7 days and provide proof of a negative COVID-19 PCR test administered within the prior 7 days by 8 AM on the day they report to the workplace.

Employees who have received a positive COVID-19 test or have been diagnosed with COVID-19 by a licensed healthcare provider, are not required to undergo COVID-19 testing for 90 days following the date of their positive test or diagnosis.

### **Face Coverings**

Unvaccinated Employees must wear face coverings over the nose and mouth when indoors and when occupying a vehicle with another person for work purposes. Policies and procedures for face coverings will be implemented, along with the other provisions required by OSHA's COVID-19 Vaccination and Testing Emergency Temporary Standards (ETS), as part of a multi-layered infection control process. Temporary Face Covering Policies for fully vaccinated employees may be implemented at the Town Administrator's discretion in direct response to the COVID pandemic. The following are exceptions to the Town's policy requirements for face coverings:

1. When an employee is alone in a room with floor to ceiling walls and a closed door.
2. For a limited time, while an employee is eating or drinking at the workplace or for identification purposes in compliance with safety and security requirements.

The Town will provide face coverings for employees, if needed. Employees who do not follow the Face Covering requirements will be disciplined in accordance with the progressive discipline steps outlined in the personnel bylaw or respective Collective Bargaining Agreement.

### **Employee Notification of COVID-19 and Removal from the Workplace**

Any employee will promptly notify the Town Administrator or Assistant Town Administrator/HR Director if they have tested positive for COVID-19 or have been diagnosed with COVID-19 by a licensed healthcare provider.

### **Medical Removal from the Workplace**

Any employee who receives a positive COVID-19 test or has been diagnosed with COVID-19 by a licensed healthcare provider will be sent home immediately to seek medical care as needed. All employees are encouraged to stay home if they are sick.

The employee may return to work under criteria in the CDC's "Isolation Guidance"; or if the employee has received a recommendation to return to work from a licensed healthcare provider.

If an employee receives a positive test result:

- *Employee should quarantine for 5 days and if they are asymptomatic or their symptoms are resolving (without fever for 24 hours without fever-reducing medication), follow that by 5 days of wearing a mask when around others to minimize the risk of infecting people they encounter*
- *Employees who are unvaccinated or are more than 6 months out from their second mRNA dose (or more than 2 months after the J&J vaccine) and not yet boosted, the CDC now recommends employee should quarantine for 5 days and if they are asymptomatic or their symptoms are resolving (without fever for 24 hours without fever-reducing medication), follow that by 5 days of wearing a mask when around others to minimize the risk of infecting people they encounter*
- *Individuals who have received their booster shot do not need to quarantine following an exposure but should wear a mask for 10 days after the exposure, and test after day 5 if possible. However, if the individual begins to experience symptoms, they are to quarantine and test.*
- *Additionally, other symptoms of COVID-19 are improving (loss of taste and smell may persist for weeks or months and need not delay the end of isolation).*

If an employee has severe COVID-19 or an immune disease, the Town of Stow will follow the guidance of a licensed healthcare provider regarding return to work.

### **Confidentiality and Privacy**

*All medical information collected from individuals, including vaccination information, test results, and any other information obtained as a result of testing, will be treated in accordance with applicable laws and policies on confidentiality and privacy.*

### **New Hires**

All new employees are required to comply with the vaccination requirements outlined in this policy as soon as practicable and as a condition of employment. Potential candidates for employment will be notified of the requirements of this policy prior to the start of employment.

### **Enforcement**

The Town shall take appropriate enforcement measures to ensure compliance, which shall include progressive discipline up to and including termination for non-compliance and termination for any misrepresentation by an employee regarding vaccination status.

### **Questions**

*Please direct any questions regarding this policy to Assistant Town Administrator/HR Director or Town Administrator.*

# **MINUTES**

**Select Board Meeting Minutes**  
**Tuesday, December 14, 2021**  
**Stow Town Building & Zoom**

Present in the Warren Room: Chair Ellen Sturgis, Zack Burns, Cortni Frecha, James Salvie, and Town Administrator Denise Dembkoski

Present via Zoom: Megan Birch-McMichael

Chair Sturgis called the meeting to order at 7 p.m.

**Public Input:**

Dorothy Granat, 11 White Pond Road, expressed her concern regarding bylaws regarding extension of use and structure, and expressed her concern about the license issued last meeting to Mr. Presti.

**Board Member Comments:**

Deb Woods is still accepting wreaths at 453 Great Road for Wreaths Across America. Volunteers are still needed this Saturday at Brookside Cemetery at 12 noon, and people can email her at dwoods453@aol.com with questions or for more information.

Beginning in January, the Select Board will return to Board members only in the room for the meetings due to the increase in Covid cases.

**Recognition**

Board member Salvie wanted to mark the passing of Penny Garsik, who died on November 22<sup>nd</sup>, noting that she was one of those people who helps make a town a community. She volunteered at the COA and helped many families work through the challenges of at-home health care.

**Appointments**

Appointment of Police Detectives

Chief Michael Sallese, Brendon Fitzpatrick, and Christopher Kusz were present in the Warren Room. Chief Sallese explained that two detective positions opened up during the past year due to promotions. Also, the Citizens Police Academy will begin in February and information is posted on the Police Department website.

*Board member Salvie moved to appoint Brendan Fitzpatrick and Christopher Kusz to the position of Police Detective to the Stow Police Department through June 30, 2023. Board member Frecha seconded the motion and it passed unanimously.*

Appointment to Stow Housing Authority

*Board member Salvie moved to appoint Steve Jelinek to the Stow Housing Authority to fill an unexpired term until the May 2022 Town Election. Board member Frecha seconded the motion and it passed unanimously.*

**Town Administrator (TA) Report**

- There is a need for a bylaw review committee. The TA asked the Board if she and the Asst TA can begin work on the personnel bylaw and have the updates ready for the spring Town Meeting.
- The Local Access Channel Advisory Committee (LACAC) is in the process of contract negotiations with Comcast and hope to have a draft soon.
- The Library Building Committee met last week and unanimously selected Option C, which is the tear down of the 1970 version and building a smaller, more efficient addition.

### **Litigation Update with Attorney William Hewig**

Attorney Hewig gave an update on active litigation cases, including:

In *Perisho v. the Stow Board of Health*, both parties have filed their briefs seeking judgment, and the court will decide who is correct. The hearing is set for June 2022.

The *Town of Stow v. Howard Stein Hudson Associates* is in the discovery phase, and the goal is to settle the case or refer it to mediation to avoid more litigation expenses. This case will be discussed in a March Executive Session.

In *Fisher v. the Stow Zoning Board of Appeals*, Town Counsel has a passive role as this is a case between abutters.

### **ARPA Funds and Spending Process**

The Town Administrator is having the Town's auditing firm review the consultant's calculations for revenue replacement before spending begins. The Board discussed having the TA put together a working group and come back to the Select Board with a draft of proposals so further discussion by the Board is focused. It is important to tie any project to a department that will then be responsible for future expenditures and maintenance.

**Request for Amicus Brief in support of OARS appeal of the EPA permit issued to Marlborough Westerly Wastewater Treatment Plant:** This agenda item was tabled.

### **Liquor License Change of Manager – Nickrosz Spirits, Inc. dba Colonial Spirits of Stow**

Leonard Nickrosz and Mary Lou Terreri were present via Zoom.

The manager needs to be changed from Leslie Scott Wilson to Mary Lou Terreri. The paperwork has been completed and is ready to be sent to the ABCC (Alcoholic Beverages Control Commission).

*Board member Salvie moved to approve the Liquor License Change of Manager Application for Nickrosz Spirits, Inc. dba Colonial Spirits of Stow. Board member Frecha seconded the motion and it passed unanimously.*

### **Board of Health COVID Update**

Merrily Evdokimoff and Marcia Rising from the Board of Health (BOH) were present via Zoom.

The BOH met on December 2 and discussed a possible mask mandate for the Town. Ms. Evdokimoff reviewed COVID positivity rates in area towns that have mask mandates. Board member Salvie asked to discuss, at a future time, having a vaccine mandate for Town buildings because we do invite the public into our buildings.

### **2022 Liquor License Renewals**

The licenses for Nancy's Air Field Café and Stowaway Golf will be approved but will not be released until they have a Certificate of Occupancy from the Building Commissioner.

*Board member Salvie moved to renew the Town's 2022 Liquor Licenses for the following businesses, and their respective Common Victualer Licenses, and approve the release of said licenses only upon a satisfactory inspection by the Building Department:*

- *Stow Food & Beverage LLC (Stow Acres), 58 Randall Rd – On-Premises – All Alcohol & Common Victualer*
- *J. Melone & Sons d/b/a Stowaway Golf, 121 White Pond Rd – On Premises – Wine & Malt & Common Victualer*
- *Nickrosz Spirits, Inc. d/b/a Colonial Spirits of Stow, 117 Great Rd – Package Store – All Alcohol*
- *AL & BC, 8 Hudson Road – Package Store – All Alcohol*
- *Robert Page III LLC d/b/a Butternut Farm Golf Club, 115 Wheeler Rd – On-Premises – All Alcohol & Common Victualer*



- *Wedgewood Country Club of Stow Inc. d/b/a Wedgewood Pines Country Club, 215 Harvard Rd - On-Premises – All Alcohol & Common Victualer*
- *J. Salamone Enterprises, Inc. d/b/a Russell's Convenience Store of Stow, 390 Great Road – Package Store – Wine & Malt*
- *The Air Field Café, Inc. d/b/a Nancy's Air Field Café, 302 Boxboro Rd - On-Premises – All Alcohol & Common Victualer*
- *Red River Rock, Inc. d/b/a Red Ginger Restaurant, 117 Great Road - On-Premises – All Alcohol & Common Victualer*
- *29 Culinary, LLC d/b/a Nan's Market, 271 Great Road – Package Store – Wine & Malt*
- *Honey Pot Hill Orchards LLC, 138 Sudbury Road – Farmer Winery Pouring Permit – Wine & Malt & Common Victualer*

*Board member Frecha seconded the motion and it passed unanimously.*

**2022 Common Victualer Renewals**

*Board member Salvie moved to renew the Town's Common Victualer Licenses for 2022 for Dunkin Donuts @Stow Gulf Station, 626 Great Road and Delta Epsilon, Inc d/b/a Stow House of Pizza, 156 Great Road.*

*Further, Board member Salvie moved to renew the Common Victualer License for the Stow Café at 118 Great Road and Emma's Café, 117 Great Road, pending satisfactory receipt of all required documentation and outstanding taxes.*

*Board member Frecha seconded the motion and it passed unanimously.*

**Class II license renewals**

*Board member Salvie moved to renew the Town's Class II License for the following business for 2022:*

- *Great Road Fuels, 368 Great Road*

*Board member Frecha seconded the motion and it passed unanimously.*

**Meeting Minutes**

*Board member Salvie moved to accept the meeting minutes of the November 23, 2021 meeting as written. Board member Frecha seconded the motion and it passed 4-0-1 with Board member Burns abstaining.*

*Board member Salvie moved to accept the meeting minutes of the December 7, 2021 meeting as written. Board member Frecha seconded the motion and it passed unanimously.*

**Correspondence**

*Chair Sturgis thanked Carol Lynn, the Select Board representative to the Green Advisory Committee, for the meeting minutes from the Committee.*

**Adjournment**

*At 8:04 p.m., Board member Salvie moved to adjourn. Board member Frecha seconded the motion and it passed unanimously.*

Respectfully submitted,

*Joyce Sampson*, Executive Assistant

**Documents used at this meeting:**

*Documents can be found in the Select Board's Office in the meeting folder.*

# **CORRESPONDENCE**

**From:** Hogan, Kate - Rep. (HOU) <Kate.Hogan@mahouse.gov>  
**Sent:** Friday, December 17, 2021 12:26 PM  
**To:** Denise Dembkoski; JP Benoit; selectboard  
**Cc:** Tighe, Griffin (HOU)  
**Subject:** ARPA Funds for the Development of Stow's Firefighting Cisterns

Dear Denise, Chief Benoit, and Members of the Stow Selectboard

In light of the passage of H 4269, a \$4 billion dollar spending package that allocates American Rescue Act (ARPA) funds and FY21 surplus state tax revenues, I'm writing to congratulate you and confirm that Stow will be receiving \$300,000 for the installation of new firefighting cisterns to increase capacity and enhance climate adaption. I'm grateful for the partnership and input that you and other Stow town leaders provided and pleased that my earmark to secure these funds was included in the recently passed spending bill.

This money will enhance Stow's firefighting water sources while ensuring water supply even during severe drought conditions, as we anticipate and mitigate for climate change. Stow's Water Supply Coordinator has identified 11 critical areas of town with the possibility of space and demographics to install cisterns. Thus this money will be allocated to address these critical areas urgently.

My office will continue to monitor the timeline for the dispersion of funds and be in touch after the Holidays. Thank you, Denise and Chief Benoit for your terrific management of the town and the Stow Fire Department. And to you, Stow Selectboard Members, for your stalwart leadership, as always. I am so fortunate to call Stow my home and grateful to have you all as neighbors. If you have any questions, please do not hesitate to reach out to me or my office.

Happy Holidays,  
Kate

State Representative  
Third Middlesex District  
Speaker Pro Tem  
Massachusetts State House  
(617) 722-2600  
[Kate.Hogan@mahouse.gov](mailto:Kate.Hogan@mahouse.gov)

***Stay connected with Rep. Hogan***

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Joyce Sampson

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**From:** Ellen Sturgis  
**Sent:** Wednesday, January 5, 2022 6:10 PM  
**To:** Joyce Sampson  
**Cc:** Denise Demboski  
**Subject:** Fw: [Stow MA] Lower Village "gas station" (Sent by Lucia Carrington, Lucia.carrington@yahoo.com)

please add to correspondence. thank you.

*Ellen Sturgis, Stow Selectboard*

esturgis@stow-ma.gov

978-460-0883 cell

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**From:** Contact form at Stow MA <cmsmailer@civicplus.com>  
**Sent:** Wednesday, January 5, 2022 5:22 PM  
**To:** Ellen Sturgis <esturgis@stow-ma.gov>  
**Subject:** [Stow MA] Lower Village "gas station" (Sent by Lucia Carrington, Lucia.carrington@yahoo.com)

Hello esturgis,

Lucia Carrington ([Lucia.carrington@yahoo.com](mailto:Lucia.carrington@yahoo.com)) has sent you a message via your contact form (<https://www.stow-ma.gov/user/4696/contact>) at Stow MA.

If you don't want to receive such e-mails, you can change your settings at <https://www.stow-ma.gov/user/4696/edit>.

Message:

Dear Ellen, I have lived in Stow for 6 years. A few positive changes have happened in the Lower Village but of course much still needs to be done. I would like to know if it's possible for the town to buy the former gas station and turn it into a park. It seems the town of Bolton did this very thing in their center of town. The town of Stow has purchased many acres to limit the building of houses etc and to keep the town of Stow rural with farms and apple orchards but the Lower Village still looks like heck! The gas station is up for sale so why not buy it and tear it down! How does something like this proposal get before the town meeting? or even get discussed? Thank you for your time. Lucia Carrington.  
Boxboro Rd., Stow

## Phoebe Haberkorn

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**From:** Cortni Frecha <cortni.frecha@gmail.com>  
**Sent:** Thursday, December 30, 2021 11:02 PM  
**To:** selectboard  
**Subject:** Fwd: Town Hall Restoration

FYI.

I think it is important that the board have another discussion of bonding CPA funds, especially in the context of the Town Hall, but also as a general approach to CPA spending which we are NOT in control of. But we are going to be asked to give our opinion of the project, the funding approach.

cheers,  
Cortni

----- Forwarded message -----

**From:** Doug Hyde <[building3@stow-ma.gov](mailto:building3@stow-ma.gov)>  
**Date:** Thu, Dec 30, 2021 at 2:38 PM  
**Subject:** Town Hall Restoration  
**To:** All Employees <[AllEmployees@stow-ma.gov](mailto:AllEmployees@stow-ma.gov)>  
**Cc:** [abcrosbystowma@gmail.com](mailto:abcrosbystowma@gmail.com) <[abcrosbystowma@gmail.com](mailto:abcrosbystowma@gmail.com)>, Ed DeLuca <[eed.stow.cp@gmail.com](mailto:eed.stow.cp@gmail.com)>, [cortni.frecha@gmail.com](mailto:cortni.frecha@gmail.com) <[cortni.frecha@gmail.com](mailto:cortni.frecha@gmail.com)>, Kevin Gross <[kevinceegross@gmail.com](mailto:kevinceegross@gmail.com)>, Don Mills <[donmills@millswhitaker.com](mailto:donmills@millswhitaker.com)>

Hi everyone,

The Town Hall Restoration Committee has just added a narrated power point presentation and a compilation of the most asked questions (with committee responses) from our recent questionnaire. It is our hope that the Boards and Committees who will be reviewing this project will take a moment to review these documents, particularly CPC, Select Board, Fin Com, Cap Planning. Please feel free to forward this to your board/committee members who might not be on this distribution list. We look forward to meeting with you as we prepare for the May 2022 ATM.

Thank you. Doug Hyde THRC chair

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Cortni Frecha

**From:** Dorothy Granat <lexifilly@icloud.com>  
**Sent:** Tuesday, December 21, 2021 7:34 PM  
**To:** Denise Dembkoski; selectboard; Karen Kelleher; Jesse Steadman; Malcolm Ragan  
**Subject:** Inspection of 84-102 Great Rd. in regards to waste water and Title V

Dear Town Administrator Select Board and Planning Board,

I wish to bring attention to the findings of Jim Rafferty, from Nashoba Associated Board of Health. Massachusetts Department of Environmental Protection forwarded my concern regarding car washing, other than residential, as it pertains to safety of drinking water. This information should be kept in mind with any permits, variance, licenses etc. that are given in relation to the property.

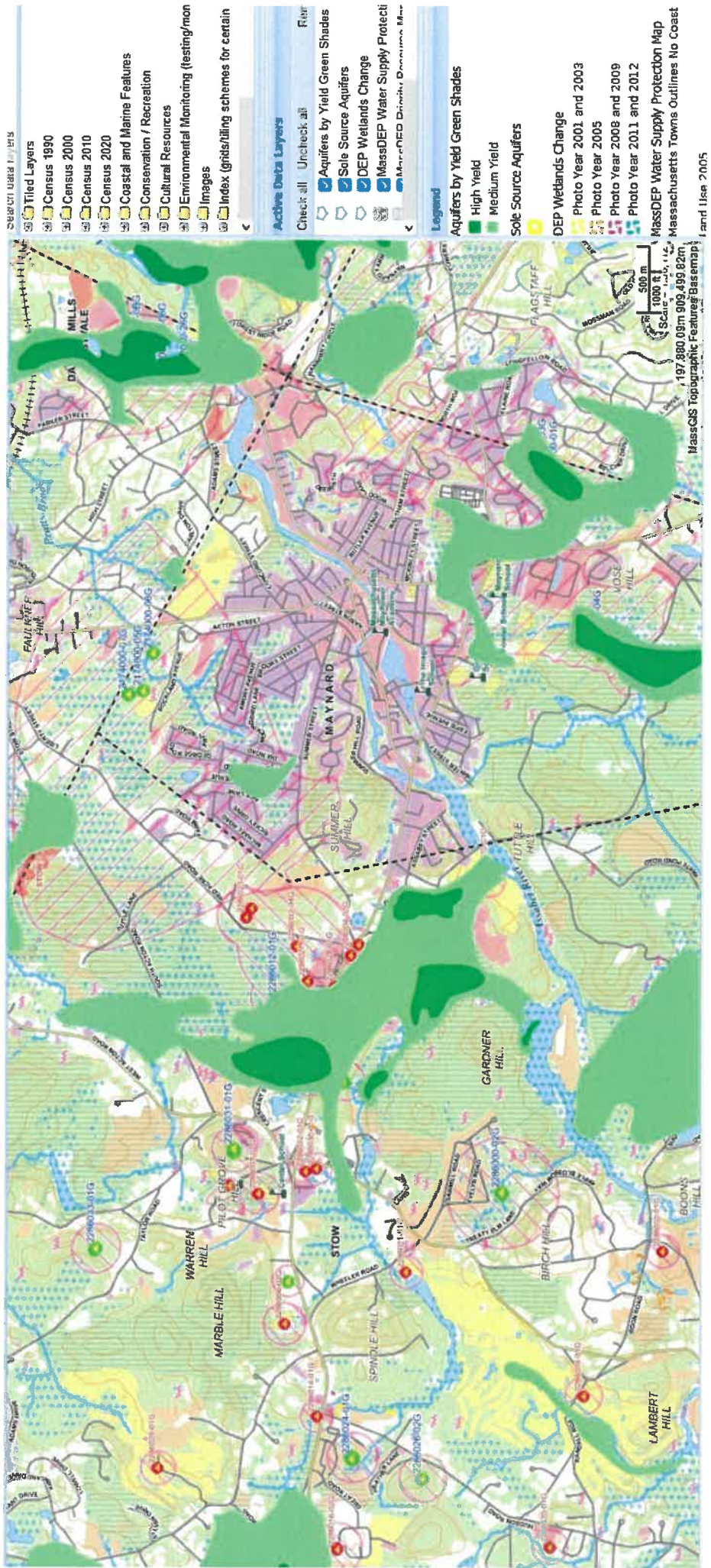
Jim Rafferty's notes were given to the Stow Board of Health. To summarize, water from a business washing vehicles and or water that may have traces of oils, fuels, chemicals and so on from maintenance or repair can not go into a Title V Septic and can not be allowed to seep into the ground. Any such water must go into a holding tank, to be collected by a service such as Safe Harbors. There is no such holding tank on the property. Jim's description of one of the drains and area around it, matched information I had been provided regarding Infinite Auto having had bypassed the sealing of a drain, by means of a jack hammer or similar tool. I explained to Jim, that I would like future inspections to ensure such action does not occur again. He stated he had requested, inspection by a plumber to the area around the drain in question.

The licenses should be amended to include that washing of cars is not allowed on the property, unless an approved holding tank system has been installed and inspected and an agreement for waste water pick up has been made. Taking advantage of inspections afforded to licensing party and designated others, at ANY time without prior appointment, as described in MGL 140, maybe prudent in protecting the ground water. The drains and floors could be inspected to be sure there is no sign of opening to drain or related plumbing and records for proper waste oil disposal could be seen.

I still maintain that the Select Board should not have taken on evaluating use and amount of use, at the site. It is a pre-existing non conforming. The Zoning Board should have reviewed it for use and amount of use. The Select Board should not decide on the number of cars. That should be evaluated by the Select Board. Referring to ZBA findings from the past, is not adequate. Clear information regarding number of cars is not given in those findings. The cars need to fit in the area that was cleared when Mr. Presti purchased the property. If he still wishes to claim all the uses he put on his application, then allowance for those uses in addition to the cars has to be made all on the area that was cleared when he purchased the property.

I again state, that I request that this is addressed as an item on the agenda. There has been time to discuss the matter. I do feel, as now once an agenda is published, comments regarding items on the agenda will not be in the packet, that I should share my concern on certain social media. I will clear in what are facts and what are my opinions. While I was in agreement of providing facts in relation to two ads or letters in the Independent, on the website, if there names were given on social media as I was informed, I do hope that was done with regret. There is no need. Perhaps some understanding of how the mistrust has, understandably so, grown is warranted.

Sincerely,  
Dorothy Granat



**From:** Dorothy Flood-Granat <lexifilly@icloud.com>  
**Sent:** Wednesday, January 5, 2022 2:13 PM  
**To:** selectboard; Denise Dembkoski  
**Subject:** Status of requests for the agenda

Dear Select Board Chair, Select Board Members and Town Administrator,

I would like to know the status of my request for addition to the agenda of

1. The Select Board to add to the agenda, a review of their actions and decisions related to licensing, that the bylaws clearly state are under the jurisdiction of the Zoning Board of Appeals
2. A discussion that would explain how, without some prior communication outside of a public meeting, could all members (except Mr. Burns, as he was not present), vote for the "renewal" of Mr. Presti's license with NO discussion. I had praised, the manner in which the chair handled having been informed she had broken the Open Meeting Law lazy year. Recently, I was saddened to read she had been formerly found guilty of doing so in the past. Though it was noted it was felt she had not known she was doing so, recommendation of review of the law was made. With this information, in conjunction with my knowledge of the history of favoritism and at times outright protection from following bylaws given to Mr. Presti, I feel there is even more of a need for this to be discussed - put on the agenda.

"The simple step of a courageous individual is not to partake in the lie. One word of truth outweighs the world."  
Aleksandr Solzhenitsyn

This Nobel Prize winner's words are truly universal.

Dorothy Granat



We received the following  
email from a resident.

The 19 page attachment was sent to the  
Select Board members and is available in  
the Select Board office.

Joyce Sampson

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**From:** Kathleen Fisher <katiefisher76@gmail.com>  
**Sent:** Thursday, January 6, 2022 11:47 AM  
**To:** selectboard  
**Subject:** 92 Great Road Licenses - Please review  
**Attachments:** Letter to The Select Board 92 Great Road Licenses.PDF

Dear Select Board Chair Ellen S. Sturgis, Members: Zack Burns, Megan Birch-Michael, Cortni Frecha, James H. Salvie and Denise Dembkoski Stow Town Administrator

Please put the licenses on 92 Great Road on your agenda for review. I have attached a letter related to 84 Great Road and the new issues created by the changes in Licenses.

Regards,

***Kathleen Fisher***  
978-660-4318

1 White Pond Rd.  
Stow, MA 01775  
Direct: 978-660-4318  
KatieFisher76@Gmail.com

# CORRESPONDENCE

Additional correspondence on file in the office:

- Xfinity TV notice of programming change
- Fios TV notice of programming change
- Conservation Commission Notice of Public Hearings:
  - 1/4/2022 – Radant Technologies, 255 Hudson Rd
  - 1/4/2022 – ANRAD, Randall Rd Map R11, Parcel 25B-3
  - 2/15/2022 – 66 Pine Point R
- ZBA Notice of Public Hearing:
  - 2/7/2022 - 92/102 Great Rd
- ZBA Notice and Decisions:
  - 4 Kirkland Dr
  - 126 North Shore Dr
  - 84-102 Great Rd