


MELROSE POLICE DEPARTMENT		Department Manual: Policy No. 4.13
USE OF FORCE		
MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: 1.2.2; 1.3.1; 1.3.2; 1.3.3; 1.3.4; 1.3.5; 1.3.6; 1.3.7; 1.3.8; 1.3.9; 1.3.10; 1.3.11; 1.3.12; 1.3.13		GENERAL ORDER 1U-001
Effective Date: January 28, 2008 September 24, 2012(GO 1U-001) Revised & Reissued September 24, 2012/ September 24, 2018 January 29, 2021 April 6, 2021 REFERENCES: M.G.L. C 140 § 121 & C. 111§ 51/1/2a Senate Bill 2963 (12/10/20) House Bill 4794 (06/17/20)	Issuing Authority <i>Michael L. Lyle</i> Michael L. Lyle Chief of Police	

MELROSE POLICE DEPARTMENT

I. GENERAL CONSIDERATIONS AND GUIDELINES

The Melrose Police Department's *Use of Force Policy* provides specific written guidelines regarding the reasonable use of necessary force that may be used by Melrose Police Officers while they are serving and protecting the greater community at large. This Use of Force Policy is based from federal, state, and local law as well as existing best practices of accredited law enforcement agencies across the nation. Each and every day officers are continually involved in numerous and varied interactions and encounters with members of the community. The Melrose Police Department trains each one of our police officers to have a complete and accurate understanding of, and true appreciation for, their individual statutory and common law authority as well as the existing limitations to this authority. This is especially true with respect to overcoming resistance - whether armed or not - while engaged in the performance of lawful law enforcement duties and responsibilities.

As you are aware, the men and women of the Melrose Police Department place the highest value on the sanctity of life, the protection of the public, the safety of our officers all

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the while respecting individual freedoms, liberty and dignity of every individual that we have occasion to encounter, engage or assist. Because of our law enforcement responsibility and our peacekeeping role, a Melrose Police Officer may at times be called upon and even required to utilize some type of physical force, however slight, to enable our officers to fully carry out their law enforcement responsibilities in maintaining order especially when met with significant resistance or when the individual that is confronted is in the act of causing or attempting to cause injury to another person. Police officers may be confronted with situations requiring or resulting in the use of various degrees of force to not only affect a lawful arrest, but to ensure public safety and to protect themselves or others from imminent harm. The degree of force used is strictly dependent upon the facts and circumstances surrounding the situation that the officer encounters. Our police officers are trained that only a reasonable and necessary amount of force may be used and is dependent upon the intensity of resistance or threat to the safety that the situation presents, and the lack of any less restrictive available alternatives.

It should be understood that the rationale for the use of force is always to maintain and/or reestablish control over a volatile situation and never to be used in a retaliatory manner. Control is reached when a person complies with the officer's directions and/or the suspect is restrained or apprehended and no longer presents a threat to the officer or another. Since an officer will encounter a wide range of behaviors, the officer must be prepared to utilize a range of force options that are both reasonable and necessary to maintain and/or reestablish control by overcoming resistance to the officer's lawful authority while minimizing injuries. **Officers are further trained that whenever a particular force option is utilized against an individual who fails to comply with the reasonable and lawful commands of the officer(s), that particular force option shall terminate, when it is deemed to be objectively reasonable that a subject is fully within the law enforcement officers' control.**

Because there are an unlimited number of possibilities, allowing for a wide variety of circumstances, no written directive can offer definitive answers to every situation in which the use of force might be appropriate. Rather, this directive will set certain specific guidelines and provide officers with a concrete basis on which to utilize sound judgment in making reasonable and prudent decisions.

The Melrose Police Department recognizes that the development of certain skills and abilities through ongoing training allows an officer to regularly resolve confrontations and disturbances without the need to resort to force is a hallmark of a professionally trained police officer.

II. POLICY

- A. All officers of the Melrose Police Department shall use reasonable and necessary force to overcome resistance to lawful objectives when alternative methods and tactics are either impractical, ineffective or pose a greater risk. **1 . 3 . 1**

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- B. Members of this Department may use lethal force only when the officer reasonably believes that the action is in defense of human life, including the officer's own life, or in defense of any person in immediate danger of serious physical injury. Officers may also use lethal force to prevent the escape and effect the arrest of an individual whom the officer has probable cause to believe has committed a felony involving the use, attempted use or threatened use of lethal force and whom the officer reasonably believes will cause death or serious physical injury if apprehension is delayed. (See Lethal Force in this Policy). [1.2.2](#), [1.3.2](#)

- C. In each individual instance, lawful and proper force is restricted to only that force necessary to control and terminate unlawful resistance and to prevent any further physical attack against the police officers or any other person. This would include lethal or less lethal force, with lethal and less-lethal weapons, or weapons of opportunity to terminate unlawful resistance and to prevent any further physical attack upon the officers or any other person.

- D. This policy requires strict adherence by all personnel including but not limited to all sworn full- time permanent police officers, and retired part-time officers.

- E. All of the provisions contained within this Melrose Police Department Use of Force Policy shall strictly adhere to all applicable statutory and constitutional provisions of federal, state, and local laws including but not limited to the holdings by the United States Supreme Court and the Massachusetts Supreme Judicial Court in:
 - a. Graham v. Connor, 490 US 386 (1989)
 - b. Tennessee v. Garner, 471 US 1 (1985)
 - c. Commonwealth. v. Adams, 416 Mass. 568 (1993)
 - d. Commonwealth. v. Klein, 372 Mass 823 (1977)
 - e. Commonwealth v. Martin, 369 Mass 640 (1976)

- F. 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.

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- G. 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.
- H. Any harassment, intimidation or retaliation against the officer who made such report regarding the witnessed excessive force shall be a violation of this department policy and shall upon a sustained internal administrative investigation be subjected to the imposition departmental discipline up to and including termination.
- I. The officer shall prepare a written statement describing the incident consistent with policy. The officer's written statement shall be included in the supervisor's report.

III. DEFINITIONS

- A. *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. Chokeholds are strictly forbidden by statute and are not trained by this department.*

** Chokeholds -- a physical maneuver that restricts an individual's ability to breathe for the purposes of incapacitation shall not be used, except in those situations where the use of deadly force is allowed by law.*

- B. *Force:* Any physical effort used to compel, repel and/or control.
- C. *Less /Non-Lethal Force:* that force which is not likely or intended to cause serious bodily harm or death. Officers are authorized to use less lethal force that is necessary and proportionate where de-escalation tactics have been attempted and failed or are not feasible based on the totality of the circumstances.
- D. *Lethal Force:* That force which is likely or intended to cause serious bodily harm or death. A law enforcement officer shall not use deadly force upon a person unless de-escalation tactics have been attempted and failed or are not feasible based on the totality of the circumstances

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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. 1.3.2

- E. *Deadly Force*: Physical force that can reasonably be expected to cause death or serious physical injury. A law enforcement officer shall not use deadly force upon a 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 to prevent imminent harm to a person and the amount of force used is proportionate to the threat of imminent harm.

Note: Lethal Force also referred to as Deadly Force (above) is that degree of force that can reasonably be expected to cause death or serious physical injury. A law enforcement officer shall not use deadly force upon a 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 to prevent imminent harm to a person and the amount of force used is proportionate to the threat of imminent harm. 1.3.2

- F. *Bodily Harm*: A bodily injury that does **not** create a substantial risk of death; causes serious and/or permanent disfigurement; or results in significant loss or impairment of the functioning of any body part.

- G. *OFFICER-INVOLVED INJURY OR DEATH*. Any event during which an officer: (i) discharges a firearm, as defined in section 121 of chapter 140, actually or proximately causing injury or death to another; (ii) discharges any stun gun as defined in said section 121 of said chapter 140, actually or proximately causing injury or death to another; (iii) uses a chokehold, actually or proximately causing injury or death of another; (iv) discharges tear gas or other chemical weapon, actually or proximately causing injury or death of another; (v) discharges rubber pellets from a propulsion device, actually or proximately causing injury or death of another; (vi) deploys a dog, actually or proximately causing injury or death of another; (vii) uses deadly force, actually or proximately causing injury or death of another; (viii) 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 (ix) engages in a physical altercation with a person who sustains serious bodily injury or requests or receives medical care as a result.

- H. *Serious Bodily Harm*: (Serious Bodily Injury) A bodily injury that creates a substantial risk of death; causes serious and/or permanent disfigurement; or results in significant loss or impairment of the functioning of any body part (limb or organ).

- 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.

IV. PROCEDURES

A. Use of Force by Sworn Officers

1. SWORN OFFICERS: Officers use only the force that is reasonably necessary to accomplish lawful objectives such as to make a lawful arrest, to place a person into protective custody, to effectively bring an incident under control, or to protect the lives or safety of the officer and others. **1.3.1**
2. PERCEIVED CIRCUMSTANCES: The level of force used by an officer shall be a response based upon:
 - a. Threat Perception - the reasonable officer's perspective of the situation in reference to the severity of any crime, the existence of an immediate safety threat to the officer or others, and the degree of compliance from the subject;
 - b. Perceived Subject Action(s) - the subject action(s) as perceived by the reasonable officer.
 - 1) Compliant: The officer maintains or gains compliance to desired directives via options of tradition, time, communication skills, etc.
 - 2) Passive Resistive: The subject's degree of noncompliance is free of physical or mechanical enhancement, other than sheer unresponsiveness.

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- 3) Active Resistive: The subject's noncompliance has become more active in scope and intensity to a level of energy enhanced physical or mechanical defiance.
- 4) Assaultive (Bodily Harm): An actual attack upon the officer or others. The scope and severity of the attack would not support the reasonable officer's assessment of death or serious bodily harm to occur to the officer or others.
- 5) Assaultive (Serious Bodily Harm/Death): The reasonable officer could conclude that death or great bodily harm may be inflicted as a result of the subject's actions.

3. REASONABLE OFFICER RESPONSES:

- a. Cooperative Controls: (Compliant) - Includes the subject's acceptance of authority by the use control techniques including; communication skills, common tactics, body language, etc.
- b. Contact Controls: (Passive Resistant) - "Hands on" techniques used to guide or direct the subject. The primary force component at this level could be non-pain compliance techniques, etc.
- c. Compliance Techniques: (Active Resistant) - The force forms could include elements of pain compliance, chemical substance/irritants, joint restraints, electrical weapons in drive stun mode, etc.
 1. 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 must be justifiable. First aid shall be administered as soon as practicable under the circumstances. Upon arrival at Police Headquarters the subject shall be given the opportunity to wash with warm water. Subjects who have been sprayed are to be transported by ambulance 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,

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emphysema, bronchitis, heart ailment, etc.) that may be aggravated by the application of OC spray. **1.3.5**

- d. **Defensive Tactics: (Assaultive)** – The officer is justified in taking appropriate steps to immediately cease the assaultive action and to gain compliance and maintain control of the subject. Force could include weapon (baton) strikes, electrical weapon deployment, and canine apprehension.
- e. **Deadly Force: (Lethal)** - Absolute and immediate tactics must be deployed to stop the lethal risk and secure conclusive compliance and control. Force options could include those leading to permanent debilitation or even death, including firearms and weapons of available means.

B. Use of Deadly Force (1.3.2)

- 1. Officers are authorized to use deadly force to:
 - a. **Protect** the officer or others from what is reasonably believed to be a threat of death or serious bodily injury; and/or
 - b. To affect an arrest only if:
 - 1) The arrest is for a felony;
 - 2) The officer reasonably believes that the force employed creates no substantial risk to innocent persons; and
 - 3) The officer reasonably believes (i.e. has "probable cause" to Believe) that:
 - a) The crime for which the arrest is to be made involved conduct including the use or threatened use of deadly force; or
 - b) There is a substantial risk that the person to be arrested will cause death or serious bodily harm if such person's apprehension is delayed.
 - c) Where practical and if and if time circumstances permit, officers shall verbally identify themselves as police officer and give some warning before using deadly force.
 - * Warning shots are strictly prohibited. 1.3.3 (See Section C-1, page 9, Warning Shots)

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2. Where practical prior to discharging a firearm, officers shall identify themselves as law enforcement officers and state their intent to shoot.
3. Officers may use deadly force to euthanize an animal that represents a threat to public safety or as a humanitarian measure where the animal is seriously injured when the officer reasonably believes that deadly force can be used without harm to the officer or others.

C. Deadly Force Restrictions

1. WARNING SHOTS: **Warning shots are strictly prohibited!** Cover fire or distraction shots may be fired if an officer is authorized to use deadly force and only if the officer reasonably believes any shot can be fired safely in light of all circumstances of the encounter.
2. MOVING VEHICLES: Officers should refrain from discharging a firearm at a moving or fleeing vehicle unless any occupant is using or threatening to use deadly force to the officers or others. In addition officers shall not shoot from a moving vehicle, unless there is an immediate threat of death or serious injury to the officer or to others. Officers should not shoot when the vehicle and its occupants are no longer an imminent threat.

D. Use of Non-Lethal Force

1. Where deadly force is not authorized, officers may use only that level of force that is reasonably necessary to bring an incident under control.
2. Officers are authorized to use department issued and/or approved, non-lethal force techniques and issued equipment to: **1.3.4**
 - a. Protect the officer or others from physical harm;
 - b. Restrain or subdue a resistant individual, while making a lawful arrest or placing a person in protective custody; and/or
 - c. Bring an unlawful situation safely and effectively under control.
3. The mere placing of handcuffs on a prisoner will not be construed to be a use of physical force. Use of restraining devices is mandatory on all prisoners, unless in the officer's judgment unusual circumstances exist which make the use of restraining devices impossible or unnecessary (e.g., very young juvenile, handicapped, injured). **1.3.4**

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4. The use of neck restraints or control techniques, commonly known as choke holds, have a potential for serious injury therefore, are not authorized. 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**

5. After any level of less lethal force is used, the officer shall immediately evaluate the need for medical attention or treatment for that person upon whom the force was used and arrange for such treatment when: **1.3.5**
 1. That person has a visible injury; or,
 2. That person complains of injury or discomfort and requests medical attention.

NOTE: Any person requesting and/or deemed in need of immediate medical attention shall be transported by ambulance (in accordance with departmental transportation procedures) to the nearest available emergency treatment center or hospital. All medical treatment received shall be noted in the officer's report.

6. The officer shall prepare and submit all required reports. If more than one officer is involved in a use of force incident resulting in an injury, each officer shall complete a separate report outlining his actions and observations in the incident. **1.3.6 a, b, c, d**

7. The Patrol Supervisor shall immediately respond to the scene of any incident where, as the result of the application of physical force, an officer is injured, or a detainee has a visible injury, or complains of injury or discomfort and requests medical attention, and he/she shall: **1.3.5 , 1.3.6 b, c, d; 1.3.7; 1.3.13**

1. Ensure that officers receive any necessary assistance, including medical treatment, and that any injuries to officers are properly documented. **1.3.5**
2. Ensure that the need for medical treatment for the detainee is properly evaluated and provided. **1.3.5**
3. 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 that shows Injury.

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4. Report the incident and his observations the Officer in Charge (OIC) at Police Headquarters.

5. Supervisors are required to file an incident report whenever requested to do so by an officer superior to them. Additionally, supervisors are required to file an incident report if an officer was involved in a vehicle pursuit. An exception to this rule would only be if the supervisor was directly involved in the incident, which would require another superior officer to file the incident report (Vehicle Pursuit). **1.3.6 a, b, c, d**

6. All Officers-in-Charge, subordinate supervisors and the Assigned Internal Affairs Supervisor will conduct an written review of all reports concerning each incident where less- lethal or lethal force has been utilized. **1.3.7**

7. A Supervisor Assigned to Internal Affairs Investigation shall also conduct an annual audit of all Incident Related Reports (firearms, defensive weapons, pursuits etc.) which may indicate additional or improved training methods, policy modifications and or equipment upgrades. **1.3.7; 1.3.13**

E. De-Escalation

1. Request a backup officer, and always do so in cases where the individual will be taken into custody.
2. Take steps to de-escalate the situation. 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 have not occurred, avoid physical contact, and take time to assess the situation.

Note: DE-ESCALATION: Members shall use de-escalation techniques whenever possible and appropriate, before resorting to force and to reduce the need for force. De-escalation techniques may include verbal persuasion, warnings and tactical de-escalation techniques, such as slowing down the pace of an incident, waiting out subjects, creating distance (and thus the reactionary gap) between the member and the threat, and requesting additional resources (e.g., specialized units, mental health care providers, negotiators, etc.) to resolve the incident.

A. When reasonable under the totality of circumstances, members should use advisements, warnings, verbal persuasion, and other tactics and alternatives to higher levels of force.

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B. Members should recognize that they may withdraw to a position that is tactically advantageous or allows them greater distance in order to de-escalate a situation or consider or deploy a greater variety of force options, including lesser force or no force at all.

C. Members shall perform their work in a manner that avoids unduly jeopardizing their own safety or the safety of others through poor tactical decisions.

D. Members shall not use tactics designed to intentionally escalate the level of force.

3. In furtherance of the department policy to utilize de-escalation protocols whenever practical – especially when dealing with minor children or an emotionally disturbed person or someone otherwise in crisis, Melrose issued Police Officers should always attempt to implement principles of what is commonly referred to as ICAT (Integrating Communication, Assessment & Tactics). <https://www.policeforum.org/icat-training-guide>

These principles are comprised of carefully developed strategies that train police officers to:

- (1) slow down a situation,
- (2) communicate (have a direct conversation) with the subject who appears to be in crisis and/or distress,
- (3) devise a strategy,
- (4) be willing to create space and distance whenever possible,
- (5) maintain a position of advantage over the subject whenever possible,
- (6) assess and continue to reassess the situation,
- (7) work as a well-coordinated team with other personnel on the scene,
- (8) have one individual designated as the contact officer (communicator with the subject),
- (9) designate cover officer(s) to keep the scene safe and contained,
- (10) isolate the subject to prevent others from being in harm's way,
- (11) have an initial plan devised but be ready to shift with a backup plan in a moment's notice should the initial plan fail, and
- (12) intervene only if there is an immediate threat.

Note: The Melrose Police Department fully recognizes that there are those times where a subject may not be amendable to the aforementioned ICAT principles or the subject may become assaultive toward the officer(s) and/or others with a dangerous weapon. In these situations ICAT does not prevent an officer from using a justified use of force option - to include lethal force - if the situation warrants, especially if a firearm is involved. ICAT principles have been developed to make the option of lethal (deadly) force as a last resort

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where the officer needs to protect the public or themselves from imminent danger of serious bodily injury or death.

4. While the force continuum does 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 possibility of a violent outburst by the subject.

Once a mentally disturbed; emotionally disturbed or physically disabled person has been controlled, officers should consider whether common restraint tactics may be more dangerous to the individual due to the subject's mental, emotional or physical status.

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.

F. After Care

1. ***ELECTRICAL WEAPONS:*** At this time the Melrose Police Department has not authorized the use of Electrical Weapons.

2. ***CHEMICAL WEAPONS:***

- a. Pepper Spray*

- 1) Suspects subdued through the use of pepper spray may need to be decontaminated. Officers should refrain from decontaminating detainees while they are violent or assaultive.
- 2) Remove suspect from contaminated area. If the subject was sprayed in a closed room or vehicle, ventilate the area.
- 3) Suspects should be instructed to try to be calm and not to touch their face if wearing contact lenses, remove as soon as reasonably possible.
- 4) Decontamination wipes may be used if available.
- 5) Allow suspect access to a running hose, holding cell sink or eye wash station if circumstances permit. The affected area may be washed with soap and water.
- 6) Creams and oils should be avoided as they lock the capsicum against the skin.

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- 7) If symptoms such as breathing difficulties, gagging, profuse sweating and loss of consciousness persist, seek medical attention.

F. Medical Attention [1.3.5]

1. After any level of force is used (including weaponless tactics), the officer shall immediately evaluate the need for medical attention or treatment for that person upon whom the force was used and arrange for such treatment when:
 - a. The suspect is in obvious need of medical attention.
 - b. The suspect has a serious visible injury; or
 - c. The suspect complains of injury or discomfort and requests medical attention.
2. Injury to Prisoner: See department policy on ***Use of Force Reporting***.
3. Any person requesting and/or deemed in need of immediate medical attention shall be evaluated by medical personnel or transported (in accordance with the departmental policy on ***Transporting Prisoners*** to the appropriate hospital or medical facility. All medical treatment received shall be noted in the officer's report.
 - a. If the suspect displays Impaired thinking, disorientation, hallucinations and/or delusions, intense paranoia, violent and/or bizarre behavior AND during the arrest exhibits great strength, a diminished sensitivity to pain, the individual may be showing signs of Excited Delirium. During the arrest or immediately after the struggle sudden death may ensue. Arrestees displaying these symptoms should be checked by medical personnel.
 - b. Persons suffering from Cocaine Intoxication, particularly if additional alcohol is used, are subject to increased blood pressure, heart rate and body temperature. Sudden death may occur in such persons. Arrestees displaying these symptoms should be checked by medical personnel.
 - c. Psychiatric patients who display hyperthermia (over heating), are in and out of consciousness and have lumpiness of skeletal muscles may be suffering from Neuroleptic Malignant Syndrome and may also be

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prone to sudden death. Arrestees displaying these symptoms should be checked by medical personnel.

G. *Reporting Use of Force*: See the department's policy regarding *Use of Force Reporting Policy # 4.14*.