



GOVERNMENT OF THE DISTRICT OF COLUMBIA OFFICE OF POLICE COMPLAINTS

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PCB POLICY REPORT #22-2: Use of Hair Holds by MPD Officers

Summary of Issue:

In recent years, the Office of Police Complaints (OPC) received several complaints involving Metropolitan Police Department (MPD) officers who utilized unnecessary or excessive force against community members by pulling their hair. These cases usually involved situations in which the MPD officers resorted to pulling on a community member's hair as a compliance technique even though the reason for the stop was minor, the community member was compliant, and the officer was in no imminent danger. The purpose of this policy recommendation is to highlight MPD officers' over-reliance on this tactic, commonly referred to as a "hair hold," and their inadequate training on its use. Hair holds are a dangerous tactic and when improperly applied they create a serious risk of severe scalp and neck injuries. This report examines the issues surrounding the use of hair holds and specifically examines three examples raised by community members in their OPC complaints.^{1 2}

Applicable Directive or Law:

Under *Graham v. Connor*, the test for an unnecessary or excessive use of force by a police officer is an "objective reasonableness" analysis involving, "a careful balancing of 'the nature and quality of the intrusion on the individual's Fourth Amendment interests' against the countervailing governmental interests at stake."³ This standard, "requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight."⁴ Most importantly, the Supreme Court has ruled that the circumstances leading to the officer's use of force, when taken as a whole, must justify the particular type of force used.⁵ MPD General Order 901.07, Use of

¹ The Police Complaints Board (PCB) is issuing this report pursuant to D.C. Code § 5-1104(d), which authorizes the Board to recommend to the District of Columbia Mayor, Council, MPD Police Chief, and the Director of District of Columbia Housing Authority reforms that have the potential to improve the complaint process or reduce the incidence of police misconduct.

² The PCB would like to recognize and thank legal intern Daniel Lynch for his contributions to this policy recommendation.

³ *Graham v. Connor*, 490 U.S. 386, 395-96 (1989) (citing *Tennessee v. Gardner*, 471 U.S. 1, 8 (1985)).

⁴ *Id.* at 396.

⁵ *Tennessee v. Gardner*, 471 U.S. 1, 8-9 (1985).

Force, relies heavily on this “objective reasonableness” standard, particularly in the Use of Force Framework.

MPD’s Use of Force Framework allows members to use a reasonable amount of force to achieve law enforcement objectives, to prevent physical harm to themselves or others, and to overcome resistance directed at an officer.⁶ Before using force, however, MPD officers must attempt to defuse a situation with de-escalation techniques whenever feasible. When force is used, an officer must use an amount of force that is proportionate to the circumstances, with the Use of Force Framework allowing for increased force commensurate with any increase in the level of the subject’s resistance. The Use of Force Framework also requires MPD officers to consider factors such as the risk of harm posed by the subject, whether de-escalation techniques are available, and the seriousness of the law enforcement objective. Of course, officers cannot know and prepare for every circumstance they may face, but they are expected to respond appropriately and proportionately to the circumstances while adhering to department guidelines.

MPD’s Use of Force Framework classifies individuals into four categories of perceived threats. A Passive Resister is noncompliant to the demands of an officer and provides no physical or mechanical resistance. For this category, an officer is limited to Control Holds, which are low-level physical tactics to gain cooperation, such as soft empty hand controls or a firm grip. An Active Resister is noncompliant, evasive, exhibits physical and mechanical resistance, or acts in a manner that causes an officer to believe the person may be armed. For this category, an officer is authorized to use Compliance Techniques that may induce pain or discomfort but are unlikely to injure the person when used in accordance with department training and standards. Examples include the use of Oleoresin Capsicum (OC) spray, wrist locks, and takedowns among other options. The last two categories of perceived threats are a Threatening Assailant, someone who is actively assaulting an officer but does not pose a risk to life, and an Active Assailant, someone who poses an imminent danger of causing death or serious bodily injury. For the former, Defensive Tactics, or “all force options other than deadly force are available.”⁷ Examples of Defensive Tactics include “strikes, ASP baton strikes, use of a police mountain bike as an impact weapon, electronic control devices (ECDs), and 40mm extended impact weapons in accordance with department training and standards.”⁸ Lastly, an Active Assailant is the only category of perceived threat under the Use of Force Framework which authorizes the use of deadly force.

It is also important to note that MPD policies and procedures place additional restrictions on the use of force by its members. First and foremost, officers may not “use techniques or defensive weapons to apply force unless they have received the requisite training and the technique or weapon has been approved for use by the department.”⁹ Second, the initiation of force by an officer must be proportionate and objectively reasonable.¹⁰ Third, an officer must adjust their use of force as the individual becomes less resistant.¹¹ This requires officers to constantly re-assess the present circumstances and then tailor their use of force to be proportional to any

⁶ See Metropolitan Police Department, General Order (Use of Force), GO-RAR-901.07 (Jan. 1, 2022), available at https://go.mpdconline.com/GO/GO_901_07.pdf.

⁷ *Id.* at 4.

⁸ *Id.*

⁹ *Id.* at 5.

¹⁰ *Id.*

¹¹ *Id.*

changed conditions.¹² Finally, officers cannot threaten or use force to carry out a bias based on a person's race, ethnicity, religion, disability, gender, gender identity, sexual orientation, or any other protected characteristic.¹³

Courts in other jurisdictions have recognized that hair pulling may constitute unnecessary or excessive force. For example, in *Nelson v. Green Oak Twp.*, police officers and public safety personnel responded to a call at Ms. Nelson's house. As she stood in the way of the officers, two of them proceeded to pull her hands behind her back such that they were close to her shoulder blades before they lifted her off the ground by her hair.¹⁴ The officers also "shov[ed,] push[ed,] and pull[ed] on her arms and her hair" while walking her to the patrol car.¹⁵ The court noted that Ms. Nelson had not committed a serious crime, was not trying to flee, did not pose a significant danger to herself or anyone else, and was not resisting arrest.¹⁶ Thus, the U.S. District Court for the Eastern District of Michigan denied the officers' motion for summary judgement because the "situation called for minimal, if any, force" and pulling a handcuffed arrestee from the ground by her hair and raising her arms behind her back could constitute excessive force.¹⁷

In *Gardner v. City of Lakewood*, police officers initiated a traffic stop and, upon learning that the driver had a suspended license, began the process of impounding the car.¹⁸ A passenger in the vehicle believed the officers lacked authority to impound the vehicle because it belonged to her and not the driver. After she refused to exit, two officers pulled her out of the vehicle.¹⁹ One officer used an "escort hold" and a "hair hold" to pull the passenger out of the car.²⁰ The officer's use of the hair hold caused a serious scalp injury and permanent hair loss in addition to a broken wrist from the escort hold.²¹ Given the alleged injuries, the U.S. District Court for the Western District of Washington denied the officers' motion for summary judgement and held that their use of the hair hold could be excessive in the context of a passenger who refused to exit a car but otherwise complied with the officers' orders.²²

Nationwide Policies

Many police departments throughout the U.S. currently include or recently added "hair holds" in their use of force frameworks. These departments also provide training to their members on the use of hair holds and compile data on the use of hair holds and hair takedowns by their officers. Generally, departments place hair holds in the same category as counter-joint holds, which are equivalent to the various holds listed among the Compliance Techniques enumerated in MPD

¹² *Id.*

¹³ *Id.* at 2.

¹⁴ *Nelson v. Green Oak Twp.*, No. 14-10502, 2016 U.S. Dist. LEXIS 6322*, at *10 (E.D. Mich. Jan. 20, 2016).

¹⁵ *Id.* at *11.

¹⁶ *Id.* at *10.

¹⁷ *Id.* at 10; *see also Cooper v. D.C.*, 548 F. Supp. 3d 170, 179 (D.D.C. 2021) (holding that conducting a takedown and striking a suspect in the face was disproportionate to conduct an arrest for Possession of an Open Container of Alcohol, which is "decidedly minor.").

¹⁸ *Gardner v. City of Lakewood*, No. 3:16-CV-05121-RJB, 2017 U.S. Dist. LEXIS 28259*, at *1 (W.D. Wash. Feb. 28, 2017).

¹⁹ *Id.* at *1.

²⁰ *Id.*

²¹ *Id.*

²² *Id.* at *5.

General Order 901.07. For example, the Pasco, Washington, Police Department formerly utilized a Use of Force Continuum.²³ On that continuum, hair holds were considered more serious than the use of OC spray and Tasers and on-par with counter-joint techniques.²⁴ However, the Pasco Police Department eventually removed hair holds as a compliance technique from their use of force directive.²⁵

Renton, Washington likewise classifies hair holds and hair take-downs in the same category of responses as counter-joint holds.²⁶ The Eugene, Oregon Police Department likens hair holds to “control holds [that] include pressure points, joint locks, [and] takedowns.”²⁷ The Seattle Police Department (SPD) used to consider hair holds on par with counter-joint holds, OC spray, and touch taser, which can be used on passively resisting subjects who border on being Active Resisters.²⁸ Nevertheless, the SPD eventually removed hair holds from their use of force directives.²⁹ Finally, the Syracuse University Police Department classifies hair controls in the same category of tactics as pain compliance and pressure points to be used against “constructively resistive” subjects, that is, subjects who walk or pull away from an officer.³⁰ Importantly, each of these departments provide training on the use of hair control holds to their members.

Case Examples:

Complaints reviewed by OPC include the following:

Example 1: In January 2020, black male with a dreadlock hairstyle, filed a complaint with OPC stemming from a traffic stop for tinted windows. Throughout the stop the complainant made sure that his hands were visible while expressing his fear that the officers may potentially harm him. The complainant, albeit reluctantly, responded to questions and complied with the officers’ commands to provide his information. Nevertheless, when the witness officer asked the complainant to open the door, he refused, at which point the subject officer tapped on the window with a stick and ordered the complainant to roll down his window and open the door. Again, the complainant complied by rolling down his window while voicing his fear. The witness officer proceeded to unlock and open the door before both officers ordered the complainant out of the car. When the complainant stated, “No” and tensed up, the subject officer immediately grabbed the complainant by his hip and his hair while three other officers grabbed

²³ Pasco Police Department, Officer Involved Shooting, 18 (Feb. 10, 2015), available at <https://www.pasco-wa.gov/DocumentCenter/View/55864/PPD-Administrative-Review-and-Investigation?bidId=>.

²⁴ *Id.*

²⁵ Pasco Police Department, Use of Force, available at <https://public.powerdms.com/PASCO/documents/1351013>

²⁶ Renton Police Department, *SOP 107.3 SPECTRUM OF FORCE*, (last accessed on Jul. 26, 2022), available at https://www.rentonwa.gov/city_hall/police/8_can_t_wait/require_use_of_force_continuum.

²⁷ Eugene Police Department, *Policy 808.3 Control Holds*, (Aug. 4, 2014), available at <https://www.eugene-or.gov/3391/Policies>.

²⁸ Seattle Police Department, SPD Special Report: The M26 Taser Year One Implementation (May 2002), available at <https://www.aele.org/law/2007LRMAR/seattle-tasers.pdf>.

²⁹ Seattle Police Department, SPD Manual Title 8.050 and 8.400, available at <https://www.seattle.gov/police-manual/title-8---use-of-force/8050---use-of-force-definitions> and <https://www.seattle.gov/police-manual/title-8---use-of-force/8400---use-of-force-reporting-and-investigation>

³⁰ Syracuse Department of Public Safety, DPS SOP 2011-02 Use of Force 6-7 (Oct. 30, 2019), available at <https://dps.syr.edu/wp-content/uploads/2020/06/DPS-Use-of-Force-Policy.pdf>.

his hands and conducted a pat down. The complainant, at this point, showed compliance by moving his legs out of the vehicle and began screaming for approximately 11 seconds that the subject officer was pulling on his hair. Immediately afterward, the complainant complained of pain in his head and shoulders. In contrast to the witness officer who properly used verbal persuasion and de-escalation techniques, the subject officer quickly escalated the situation by grabbing the complainant by his hair. Furthermore, during their respective interviews with OPC, each officer stated that MPD does not provide training to its members on the use of hair holds. A Complaint Examiner sustained the allegation of unnecessary or excessive force against the subject officer because of his unauthorized use of a hair hold.³¹

Example 2: In May 2019, a community member filed an OPC complaint after he witnessed the subject officer pull the hair of black male with a dreadlock hairstyle who was sitting on a bench. The officer initially asked whether he could conduct a pat down. After the man refused several times, a gathering crowd of people began to yell at the original responding officer and two other officers who arrived on the scene. Five minutes after this, the subject officer arrived as backup. After several minutes passed, three officers approached the man, who was still seated on the bench. Two officers secured his hands while the third officer supervised, but the man tensed up on the bench and actively resisted the officers' attempts to take him into custody. Eventually, the two officers managed to grab ahold of each wrist while the third officer continued to watch. After they grabbed ahold of the wrists, the subject officer, who was standing at a distance, suddenly walked past the observing officer, reached over one of the officers who grasped the man's wrist, grabbed the man by the hair, and pulled him up and forward onto the ground. The subject officer did this even though two officers had control of the individual's wrists and despite the presence of the third officer who, presumed, felt the matter was under control. When OPC asked the subject officer whether he received training on hair holds, he stated that MPD officers are generally trained in the academy about holds on all parts of the body. He did not specify any direct training on hair holds. A Complaint Examiner sustained the allegation of unnecessary or excessive force against the subject officer because of his unauthorized use of a hair hold.³²

Example 3: In January 2018, the complaint, a black male with a dreadlock hairstyle, was double parked on the street while waiting to pick up a friend when the subject officer and his partner pulled up behind him. Believing the car was unoccupied, the subject officer wrote a parking ticket and walked up to the car, where he saw the complainant in the driver's seat. The subject officer asked for the complainant's driver's license, but the complainant refused to provide it and correctly noted to the subject officer that a driver's license is not necessary to issue a parking ticket. The subject officer ordered him to exit the vehicle, but the complainant refused. The subject officer then rapidly ordered the complainant to get out of the car and moved his hand inside the window to unlock the door. As the subject officer did this, the complainant pushed the officer's hand away. Once the subject officer unlocked the door, he punched the complainant in the face, opened the door, grabbed the complainant by the hair, and attempted to pull him out of the car. Because the complainant was wearing a seatbelt, however, the lower half of his body

³¹ OPC Case 20-0233, available at <https://policecomplaints.dc.gov/sites/default/files/dc/sites/office%20of%20police%20complaints/publication/attachments/Merits%20Determination%20-%2020-0233.pdf>

³² OPC Case 19-0511, available at <https://policecomplaints.dc.gov/sites/default/files/dc/sites/office%20of%20police%20complaints/publication/attachments/Merits%20Determination%20-%2019-0511.pdf>

remained strapped in the seat while his torso was positioned parallel to the ground with his face mere inches from the pavement. The subject officer continued to hold the complainant by his hair for nearly a minute despite the complainant's several announcements of his intent to comply. In fact, the complainant told the subject officer that he could not move because he was still restricted by his fastened seat belt and the subject officer's strong hold on his hair. When the subject officer explained his decision to use force on the complainant to OPC, he stated that he did so only because the complainant pushed his hand away and not because of any fear for his own safety. In addition, when OPC asked the subject officer why he chose to utilize a hair hold, he stated that he used the technique because it was simply the most efficient way to remove a person from a vehicle. As a result of this incident, the complainant was diagnosed with injuries, which included a muscle strain in his neck and a possible cervical sprain. A Complaint Examiner sustained the allegation of unnecessary or excessive force against the subject officer because of his unauthorized use of a hair hold.³³

Policy Concerns:

A point of serious concern is that MPD officers are unilaterally choosing to employ a force tactic that MPD has not explicitly authorized in its directives. An additional concern is that these officers have not been adequately trained on the proper use of the hair hold technique, which is an inherently dangerous maneuver that can result in serious neck injuries. Furthermore, the officers who choose to use hair holds for compliance are violating MPD policies and procedures because, as previously noted, members may not use force techniques without authorization and training from MPD. Compared to other police departments that authorize hair holds as a technique, MPD's policies and training do not establish the appropriate circumstances for the use of hair holds. MPD makes no mention of hair holds in its use of force general order and the subject officers from the case examples stated that they did not receive any specific training on hair holds from MPD.³⁴

An additional concern is how quickly the subject officers in the case examples resorted to the hair hold even though there were less dangerous options available to gain compliance and the subjects displayed a very low level of resistance. For instance, in Example 1, the subject officer hastily employed a hair hold against a community member who was compliant and expressed fear of harm. In Example 2, both the subject's hands were being controlled by two officers when the subject officer suddenly and inexplicably pulled him by the hair and threw him to the ground. Similarly, in Example 3, the subject officer's immediate resort to the hair hold was an inordinately disproportionate response to the complainant's level of resistance. Incidentally, Example 2 also illustrates another concern about how these incidents can erode the public's trust in MPD because the case became the subject of a Washington Post article that reflected negatively on MPD and the conduct of its members.³⁵

³³ OPC Case 18-0505, available at <https://policecomplaints.dc.gov/sites/default/files/dc/sites/office%20of%20police%20complaints/publication/attachments/Merits%20Determination%20-%2018-0505%20.pdf>

³⁴ Metropolitan Police Department, General Order (Use of Force), Go-RAR-901.07 (Jan. 1, 2022).

³⁵ Vargas, Theresa, 'I don't feel safe!': A Black man told police he feared them, and then an officer yanked him by his hair, The Washington Post (May 1, 2021), available at https://www.washingtonpost.com/local/officer-black-man-hair-pull/2021/04/30/086ced9a-aa16-11eb-bca5-048b2759a489_story.html.

Finally, the examples from OPC indicate that there might be concerns of racial bias with respect to the use of hair holds as a compliance technique. In each of the OPC cases, as in many cases nationally, the hair holds were primarily used by white officers against black men with dreadlocks.

Recommendations:

1. MPD should update General Order 901.07, Use of Force, to either prohibit the use of hair holds or discuss their appropriate use.

MPD should either outright prohibit the use of hair holds or, recognizing that there are some situations where hair holds may be an effective technique to bring a person under control, implement a use of force policy for hair holds in General Order 901.07 that limits the technique's use to a suspect that behaves as a Threatening Assailant. Placing the hair hold technique in the Defensive Tactics category for situations when members are faced with a Threatening Assailant ensures that MPD officers limit their use of the technique to appropriate situations.

Alternatively, MPD should establish, at a minimum, that hair holds should be used in situations when MPD officers are faced with Active Resisters. Such a policy would place MPD in line with various other departments that have established policies regarding hair holds. Furthermore, combined with training on the use of hair holds, a use of force policy on the use of hair holds would better assure that officers use this tactic as a proportionate response to a suspect's level of resistance.

2. MPD should provide updated training to all members with respect to the use of hair holds and include hair holds in its use of force trainings for new recruits.

The OPC cases indicate that MPD either does not provide training to its officers regarding hair holds or officers are generally unaware of such training. According to General Order 901.07, officers cannot use any force tactic unless MPD has authorized it, the officer has received the appropriate training, and the tactic has been used in accordance with departmental policies. Training new and veteran officers would provide much needed clarity to officers regarding the appropriate use, if any, of hair holds as a compliance technique. MPD can accomplish this with a roll call training and by updating its training for new recruits.³⁶

³⁶ MPD expressed a willingness to provide training on hair holds to its members in past communications with OPC. While the PCB acknowledges that MPD is willing to provide training on hair holds, the PCB nonetheless believes that such training should be an official requirement in MPD's written policies and procedures.