

USE OF FORCE		GO-110
Effective: 04-01-86	Revised: 03-21-90, 04-20-93, 05-15-95, 06-30-02, 08-01-17, 10-29-19, 12-22-20	Page 1 of 8
Reviewed: Written directives are reviewed at least once during the five year period of accreditation.	Special Instructions: GO-113 merged 10-29-19 See Attachment – Use of Force Report (BPD 36-48)	
	References: Standards Manual 20.1, 20.5, 20.6, 32.3, 33.1, GO-247, GO-409, SO-307, EX 837-T	

PURPOSE - To establish a policy for the use of force. The amount of force that is used by the officers shall be the amount of force that is objectively reasonable under the circumstances for the officer involved to effect an arrest, prevent escape, or in defense of themselves or others.

LEGAL DISCLAIMER - This directive is for departmental use only and does not apply in any civil or criminal proceeding. This departmental policy should not be construed as a creation of higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this directive will only form the basis for departmental administrative sanctions. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting.

Under the 4th Amendment, a police officer may use only such force as is “objectively reasonable” under the circumstances. The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene.

DEFINITIONS:

OBJECTIVELY REASONABLE – An objective standard used to judge an officer’s actions. Under this standard, a particular application of force must be judged through the perspective of a reasonable officer facing the same set of circumstances, without the benefit of 20/20 hindsight, and be based on the totality of the facts that are known to that officer at the time that the force was used.

DEADLY PHYSICAL FORCE - Physical force which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury.

PHYSICAL INJURY – Impairment of physical condition or substantial pain.

SERIOUS PHYSICAL INJURY– Physical injury which creates a substantial risk of death, or which causes death or serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.

THE VALUE OF HUMAN LIFE - Is immeasurable in our society. Police Officers have been delegated the awesome responsibility to protect life and property and apprehend criminal offenders. The apprehension of criminal offenders and protection of property must, at all times be subservient to the protection of life submitted to the narrowly defined exceptions in this General Order. The officer's responsibility for protecting life must include his/her own.

DEFENSE OF LIFE - An officer may use deadly force to protect himself/herself or others from what he/she reasonably believes to be an immediate threat of death, (near death) or critical bodily harm.

SHOOT TO STOP - Members of this department shall not fire their weapons to kill, but rather to STOP and incapacitate an assailant from completing a potentially deadly act as described in the following sections of this policy. For maximum stopping effectiveness and minimal danger to innocent bystanders, the officer should shoot at "center body mass".

WARNING SHOTS - A police officer is prohibited from using his/her firearm to fire a warning shot.

RISK TO INNOCENT BYSTANDERS - Officers are prohibited from discharging firearms when it appears that an innocent person may be endangered by such discharge.

SHOOTING AT OR FROM MOVING VEHICLES - Officers should not discharge a firearm at or from a moving vehicle except as the ultimate measure of self-defense or defense of another when the suspect is using deadly force by means other than the vehicle.

USE OF FORCE:

In general terms, force is authorized to be used when reasonably believed to be necessary to effect a lawful arrest or detention, prevent the escape of a person from custody, or in defense of one's self or another. Police should use deadly force only where an officer has reasonable belief to fear for his or another person's life or safety.

- A. Members of the Department may use force in the performance of their duties in the following circumstances:
 1. To prevent the commission of a breach of the peace or other unlawful act.
 2. To prevent a person from injuring him/her self.
 3. To effect the lawful arrest of a person, a person resisting arrest or a person attempting to flee from custody.

4. In self-defense or in the defense of another person.
- B. Factors that may bear on the officer's decision to use force include:
1. The actions on the part of the suspect that would justify the use of force.
 2. The type of offense that is being, or has been committed.
 3. The totality of the situation and circumstances that would require the immediate use of force.
- C. All officers must be aware of and sensitive to certain situations where a person appears to be resistive and possibly combative, but may have a language barrier, a physical or mental illness, disease, or handicap or some other factor that gives the appearance of physical resistance. This awareness or sensitivity should not be construed as a prohibition to the lawful use of force.

DETERMINING THE OBJECTIVE REASONABLENESS OF FORCE

- A. When used, force should be only that which is objectively reasonable given the circumstances perceived by the officer at the time of the event.
- B. Factors that may be used in determining the reasonableness of force include, but are not limited to;
1. The severity of the crime or circumstance;
 2. The level and immediacy of threat or resistance posed by the suspect;
 3. The potential for injury to citizens, officers, and suspects;
 4. The risk or attempt of the suspect to escape;
 5. The knowledge, training, and experience of the officer;
 6. Officer/subject considerations such as age, size, relative strength, skill level, injury or exhaustion, and the number of officers or subjects;
 7. Other environmental conditions and exigent circumstances.

- C. Under the 4th Amendment, a police officer may use only such force as is “objectively reasonable” under the circumstances. The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene.

DUTY TO INTERVENE

Any officer present and observing another officer using force that he/she reasonably believes to be clearly beyond that which is objectively reasonable under the circumstances shall intercede to prevent the use of unreasonable force, if and when the officer has a realistic opportunity to prevent harm.

LEVELS OF FORCE

- A. When the use of force is necessary and appropriate, officers shall, to the extent possible, utilize an escalating scale of options and will not employ a more forceful measure unless it is determined that a lower level of force would not be adequate, or such a level of force is attempted and actually found to be inadequate. The scale of options in order of increasing severity, is set forth as follows:
 - 1. **VERBAL PERSUASION**
 - a. The practice of courtesy in all public contacts encourages understanding and cooperation. Lack of courtesy may arouse resentment, and promote physical resistance.
 - b. Simple directions, which are complied with while you merely accompany the subject are by far the most desirable method of dealing with an arrest situation. Control may be achieved through advice, persuasion or warnings before resorting to actual physical force.
 - c. Physical contact with a person should not be regarded necessarily as the use of force and often can achieve a safe, effective response to a situation.
 - d. The above should NOT be construed to suggest that officers ever relax and lose control of a situation, thus endangering personal safety or the safety of others.

- B. PHYSICAL STRENGTH, CHEMICAL AGENTS and ADVANCED TASERS
1. Frequently, subjects are reluctant to be taken into custody and offer some degree of physical resistance. Normally, all that is required to overcome the resistance is physical strength and skill in defensive tactics (e.g., come along, wrist lock, etc.).
 2. Whenever chemical weapons are used, except for training purposes, a Use of Force Report (BPD 36-48) will be filed. The use of chemical agents shall be within the parameters as described in GO-247 (Oleoresin Capsicum Spray).
 3. Whenever Advanced Tasers are used, except for training purposes, a Use of Force Report (BPD 36-48) will be filed. The use of the Advanced Taser shall be within the parameters as described in GO-409 (Electronic Incapacitation Device – Advanced Taser).

USE OF DEADLY PHYSICAL FORCE

- A. Deadly physical force may be used by an officer to protect themselves or another person from what the officer reasonably believes is an imminent threat of serious physical injury or death.
- B. Deadly physical force may be used to stop a fleeing suspect where:
1. The officer has probable cause to believe the suspect has committed a felony involving the infliction or threat of serious physical injury or death; and,
 2. The officer reasonably believes that the suspect poses an imminent threat of serious physical injury to the officer or to others.
 3. Where feasible, some warning should be given prior to the use of deadly physical force.
- C. Chokeholds and Obstruction of Breathing or Blood Circulation
1. Any application of pressure to the throat, windpipe, neck, or blocking the mouth or nose of a person in a manner that may hinder breathing, reduce intake of air or obstruct blood circulation, is prohibited unless deadly physical force is authorized.

PROHIBITED USES OF FORCE

Force shall not be used by an officer for the following reasons:

- A. To extract an item from the anus or vagina of a subject without a warrant, except where exigent circumstances are present;
- B. To coerce a confession from a subject in custody;
- C. To obtain blood, saliva, urine, or other bodily fluid or cells, from an individual for the purposes of scientific testing in lieu of a court order where required;
- D. Against persons who are handcuffed or restrained unless it is used to prevent injury, escape, or otherwise overcome active or passive resistance posed by the subject.

UNNECESSARY FORCE DEFINED

- A. Unnecessary force occurs when the unjustified physical abuse of a person being arrested or detained is exacted or it is apparent that the type or degree of force employed was neither necessary nor appropriate. When ANY degree of force is used as summary punishment or for vengeance, it is clearly improper and unlawful.
- B. Every police officer, who under color of authority and without lawful necessity, assaults or beats any person, may be guilty of a felony as provided by law.
- C. Malicious assaults and batteries committed by officers constitute gross and unlawful conduct.
- D. When the use of force is applied indiscriminately, the officer may face civil and criminal liability and will face departmental disciplinary action.

UNAUTHORIZED NON-LETHAL WEAPONS

- A. The carrying or use of any instrument as an offensive or defensive weapon, not specifically authorized or issued as a weapon by the police department, is prohibited. Examples of unauthorized weapons include but are not limited to the following: saps, blackjack, sap gloves, nun-chucks, hunting knives, scabbard knives and brass knuckles.
- B. Flashlights are not authorized as a defensive or offensive weapon to quell resistance except in extreme cases where no other instrument is available.

USE OF FORCE REPORTING PROCEDURE

- A. A police or peace officer or other law enforcement entity who has custody of a person must provide attention to the medical and mental health needs of a person in their custody and obtain assistance and treatment of such needs, which are reasonable and provided in good faith.
1. This includes appropriate and timely medical attention being provided to a party injured as a result of a use of force incident.
 2. The immediate mental health needs of a person shall be based upon the reasonable cause to believe that a person, who appears to be mentally ill, is conducting themselves in a manner which is likely to result in a serious harm to themselves or others.
- B. It is recognized that police officers use varying degrees of force when taking a person into custody and maintaining order; this force may include verbal commands and lesser physical contact. For the purpose of reporting the use of force, that degree of force used that requires the completion of a use of force report shall include:
1. Any physical force used by an officer that results in actual injury or death to the defendant.
 2. Use of force incidents that a reasonable person would believe is likely to cause an injury.
 3. Whenever any material, object, weapon or instrument is used or deployed by an officer against a suspect whether or not an injury occurs.
 4. Any physical force used by an officer against a suspect whose conduct would constitute Resisting Arrest pursuant to section 205.30 of the Penal Law, whether or not such charge was made against said suspect.
 5. Any other circumstances as may be directed by a supervisor or command officer.
 6. All Use of Force Incidents, as defined and required in Executive Law 837-T, shall be reported to New York State Division of Criminal Justice Services on a monthly basis. This reporting will be completed within thirty days of the completion of each month. This reporting will be completed through the New York State E-Justice Portal.

C. USE OF FORCE REPORT (Attachment A)

1. Shall be completed by the officer using reportable force or his/her supervisor.
2. The original Use of Force Report (BPD 36-48) shall be forwarded to the appropriate Division Commander for review. Once reviewed and signed it shall be forwarded to the Chief of Police, for a final review. Reviewed copies shall be maintained in the records section.
3. An officer using force that does not fit the criteria which requires a Use of Force report shall record all details of the use of such lesser force in the narrative of the incident report.

PROCEDURES FOR INVESTIGATING USE OF FORCE INCIDENTS

- A. Where practicable, a supervisor should respond to the scene to begin the preliminary force investigation.
- B. A supervisor that is made aware of a force incident shall ensure the completion of a Use of Force Report (BPD 36-48) by all officers engaging in reportable use of force and, to the extent practical, make a record of all officers present.
- C. Photographs should be taken which sufficiently document any injuries or lack thereof to officers or suspects.
- D. The appropriate Division Commander will receive the supervisor's report and conduct an investigation.
- E. Consistent with agency disciplinary protocols and any applicable collective bargaining agreements, agency policy should establish standards for addressing the failure to adhere to use of force guidelines.

FIREARMS TRAINING

- A. The departmental firearms training program will include comprehensive instruction of (1) departmental policy on use of deadly force; (2) the legal requirements; (3) moral responsibilities of carrying a firearm; (4) firearm safety and (5) firearm proficiency.
- B. The firearms proficiency training will as closely as possible reflect those circumstances and conditions that our police officers are most likely to confront in real-life deadly force situations.

- C. All aspects of the firearms training program will include all of the officer's assigned and available weapons.

This General Order is to be used in conjunction with all relevant existing departmental orders, rules and regulations.

Approved by:

A handwritten signature in black ink, appearing to read "Chris F. Cochran". The signature is written in a cursive style with a large initial 'C'.

Chief of Police