

GENERAL ORDERS

USE OF PHYSICAL FORCE			
<input type="checkbox"/> new : <input type="checkbox"/> rescinds: <input checked="" type="checkbox"/> amends:		cross reference:	
		accreditation standards:	NYS LEAP 20.1, 20.7, 21.2, 32.4
effective date: 11/01/2010	issue/amend date: 06/13/2019		

I. PURPOSE

To establish guidelines for the use of physical force. Law enforcement officers around the Country and here in New York State are authorized to use reasonable and legitimate force in specific circumstances. Federal constitutional and state statutory standards dictate when and how much force can be used.

II. POLICY

Members of this department shall use only the force necessary to affect lawful objectives. Members shall use the least amount of force necessary to effect cooperation and control of a situation which requires police intervention, and then only when all other reasonable alternatives have been exhausted or are not available.

The federal and state standards by which use of force is measured are both founded in the basic premise of objective reasonableness. The amount of force that is use 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. The standard of objective reasonableness, established by the United States Supreme Court in *Graham v. Conner*, is used in this policy and is intended to provide officers with guidelines for use of force, including deadly force.

As the Supreme Court has recognized, this reasonableness inquiry embodies “allowance for the fact that police officers are often forced to make split-second judgements – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation”

This policy is written in recognition of the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force to protect the public welfare requires a careful balancing of interests.

III. DEFINITIONS

- Instrument: Any article, device, object, apparatus, implement or tool used to effect cooperation and control by forceful means.

- Restraining Force: Is the use of a minimal amount of physical strength or energy exerted to hold, restrain, control, etc., required to overcome resistance or reluctance to obey the direction of an officer.
- Physical Force – Is the striking, kicking, fighting or any other physical or violent confrontation and force greater than restraining force not amounting to deadly physical force.
- Objectively Reasonable – An objective standard used to judge an officers 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 benefit of 20/20 hindsight, and be based on the totality of the facts that are known to that officer at the time the force was used.
- Physical Injury – Is the 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.
- Deadly Physical Force – Physical force which is readily capable of causing death Death or other serious physical injury.

IV. REFERENCES

Article 35 of the New York State Penal Law

V. USE OF FORCE

- A. In general terms, force is authorized to be used when reasonably believed to be necessary to effect a lawful arrest or detention, prevent escape of a person from custody, or in defense of one’s self or another.
- B. 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 at the scene.

VI. 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 suspects.
7. Other environmental conditions or exigent circumstances.

VII. DUTY TO INTERVENE

- A. 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.
- B. An officer who observes another officer use force that exceeds the degree of force as described in subdivision A of this section should promptly report these observations to a supervisor.

VIII. RULES AND REGULATIONS

- A. Physical Force, when used, shall be the minimum force necessary for a given situation and shall be reasonable in degree to the extent that it is necessary to effect cooperation and control of the situation.
 1. No member of the Force shall exceed the limits of his/her authority under Article 35 of the New York State Penal Law known as the Defense of Justification.
- B. Only issued or approved equipment shall be used when applying physical force, except in emergency situations, when it may be necessary to use any instrument at the disposal of the officer(s) involved.
- C. Whenever a person or persons are engaged in passive resistance demonstrations, "Pain Compliance", come-along holds shall not be used against a person involved in passive resistance demonstrations, unless specific authorization has been given to use such holds by a member of the Force above the rank of Lieutenant. This limitation applies only to passive resistance demonstrations and is not a restriction upon an officer's authority to use reasonable force when the officer is any way endangered, is the subject of an attack or is confronted by someone actively resisting arrest as opposed to passive noncooperation.

IX. PROCEDURE

- A. Physical Force may be used when it is lawful and when the exercise of persuasion, advice and/or warning is found to be insufficient to obtain cooperation and control.
- B. Use of restraining devices (such as handcuffs) is part of the normal department arrest procedures. The mere placing of handcuffs on a prisoner will not be construed as the use of physical force. However, when the handcuffs are used as an appliance to exert force that is necessary to further subdue a prisoner or where

a suspect physically resists the application of handcuffs, a use of physical force has occurred and as such must be justified.

- C. Any time a member of the Force uses physical force, including deadly physical force, whether an arrest is made or not and/or in any case where a person is charged with Resisting Arrest (205.30 N.Y.S. P.L.), wherein any level of force is used, the member shall report or cause to be reported all facts relative to the incident on the Department form, "Use of Force Report".
- D. If it has been necessary to use physical force, the police officer shall forthwith determine if the person requires medical treatment.
- E. A supervisor shall be notified when physical force, including deadly physical force, has been used.
- F. A supervisor, when so notified, shall respond to the scene and assess and investigate the situation and when necessary or if a physical injury occurs.
 - 1. In the event a member of the Force is injured, ensure that the member receives medical treatment and appropriate Incident Report (PD Injured/Employee paperwork) is completed.
 - 2. Ensure that medical treatment for an injured prisoner is obtained.
- G. Required Photographs – Photographs will be taken if a person subject to any force in excess of restraining force, or is charged with Resisting Arrest, whether or not the person is injured or alleges injury. In addition, photographs will be taken whenever a person subjected to restraining force is injured, alleges injury, or is arrested. The required photographs are taken in addition to mug shots. The photographs will clearly depict the following body areas of the person:
 - 1. Overall front and back areas.
 - 2. Close-ups of all exposed areas.
 - 3. Close-ups of all injured areas.
 - 4. Close-ups of all areas alleged by the person to be injured.
 - 5. Upon consent of the person, close-up photographs of the following
Unclothed body areas: front and rear torso (male), rear of torso (female),
Legs and feet. No efforts shall be made to compel or force a person to submit
To any photographs of the foregoing body areas.
 - 6. Photographs will be taken of the scene and any evidence pertaining to the person's injury / alleged injury, if applicable.
 - 7. The photographs of the person subjected to force will be documented on a Supplementary Report, by the member taking the photographs. Same will make the proper notification on the Prisoner Activity Log.
 - 8. The Officer in Charge of the tour will ensure photographs are taken as required and, if applicable, will make a notation on the Prisoner Activity Log.
- H. Any officer using physical force pursuant to his/her duties as a police officer (whether on or off duty) shall report or cause to be reported all facts relative to the

event in the case report, on the Incident Report, a Supplemental Report and a Use of Force Form.

1. If the incident occurs outside the Town of Riverhead, the officer shall make a full report to the agency having jurisdiction, and as soon as possible complete a Town of Riverhead Field Report, Supplemental Report and Use of Force Form, listing the type of complaint as an assist to an outside agency. Copies of the reports from the agency that was assisted will be requested and attached to the report filed by the involved officer.
2. The use of force shall be limited to that which is reasonably necessary to carry out authorized duties.
3. Only issued or approved equipment will be carried while on duty and used when applying physical force, except in an emergency situation when an officer must use any resource at his/her disposal. The use of the baton/Asp/Taser or Chemical Mace is considered the use of force.

BY ORDER OF

David J. Hegermiller
Chief of Police