



USE OF FORCE



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I. PURPOSE

To provide guidelines for the use of deadly and non-deadly force.

II. POLICY

The primary duty of Members is to preserve human life. Only that amount of force necessary to overcome resistance shall be used to effect an arrest or take a subject into custody. Members shall only use force that is reasonably necessary to effectively control an incident.

Use of force must be justified pursuant to current state and federal statutes and must be within the guidelines set forth in this Section. Violations of the use of force provisions will be reviewed on a case-by-case basis and such review may find that under exigent and exceptional circumstances the action was justified. The objectively reasonable use of deadly physical force to terminate a mass casualty terrorist event such as a vehicle ramming attack would be legally justified and within Department guidelines.

The use of excessive force by a Member shall not be tolerated and may result in criminal, civil, and/or Department charges.

The “choke hold,” “hogtie,” and/or the placing of a knee on the back of a prone prisoner are prohibited.

Handcuffed prisoners shall not be placed in the prone position; they shall immediately be placed in an upright standing or sitting position.

Members shall use Department issued and/or approved equipment to apply force. Only in an extreme emergency may Members use other resources at his/her disposal.

Members using less-than-lethal substances and other devices must successfully complete an initial training course prior to issuance, and periodic training thereafter.



III. DEFINITIONS

Physical Injury

Impairment of physical condition or substantial pain.

Serious Physical Injury

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

Physical Force

Any force not amounting to deadly physical force.

Deadly Physical Force

Physical force that under the circumstances in which it is used, is readily capable of causing death or serious physical injury.

Excessive Force

Unjustified force that is not reasonably necessary under the circumstances in which it is used.

Choke Hold

Includes, but is not limited to, any pressure to the throat or windpipe that may prevent or hinder breathing or reduce intake of air.

Hogtie

Connecting or tying rear-cuffed hands to cuffed or shackled ankles or legs.

Use of Force Continuum

The scale of options available to a Member in a confrontational situation.

Conducted Energy Device (CED)

A non-lethal device primarily designed to disrupt a subject's central nervous system by deploying battery-powered electrical energy sufficient to cause uncontrolled muscle contractions and override an individual's voluntary motor responses.

Serious Incident

Any action by a Member that results in **serious physical injury** or **death** to another person or that Member; or any **discharge of a firearm** (except for training purposes, off-duty recreational shooting events, or the lawful destruction of an animal); or **any other incident deemed appropriate by the Chief**.



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

IV. PROCEDURE

A. Use of Force Continuum

The use of force continuum shall be the standard model of force options available to Members. As circumstances often change during an incident, Members shall continuously evaluate each situation to determine the level of force reasonably necessary to conduct police business and protect themselves and/or others.

Members observing another Member 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.

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.

1. The Use of Force Continuum is as follows:

- a. **Officer Presence**—the presence of an officer at an incident is the least intrusive level of force to be used for compliance.
- b. **Verbal Commands**—compliance by verbal commands, such as advice, persuasion, or warnings.
- c. **Physical Direction**—used in situations where verbal commands may not be or are not effective. The extent of physical contact varies with the circumstance. It may be as slight as a mere touch or as severe as a strike by any body part.
- d. **Oleoresin Capsicum (O/C) Chemical aerosol spray / Conducted Energy Devices**—O/C spray or a CED may provide alternatives to physical confrontations. OC spray or a CED may be used in situations when persons are actively physically resisting, exhibiting active physical aggression or to prevent individuals from physically injuring themselves or other persons actually present. OC spray or a CED may be used when a Member reasonably believes it is necessary to effect an arrest of a resisting suspect, for self-defense or for defense of another from unlawful force.



- e. **Impact Weapons**—The Department-authorized impact weapon is the expandable baton. The impact weapon may be used when lesser means of force would be inappropriate under the circumstances. The expandable baton shall only be used consistent with Department training.
- f. **Deadly Physical Force**—the extreme level of force that may only be used consistent with Department policy, training, and current law.

B. Use of Non-Deadly Force

- 1. When deadly force is **not** authorized, Members may use only that level of force that is reasonably necessary to bring an incident under control. Non-deadly force shall be used consistent with Department policy, training, and current law.
- 2. Members are authorized to use Department-approved, non-deadly force techniques and issued equipment to:
 - a. protect the Member or others from physical harm;
 - b. restrain or subdue a resistant subject; and/or
 - c. bring an unlawful situation safely under control.

C. Use of Deadly Force

- 1. By Department policy, Members are more restricted in the use of deadly physical force than that which is authorized by law.
- 2. Deadly physical force is only authorized to:
 - a. protect the Member or others from what is reasonably believed to be a threat of imminent death or serious physical injury; and/or
 - b. prevent the escape of a fleeing, violent felon whom the Member has probable cause to believe:
 - i. used or threatened the use of deadly physical force; and
 - ii. is armed with a deadly weapon; and
 - iii. poses a significant threat of death or serious physical injury to others should he/she escape and no other reasonable means to prevent or terminate the escape exists.
- 3. Where feasible, and consistent with personal safety, a Member should identify him/herself as a police officer and give some warning prior to discharging a firearm in a deadly physical force situation.
- 4. Members **shall not**:



- a. Use Force to extract an item from the anus or vagina of a subject without a warrant, except where exigent circumstances are present;
- b. Use Force to coerce a confession from a subject in custody;
- c. Use Force 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. Use Force 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
- e. Use deadly force to effect an arrest or prevent or terminate a felony unless the Member has probable cause to believe that the victim may be killed or seriously injured and there is no other reasonable means to effect the arrest or prevent or terminate the felony other than by deadly force.
- f. Discharge their weapon when doing so will unnecessarily endanger innocent persons.
- g. Use deadly physical force in defense of property.
- h. Fire warning shots.
- i. Discharge their weapon to summon assistance except in emergency situations when someone's personal safety is endangered and unless no other reasonable means is available.
- j. Discharge their weapon at or from a moving vehicle unless deadly force is being used against the Member or another person present by means other than a moving vehicle.
- k. Discharge a weapon at an animal except when:
 - i. the animal is a threat to public safety and no other reasonable means to bring the animal under control exists; or
 - ii. to end the suffering of a severely injured animal and no other reasonable means to remedy the situation exists.

D. REPORTING & REVIEWING THE USE OF FORCE

1. A Member 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
 - a. This includes appropriate and timely medical attention being provided to a party injured as a result of a use of force incident.
 - b. 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.

2. Members involved in use of force incidents as described below shall notify their supervisor as soon as practicable and shall complete a departmental use of force report.
 - a. Use of force that results in a physical injury.
 - b. Use of force incidents that a reasonable person would believe is likely to cause an injury.
 - c. Incidents that result in a complaint of pain from the suspect except complaints of minor discomfort from compliant handcuffing.
 - d. Incidents where a conducted energy device (CED) was intentionally discharged or accidentally discharged after being displayed.
 - e. Incidents where a firearm was discharged at a subject
3. Officers should document any requests for necessary medical or mental health treatment as well as efforts of police to arrange for such treatment in their Memorandum Book and Tiburon Case Report

E. Training

1. All officers should receive training and demonstrate their understanding on the proper application of force.
2. Training topics will include use of force, conflict prevention, conflict resolution and negotiation, and de-escalation techniques and strategies, including, but not limited to, interacting with persons presenting in an agitated condition as well as duty to intervene and prohibited conduct.
3. This policy is not intended to be a substitute for proper training in the use of force. Comprehensive training is the key to the real-world application of the concepts discussed within this policy.



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Related Manual Sections:

Section 7-05—Firearms

Section 10-02—Reporting Use of Force

Section 10-03—Serious Incident Review Process

Legal references:

NYS Penal Law—Article 10

NYS Penal Law—Article 35

CT General Statutes—53a (18)-(23)

Tennessee v. Garner, (1985, 105 S. Ct. 1694, 471 U)

NY Civil Rights Law Article -3 Section 28