

USE OF FORCE		
DATE ISSUED 10/31/2019	DATE EFFECTIVE 10/31/2019	REVISION NO. DM #02-2019

1. PURPOSE

To establish clear guidelines for the use of force by sworn members of the Department

2. BACKGROUND

Law enforcement officers in the United States of America are authorized to use reasonable and legitimate force in specific circumstances. Federal constitutional and New York state statutory standards dictate when and how much force can be used. The federal and state standards by which use of force is measured are both founded on the basic premise of objective reasonableness. The standard of objective reasonableness, established by the United States Supreme Court in *Graham v. Connor*, is used in this policy and is intended to provide officers with guidelines for the use of force, including deadly physical 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 judgments — in circumstances that are tense, uncertain, and rapidly evolving — about the amount of force that is necessary in a particular situation.”

This policy, and the guidelines provided herein, 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 and to protect the public welfare requires the careful balancing of all interests.

3. POLICY

The amount of force that is used by officers shall be the amount of force that is objectively reasonable under the circumstances for the officer involved to effect an arrest; prevent an escape; in defense of themselves or others; or otherwise as may be needed to bring a person under control in accordance with a lawful objective.

4. DEFINITIONS

- A. **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 circumstances that are known to that officer at the time that the force was used.

DEFINITIONS (Continued)

- B. **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.
- C. **Physical Injury** – Impairment of physical condition or substantial pain.
- D. **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.
- E. **Public Safety Statement** – A Public Safety Statement is the information obtained by a Supervisor at an officer-involved incident using questions intended to determine existing threats to public safety and identify evidence that must be preserved in a timely manner. The scope of this statement is limited to the collection of such critical, fleeting information in the immediate aftermath of these critical incidents. If there are multiple officers involved, the Supervisor should separately obtain Public Safety Statements from each involved officer, if feasible.

5. 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 the 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 on the scene rather than with the 20/20 vision of hindsight.

6. 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;

DETERMINING THE OBJECTIVE REASONABLENESS OF FORCE (Continued)

4. The risk or attempt of the suspect to escape;
5. The knowledge, training, and experience of the officer;
6. Past history: having prior knowledge of persons or locations;
7. Officer/subject considerations such as age, size, relative strength, skill level, injury or exhaustion, and the number of officers or subjects;
8. Other environmental conditions or exigent circumstances.

7. 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 intervene 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's use of force that exceeds the degree of force as described in subdivision 'A' of this section should promptly report these observations to a Supervisor.

8. 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.

9. PROHIBITED USES OF FORCE

- A. Force shall not be used by an officer for the following reasons:
1. To extract an item from the anus or vagina of a subject without a warrant, except where exigent circumstances are present;
 2. To coerce a confession from a subject in custody;
 3. 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;
 4. 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.

10. MEDICAL AID

- A. Any injuries resulting from a use of force incident shall result in the appropriate medical attention being provided to the injured person as soon as reasonably possible.

11. REPORTING THE USE OF FORCE

- A. Members involved in use of force incidents as described below shall notify their Tour Supervisor as soon as practicable and shall complete a Departmental Use of Force Report: (*In compliance with NY State Executive Law §837-t*)
1. Use of force that results in physical injury, serious physical injury or death;
 2. Use of force incidents that a reasonable person would believe is likely to cause an injury;
 3. Incidents that result in a complaint of pain from the suspect except complaints of minor discomfort from compliant handcuffing;
 4. Brandishes, uses or discharges a firearm at or in the direction of another person;

REPORTING THE USE OF FORCE (Continued)

5. Use of a chokehold or similar restraint that applies pressure to the throat or windpipe of a person in a manner that may hinder breathing or reduce intake of air;
 6. Displays, uses or deploys oleoresin capsicum, (Pepper spray or “PepperBall” launcher system);
 7. Brandishes, uses or deploys an impact weapon, (Baton);
 8. Brandishes, uses or deploys a Taser (ECW)
- B. A Department Use of Force Report does not pertain to animals.

12. INVESTIGATING USE OF FORCE INCIDENTS

- A. When feasible, a Supervisor should respond to the scene as soon as reasonably possible to begin the preliminary use of force investigation.
1. If there is serious physical injury or death; or if incident consists of an officer-involved shooting, the Supervisor’s inquiry of the involved officer should be limited to the Public Safety Statement. *(See Section 120-04 of this Manual)*
 2. If incident involves serious physical injury, death or an officer-involved shooting, the Desk Officer shall make notifications to Administration and staff as delineated in Section 120-04 of this Manual.
- B. Photographs should be taken which sufficiently document any injuries or lack thereof to officers or suspects.
- C. A Supervisor that is made aware of a use of force incident shall ensure the completion of a Use of Force Report by all Department members engaging in reportable use of force and, to the extent practical, ensure all members present are included in the Incident Report. The Supervisor should submit all completed reports pertaining to the use of force incident to the Patrol Division Commander as soon as feasible.

13. USE OF FORCE – INJURY INVESTIGATIONS

- A. *See Section 120-04 of this Manual*

14. REVIEW & EVALUATION OF THE USE OF FORCE

- A. The Patrol Division Commander shall review all reports of the use of force by members of the Department to ensure:
1. The force used was objectively reasonable under the circumstances and in accordance with the Department Manual and any other rules, regulations and procedures that have been implemented by the Department.
 2. That the incident is properly documented.
 3. That no training deficiencies exist.
- B. EVALUATION
1. If the Patrol Division Commander determines that there was an improper use of force, the incident was not properly documented, or training deficiencies exist, he/she shall prepare an Inter-Departmental memorandum documenting his/her findings as well as corrective actions and forward same to the Chief of Police for final review.

15. NY STATE EXECUTIVE LAW §837-t – USE OF FORCE DATA COLLECTION

- A. Pursuant to NY State Executive Law, each NY State law enforcement agency is responsible for reporting to DCJS information for their own officers who are involved in use of force incidents that meet the criteria of the data collection.
- B. The Patrol Division Commander will forward all Departmental Use of Force Reports to the Administrative Lieutenant who is designated as the compliance officer by the Chief of Police.

16. TRAINING

- A. All members should receive training and demonstrate their understanding on the proper application of force.
- B. 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.
- C. All members will review this policy annually.

17. This policy will be conspicuously posted on the Town's public website