



ADMINISTRATION

Procedure No: 240.01

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PURPOSE

To establish guidelines for the use of force by sworn members of the Department and for the reporting and review of same.

POLICY

Sworn members shall utilize only the amount of force that is objectively reasonable under the circumstances to detain, effect an arrest, prevent an escape, or defend themselves or others. 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 sworn members with guidelines for the use of force, including Deadly Physical Force. Subject to the standard of objective reasonableness, sworn members using force shall do so consistent with current departmental training standards, the procedures set forth herein and applicable law.

DEFINITIONS

DEADLY PHYSICAL FORCE is Physical force which, under the circumstances in which it is used, is readily capable of causing death or other Serious Physical Injury.

PHYSICAL INJURY is an impairment of physical condition or substantial pain.

SERIOUS PHYSICAL INJURY is a 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.

OBJECTIVELY REASONABLE is an objective standard used to judge a police officer's actions. Under this standard, a particular application of force must be judged through the perspective of a reasonable police 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 police officer at the time that the force was used.

PROCEDURE

GENERAL

1. Generally, sworn members may use force in the performance of their duties for the following purposes:
 - a. to effect the lawful arrest of or detention of a person;
 - b. to prevent the escape of a person from custody;



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- c. in self-defense or in the defense of another person;
- d. to prevent a person from injuring him or herself.
2. Sworn members shall carry only such weapons that are issued and authorized by the Department and, then, only when trained and currently authorized in the use of such equipment.
3. Notwithstanding that the Department may authorize sworn members to carry a utility knife while on duty, it is not intended for use as a weapon, provided however, that it may be so used under circumstances in which deadly physical force is authorized and the sworn member is unable to use his or her firearm.
4. The carrying or use on duty of blackjacks, brass knuckles and sap gloves is prohibited.
5. Following any use of Physical Force or Deadly Physical Force, a sworn member shall evaluate the need for medical assistance for the person against whom such force was used and request EMS as soon as practicable.

DETERMINING THE OBJECTIVE REASONABLENESS OF FORCE

6. When used, force should be only that which is objectively reasonable given the circumstances perceived by the sworn member at the time of the event.
7. Factors that may be used in determining the reasonableness of force include, but are not limited to:
 - a. the severity of the crime or circumstance;
 - b. the level and immediacy of threat or resistance posed by the suspect;
 - c. the potential for injury to involved and uninvolved persons;
 - d. the risk or attempt of the suspect to escape;
 - e. the knowledge, training, and experience of the sworn member using force;
 - f. comparative qualities such as age, size, relative strength, skill level, injury, exhaustion, and the number of police officers and subjects;
 - g. other environmental conditions or exigent circumstances.



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GUIDELINES FOR THE USE OF DEADLY PHYSICAL FORCE

8. Sworn members may use Deadly Physical Force to protect themselves or other persons from what they reasonably believe is an imminent threat of Serious Physical Injury or death.
9. Sworn members may use Deadly Physical Force to stop a fleeing suspect when:
 - a. they have probable cause to believe the suspect has committed a felony involving the infliction or threat of serious physical injury or death; and,
 - b. they reasonably believe that the suspect poses an imminent threat of serious physical injury to the officer or to others.
10. When feasible and consistent with personal safety, sworn members should give some warning, such as "POLICE-DON'T MOVE" before using Deadly Physical Force.

SPECIFIC LIMITATIONS ON THE USE OF FIREARMS, RIFLES AND SHOTGUNS

11. Firing At Moving Vehicles: Sworn members may discharge Firearms, rifles or shotguns at a moving vehicle or its occupants only when:
 - a. an occupant in the vehicle is threatening the sworn member or another person present with the imminent use of Deadly Physical Force by means other than the moving vehicle, providing such discharge does not create a danger to other persons; or
 - b. the vehicle is being used as an instrument to inflict Serious Physical Injury or death upon the sworn member and/or another person and the sworn member reasonably believes there are no other reasonable means available to avert the threat of the vehicle provided the discharge is permitted by law, these regulations, and does not create a danger to others

NOTE: When possible, Sworn Members should move out of the path of an approaching vehicle rather than discharging Firearms, rifles or shotguns at such vehicle or its occupants. Sworn Members should also take into consideration that a vehicle may continue on for a time after they damage the vehicle or disable its operator.

12. Firing From Moving Vehicles: Sworn Members shall not discharge Firearms, rifles or shotguns from moving vehicles except when they reasonably believe there is no reasonable alternative to defend against Deadly Physical Force directed at them or others.



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13. Warning Shots: Sworn Members may not fire so-called "warning shots."
14. Firing Shots For Alarm: Sworn Members may not discharge a Firearm, rifle or shotgun to summon assistance except in such instances when their safety or that of others is endangered and there is no reasonable alternative available.
15. Recreational Use: Sworn Members may discharge Firearms, rifles and shotguns for target practice at legitimate firing ranges or for other lawful recreational purposes conducted in accordance with applicable law, rules and regulations.

PROHIBITED USES OF FORCE

16. Sworn members shall not use physical force for any of the following reasons:
 - a. to extract an item from the anus or vagina of a subject without a warrant except when 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 for the purpose of scientific testing in lieu of obtaining a court order when required;
 - d. against persons who are handcuffed or otherwise restrained unless used to prevent injury or escape or to overcome active or passive resistance by the subject.
17. Chokeholds and Obstruction of Breathing or Blood Circulation: Sworn members shall not apply pressure to the throat, windpipe, neck, or block the mouth or nose of a person in a manner that may hinder breathing, reduce intake of air or obstruct blood circulation, except under such circumstances in which Deadly Physical Force is authorized.

DUTY TO INTERVENE

18. Any sworn member present and observing another law enforcement officer (regardless of agency affiliation or rank) using physical force that such sworn member 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 Sworn Member has a realistic opportunity to prevent harm.
19. A sworn members who observes another law enforcement officer use physical force as described in the preceding paragraph shall promptly report these observations to a Superior Officer.



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20. Such Superior Officer shall:
- a. when the unreasonable force was used by a sworn member of this Department, prepare a SUPERVISOR'S REPORT (UF-100) setting forth the pertinent details, together with any supporting documentation and submit same to the subject sworn member's Division Commanding Officer, as provided in Section 225.04 (Personnel Discipline) of this manual;
 - b. when the unreasonable force was used by a member of another law enforcement agency, report same to the Chief, by e-mail, through the chain of command, for referral to the appropriate agency.

REPORTING AND REVIEWING USE OF FORCE

21. As soon as practicable after using Physical Force or Deadly Physical Force (whether on or off duty), and after obtaining medical assistance, if necessary, a sworn member shall:
- a. if outside of the Town of Greenburgh, notify the local police agency of such use of force;
 - b. notify this Department's Desk Officer of such use of force;
 - c. ensure that any claimed or apparent injury is documented on a PCR.
 - d. document all pertinent facts regarding the incident in an INCIDENT REPORT.
22. The following incidents involving the use of force must be reported to the Division of Criminal Justice Services:
- a. displays a chemical agent by pointing a chemical agent at a person or persons;
 - b. uses/deploys a chemical agent by operating the chemical agent against a person or persons;
 - c. in a manner capable of causing physical injury as defined in article 10 of the Penal Law;
 - d. brandishes a firearm by pointing a firearm at a person or persons;
 - e. uses/discharges a firearm by discharging a firearm at or in the direction of a person or persons;



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- f. brandishes an electronic control weapon by pointing an electronic control weapon at a person or persons;
 - g. uses/deploys an electronic control weapon by operating an electronic control weapon against a person or persons in a manner capable of causing physical injury as defined in article 10 of the Penal Law;
 - h. brandishes an impact weapon by pointing an impact weapon at a person or persons;
 - i. uses/deploys an impact weapon by operating an impact weapon against a person or persons in a manner capable of causing physical injury as defined in article 10 of the Penal Law;
 - j. uses a chokehold or other similar restraint, which is any application of sustained pressure to the throat or windpipe of a person in a manner that may hinder breathing or reduce intake of air;
 - k. engages in conduct which results in the death or serious bodily injury of another person.
23. A sworn member who uses force in a manner reportable to DCJS shall include in the INCIDENT REPORT concerning their use of force, each of the following:
- a. date, time and location of use of force;
 - b. description of the circumstances of the incident;
 - c. subject's DOB, age, sex, race, ethnicity, height, weight, and gender identity or expression;
 - d. names and contact information for all persons present;
 - e. manufacturer, model and serial number of any weapon discharged;
 - f. description of other attempts to control the suspect or reasons why lesser levels of force were inappropriate;
 - g. for all photographs taken: photograph date, time, location and name of photographer; and
 - h. any additional relevant information.



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- 24. Upon being notified that a sworn member has used Physical Force or Deadly Physical Force, the Desk Officer shall:
 - a. arrange for a Superior Officer to respond to the scene when practicable;
 - b. immediately notify the reporting sworn member’s Division Commanding Officer when the suspect is taken to a hospital for treatment, when the use of Physical Force or Deadly Physical Force is done by a member while off-duty, or outside of the Town;
 - c. complete a SUPERVISOR’S REPORT describing all pertinent details about the use of force incident, including all of the items, enumerated above, for use of force incidents reportable to DCJS.

- 25. A Superior Officer responding to the scene of a use of force incident shall:
 - a. photograph the site of any apparent or claimed injury;
 - b. identify and interview any witnesses to the use of force incident; and
 - c. complete a SUPERVISOR'S REPORT (UF-100) setting forth his or her observations and actions and the statements of any witnesses.

- 26. All sworn members present at an incident involving the use of Physical Force or Deadly Physical Force shall upload their Body Worn Cameras as soon as practicable and shall submit a SUPPLEMENTAL REPORT regarding their actions and observations.

MANDATORY INVESTIGATION

- 27. The following shall be subject to mandatory investigation as provided in Section 240.01.01 (Mandatory Investigation) of this Manual:
 - a. every incident in which an individual sustains injuries while in custody, during apprehension, or immediately prior to being taken into custody and such individual dies or is likely to die;
 - b. every incident in which a sworn member uses Deadly Physical Force.

REPORTING USE OF FORCE TO DCJS

- 28. The Commanding Officer of the Records Unit shall be responsible for reporting each instance of Reportable Use of Force to the New York State Division of Criminal Justice



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Services as may be required by Law and in such manner as may be provided for by DCJS.

TRAINING

29. Sworn members shall be trained in and demonstrate their understanding of the proper application of force.
30. Training topics shall 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.

REFERENCE: MUNICIPAL POLICE TRAINING COUNCIL. (September 2, 2020). USE OF FORCE MODEL POLICY. ALBANY, NY: NYS DCJS. GRAHAM V. CONNOR, 490 U.S. 386 AT 396 (1989)