



GENERAL ORDER

No. 335

Subject:

Use of Physical Force

Issuing Authority:

Chief of Police

Effective Date:

11/30/2020

Supercedes:

07/30/2019

- I. **PURPOSE:** The purpose of this order is to establish policy and procedures for the use of physical force by sworn officers of the Village of North Syracuse Police Department and to establish procedures for reporting and evaluating the use of such force.
- II. **POLICY:** It is the policy of the Village of North Syracuse Police Department to recognize the value of all human life and dignity without prejudice to anyone and to use a reasonable amount of force necessary in the performance of their duties;[Revised:11/30/2020]
 - A. Sworn officers may use only that level of physical force necessary in the performance of their duties within the limits established by Article 35 of the New York State Penal Law and consistent with the training and policies of the Village of North Syracuse Police Department. Officers shall employ that degree of force, which is objectively reasonable and necessary to achieve a lawful objective. It is the responsibility of each officer to be aware of the requirements of Article 35 and to guide his actions based upon state law, case law, department policy and training.
 - B. Each officer should be aware of the standard of objective reasonableness, established by the United States Supreme Court in *Graham v. Connor*. As the Supreme Court has recognized, this 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. [Revised: 11/30/2020]
 - C. Only issued or approved equipment will be carried on duty and used when encountering resistance, except in extreme emergency situations when an employee may use any justifiable resource at his disposal.
 - D. The use of any active countermeasure, including but not limited to, pressure point control, deploying a baton, Taser, impact munitions or pepper spray is considered a use of physical force and will require a police report. Any use of force shall be documented in an officer's incident report and, when required, a "Use of Force Report."
 - E. It is the policy of the Village of North Syracuse Police Department that officers will treat people with dignity, without prejudice to anyone and recognize the value of human life.
 - F. It is the policy of the Village of North Syracuse Police Department to conspicuously post General Orders #335 Use of Physical Force, GO-#336 Impact and Aerosol Weapons, GO- #345 Conductive Energy Weapon (CEW) and GO #340 Use of Deadly Physical Force Policies on the departments website and Social Media App, for public review in accordance with Executive Law Section 837-t.
- III. **DEFINITIONS:** [11/30/2020]
 - A. **PHYSICAL FORCE** - A degree of physical contact directed against a person. Physical force includes, but is not limited to, striking, kicking, pushing, biting, pressure points, joint manipulation, joint locks, use of a choke hold or similar restraint, actively pointing a firearm at another person or any force used to disable by means actively pointing or deploying a chemical agent, including but not limited to, oleoresin capsicum, pepper spray or tear gas; actively pointing or deploying any impact weapon, including, but not

limited to a baton or billy or actively pointing or deploying an CEW and when such force is unlikely to result in serious physical injury or death. [Revised: 11/30/2020]

- 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/SERIOUS BODILY INJURY** - Physical injury which creates a substantial risk of death, unconsciousness or which causes death or serious and protracted and obvious disfigurement, protracted impairment of health or protracted loss or impairment of a bodily member, organ or mental faculty.
- E. REASONABLE BELIEF** - Those facts and circumstances within the knowledge of the individual which would make a reasonable and prudent person tend to believe that the facts and circumstances are true.
- F. 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.
- G. ACTIVELY POINTING** - The intentional targeting of a person with a Conducted Energy Weapon (CEW), firearm, impact weapon, impact projectile or chemical agent.

IV. 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 on one's self to another.
- B.** Under the 4th Amendment, a police officer may use only such force as is "objectivity 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.

V. DETERMINING THE OBJECTIVE REASONABLENESS OF FORCE:

- A.** When used, force should be only that which is objectively reasonable given the circumstances perceived by an 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 of attempt of the suspect to escape;
 - 5. The knowledge, training and experience of the officer;
 - 6. Officer/subject considerations such as size, age, relative strength. Skill level, injury or exhaustion, and the number of officers or subjects;

7. Other environmental conditions or exigent circumstances.

VI. 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.

VII. USE OF DEADLY PHYSICAL FORCE:

- A. Deadly physical force may be used by an officer to protect himself, herself, or another person, may use deadly physical force 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 or 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.
 4. Chokeholds and Obstruction of Breathing or Blood Circulation
 - a. 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
 5. Officers shall follow General Order #340 pertaining to the Use of Deadly Physical Force

VIII. 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.

IX. MEDICAL ATTENTION [REVISED:11/30/2020]

- 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. In these instances, the officer should do the following:
1. Immediately evaluate the need for medical attention or treatment for the person upon whom the force was used. The officer shall arrange for such treatment by requesting emergency medical services when the person has sustained a visible injury, complains of injury or discomfort, requests medical attention or if pepper spray was deployed.
 2. This includes appropriate and timely medical attention being provided to a party injured as a result of a use of force incident.
 3. 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.** If the person refuses to be treated, they must sign the refusal statement on the emergency medical service's Pre-hospital Care Report form. If the person refuses to sign, the refusal must be witnessed on the form. The subject's acceptance or refusal of medical care shall also be documented in the officer's police report.

X. REPORTING & REVIEWING THE USE OF FORCE: [Revised:11/30/2020]

- A.** Members involved in use of force incidents on or off duty as described below shall notify their Watch Supervisor, or Duty Chief in his absence as soon as practicable and shall complete a departmental use of force report. Note: If the member is off-duty and outside the Village of North Syracuse when the use of force occurred, he will also notify the police agency with jurisdiction for the investigation.
1. Use of force that results in a physical injury.
 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. Incidents where a Conducted Energy Weapon (CEW) was intentionally discharged or accidentally discharged after being displayed.
 5. Incidents where a firearm was discharged at a subject.

- B.** Officers shall document any requests for necessary medical or mental health treatment as well as efforts of police to arrange for such treatment.
- C.** Officers shall attempt to locate and identify any witnesses, documenting their statements.
- D.** Officers shall document and photograph all injuries. A photograph showing an absence of injury may be as important as one that shows injury.

XI. PROCEDURES FOR INVESTIGATING USE OF FORCE INCIDENTS:

- A.** Whenever force is used, the officer shall:
 - 1. Immediately evaluate the need for medical attention or treatment for the person upon whom the force was used. The officer shall arrange for such treatment by requesting emergency medical services when the person has sustained a visible injury, complains of injury or discomfort, requests medical attention or if chemical agents were used.
 - 2. If the person refuses to be treated, he must sign the refusal statement on the emergency medical service's Pre-hospital Care Report form. If the person refuses to sign, the refusal must be witnessed on the form. The subject's acceptance or refusal of medical care shall also be documented in the officer's police report.
 - 3. Attempt to locate and identify any witnesses, documenting their statements.
 - 4. Document and photograph injuries. Note: A photograph showing an absence of injury may be as important as one that shows injury.
 - 5. Report or cause to be reported all facts relative to the incident on a police incident report, whether or not an arrest was made. In addition, complete a "Use of Force Report", when required.
- B.** The Supervisor shall immediately respond to the scene of the incident to ensure that:
 - 1. The scene is safe and properly secured.
 - 2. The officer involved receives necessary assistance, including medical treatment.
 - 3. The person upon whom the force was used receives necessary medical attention.
 - 4. A thorough preliminary investigation of the use of force is conducted including, but not limited to:
 - a. Locating, interviewing and deposing witnesses, including other officer's on-scene. Conducting a neighborhood canvass as necessary.
 - b. Documenting and photographing injuries and the lack of injuries to the officer and the person upon whom the force was used.
 - c. Documenting the scene.
 - d. Collecting and preserving physical evidence.
 - e. Debriefing the subject of the use of force and documenting any admissions.

- f. Debriefing the officer who used the force.
 - g. Completing a supplement report detailing the supervisor's investigation.
5. All reports, including a "Use of Force Report" when required, are prepared and submitted. In the event that an officer is unable to complete reports due to injuries, the Supervisor shall prepare or cause them to be prepared, along with his own reports of the incident.
 6. The supervisor's report, including all necessary paperwork (e.g., Use of Force Report, incident reports and all supplements, arrest reports; medical reports, statements) shall be forwarded to the Chief of Police.
 7. The Police Chief shall be notified, if through the use of force:
 - a. Injury is sustained or inflicted by a member of the department.
 - b. A firearm was discharged or deadly physical force was employed.
 - c. There is an allegation of misconduct on the part of a member of the department.
 8. The Chief shall respond to the scene when and if he deems appropriate. In the absence of the Supervisor, the Chief shall insure that those tasks described above are accomplished.

C. USE OF FORCE REPORT:

1. In addition to documenting a use of physical force in their police report, officers shall prepare and submit a "Use of Force Report" when:
 - a. The use of force involved the discharge of a firearm, other than training or recreational purposes, whether or not a person was struck or injured by the projectile.
 - b. He takes action that results in, or is alleged to have resulted in, injury of another person.
 - c. Incidents that result in a complaint of pain from suspect, except complaints of minor discomfort from the suspect being handcuffed.
 - d. The use of force-involved acts such as striking, punching, kicking, K-9 bite or the use of pressure point controls.
 - e. The use of force involved the employment of an impact weapon, impact munitions, chemical agent, Taser or pepper spray.
 - f. The person is charged with the crime of resisting arrest.
 - g. The officer actively points a firearm at another person.
 - h. The officer is directed to complete a "Use of Force Report" by a superior officer.
2. If more than one officer is involved in the use of force, each officer shall complete the "Use of Force Report" describing the force used by that officer.

3. Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall intercede to prevent the use of unreasonable force and a duty to intervene if and when the officer has a realistic opportunity to prevent harm. Any officer who observes another member use force that exceeds the degree of force permitted by law and/or policy shall immediately report those observations to a supervisor.
4. Physical force used against crowds or unknown persons will be documented recording all possible information.
5. If an officer is incapacitated, his supervisor shall prepare the use of force report based upon the supervisor's investigation of the incident.
6. A superior officer shall review the "Use of Force Report" for completeness and accuracy.
7. All use of force reports, following initial supervisory review, shall be directed to the Chief of Police for review and findings.

D. EVALUATING THE USE OF FORCE: [REVISED: 11/30/2020]

1. The Chief of Police, or his designee, shall review the incident to ensure that the use of force was:
 - a. Objectively Reasonable.
 - b. Authorized by Article 35 and department policies.
 - c. Necessary.
 - d. Not reckless.
 - e. Out of department policy, excessive or in violation of applicable laws.
2. The Chief of Police, or his designee, shall annually complete an analysis of all Use of Force incidents in order to identify:
 - a. Patterns or trends that support future training needs.
 - b. Any equipment upgrades.
 - c. Any policy modifications.

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 negation, 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.

[Revised: 02/01/2013] [Revised: 06/01/2016] [Revised: [06/17/2019] [Revised: [07/30/2019]
[Revised: 11/30/2020]