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USE OF FORCE, DEADLY PHYSICAL FORCE, USE OF FIREARM

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner (Executive Law § 840).

In addition to those methods, techniques, and tools set forth below, the guidelines for the reasonable application of force contained in this policy shall apply to all policies addressing the potential use of force, including but not limited to the Control Devices and Conducted Energy Device policies.

POLICY

Police Officers may use only the level of physical force necessary in the performance of their duties in accordance with Article 35 of the New York State Penal Law. It is the responsibility of each officer to be aware of Article 35 and to guide his/her actions based upon that law, department policy and training. It is the policy of the Police Department that officers will use no more force than reasonably called for, given the facts and circumstances perceived by the officer at the time of the event, to effectively bring an incident or person under control. The totality of the circumstances perceived by the officer at the time force was used may include, but shall not be limited to such factors as: resistance to the officer, potential danger to persons, the need to act in a timely manner, or what and how much force was used.

DEFINITIONS

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.

Physical Injury: Impairment of physical condition or substantial pain.

Deadly Physical Force: Means physical force, which under the circumstances in which it is used is readily capable of causing death or other serious physical injury.

Serious Physical Injury: Means a physical injury which creates a substantial risk of death, or which causes death and protracted disfigurement; protracted impairment of health; or protracted loss or impairment of the function of any bodily organ.

Reasonably Necessary: An action or response to which is reasonable given the circumstances present at the time and which is necessary to accomplish a lawful objective.

Excessive Force: Any force which is not reasonably necessary.

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.

- C. Officers may use physical force when reasonable and necessary to take into custody any person who appears mentally ill and is conducting himself in a manner that is likely to result in serious harm to themselves or others.
- D. Officers may detain a person when they have reasonable suspicion that criminal activity has occurred, is occurring or is about to occur (Investigatory Stop). When officers have detained such person and they reasonably suspect that they are in danger of physical injury they may search such person for a deadly weapon, or any instrument, article or substance readily capable of causing serious physical and is not ordinarily carried by persons in public (Stop and Frisk).
- E. Officers may use physical force to execute a search warrant when persons resist or refuse to permit such search.
- F. While on-duty and in uniform for patrol duties, personnel shall be equipped with a minimum of two out of three of the following control devices and conducted energy devices: baton, taser, O.C. spray.

DETERMINING THE OBJECTIVE REASONABLE 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 subjects;
 - 7. Other environmental conditions or exigent circumstances.

DUTY TO INTERVENE

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. Intervening / observing officers shall notify a supervisor of the incident as soon as possible.

DEADLY 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.
- C. The fact that an officer is justified in used deadly physical force does not justify reckless conduct which may result in bystanders being injured.
- D. Chokeholds and Obstruction of Breathing or Blood Circulation
 - 1. 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.

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.

DUTY TO PROVIDE MENTAL AND MEDICAL ATTENTION

- 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.
1. This includes appropriate and timely medical attention being provided to a party injured as a result of a use of force incident.
 2. 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.

DISCHARGE OF FIREARM/WEAPON

- A. Shooting at or from a vehicle shall be avoided except to defend an officer's or citizen's life or as proscribed in Article 35 of the Penal Law. Officers should note that a motor vehicle presents a formidable shield against most firearms and weapons and if officer disables the operator the vehicle can be expected to continue uncontrolled creating a hazard to officers and the public.
- B. Officers are authorized in using firearms and other weapons to destroy an animal for self-defense, and to prevent substantial harm to the officer or another. Officers may also destroy severely injured/sick animals after being authorized by a Supervisory Officer. In any case where an officer uses a weapon to destroy an animal it shall be done in a manner so as not to endanger citizens.
- C. Any use of a firearm / weapon must be reasonable, necessary and in accordance with departmental policy. Officers shall exercise caution at all times when handling a firearm. Firearms / weapons shall not be aimed at any person except as necessary in the line of duty
- D. Any officer who discharges a firearm or weapon shall document the incident on an Incident Report and/or Use of Force report within forty-eight (48) hours. A Supervisory Officer shall be notified within six (6) hours. A Supervisory Officer shall conduct an investigation as to the circumstances of the firearm or weapon discharge.
1. If an officer is in another jurisdiction and discharges a firearm or weapon in accordance with his/her official duties, or Article 35 of the Penal Law; he/she shall notify the department in that jurisdiction and notify a Supervisory Officer.
 2. In any case where a firearm or weapon is discharged in accordance with Article 35 of the Penal Law, a person is injured as a result, or it occurs under special circumstances, a Supervisory Officer shall take possession of the officer's weapon. The Supervisory Officer may give the involved officer his/her weapon until it can be replaced. An investigation of the incident shall then be conducted by the Chief's designee.
 3. An officer who discharges a firearm or weapon which is in accordance with Article 35 of the Penal Law, or which results in the injury of a person, or occurs under special circumstances shall be allowed to communicate with authorized personnel. Such personnel are the Chief, the Chief's designee, a Supervisory Officer, Investigating personnel, PBA representative/attorney, Town Attorney or his representative, chaplain, healthcare personnel, and immediate family.

