



POLICE DEPARTMENT
TOWN OF SHELTER ISLAND

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SUBJECT:	USE OF PHYSICAL FORCE			
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I. PURPOSE

To establish guidelines for the use of physical force. Law enforcement officers around the country and here in New York State are authorized to use reasonable and legitimate force in specific circumstances. Federal constitutional and state statutory standards dictate when and how much force can be used.

II. POLICY

Members of the department shall use only the force necessary to affect lawful objectives. Members shall use the least amount of force necessary to effect cooperation and control of a situation which requires police intervention, and then only when all other reasonable alternatives have been exhausted or are not available.

The federal and state standards by which use of force is measured are both founded in the basic premise of objective reasonableness. The amount of force that is used by the 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, or in defense of 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 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 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 a careful balancing of all interests

III. DEFINITIONS

1. Instrument: Any article, device, object, apparatus, implement or tool used to effect cooperation and control by forceful means.

2. Restraining Force - Is the use of a minimal amount of physical strength or energy exerted to hold, restrain, control, etc., required to overcome resistance or reluctance to obey the direction of an officer.
3. Physical Force – Is the striking, kicking, fighting or any other physical or violent confrontation and force greater than restraining force not amounting to deadly physical force.
4. Objectively Reasonable – An objective standard used to judge an officers 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 benefit of 20/20 hindsight, and be based on the totality of the facts that are known to that officer at the time the force was used.
5. Physical Injury – Is the impairment of physical condition or substantial pain.
6. 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.
7. Deadly Physical Force – Physical force which is readily capable of causing death or other serious physical injury.
8. Members of the Service - For the purposes of this General Order, Bay Constables shall be considered “Members of the Service / Force.”

IV. USE OF FORCE

1. In general terms, force is authorized to be used when reasonably believed to be necessary to effect a lawful arrest or detention, prevent escape of a person from custody, or in defense of one’s self or another.
2. 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 at the scene.

V. DETERMINING THE OBJECTIVE REASONABLENESS OF FORCE

1. When used, force should be only that which is objectively reasonable given the circumstances perceived by the officer at the time of the event.
2. 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 citizens, officers and suspects.
 - D. The risk or attempt of the suspect to escape.
 - E. The knowledge, training and experience of the officer.
 - F. Officer/subject considerations such as age, size, relative strength, skill level, Injury or exhaustion, and the number of officers or suspects.
 - G. Other environmental conditions or exigent circumstances.

VI. DUTY TO INTERVENE

1. 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.
2. An officer who observes another officer use force that exceeds the degree of force as described in subdivision V of this section should promptly report these observations to a supervisor.

VII. RULES AND REGULATIONS

1. Physical Force, when used, shall be the minimum force necessary for a given situation and shall be reasonable in degree to the extent that it is necessary to effect cooperation and control of the situation.
 - A. No member of the department shall exceed the limits of his/her authority under Article 35 of the New York State Penal Law known as the Defense of Justification.
2. Only issued or approved equipment shall be used when applying physical force, except in emergency situations, when it may be necessary to use any instrument at the disposal of the officer(s) involved.
3. Whenever a person or persons are engaged in passive resistance demonstrations, "Pain Compliance," come-along holds shall not be used against a person involved in passive resistance demonstrations, unless specific authorization has been given to use such holds by a member of the Force above the rank of Sergeant. This limitation applies only to passive resistance demonstrations and is not a restriction upon an officer's authority to use reasonable force when the officer is any way endangered, is the subject of an attack or is confronted by someone actively resisting arrest as opposed to passive noncooperation.
4. Prohibited Uses of Force - Force shall not be used by an officer for the following reasons:
 - A. To extract an item from the anus or vagina of a subject without a warrant, except where 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, from an individual for the purposes of scientific testing in lieu of a court order where required;
 - D. 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.

VIII. PROCEDURES

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1. Physical Force may be used when it is lawful and when the exercise of persuasion, advice and/or warning is found to be insufficient to obtain cooperation and control.
2. Use of restraining devices (such as handcuffs) is part of the normal department arrest procedures. The mere placing of handcuffs on a prisoner will not be construed as the use of physical force. However, when the handcuffs are used as an appliance to exert force that is necessary to further subdue a prisoner or where a suspect physically resists the application of handcuffs, a use of physical force has occurred and as such must be justified.
3. If it has been necessary to use physical force, the police officer shall forthwith determine if the person requires medical treatment.
4. A supervisor shall be notified when physical force, including deadly physical force, has been used.
5. A supervisor, when so notified, shall respond to the scene and assess and investigate the situation and when necessary or if a physical injury occurs.
 - A. Ensure the member receives medical treatment if necessary and complete appropriate injured employee reports.
 - B. Ensure that medical treatment for an injured subject is obtained.
 - C. Notify the Detective Section as appropriate
6. **Required Photographs** - Photographs will be taken if a person is subjected to any force in excess of restraining force, or is charged with Resisting Arrest, whether or not the person is injured or alleges injury. In addition, photographs will be taken whenever a person subjected to restraining force is injured, alleges injury, or is arrested. The required photographs are taken in addition to mug shots.
 - A. The photographs will clearly depict the following body areas of the person:
 1. Overall front and back areas.
 2. Close-ups of all exposed areas.
 3. Close-ups of all injured areas.
 4. Close-ups of all areas alleged by the person to be injured.
 5. Upon consent of the person, close-up photographs of the following unclothed body areas: front and rear torso (male), rear of torso (female), legs and feet. No efforts shall be made to compel or force a person to submit to any photographs of the foregoing body areas.
 - B. Photographs will be taken of the scene and any evidence pertaining to the person's injury / alleged injury, if applicable.
 - C. The photographs of the person subjected to force will be documented on a photo log, and a Supplementary Report by the officer taking the photographs. The officer will also make the proper notations on the Prisoner Activity Log.
7. **Use of Force Reporting** – A Use of Force Report will be completed;

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- A. When a member of the Service uses physical force, including deadly physical force, whether an arrest is made or not and/or in any case where a person is charged with Resisting Arrest (205.30 N.Y.S. P.L.) wherein any level of force is used.
- B. When an officer engages in conduct which results in the death or serious bodily injury of another person. Serious bodily injury is defined as bodily injury that involves a substantial risk of death, unconsciousness, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.
- C. When one of the following is initiated by an officer:
 - 1. Brandishes, uses or discharges a firearm at or in the direction of another person;
 - 2. Uses 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;
 - 3. Displays, uses or deploys a chemical agent, including, but not limited to, oleoresin capsicum, pepper spray or tear gas;
 - 4. Brandishes, uses or deploys an impact weapon, including, but not limited to, a baton;
 - 5. Brandishes, uses or deploys an electronic control weapon, including, but not limited to, an electronic stun gun.
- D. All involved officers shall (in the aforementioned A through C), prior to the end of their tour, prepare a use of force Report in the Impact records management Case module, detailing their respective involvement and submit this report to a supervisor for approval. If a member is incapacitated, his or her immediate supervisor shall prepare and submit the Use of Force Report
- E. When a member of the Service is completing the Use of Force Report, all sections are to be completed. In accordance with New York State Executive Law 837-t specific Mandatory data points must be included within the tabs, boxes, or narrative of the report:
 - 1. Age, Ethnicity, Race and Gender of the Reporting Officer
 - 2. Age, Ethnicity, Race and Gender of the Involved Subject
NOTE: Ethnicity shall be reported as Hispanic or Non- Hispanic.
Race shall be reported as American Indian/Alaskan Native, Asian, Black, Native Hawaiian/Pacific Islander, Unknown/Not reported or refused or White.
 - 3. Whether the Officer or Subject sustained serious physical injury or death.
 - 4. **Force Used by Officer:**
 - A. Firearm- Brandished, Discharged, or Used
 - B. Impact Weapon- Brandished, Deployed or Used
 - C. Conducted Energy Device (Taser)- Brandished, Deployed or Used
 - D. Flash Bomb- Brandished, Deployed or Used (ES Operators)
 - E. Chemical Agent – Displayed, Deployed or Used

- F. Chokehold or Similar Restraint – Used
- G. Conduct that Resulted in Death or Serious Physical Injury- Used

IMPORTANT: Definitions for Use of Force Report and NYS DCJS online reporting are noted below

- **Brandished and Displayed:** Act of Pointing a Weapon at Subject to Change Behavior/Actions
- **Discharged and Deployed:** Act of Firing a weapon at subject to change Behavior/Actions.
- **Used:** Employ Device/Technique Whereby Subject is Struck/ Restrained/Held or Other Conduct.
- **Serious Bodily Injury:** Involves Substantial Risk of Death, Unconsciousness, Protracted and Obvious Disfigurement or Protracted Loss of impairment of the Function of a Bodily Member, Organ or Mental Faculty.

5. **Narrative:** Members must provide details of the incident in the narrative section of the Case Report, Arrest Report and or Use of Force Report. The use of broad terms, such as “combative” and “resisting”, to describe a subjects actions should be avoided. Instead members should provide details that describe “how” a subject resisted or was combative, “pulled away”, “Swung his arms”, “kicked at Officer”, stated “I’m not going with you”, as examples.

- F. The Use of Force Report will be reviewed by a supervisor and a printed copy will be forwarded to the Chief of Police for final approval and filing.
- G. The Chief of Police will keep a file of all USE OF FORCE REPORTS whether there was an injury or not.
- H. The Chief of Police or his designee, shall report all uses of force incidents to DCJS for Data Collection purposes as per Executive Law 837-t which requires each police department, county sheriff, and the state police to report any occurrence in which a police officer or peace officer employs the use of force, **as outlined in “Use of Force Reporting” - 7, B & C ONLY.** This report will be completed via the below link
<https://www.surveygizmo.com/s3/5075589/NYS-Use-of-Force-Reporting>
EXC §840(4)(d)(2)(vi) EXC §840(4)(d)(2)(vii) EXC 837-t

IX. **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.

X. REFERENCES:

- 1.Article 35 of the New York State Penal Law
- 2.Use of Force Model Policy June 2019 – NYS DCJS Municipal Police Training Council
- 3.Suffolk County Police Department Rules and Procedures

XI. RECINDS:

- Shelter Island PD General Order –Section 7 Subject 17 - Use of Force -Order Number 011-01 - Dated 06-12-2001