



NO. 220

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32.4,40.2,43.8

USE OF FORCE POLICY

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I. PURPOSE

The purpose of this General Order is to assure the lawful, minimum use of force by all officers while assuring that officer safety is preserved and serves as an important factor in the decision to use force at any level.

II. POLICY

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.

SCOPE

This procedure deals with all use of force by Village of Solvay Police Officers short of deadly force by use of firearms. That issue is dealt with in the Department's Use of Deadly Force Policy.

III. DEFINITIONS

- A. **Objectively Reasonable** – Under the 4th Amendment, an objective standard is 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.
- 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.

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 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.

V. 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.
 - 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.

VI. 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.
- C. 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.

VII. REPORTING & REVIEWING THE USE OF FORCE

- 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.
- B. Members involved in use of force incidents as described below shall notify their supervisor as soon as practicable and shall complete a departmental use of force report.
 - 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 device (CED) was intentionally discharged or accidentally discharged after being displayed.
 - 5. Incidents where a firearm was discharged at a subject.

- C. A standardized use of force form should be used to document any reportable use of force incident.
- D. Officers should document any requests for necessary medical or mental health treatment as well as efforts of police to arrange for such treatment.
- E. Whenever an officer uses any force, he shall document his actions on a Leads report and a Solvay Police Department Use of Force report(C-34 form), explaining the circumstances involved.
- F. The Use of Force Report shall not be entered or scanned into the CNY Leads system, rather, be kept in a separate file and secured in the Police Chief's Office for review and retention.

VIII. PROCEDURES FOR INVESTIGATING USE OF FORCE INCIDENTS

- A. Where practicable, a supervisor should respond to the scene to begin the preliminary force investigation.
- B. A supervisor that is made aware of a force incident shall ensure the completion of a use of force report by all officers engaging in reportable use of force and, to the extent practical, make a record of all officers present.
- C. Photographs should be taken which sufficiently document any injuries or lack thereof to officers or suspects.
- D. The Assistant Chief/Lieutenant will receive the supervisor's report and conduct an investigation.
- E. Consistent with agency disciplinary protocols and any applicable collective bargaining agreements, agency policy should establish standards for addressing the failure to adhere to use of force guidelines.

IX. TRAINING

- A. All officers 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. 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. PROCEDURES AND GUIDELINES

- A. No officer shall use more force in any situation than is reasonable and necessary under the circumstances, to accomplish legitimate law enforcement objectives.
- B. "De-escalation" is communicating, verbally or non-verbally, or through physical contact or action in

response to a potential threat in an attempt to stabilize the situation or reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation. De-escalation may include the use of such techniques as command presence, advisements, verbal commands or warnings, verbal persuasion, tactical repositioning, or any tactic or force option that in the officer's reasoned judgment is likely to result in a lower level of force being used to accomplish the objective at hand. When reasonable and safe under the totality of circumstances, officers should attempt to de-escalate potential threats. Officers should use de-escalation techniques consistent with his/her training whenever feasible and appropriate. Officers are not expected to compromise personal safety in order to de-escalate a situation if it is likely to result in harm to the officer or others.

- C. No officer shall display or brandish as a threat any weapon unless its actual use would be proper. (However, when it is reasonable for safety purposes to anticipate actual use, weapons may be readied.)
- D. Duty to Intercede - Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force. An officer who observes another officer use force that exceeds the degree of force permitted by law shall promptly report these observations to a supervisor.
- E. Under normal circumstances, only the methods or instruments listed below may be utilized by an officer to apply force. These methods are listed in ascending order from the least severe to the most drastic. No officer shall escalate to a more severe application of force without first exhausting the lesser amount of force, or reasonably believing that the lesser force would be ineffective.
 - 1. Verbal Commands.
 - 2. Physical strength and skill.
 - 3. Approved less lethal weapons: additional controlled by Less Lethal Equipment Policy (G.O. 220.1).
 - a. Chemical weapons
 - b. Nightstick or Baton
 - c. Approved Taser X 26.
 - 4. Approved service sidearm or shoulder weapon as controlled by the Use of Deadly Force Policy (G.O. 221).

XI. UNAUTHORIZED WEAPONS/ PROHIBITED USES OF FORCE:

A. Force shall not be used by an officer for the following reasons:

1. to extract an item from the body or cavity of a subject without a warrant, except where exigent circumstances are present.
2. to coerce a confession from a subject.
3. to obtain physical evidence (blood, saliva, urine, or other bodily fluid or cells) from a subject for the purpose of scientific testing absent a court order where required.

B. Force shall not be used against subjects who are handcuffed or restrained unless it is necessary to prevent injury or escape, or to otherwise overcome resistance posed by the subject.

C. Force shall never be used to torture, unlawfully coerce or punish a subject.

D. Carotid Control holds or "Chokeholds", shall be defined as any techniques that use mechanical or physical force to restrain, incapacitate or disable a person by applying force or pressure to an individual's neck which creates a substantial risk of restricting breathing (airflow) or circulation of blood to and from the brain. Officers shall not use chokeholds unless it is reasonable to believe there is an imminent threat of serious physical harm or death to an officer or a third person.

E. The use of weapons not authorized and approved by the Police Chief, for the purpose of subduing and arresting persons is prohibited.

F. Nothing in this prohibition shall be interpreted to prevent an officer from using any necessary weapon or object in the reasonable use of force to protect his own life or that of a third party under assault.

XII. MEDICAL CONSIDERATIONS

Prior to booking or release, medical assistance shall be obtained for any person who exhibits signs of physical distress, has sustained visible injury, expresses a complaint of injury or continuing pain, or was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed.

Based upon the officer's initial assessment of the nature and extent of the individual's injuries, medical assistance may consist of examination by an emergency medical services provider or medical personnel at a hospital or jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

The on-scene supervisor, or if not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration). Individuals who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called "excited delirium"), or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable.

XIII. DISTRIBUTION OF USE OF FORCE DIRECTIVES

- A. This Use of Force policy shall be conspicuously posted on the department's public website in accordance with Executive Law Section 837-t (Currently 72 hours after amendments).
- B. All officers will receive copies of all directives regulating the use of physical force (GO # 220) less lethal equipment (GO # 220.1) and deadly physical force (GO # 221). To ensure officers' understand and compliance with these directives, all supervisors will review these documents with their subordinates.
- C. Any officer who evinces uncertainty or doubt regarding these directives will receive immediate remedial training by the supervisor for those sections of the directive(s) which are in question.
- D. If the officer still does not understand all provisions of the use of force directives after remedial training, the officer:
 - 1. Will immediately be placed on administrative duties;
 - 2. Be relieved of all department issued weapons; and
 - 3. Be subject to such remedial training as will bring him into compliance with departmental directives.