



MANUAL ORDER

No. 221

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| Subject: Use of Physical Force | | |
| Issuing Authority: Chief of Police | Effective Date: 02/05/2020 | Supercedes: |

- I. PURPOSE:** The purpose of this policy is to establish procedures for the use, reporting, documentation and evaluation of physical force by officers.
- II. POLICY:** It is the policy of the Town of Dewitt Police Department that officers use reasonable force when force is used to accomplish lawful objectives consistent with Article 35 of the New York State Penal Law. Under certain circumstances, deadly force is justified to protect life, but is never justified to merely protect property. Additionally, in accordance with New York State Executive Law section 840, sub division 4(4)(d)(3 and 4), all current use of force policies will be conspicuously posted on the Department's public web site.

III. DEFINITIONS:

- A. Physical Force -The degree of physical contact that includes, but is not limited to, striking, kicking, pushing, or disabling by means of an aerosol subject restraint, capable of causing discomfort or pain, or use of the Taser by discharging the probes or by drive stunning when such contact is unlikely to result in serious physical injury as defined in MO 222, section III, sub-division B.
- B. Less-Lethal Force -That force when used is less lethal than deadly physical force and not likely to cause serious physical injury or death.
- C. Physical Injury-Impairment of physical condition or substantial pain.
- D. Objective Reasonableness-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 the force was used.

IV. PROCEDURE:

- A. Use of Physical Force
 - 1. Officers may use the level of physical force 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, within the limits established by Article 35 of the New York State Penal Law and consistent with the training and policies of the Department.
 - 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 on the scene.
 - 3. When it is used, force should be only that which is objectively reasonable given the circumstances perceived by the officer at the time of the incident.

4. Factors that may be used in determining the reasonableness of force include, but are not limited to:
 - a. The severity of the crime or circumstances.
 - b. The level of immediacy of threat or resistance posed by the suspect.
 - c. The potential for injury to citizens, officers or suspects.
 - d. The risk or attempt of the suspect to escape.
 - e. The knowledge, training and experience of the officer.
 - f. Officer or subject considerations such as age, size, relative strength, skill level, injury or exhaustion, and the number of officers or subjects present.
 - g. Other environmental conditions or exigent circumstances.
5. Officers should attempt verbal de-escalation in situations where physical force may be required, but are not obligated to do so if a delay in their actions will result in injury to themselves or another, escape, escalation or continued non-compliance.
6. Officers may use physical (less lethal force) when they reasonably believe it is necessary to:
 - a. Overcome resistance directed at the officer or others.
 - b. Protect the officer, or a third party, from unlawful force.
 - c. Effect other lawful objectives and/or duties; such as to make an arrest.
7. Permissible methods of employing less-lethal force are:
 - a. Physical restraint, body strikes, kicks, leverage, pressure point control or other pain compliance methods.
 - b. Aerosol subject restraint.
 - c. Baton strikes that target areas of the body. The head and neck area should not be targeted, and avoided whenever possible.
 - d. Taser deployment by discharge of probes or by “drive stunning” as outlined in M.O. 209-TASER Handling and Deployment.
 - e. Use of a firearm (deadly physical force procedures apply as outlined in MO 222-Use of Deadly Physical Force).
 - f. Only issued or approved equipment and weapons will be carried on duty and used when encountering resistance, however, in emergency situations or when deadly physical force is permitted officers may use any resources available in response to such resistance.

- g. Except in-use of deadly physical force situations-officers shall not use any weapon in a manner in which, in the officer's reasonable belief, will cause death or serious physical injury.

V. PROHIBITED USES OF FORCE

A. Force will not be used by an officer to:

1. Extract an item from the anus or vagina of a person. Except in exigent circumstances, a search warrant must be obtained and executed by a medical professional as outlined in MO 430-Prisoner Security Procedures.
2. Coerce a confession from a person who is in custody.
3. Obtain blood, saliva, urine or other body fluids or cells, from a person for the purpose of scientific testing in lieu of a court order when 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 person.

VI. DUTY TO INTERVENE

- A. Any officer who observes another officer using force that he/she reasonably believes to be clearly beyond that which is reasonable under the circumstances, will intercede to prevent the use of unreasonable force, if 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 sub-division A of this section should promptly report their observations to a supervisor.

VII. INJURIES RESULTING FROM USE OF PHYSICAL FORCE

- A. Emergency Medical Services (EMS) will be requested to respond to the scene to ensure delivery of appropriate medical treatment when:
 1. Requested by the subject(s) involved.
 2. The extent of an injury is unknown or not visible.
 3. The nature or extent of the injury requires medical treatment.
- B. Officers should request that EMS respond if in doubt about the existence or extent of an injury to a person.
- C. Officers will request medical treatment for any person(s) that have been exposed to an aerosol restraint device, baton strike or Taser deployment.
- D. Supervisors responsibilities include:
 1. Ensuring that officers and/or suspects receive any needed medical treatment.
 2. Ensuring that injuries to employees and/or suspects are properly documented in an Incident Report.

3. Determining if an Evidence Technician is needed to process the scene.
4. Taking photographs of all suspects involved in an incident where force has been used. Photographs are applicable if there is no apparent or visible injury, visible injury or complaint of pain.

VIII. REPORTING USES OF PHYSICAL FORCE

- A. Any on or off duty officer utilizing force pursuant to his/her duties shall notify a shift supervisor as soon as practicable.
- B. After any incident occurs where an officer is required to use force, the primary officer shall complete an Incident report.
- C. Each officer using force, including the primary officer, must complete a separate Use of Force report (form 9.15A).
- D. Placing handcuffs on a prisoner will not require a Use of Force report. However, if the handcuffs are then used to exert pressure necessary to further control a suspect or they are physically resisting the application of handcuffs, a Use of Force report will be completed.
- E. The types of force used that require completion of a Use of Force report include, but are not limited to:
 1. Striking with hand, object or weapon.
 2. Kicking
 3. Use of an aerosol subject restraint.
 4. Use of a Taser (probe deployment or drive stun or active pointing).
 5. Discharge of a firearm or active pointing.
 6. Leverage techniques or joint manipulation.
 7. Pressure points or other pain compliance methods.
- F. If a non-sworn employee of the Department takes an action that results in, or is alleged to have resulted in injury or death of another person while working, he/she will immediately notify a supervisor.
 1. The supervisor will direct an officer to obtain a written statement from the involved employee and complete an incident report.
- G. In accordance with New York State Executive Law section 837-T and the Codes, Rules and Regulations of the State of New York, section 9 CRR-NY6058.4, the Department will report all uses of force that meet the requirements of these laws to the New York State Department of Criminal Justice Services.

IX. INVESTIGATING USE OF FORCE INCIDENTS

- A. Whenever possible, a supervisor should respond to the scene of any incident where physical force has been used.
- B. Attempts should be made to locate, identify and interview any witnesses.
- C. Supervisors should attempt to interview suspects regarding the use of force deployed during their arrest.
- D. The supervisor will ensure that a thorough investigation is conducted and all reports, including a Use of Force report (9.15A) are prepared and submitted.
 - 1. Copies of all injury and Use of Force reports will be submitted to the Chief of Police for final review.
 - 2. If an officer is unable to complete reports due to injuries, that officer's supervisor will prepare or cause them to be prepared and will submit them along with his/her own report.
 - 3. If required the supervisor will make appropriate notifications in accordance with Department policy.
 - 4. Supervisors will complete a Supervisor Supplemental report (form 9.15 B) on use of force incidents.
- E. The supervisor assigned to an incident where force has been used will complete a separate Supervisor Supplemental report (form 9.15 B) for each involved officer.

X. USE OF FORCE REVIEW

- A. Copies of all Use of Force reports will be forwarded to the Chief of Police, firearms training officers, and Defensive Tactics instructors for review and to determine if the need exists for additional or modified training.
 - 1. Additionally, an evaluation will be made regarding the effectiveness of equipment and if any repair, replacement or its' dis-continued use is necessary.
- B. Any complaints or reports of excessive use of force will be subject to review and handled in accordance with the Departments' professional standards procedures as set forth in Manual Order 206-Internal Affairs Complaint Procedure.
 - 1. When a defendant, with pending criminal charges, alleges that there was excessive use of force, in order to maintain the integrity of the pending criminal case, the use of force review process and professional standards procedures, an internal review of the case facts will be conducted.
- C. The Chief of Police will:
 - 1. Review all Use of Force reports.
 - 2. Examine the facts to determine if department policies and procedures were followed and determine if further investigation is necessary.

- 3. Assign appropriate personnel if additional investigation is required.
- D. Use of Force reports may be subject to further review by the Town Police Commission, Town Board, and District Attorney.
- E. Reports will be maintained in accordance with Department policy.
 - 1. A documented analysis of the Department’s use of force activities, policies and practices will be conducted annually. The analysis should identify:
 - a. The date and time of incidents
 - b. The types of encounters resulting in the use of force
 - c. Trends or patterns related to race, age and gender of involved subjects
 - d. Trends or patterns resulting in injury to any person including employees and
 - e. The impact of findings on policies, practices, equipment and training.

XI. TRAINING

- A. Officers will receive a review of use of force as part of the Department’s In-Service training program.
- B. In addition to a review of the application of force, training topics may include:
 - 1. Conflict prevention, resolution and negotiation.
 - 2. De-escalation techniques and strategies including handling persons who are in an agitated state.
 - 3. Duty to intervene
 - 4. Prohibited conduct.

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| Original: 01/30/1997 | Revised: 10/30/2015 | Revised: 05/22/2017 | |
| Revised: 04/30/2004 | Revised: 09/13/2016 (new, separate policy) | Revised: 06/26/2019 | |
| Revised: 10/15/2010 | Revised: 10/03/2016 | Revised: 01/22/2020 | |
| Revised: 09/01/2014 | Revised: 04/06/2017 | Revised: 02/05/2020 | |