



# GENERAL ORDER

# No. 213

Subject:

Use of Physical Force

Issuing Authority:

Chief of Police

Effective Date:

07/01/2019

Supercedes:

- I. **PURPOSE:** The purpose of this order is to establish policy and procedures for the use of physical force by sworn officers of the Town of Manlius Police Department and to establish procedures for reporting and evaluating the use of such force.
- II. **POLICY:** It is the policy of the Town of Manlius 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: 10/02/2019]
  - 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 Town of Manlius Police Department. It is the responsibility of each officer to be aware of the requirements of Article 35 and justification in general, to guide his actions based upon law and 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: 10/02/2019]
  - C. Only issued or approved equipment will be carried on duty and deployed when encountering resistance, except in extreme emergency situations when an employee may use any justifiable resource at his disposal. [Revised: 11/11/2019]
  - D. The use of any active countermeasure, including but not limited to, pressure point control; the actively pointing or deploying a baton or impact munitions; the actively pointing or deploying of an ECD or the actively pointing of or deploying of a chemical agent, including but not limited to, oleoresin capsicum, pepper spray or tear gas 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" as outlined in this order. [Revised: 11/11/2019]
- III. **DEFINITIONS:** [Revised: 10/02/2019]
  - 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 ECD and when such force is unlikely to result in serious physical injury or death. [Revised: 11/11/2019]
  - B. **PHYSICAL INJURY** - Impairment of physical condition or substantial pain.
  - C. **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. [Revised: 07/01/2019]

- 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 an Electronic Control Device (ECD), firearm, impact weapon, impact projectile or chemical agent. [Revised: 11/11/2019]

**VI. DETERMINING THE OBJECTIVE REASONABLENESS OF FORCE:** [Added: 10/02/2019]

- 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 circumstances.
  - 2. The level and immediacy of threat or resistance posed by the suspect.
  - 3. The potential for the 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.

**VII. PROHIBITED USE OF FORCE:** [Added: 10/02/2019]

- 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 fluids 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.

**VIII. PROCEDURE:****A. DUTIES OF THE INVOLVED OFFICER [Revised: 10/02/2019]**

1. Officers involved in use of force incidents, on or off-duty, shall immediately notify the watch supervisor or Duty Chief in his absence. If the member is off-duty and outside the Town of Manlius when the use of force occurred, he shall also notify the police agency with jurisdiction for investigation of the incident.
2. Whenever physical force is employed and results in physical injury that a reasonable person would believe is likely to cause injury, complaint of pain from the suspect (except minor discomfort from handcuffing) or where an ECD was intentionally or accidentally deployed while actively pointing the officer should do the following: [Revised: 11/11/2019]
  - a. 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. [Revised: 11/11/2019]
  - 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.
  - c. Attempt to locate and identify any witnesses, documenting their statements.
  - d. Document and photograph all injuries. A photograph showing an absence of injury may be as important as one that shows injury.
  - e. 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 as noted in this order. Prepare and submit required reports.

**B. DUTIES OF THE WATCH SUPERVISOR**

1. The watch supervisor shall immediately respond to the scene of the incident to ensure that:
  - a. The scene is safe and properly secured.
  - b. The officer involved receives necessary assistance, including medical treatment.
  - c. The person upon whom the force was used receives necessary medical attention.
  - d. Ensuring that any other injured persons receive medical attention if necessary.
  - e. Ensure that a thorough preliminary investigation of the use of force is conducted including, but not limited to:

- i. Locating, interviewing and deposing witnesses, including other officers on-scene.
  - ii. Conducting a neighborhood canvass if necessary.
  - iii. Documenting and photographing injuries and the lack of injuries to the officer and the person upon whom the force was used.
  - iv. Documenting the scene.
  - v. Collecting and preserving physical evidence in accordance with General Order #402, "Collection and Preservation of Physical Evidence."
  - vi. Debriefing the subject of the use of force and documenting any admissions. [Revised: 07/01/2019]
  - vii. Debriefing the officer who used the force.
  - viii. Completing a supplement report detailing the supervisor's investigation which shall be documented using the form titled, "Use of Force, supervisor review."
2. The watch supervisor shall ensure that all reports, including a "Use of Force Report" when required, are prepared and submitted.
  3. In the event that an officer is unable to complete reports due to injuries, the watch supervisor shall prepare or cause them to be prepared, along with his own reports of the incident.
  4. The watch 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 through the involved officer's division commander and Internal Affairs Officer to the Chief of Police.
  5. The watch supervisor shall ensure that the Duty Chief is notified if as a result of a 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.

#### **C. DUTY CHIEF RESPONSIBILITIES**

1. The Duty Chief shall respond to the scene when and if he deems appropriate.
2. In the absence of the watch supervisor, the Duty Chief shall ensure that those tasks described in this order are accomplished.

#### **D. USE OF FORCE REPORT [Revised: 11/11/2019]**

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. Actively pointing or deployed a chemical agent, including but not limited to, oleoresin capsicum, pepper spray or tear gas.

- b. Actively pointing or deployed an electronic control device (ECD). Including but not limited to, an electronic stun gun, flash bomb or long-range acoustic device.
  - c. Actively pointing or deployed an impact weapon, including, but not limited to, a baton or billy.
  - d. Actively pointing of a firearm.
  - e. Any conduct that resulted in, or is alleged to have resulted in, injury of another person.
  - f. The use of force involved acts such as striking, punching, kicking, K-9 bite or the use of pressure point controls.
  - g. The person is charged with the crime of resisting arrest.
  - 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 a "Use of Force Report" describing the force used by that officer.
  3. Physical force used against crowds or unknown persons will be documented recording all possible information.
  4. If an officer is incapacitated, his supervisor shall prepare the use of force report based upon the supervisor's investigation of the incident.
  5. A superior officer shall review the "Use of Force Report" for completeness and accuracy.
  6. All other use of force reports, following initial supervisory review shall be directed to:
    - a. The officer's division commander for review.
    - b. The Internal Affairs Officer for review.
    - c. The Chief of Police for review and findings.

#### **E. EVALUATING THE USE OF FORCE**

1. The Command Staff shall review the incident to ensure that the use of force was objectively reasonable, authorized, necessary, not reckless, and therefore justified.
2. The Internal Affairs Officer shall review the incident and report his findings, together with his recommended findings to the Chief of Police.
3. The Chief of Police shall determine whether the use of force was:
  - a. Within department policy and applicable laws.
  - b. Out of department policy and/or in violation of applicable laws.
4. The Internal Affairs Officer shall annually submit to the Chief of Police an analysis of all Use of Force incidents in order to identify:
  - a. Patterns or trends that support training needs.
  - b. Any equipment upgrades.

- c. Any policy modifications.

**F. POSTING OF THE USE OF FORCE POLICY**

- 1. 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). [Revised: 11/11/2019]

[Original: 05/01/1992]	[Revised: 12/16/1996]	[Revised: 02/01/1998]
[Revised: 03/17/2000]	[Revised: 02/13/2006]	[Revised: 01/31/2008]
[Revised: 07/11/2011]	[Revised: 07/01/2014]	[Revised: 05/21/2015]
[Revised: 03/16/2016]	[Revised: 05/13/2016]	[Revised: 05/25/2017]
[Revised: 07/01/2019]	[Revised: 10/02/2019]	[Revised: 11/11/2019]