TOWN OF SENECA FALLS POLICE DEPARTMENT

GENERAL ORDER

GENERAL ORDER #: 335	**RESCINDS:** 11/22/13, 07/01/14, 07/21/14, 04/09/18, 07/01/19, 10/02/19, 11/11/19,04/28/2020,09/24/2020,07/22/21
SUBJECT: USE OF PHYSICAL FORCE	**NYS ACCREDITATION:** **20.1, 20.6, 33.4**
EFFECTIVE DATE: 03/24/2022 **BY ORDER OF:** Timothy A. Snyder, Chief of Police	

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 Seneca Falls 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 Seneca Falls 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 Seneca Falls Police Department. Personnel shall use only the amount of force that is objectively reasonable and under the circumstances for the officer involved to effect an arrest, prevent an escape, or defend themselves or others. It is the responsibility of each officer to be aware of the requirements of Article 35 and to guide his/her actions based upon that 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 used when encountering resistance, except in extreme emergency situations when an employee may use any justifiable resource at his/her disposal.

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 an incident report.

Any use of force shall be documented in an officer's incident report and, when required, a "Subject Resistance Report" as outlined in section E "Subject Resistance Report".
[Revised: 11/11/2019]

III. DEFINITIONS: [Revised: 10/02/2019]

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

B. 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.

C. 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, 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]

D. Physical Injury – Impairment of physical condition or substantial pain.

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]

H. 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]

I. Spit Mask – Mesh mask or spit guard is a restraint device intended to prevent a person from spitting or biting. [Revised: 07/22/2021]

j. Bolawrap 100 Device- A less lethal Hand-held remote restraint device that discharges an eight-foot bola style Kevlar tether to temporarily restrain an individual at a range of 10-25 feet.

K. Bean Bag Impact Weapons (BBIW) – The BBIW is a less lethal shotgun firing a special projectile that can be fired with the intent of encouraging compliance, overcoming resistance or preventing serious injury without significant potential of causing death. [Revised: 03/24/2022]

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 [Revised: 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 circumstance

2. The level and immediacy of threat or resistance posed by the suspect

3. The potential for injury to citizens, officers, and suspect;

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. DUTY TO INTERVENE

A. 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.

B. An officer who observes another officer use force that exceeds the degree of force as described in subdivision (A) of this section should promptly report these observations to a supervisor.

VII. PROHIBITED USES OF FORCE [Revised; 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 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.

5. 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. [Revised: 09/24/2020]

VIII. REPORTING & REVIEWING THE USE OF FORCE:

A. Officers involved in use of force incidents, on or off-duty, shall immediately notify the Shift Supervisor (or Lieutenant in his/her absence). If the member is off-duty and outside the Town of Seneca Falls when the use of force occurred, he/she shall also notify the police agency with jurisdiction for investigation of the incident.

B. 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, Incidents where a firearm was discharged at a subject, the officer should do the following: [Revised: 11/11/2019]

1. 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 the officer will document any requests for necessary medical or mental health treatment as well as efforts of police to arrange for such treatment, or if pepper spray was deployed.[Revised: 09/24/2020]

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 himself or herself in a manner, which is likely to result in a serious harm to themselves or others.[Revised:09/24/2020]

3. If the person refuses to be treated, the must sign the refusal statement on the emergency medical service's 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 incident report.

4. Attempt to locate and identify any witnesses, documenting their statements.

5. Document and photograph all injuries. Note: **A photograph showing an absence of injury may be as important as one that shows injury.**

6. Report or cause to be reported all facts relative to the incident on an incident report, whether or not an arrest was made. In addition, complete a "Subject Resistance Report ", when required as noted in this order. Prepare and submit required reports

.IX. DUTIES OF THE SHIFT SUPERVISOR

A. The Shift Supervisor shall immediately respond to the scene of the incident to ensure that:

1. The scene is safe and properly secured.

2. The officer involved receives necessary assistance, including medical treatment.

3. The person upon whom the force was used receives necessary medical attention.

4. Ensuring that any other injured persons receive medical attention if necessary.

5. A thorough preliminary investigation of the use of force is conducted including, but not limited to:

    i. Locating, interviewing and deposing witnesses, including another officer's on-scene.

ii. Conducting and a neighborhood canvass as necessary.

iii. Documenting and photographing injuries and the lack of injuries to the officer and the person upon whom the force was used.

iii. Documenting the scene. “Collecting and preserving physical evidence in accordance with General Order 455, “Evidence Technician and Reporting Procedures”.

iv. Debriefing the subject of the use of force and documenting any admissions. [Revised: 04/01/2019]

v. Debriefing the officer who used the force.

vi. Completing a supplement report detailing the supervisor’s investigation which shall be documented using the form titled, “Subject Resistance Report”, “Supervisor’s review”.

B. All reports, including a "Subject Resistance Report" when required, are prepared and submitted. In the event that an officer is unable to complete reports due to injuries, the shift supervisor shall prepare or cause them to be prepared, along with his own reports of the incident.

C. The supervisor’s report, including all necessary paperwork (e.g., Subject Resistance Report, incident reports and all supplements, arrest reports; medical records, statements) shall be forwarded through the involved officer’s supervisor, to the Lieutenant and then to the Chief of Police.

1. The shift supervisor shall ensure that the Lieutenant is notified of 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.

D. The Lieutenant shall respond to the scene when and if he deems appropriate. In the absence of the shift supervisor, the Lieutenant shall insure that those tasks described in this order are accomplished.

X. SUBJECT RESISTANCE REPORT: [Revised: 11/11/2019]

1. In addition to documenting a use of physical force in their incident report, officers shall prepare and submit a "Subject Resistance Report" when:

   a. The use of force involved the discharge of a firearm, other than training or recreational purposes, whether or not a person was struck or injured by the projectile.

b. He/she takes action that results in, or is alleged to have resulted in, injury of another person.

c. The use of force-involved acts such as striking, punching, kicking, K-9 bite or the use of pressure point controls.

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

e. Actively pointing or deployed an electronic control device (ECD). Including but not limited to, an electronic stun gun, flash bang or long-range acoustic device.

f. Actively pointing or deployed an impact weapon, including, but not limited to, a baton or Billy

g. Actively pointing of a firearm.

h. A police canine bites a person or strikes a person with a muzzle.

i. The person is charged with the crime of resisting arrest.

j. The officer actively points a firearm at another person.

k. A spit mask is used. [Revised: 07/22/2021]

l. Bolawrap is used. [Revised: 07/22/2022]

m. Bean Bag Impact Weapon is used. [Revised: 03/24/2022]

n. The officer is directed to complete a "Subject Resistance Report" by a supervisor.

o. For report assistance, utilize the SFPD Subjects Resistance Report Writing Guide located on the “N Drive” in the GO 335 folder. [Revised: 03/24/2022]

2. If more than one officer is involved in the use of force, each officer shall complete the "Subject Resistance 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/her supervisor shall prepare the Subject Resistance Report based upon the supervisor's investigation of the incident.

5. A supervisor shall review the “Subject Resistance Report” for completeness and accuracy.

6. All Subject Resistance Reports following initial supervisory review shall be directed to:

   i. The Lieutenant for review.
   ii. And then to the Chief of Police for finale review and findings.

XI. EVALUATING THE USE OF FORCE

1. The Command Staff shall review the incident to ensure that the use of force was reasonable, authorized, necessary, not reckless, and therefor justified.

2. The Lieutenant 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. With-in department policy and applicable laws.

    b. Out of department policy and/or in violation of applicable laws.

4. The Lieutenant 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.

XII. POSTING OF THE USE OF FORCE POLICY

1. This Use of Force policy shall be conspicuously posted on the departments Public website in accordance with Executive Law Section 837-t (Currently 72 hours after amendments). [Revised: 11/11/2019]

XII. 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.