

## Use of Force

### 300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. The authority to use force is a matter of critical concern, both to the public and to the law enforcement community, and is a serious responsibility that must be exercised judiciously. Officers are involved on a daily basis in numerous and varied interactions and, when necessary, may use objectively reasonable force in carrying out their duties consistent with the parameters outlined in this Use of Force Policy.

All officers are obligated to guide their actions according to their training and this policy, whose core principles include commitment to the utmost respect for the sanctity and dignity of human life, employment of de-escalation whenever safe and feasible, the duty to intervene when witnessing the use of excessive force, the preservation and advancement of community trust and public safety, and adherence to constitutional principles. In granting officers the authority to use reasonable force, the Department acknowledges its responsibility to train, monitor and evaluate officers to ensure adherence to the use of force authorizations and limitations set forth in this policy.

Violations of this Policy will lead to corrective action and/or discipline, up to and including termination of employment.

#### 300.1.1 DEFINITIONS

Definitions related to this policy include:

**Deadly Force** - Force reasonably anticipated and intended to create a substantial likelihood of causing death or very serious injury. This includes force that, under the circumstances, is readily capable of causing death or serious physical injury.

**De-escalation** - Taking action or communicating, verbally or non-verbally, during a potential force encounter in an attempt to reduce the intensity of conflict, stabilize a situation or reduce the immediacy of a threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary.

**Safe and Feasible** - Reasonably capable of being carried out under the circumstances to successfully achieve the lawful objective or arrest without increasing risk to the officer or another person.

**Force** - The application of physical techniques or tactics, chemical agents, or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed, or restrained.

**Imminent** - Ready to take place; approaching; impending. Note that imminent does not mean immediate or instantaneous.

**Intervene** - To verbally or physically interact with another officer so as to prevent or alter a result or course of events.

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**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 circumstances that are known to that officer at the time the force was used.

**Necessary** - Force is necessary if it is required in order to make an arrest, investigatory stop, or lawful detention and it is objectively reasonable given the totality of circumstances known to a reasonable officer on the scene.

**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.

**Serious Physical Injury** - Physical injury that creates a substantial risk of death or causes death or serious and protracted disfigurement, protracted impairment of health, or protracted loss or impairment of the function of any bodily organ. (NY Penal Law § 10.00(10))

**Totality of the Circumstances** - All facts and circumstances known to the officer at the time, taken as a whole, including the conduct of the officer and the subject leading up to the use of force.

### **300.2 DE-ESCALATION**

Officers shall use de-escalation techniques and tactics when it is safe and feasible to do so under the totality of the circumstances, consistent with the officer's training. Not every potential violent confrontation can be de-escalated, but officers have the ability to impact the direction and the outcome of many situations they encounter, based on their decision-making, and the tactics they choose to employ. De-escalation applies to all encounters between officers and the public, not only those that involve force.

De-escalation may include the use of techniques and tactics, both verbal and non-verbal, such as verbal persuasion, body posture, command presence, commands or warnings, 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.

Officers are not expected to compromise safety in order to de-escalate a situation if it is likely to result in harm to the officer or others.

### **300.3 DUTY TO INTERVENE AND REPORT**

Any officer on the scene, who is in possession of all necessary facts, who observes another officer or supervisor using force that is not objectively reasonable shall intervene when safe and feasible. Any intervention by an officer must be reported to a supervisor, who must initiate an immediate investigation.

Any officer who observes another officer, including a supervisor, use force that is potentially beyond that which is objectively reasonable or is against policy shall report the force to any supervisor and/or the Office of Professional Standards immediately.

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#### **300.4 USE OF FORCE**

Officers shall use only that amount of force that reasonably appears necessary given the objective facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose listed in Use of Force Authorization.

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident, rather than with the 20/20 vision of hindsight. Officers must often make split-second decisions about the amount of force that reasonably appears necessary in a particular situation. Therefore, any evaluation of reasonableness must consider the fact that officers must assess the situation with limited information and in circumstances that are tense, uncertain and rapidly evolving.

Officers should continually assess the totality of the circumstances as the situation changes, and adjust the use of force appropriately to ensure the level of force remains proportionate to the perceived threat. Authorized use of force should cease when the officer reasonably perceives that the purpose necessitating the use of force has ceased.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident. Any exercise of discretion must remain consistent with training.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury and advance public safety, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

#### **300.5 USE OF FORCE AUTHORIZATION**

Officers are authorized to use objectively reasonable force when necessary to accomplish lawful objectives, including:

- (a) Effecting an arrest, prevent escape of a person from custody, or in defense of self or others from imminent physical force;
- (b) Effecting an investigatory stop or detention where there is reasonable suspicion to believe that criminal conduct has occurred or is ongoing;
- (c) Taking subjects into protective custody, including civil custody, when authorized by law, such as persons who are a danger to themselves or others or persons incapacitated by intoxicating agents;
- (d) Preventing a subject from committing suicide or inflicting serious physical injury upon themselves, provided the force shall not rise to the level of deadly physical force;
- (e) Assisting a licensed medical provider in providing necessary medical treatment;
- (f) Overcoming resistance to a lawful police order following a verbal warning.

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#### **300.6 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE**

When determining whether de-escalation is safe and feasible, whether or not to apply force, and the amount and type of force that is reasonable and necessary, the following factors should be taken into consideration, including:

- (a) The immediacy and severity of the threat to officers or others, including the potential for injury to officers and others;
- (b) The seriousness of the suspected offense or reason for contact with the subject;
- (c) The level of the subject's resistance, whether the subject is attempting to evade arrest by flight, or is attacking the officer;
- (d) Dynamics between the officer and subject (e.g., age, size, physical condition, skill level, injuries sustained, level of exhaustion or fatigue, the length or duration of the encounter, the number of officers available vs. subjects, etc.);
- (e) Whether the subject exhibits any pre-assault indicators, such as verbal aggression, posture change, physiological changes consistent with stressor events, target glance, undirected over-compliance, aggression directed at another person or an inanimate object, kinetic body movements, physical non-compliance, defensive or offensive physical posturing, or any combination;
- (f) A subject's escalation of verbal, physical, or emotional response;
- (g) The relative physical leverage, or position of physical advantage or disadvantage, created by the proximity or positioning of the officer and subject;
- (h) Nature and/or location of the incident, including whether a domestic disturbance or dispute is involved;
- (i) Unique characteristics of the subject, including their mental state or capacity; whether they exhibit any effects of drug or alcohol use; their ability to understand and comply with officer commands; and whether they are a member of a vulnerable class (child, elderly, disabled, visibly pregnant)
- (j) The subject's proximity of weapons or dangerous improvised devices;
- (k) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained;
- (l) The availability of other options and their possible effectiveness;
- (m) The risk and reasonably foreseeable consequences of escape;
- (n) The need for immediate control of the subject or a prompt resolution of the situation;
- (o) Whether the subject's conduct no longer reasonably appears to pose an imminent threat to the officer or others;
- (p) Environmental factors, for example, elevation, lighting, spatial confinement, weather, presence and proximity of others;
- (q) Prior contacts and whether the subject is known to have a propensity for violence;
- (r) Any other exigent circumstances, which include such circumstances that would cause a reasonable person to believe that a particular action is necessary to prevent physical

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harm to an individual, the destruction of relevant evidence, the escape of a suspect, or some other consequence improperly frustrating legitimate law enforcement efforts;

- (s) Any other conclusions that can be drawn about the subject, circumstances, or environment, which a reasonable officer perceives as a result of training or experience to pose a threat of harm.

### **300.7 PROHIBITED USES OF FORCE**

Generally, officers must cease using force when the officer reasonably perceives that the purpose necessitating the use of force has ended, and must continually assess the situation and changing circumstances, and adjust or discontinue the use of force appropriately.

In addition, force shall not be used in the following circumstances:

- (a) To obtain or seek to obtain a confession from a subject.
- (b) To obtain physical evidence from a subject for the purpose of scientific testing, absent a court order.
- (c) 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.
- (d) To torture, unlawfully coerce or punish a subject.
- (e) To attempt to remove or extract evidence from a subject who has orally ingested the evidence, once the subject has placed the potential evidence in his/her mouth.
  - 1. Note: An officer may use reasonable force to prevent the person from placing the evidence or contraband in their mouth, but such force must cease once evidence/contraband is in the mouth. Once a subject has ingested potentially harmful evidence such as narcotics, an officer shall request immediate medical attention.
- (f) To extract an item from the body or cavity of a subject without a warrant, except where exigent circumstances are present (e.g. medical distress) (for body cavity searches see the Custodial Searches policy).

For additional limitations and prohibitions related to the use of deadly force, refer to Deadly Force Limitations and Prohibitions below.

### **300.8 USE OF DEADLY FORCE**

Deadly force is a measure to be employed only in the most extreme circumstances. An officer may use deadly force only when it is objectively reasonable under the totality of the circumstances.

Use of deadly force is considered objectively reasonable when:

- (a) The officer reasonably believes or perceives the subject has a weapon or is attempting to access a weapon and it is reasonable to believe the subject intends to use it against the officer or third person(s).

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- (b) The officer reasonably believes or perceives the subject is capable of causing serious bodily harm or death to the officer or third person(s) even in the absence of a weapon and it is reasonable to believe the subject intends to do so.
- (c) It is necessary to protect the officer or third person(s) from what is reasonably believed or perceived to be an imminent threat of death or serious bodily harm.
- (d) It is necessary to prevent the escape of a fleeing subject when the officer has probable cause to believe that the subject has committed, or intends to commit, a felony involving serious bodily harm or death and the officer reasonably believes that there is an imminent risk of serious bodily harm or death to the officer or third person(s) if the subject is not immediately apprehended.

Officers shall warn of their intent to use deadly force where safe and feasible.

### **300.9 DEADLY FORCE LIMITATIONS AND PROHIBITIONS**

**Chokeholds:** The Department bans the use of chokeholds as a police practice in a manner consistent with the conduct prohibited by NY Penal Law §121.13-A. A chokehold is defined as either (i) a technique that applies pressure to the throat or windpipe of a person in a manner that may hinder breathing or reduce intake of air (NY Exec. Law §837-t); or (ii) a technique that applies pressure on the throat or neck of such person or blocks the nose or mouth of such person with intent to impede the normal breathing or circulation of the blood of another person (NY Penal Law §121.11).

**Property Destruction:** Officers shall not use deadly force against subjects to prevent the destruction of property.

**Warning Shots:** Officers shall not fire warning shots.

**Drawing or Displaying Weapons:** Officers may only draw and display firearms where there is a reasonable belief there is a possibility of danger to the officer or others, or to ensure the safety of any person.

**Shooting at a Moving Vehicle:** Discharging a firearm at a moving vehicle is prohibited unless an officer reasonably believes or perceives that any occupant(s) of the vehicle are using or are about to use deadly force against the officer or another person, and the officer reasonably believes there are no other reasonable means available to avert the threat posed by the vehicle or its occupants. Due to the inherent danger of this tactic, the following additional guidance applies:

- (a) When confronted by an oncoming vehicle, officers should not position themselves in the path of the vehicle, and should make every attempt to move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants.
- (b) Officers should not discharge their firearm at a vehicle when it is reasonable to believe that the vehicle may contain an innocent occupant or when it is reasonably foreseeable that doing so may cause the vehicle to lose control and injure an innocent bystander.
- (c) Officers should not discharge their firearms at any part of a vehicle in an attempt to disable the vehicle.

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**Shooting from a Moving Vehicle:** Discharging a firearm from a moving vehicle is prohibited unless an officer reasonably believes or perceives that the subject is using or is about to use deadly force against the officer or another person, and the officer reasonably believes there are no other reasonable means available to avert the threat posed by the subject.

#### **300.10 REPORTING THE USE OF FORCE**

All officers involved in a use of force incident shall immediately inform a supervisor of the event. Any use of force by an officer shall be documented promptly, completely, and accurately in an appropriate report prepared by a supervisor according to the Department's Use of Force Reporting Procedures. The officer should articulate the factors perceived and why the officer believed the use of force was reasonable under the circumstances.

Upon notification of a use of force incident, a supervisor shall immediately respond to the scene and conduct an investigation as set forth in the Use of Force Reporting Procedures.

To collect data for purposes of training, resource allocation, analysis, and related purposes, the Department may require the completion of additional report forms, as specified in department policy, procedure, or law.

All officers involved in a use of force incident, investigating supervisors, evidence technicians collecting evidence of a use of force incident, and command personnel, where appropriate, shall comply with the Department's Use of Force Reporting Procedures.

#### [UOF Reporting Procedure](#)

#### **300.11 MEDICAL TREATMENT / EVALUATION**

Once it is reasonably safe to do so, officers shall immediately request medical assistance for any person who exhibits signs of physical or mental distress, has sustained visible injury, expresses a complaint of injury or continuing pain, or was rendered unconscious.

An officer should take steps to obtain medical attention for a person who reasonably appears to be mentally ill and is behaving in a manner that is likely to result in serious harm to the person or to others.

Any individual exhibiting signs of physical or mental distress after an encounter should be continuously monitored until the individual can be medically assessed.

Individuals shall not be placed on their stomachs for an extended period, as this could impair their ability to breathe.

Officers shall render emergency first aid within the limits of their individual skills, training and available equipment until professional medical care providers arrive on the scene.

The on-scene supervisor or, if the on-scene supervisor is not available, the primary 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.

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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 shall be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage nearby if the scene is not yet secure.

Officers should document requests for medical or mental health treatment, refusals of medical or mental health treatment, as well as efforts to arrange for such treatment. Any refusal, 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 shall notify the Duty Chief through the chain of command where any subject requires treatment at a hospital.

#### **300.12 TRAINING**

Officers will receive annual in-service training on this policy and demonstrate their knowledge and understanding.

Subject to available resources, officers should receive periodic training on:

- (a) Guidelines regarding vulnerable populations, including but not limited to children, elderly, pregnant persons, and individuals with physical, mental, or intellectual disabilities.
- (b) De-escalation tactics, including alternatives to force.
- (c) Application of use of force and conflict strategies as required by the New York State Use of Force Model Policy (Executive Law § 840).
- (d) Firearms qualification, proficiency and training, defensive tactics, constitutional use of force principles, threat assessment, reality-based training, Taser training, and verbal and non-verbal communication skills.

#### **300.13 USE OF FORCE ANALYSIS**

At least annually, the Department should prepare an analysis of use of force incidents. The analysis should be submitted to the Chief of Police. The analysis should include a needs assessment and provide recommendations regarding training, equipment, and policy. The analysis should not contain the names of officers, suspects, or case numbers.

#### **300.14 POLICY AVAILABILITY**

This policy shall be readily available to the public upon request and shall be posted on the department website.



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#### **300.15 PROHIBITED USE OF POLICY**

This policy is for internal use only to provide operational guideposts and does not, and is not intended to, define any applicable legal standard, but in many instances defines conduct that exceeds current standards. Nothing in this policy is intended to create or does create an enforceable legal right, duty of care, or private right of action. Any corrective action or discipline taken in response to violation of this policy is subject to the exclusive discretion of the Office of the Chief of Police.

## **Attachments**

## **FINAL UOF Reporting Policy (2.22.2020).pdf**

## Use of Physical Force Reporting Procedures

### **3.00 PROCEDURE:**

In order to protect the rights of citizens and provide oversight concerning officer conduct, the City of Syracuse Police Department (“Department”) is committed to documenting and investigating use of force incidents. The purpose of this policy is to provide officers and their supervisors with guidelines for reporting and investigating use of force incidents.

It is this Department’s policy that officers report ALL use of force incidents, as designated herein, in a timely, complete, and accurate manner, as prescribed by this policy. Each incident shall be thoroughly investigated and reviewed by an appropriate, independent Department supervisory personnel. The completed reports shall be reviewed by the chain of command as set forth more fully below.

### **3.10 DEFINITIONS:**

- A. Reportable Use of Force- The application of physical techniques or tactics, chemical, agents, or weapons to another person. It is not a use of force when a person allows themselves to be searched, escorted, handcuffed, or restrained.
- B. Critical Use of Force- Any reportable use of force in which a human subject is exposed to deadly physical force or serious physical injury, or otherwise dies as a result of police action, or while in police custody, or other cases as directed by the Chief of Police or Duty Chief. This applies to incidents involving City police officers occurring on duty activities regardless of geographic location.

### **3.11 PROCEDURE FOR INVESTIGATION OF REPORTABLE USE OF FORCE INCIDENTS:**

- A. OFFICER RESPONSIBILITIES: Whenever a reportable use of force occurs, all officers shall:
  - 1. As soon as is reasonably practical following a reportable use of force, officers should assess and render medical care and treatment as set forth in the Use of Force Policy, Section 300.12. If the subject refuses to be treated, the subject must sign the Medical Treatment Refusal statement on the Emergency Medical Services Pre-Hospital Care report form. If the subject refuses to sign, the refusal must be witnessed on the form. The subject’s

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acceptance or refusal of medical care shall also be documented in the officer's police report.

2. Officers involved in reportable use of force incidents while on duty shall immediately notify a supervisor through E-911 radio system. If the member is off-duty, the officer shall notify the Department desk sergeant.
3. Request through E-911 radio system call the dispatch of an evidence technician to the site to document the use of force and attendant injuries.
4. Upon the arrival of the investigating supervisor, provide all requested information about the incident, including identification of any identifiable witnesses to the incident.
5. Sufficiently summarize the facts relative to the incident in a police incident report including:
  - a. The facts and circumstances presented to the officer that led to the use of force;
  - b. The type, extent, duration, and sequence of resistance or force by the subject, if any;
  - c. The specific type, extent, duration, and sequence of the force utilized by any involved officers, including all verbal commands given to the subject;
  - d. The identification of any injuries to the subject and/or involved officers; and
  - e. Whether or not an arrest is made.

NOTE: In accordance with the Body Worn Camera (BWC) Policy, volume 1, Article 3, Section 83.15 (a)(1), officers may view BWC recordings from their assigned BWC if available to assist in accurate report writing. However, the purpose of using BWC recordings in writing reports is to maximize the accuracy of the report- not to replace the Member's independent recollection and perception of an event.

6. Force of any type used against crowds or unknown persons will be documented in a police report, in the manner described in subparagraph 5.
7. Each officer involved in the use of force will complete either an incident report or a supplemental report documenting such use of force.

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### B. EVIDENCE TECHNICIAN RESPONSIBILITIES:

1. Coordinate with the investigating supervisor with respect to documenting all evidence of the use of force incident.
2. Take photographs of the use of force incident and scene, including documenting the subject's injuries, the involved officer's injuries, and any observed evidence of the incident in question, the degree of force or resistance used, the evidence of a struggle, etc.

NOTE: A photograph showing an absence of injury is as important as one that shows injury. Photographs must be taken regardless of whether an injury exists.

3. Collect any relevant physical evidence.
4. Prepare a narrative report to document any additional relevant evidence not otherwise reflected in the photographs or collected as physical evidence.

### C. SUPERVISOR RESPONSIBILITIES: It shall be the investigating supervisor's responsibility to immediately respond to the scene of the incident and ensure that:

1. The person upon whom the force was used receives necessary medical attention as set forth in the Use of Force Policy, Section 300.12. If the person requires medical attention at a hospital or other medical facility, the supervisor shall make a notification to the Duty Chief via the chain of command.
2. The officer involved receives necessary assistance, including medical treatment if needed.
3. All necessary evidence is collected and photographs are taken of the scene and any person or police officer involved in the use of force in order to document the presence of, or lack of, injuries resulting from the use of force.
4. Injuries to the person upon whom the force was used, and the involved officer, are fully documented.
5. Investigate the use of force incident to include the following:
  - a. Interview the subject;
  - b. Interview all other involved officers;

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- c. Conduct a canvass of the incident location and interview any other witnesses, where practicable and available;
  - d. Secure any video/cell phone evidence, if practicable;
  - e. Secure and review E-911 call center audio and event chronology records;
  - f. Secure and review any booking video from Justice Center, if available;
  - g. Review any police-generated video including BWC, COPS cam, and dash-cam footage, if any;
  - h. Review all relevant police reports;
  - i. Review any photographs or other physical evidence; and
  - j. Consider any available evidence of the extent of the subject's injuries, including medical reports, if available, observation of the subject's condition, and the subject's own statements about their conditions/injuries.
6. Ensure that all involved officers have completed the necessary reports. In the event that an involved officer is unable to complete reports due to injuries, the supervisor shall ensure that the officer completes the required documentation as soon as is practicable.
  7. The supervisor shall complete the Subject Resistance checklist, and it will be forwarded to the Office of Professional Standards (OPS) prior to the end of the supervisor's shift.
  8. The supervisor shall complete the Blue Team Entry and append all collected information within four (4) working days. In the completed entry, the supervisor shall report any necessary findings or conclusions regarding whether the use of force was in accordance with Department policy, regulations and/or training. If a supervisor cannot complete a Blue Team entry within four (4) working days, the supervisor shall make a notification to their superior officer.
  9. When completed, the Blue Team entry shall be forwarded through the chain of command to a superior office for review. The superior officer will conduct an independent review of the supervisor's report who shall sign off on the report only if it is complete and they agree with the investigating supervisor's

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findings. The superior officer shall then forward the report to OPS through the Blue Team system.

10. A Subject Resistance checklist and Blue Team entry will be done for each person that force is used upon.
11. Use of force used against unknown persons or crowds will be documented in as much detail as possible.

### **3.12 EVALUATING THE USE OF PHYSICAL FORCE**

- A. All supervising officers are responsible for monitoring subordinate behavior relative to the use of force employed by subordinates in the performance of duty to ensure that Department policies, procedures, and training are followed:
  - a. Supervisors must take immediate corrective action when subordinate behavior is found to be inconsistent with Department's policies, procedures, and training regarding any facet of the use of force.
  - b. When a supervisor finds that an officer's behavior is inconsistent with the Department's policy, procedures, or training on the use of force, they must notify their superior officer in writing (Forms 10.1 and 9.17B).
- B. OPS will investigate any external complaint regarding allegations of improper use of force unless directed otherwise by the Chief of Police. In addition, OPS will investigate internal complaints regarding allegations of improper use of force, if directed by the Chief of Police or their designee. OPS shall assess and determine whether the force used was consistent with Department policies, procedures, and training.
- C. The disposition of all cases investigated by OPS shall be compiled and analyzed annually. The disposition of all cases investigated, together with any recommendations, shall be reported to the Chief of Police.
- D. At the conclusion of each Departmental and/or criminal investigation resulting in a finding of improper use of physical force, the Chief of Police shall make the final determination on any action to be taken.



## Use of Physical Force Reporting Procedures

### **3.13 PROCEDURE FOR INVESTIGATION OF CRITICAL USE OF FORCE INCIDENTS**

All critical use of force incidents, as defined in Section 3.10(B), shall be fully investigated as reportable use of force. However, any critical use of force that involve an officer-involved shooting, or result in a death of a person, whether in custody or not, shall be investigated by the Force Investigation Team (FIT) according the procedures set forth below. The FIT, or, if designated members of FIT, shall also investigate any other critical use of force incident when directed by the Chief of Police.

When the above criteria are met, FIT is responsible for the ensuing investigation. However, during the preliminary stages of the investigation, detectives and supervisors from the Criminal Investigation Division (CID) shall respond to the scene and assist with the preliminary aspects of the investigation.

A. INVOLVED OFFICER RESPONSIBILITIES: Whenever an officer is involved in an incident requiring a FIT investigation, the involved officer shall undertake the following actions, where feasible and appropriate under the following circumstances:

1. Determine what actions need to be taken to render the scene safe;
2. Once the scene is safe, immediately determine the physical condition of any injure person;
3. Render first aid when appropriate;
4. Request medical first responders;
5. Notify E-911 of the incident and location;
6. Notify and request a supervisor;
7. Secure the incident scene, and if feasible, protect all physical evidence and identify all potential witnesses;
8. Remain at the scene (unless injured) until the arrival of appropriate supervisory officers;

NOTE: If the circumstances are such that the officer's continued presence at the scene may cause the development of a more hazardous situation (i.e. dangerous crowd), the ranking commanding officer on the scene may, at the discretion, direct the officer to respond to another location.

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9. Provide a Public Safety statement (10.18) to the on-scene supervisor;
10. After completing the Public Safety statement and being cleared by the scene supervisor, the involved officer(s) will be transported to the Public Safety Building, unless medical attention is needed or requested;
11. Upon arrival at the Public Safety Building, take direction from FIT, if appropriate;
12. The officer shall surrender their weapon to authorized personnel, if directed to do so; and
13. The involved officer shall not discuss the incident with anyone, including the accompanying officer. However, the involved officer may discuss the incident with the following authorized personnel:
  - a. Authorized investigative personnel;
  - b. Attorneys representing the involved officer;
  - c. Qualified mental health professionals; or
  - d. Union representatives.

B. ASSISTING OFFICER RESPONSIBILITIES: Whenever an officer is involved in an incident requiring a FIT investigation, any assisting officers on the scene, which can include an officer witnessing the incident or otherwise arriving on the scene, shall share responsibility for the following, where feasible and appropriate under the circumstances:

1. Ensure that there are no further safety threats;
2. Secure and separate the suspects, if necessary;
3. Relay critical information to the dispatcher;
4. Request emergency medical services and provide first aid as needed;
5. Secure the scene;
6. Locate witnesses; and
7. Prepare reports or statements, as directed.

C. SUPERVISOR RESPONSIBILITIES: When a supervisor is summoned to the scene of the incident requiring a FIT investigation, the supervisor shall undertake the following actions, where feasible and appropriate under the circumstances:

1. Determine the existing danger level on-scene;
2. Ensure that those that are injured receive medical attention;

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3. Assume control and maintain the integrity of the scene until properly relieved;
4. Obtain a brief overview of the incident using the Public Safety form (Form 1038), relay pertinent public safety information immediately via radio to responding units as appropriate, and provide the completed Public Safety form to FIT or CID Supervisor on scene;

NOTE: Because the Public Safety statement is a compelled statement, the involved officer should be directed to turn off their BWC prior to making the statement.

5. If the involved officer is equipped with BWC, obtain and secure the officer's BWC for the future review by the FIT;
6. Ensure that the involved officer(s) make no statements to unauthorized personnel;
7. Assign an uninvolved officer to accompany the involved officer to the Public Safety Building as soon as practical. The accompanying officer shall remain with the involved officer but shall not discuss the incident with the involved officer;
8. Ensure that the following notifications have been made by E-911:
  - a. To an on-duty commanding officer;
  - b. To the CID; and
  - c. To the FIT;
9. Once relieved from the scene, respond to the Public Safety Building and take direction from the FIT, if appropriate.

D. COMMAND SUPERVISORY RESPONSIBILITIES: When a commanding officer is summoned to the scene of the incident requiring a FIT investigation, the commanding officer shall undertake the following actions, where feasible and appropriate under the circumstances:

1. Render command assistance and chain-of command support for all activities at the scene with FIT and the CID;
2. Ensure that proper notifications as set forth in (C)(8) have been made; ensure that an officer not involved in the incident has been assigned to accompany the involved officer(s) to the Public Safety Building; and

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3. Notify the Duty Chief of the critical use of force incident.

E. CRIMINAL INVESTIGATION DIVISION RESPONSIBILITIES: The Criminal Investigation Division (CID) will respond to the scene of all incidents requiring a FIT investigation and will assist in conducting preliminary investigative activities, including but not limited to the following, where feasible and appropriate under the circumstances:

1. Obtain a briefing on the incident;
2. Ensure that the incident scene has been properly secured;
3. Attempt to locate witnesses;
4. Conduct a preliminary canvass of the area;
5. Attempt to locate and secure surveillance videos; and
6. Coordinate with the FIT on the incident, which shall be done by the ranking CID Supervisor or Commander.

F. FORCE INVESTIGATION TEAM (FIT) RESPONSIBILITIES: The FIT will respond to all incidents satisfying the criteria set forth in Section 3.13, including as follows:

1. Ensure notification occurs to the Crime Scene Unit (CSU) and/or Evidence Technician to respond to the scene of all critical use of force incidents to process the scene for evidence in compliance with standard investigative procedures;
2. Ensure that the involved officer is issued a replacement weapon by a member of CSU, if appropriate;
3. Review the Department's Officer Involved checklist with the involved officer(s);
4. Make any required next of kin notifications to the family members of the subject;
5. Determine and recommend to the Chief of Police whether any non-involved officers should also be placed on administrative leave as the result of the critical use of force incident;
6. Establish and maintain a liaison with the District Attorney's office;
7. Prepare a complete and accurate report regarding the incident for review by the District Attorney's office;

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8. Participate in the preparation of the After Action report, as directed by the Chief of Police; and
9. A Supervisor with FIT shall follow all ordinary reportable use of force procedures, including preparation of a Subject Resistance checklist and submission of a Blue Team entry.

G. OFFICE OF THE CHIEF OF POLICE RESPONSIBILITIES: With respect to all incidents requiring a FIT investigation, Office of the Chief of Police shall:

1. Be available if called upon to provide oversight to the investigation, as required;
2. Coordinate with the Department's Public Information officer regarding media coverage of the incident;
  - a. The name of the involved officer(s) will not be released for at least seventy-two (72) hours after the incident OR following the investigative interview of the involved officer, whichever is later
3. Place the involved officer(s):
  - a. On administrative leave without loss of pay or benefits for a minimum of seventy-two (72) hours; and
  - b. On administrative leave or restricted duty for such additional periods of time as are necessary to allow the completion of any investigation, to allow the completion of the return of duty protocol, or for such other reason as the Chief of Police deems appropriate;
4. Place the assisting officers on administrative leave for an appropriate period of time;
5. Make prompt notification to the Mayor and Corporation Counsel, as appropriate;
6. Assemble a panel of appropriate personnel from within the Department to prepare a detailed after action report for the purpose of identifying possible training and/or policy recommendations;
  - a. The report should include a list of all physical evidence, investigative findings, observations, and tactical considerations relative to the incident;
  - b. The final after action report should be completed no later than ninety (90) days from the conclusion of the investigation, or as soon as is

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otherwise practicable, and will remain separate from all of the incident criminal investigation documentation;

NOTE: The after action report is considered advisory, evaluative, and pre-decisional and is used to evaluate potential subsequent remedial measures and is to be used by the Department solely as part of its internal deliberative process, the internal review of the conduct of individual officers, and its ongoing internal review an evaluation of Department policies or practices.

7. At the conclusion of both the criminal and Departmental investigation, make a final determination of any appropriate action to be taken with respect to the involved officer(s).

### H. TREATMENT OF INVOLVED OFFICERS:

1. In the event of an injury to an involved officer, the Chief of Police, Duty Chief, or designee, shall arrange for family notifications and transportation, as necessary and appropriate.
2. After completion of FIT procedures outlined in Section E, the Chief of Police or Duty Chief will be place the involved officer(s) on administrative leave.
3. Prior to providing any statement to FIT, the officer(s) involved in a critical use of force incident shall be allowed to confer with union representatives and attorneys.
4. After seventy-two (72) hours or when deemed appropriate by the superior officer of FIT, a request will be made that the involved officer(s) provide a voluntary statement to a member of FIT.
5. With respect to all incidents requiring a FIT investigation, the involved officer and their family will be provided access to the services of the Department's chaplain. The chaplain's services will not be related to any part of the Department's investigation of the incident. The information discussed will not be divulged to the Department, as these consultation sessions are protected, privileged communication.
6. Counseling services will be made available to the involved officer separate and independent from the required mental health review and any

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Departmental investigation of the incident. All information exchanged between the involved officer and the counselor will be protected, privileged communication. Any participation beyond the initial session is encouraged but will be at the officer's discretion.

7. The Administrative Director of Human Resources, shall coordinate the evaluation process for the involved officer's readiness to return to duty following a FIT investigation. Upon completion of all necessary investigations and prior to returning to duty, officers involved in a critical use of force incident shall complete the following prior to be allowed to return to duty:
  - a. Participate in a fitness for duty psychological evaluation to be conducted by a qualified mental health professional;
  - b. Complete a course of firearms requalification; and
  - c. Debrief the incident with a use of force instructor, a firearms instructor, and other training instructors as appropriate and complete a course of reality-based training designed by Use of Force instructors, firearms instructors, and other training instructors as appropriate.

- I. OFFICE OF PROFESSIONAL STANDARDS RESPONSIBILITIES: OPS will conduct a separate administrative investigation according to its own protocols and procedures.

OPS will coordinate with the superior officer in charge of the FIT to ensure minimal interference with FIT investigation, until the review of said case by the District Attorney's office. The OPS investigation will determine whether the involved officer's conduct is consistent with the Departmental policies, procedures, and training.

### **3.14 ADDITIONAL REPORTING/INVESTIGATION REQUIREMENTS**

- A. OFF-DUTY USE OF FORCE INCIDENTS:
  1. Whenever an officer is involved in a critical use of force or otherwise reportable use of force incident while off-duty, they shall immediately:
    - a. Notify their direct supervisor, if the direct supervisor is not available, then they must notify the on-duty desk sergeant; and

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- b. Contact E-911, if necessary
  2. Off-duty use of force incidents shall be investigated by OPS and all applicable provisions regarding treatment of involved officers in Section 3.13(H) shall apply if the incident would otherwise be considered to be a critical use of force incident, if it occurred on duty.
- B. UNINTENTIONAL DISCHARGE OF A FIREARM:
1. Whenever an officer unintentionally or accidentally discharges a firearm while on-duty, the officer will immediately notify a supervisor.
  2. Unintentional or accidental discharges of a firearm shall be investigated by FIT and documented in applicable police reports or internal memos. If the unintentional or accidental discharge occurs during firearms-related training, the incident will be investigated by the Armament Unit and reported to the Office of the Chief of Police.
  3. Notwithstanding the requirements of Section 3.13(H)(7), any officer involved in an unintentional accidental discharge of a firearm *not resulting in physical injury* shall undergo remedial training in firearm safety, to include requalification and reality-based training, provided by the Armament Unit as soon as possible.
  4. Notwithstanding the requirements of Section 3.13(G)(3), it is within the discretion of the Chief of Police whether any officer involved in an unintentional or accidental discharge of a firearm *not resulting in physical injury* should be placed on administrative leave.

### **3.15 NEW YORK EXECUTIVE LAW SECTION 837-T REPORTING REQUIREMENTS**

1. Independent of its internal Use of Force reporting system, the Department shall comply with the reporting requirements of the Section 837-T of the New York Executive Law.
2. The Department will designate a responsible officer to input any reported information on an 837-T compliance form to the New York State Division of Criminal Justice Services (the "Division) in a form and manner deemed acceptable by the Division.



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NOTE: To the extent that the Division's reporting guidance is narrower than the Department's internal Use of Force reporting standards, the Division's guidance shall control all reporting to the State and the Department's internal guidance shall control all reporting *via* IA Pro Blue Team System