



# PATROL GUIDE

Section: Tactical Operations		Procedure No: 221-01	
<b>FORCE GUIDELINES</b>			
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## SCOPE

**The primary duty of all members of the service (MOS) is to protect human life, including the lives of individuals being placed in police custody.** Force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances. If the force used is unreasonable under the circumstances, it will be deemed excessive and in violation of Department policy.

When appropriate and consistent with personal safety, members of the service will use de-escalation techniques to safely gain voluntary compliance from a subject to reduce or eliminate the necessity to use force. In situations in which this is not safe and/or appropriate, MOS will use only the reasonable force necessary to gain control or custody of a subject. The use of deadly physical force against a person can only be used to protect MOS and/or the public from imminent serious physical injury or death.

In determining whether the use of force is reasonable, members of the service should consider the following:

- a. The nature and severity of the crime/circumstances
- b. Actions taken by the subject
- c. Duration of the action
- d. Immediacy of the perceived threat or harm to the subject, members of the service, and/or bystanders
- e. Whether the subject is actively resisting custody
- f. Whether the subject is attempting to evade arrest by flight
- g. Number of subjects in comparison to the number of MOS
- h. Size, age, and condition of the subject in comparison to the MOS
- i. Subject's violent history, if known
- j. Presence of hostile crowd or agitators
- k. Subject apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence.

All MOS are responsible and accountable for the proper use of force. The application of force must be consistent with existing law and with the New York City Police Department's policies, even when Department policy is more restrictive than state or federal law. Depending upon the circumstances, both federal and state laws provide for criminal sanctions and civil liability against MOS when force is deemed excessive, wrongful, or improperly applied.

Excessive force will not be tolerated. MOS who use excessive force will be subject to Department discipline, up to and including dismissal.

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## SCOPE (continued)

Failure to intervene in the use of excessive force, or report excessive force, or failure to request or to ensure timely medical treatment for an individual is serious misconduct that may result in criminal and civil liability and will result in Department discipline, up to and including dismissal. If a member of the service becomes aware of the use of excessive force or failure to request or to ensure timely medical treatment for an individual, the member must report such misconduct to the Internal Affairs Bureau Command Center. This report can be made anonymously.

## NOTE

*Obtaining a Confidential Identification Number from the Command Center investigator will satisfy the member's reporting responsibility, if the information is accurate and complete. Subsequent or ongoing reporting is encouraged to ensure the information is timely and complete and may be made by referencing the Confidential Identification Number.*

## DEFINITIONS

**DE-ESCALATION** - Taking action in order to stabilize a situation and reduce the immediacy of the threat so that more time, options, and/or resources become available (e.g., tactical communication, requesting a supervisor, additional MOS and/or resources such as Emergency Service Unit or Hostage Negotiation Team, etc.). The goal is to gain the voluntary compliance of the subject, when appropriate and consistent with personal safety, to reduce or eliminate the necessity to use force.

**OBJECTIVELY REASONABLE STANDARD** - The reasonableness of the use of force is based upon the totality of the circumstances known by the MOS at the time of the use of force. The Department examines the reasonableness of force viewed from the perspective of a member with similar training and experience placed into the same circumstances as the incident under investigation.

**EXCESSIVE FORCE** - Use of force deemed by the investigating supervisor as greater than that which a reasonable officer, in the same situation, would use under the circumstances that existed and were known to the MOS at the time force was used.

**CHOKEHOLD** - A chokehold shall include, but is not limited to, any pressure to the throat or windpipe, which may prevent or hinder breathing or reduce intake of air.

## PROCEDURE

To provide members of the service with the Department's force/restraint and firearm prohibitions:

### **PROHIBITIONS**

## UNIFORMED MEMBER OF THE SERVICE

1. Uniformed members of the service are authorized under New York State law to discharge a firearm to prevent or terminate the unlawful use of force that may cause death or serious physical injury, taking into account the below prohibitions imposed by the Department.

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## UNIFORMED MEMBER OF THE SERVICE (continued)

Members of the service **SHALL NOT**:

- a. Discharge a firearm when, in the professional judgment of a reasonable member of the service, doing so will unnecessarily endanger innocent persons
- b. Discharge firearms in defense of property
- c. Discharge firearms to subdue a fleeing felon who presents no threat of imminent death or serious physical injury to the MOS or another person present
- d. Fire warning shots
- e. Discharge firearm to summon assistance, except in emergency situations when someone's personal safety is endangered and no other reasonable means to obtain assistance is available
- f. Discharge their firearms at or from a moving vehicle unless deadly physical force is being used against the member of the service or another person present, by means other than a moving vehicle
- g. Discharge firearm at a dog or other animal, except to protect a member of the service or another person present from imminent physical injury and there is no opportunity to retreat or other reasonable means to eliminate the threat
- h. Cock a firearm. Firearms must be fired double action at all times.

### NOTE

*Drawing a firearm prematurely or unnecessarily limits a uniformed member's options in controlling a situation and may result in an unwarranted or accidental discharge of the firearm. The decision to display or draw a firearm should be based on an articulable belief that the potential for serious physical injury is present. When a uniformed member of the service determines that the potential for serious physical injury is no longer present, the uniformed member of the service will holster the firearm as soon as practicable.*

2. Members of the service **SHALL NOT**:

- a. Use a chokehold
- b. Use any level of force to punish, retaliate or coerce a subject to make statements
- c. Use any level of force on handcuffed or otherwise restrained subjects unless necessary to prevent injury, escape or to overcome active physical resistance or assault
- d. Connect or tie rear-cuffed hands to cuffed or restrained ankles or legs
- e. Transport a subject facedown
- f. Use force to prevent a subject from swallowing alleged controlled substance or other substance, once a subject has placed suspected controlled substance in his or her mouth, or forcibly attempt to remove substance from subject's mouth or other body cavity.

### NOTE

*Any violations of the above force prohibitions may be reviewed on a case-by-case basis by the Use of Force Review Board to determine whether, under the circumstance, the actions were reasonable and justified. The review may find that, under exigent or exceptional circumstances, the use of the prohibited action may have been justified and within guidelines.*

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**NOTE**  
(continued)

*Members who are subject to investigation, the subject of disciplinary action, civil action, or a civilian complaint related to a violation of the above prohibitions may submit a request for review of the circumstances to the Use of Force Review Board. The Use of Force Review Board will review the facts and circumstances and make a final determination of whether the force used was reasonable under the circumstances and within guidelines.*

*When a uniformed member of the service observes or suspects that a prisoner has ingested a narcotic or other dangerous substance, the prisoner will be transported from the place of arrest **DIRECTLY** to the nearest hospital facility.*



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<b>USE OF FORCE</b>			
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## PURPOSE

To provide guidelines for members of the service (MOS) regarding the use of force, and ensure that each use of force is properly reported and documented.

## DEFINITIONS

**DE-ESCALATION** – Taking action to stabilize the situation and reduce the immediacy of the threat so that more time, options, and/or resources become available (e.g., tactical communication, requesting a supervisor, additional MOS and/or resources such as Emergency Service Unit or Hostage Negotiation Team, etc.). The goal is to gain the voluntary compliance of the subject, when appropriate and consistent with personal safety, to reduce or eliminate the necessity to use force.

**ACTIVE RESISTING** – Includes physically evasive movements to defeat a member of the service’s attempt at control, including bracing, tensing, pushing, or verbally signalling an intention to avoid or prevent being taken into or retained in custody.

**ACTIVE AGGRESSION** – Threat or overt act of an assault (through physical or verbal means), coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is imminent.

**PASSIVE RESISTANCE** – Minimal physical action to prevent a member from performing their lawful duty. For example, a subject failing to comply with a lawful command and stands motionless and/or a subject going limp when being taken into custody.

**RESISTING ARREST (NYS PENAL LAW)** - A person is guilty of resisting arrest when he intentionally prevents or attempts to prevent a police officer or peace officer from effecting an authorized arrest of himself or another person.

## PROCEDURE

When a member of the service must gain compliance, control, or custody of an uncooperative subject, the member should comply with *P.G. 221-01, "Force Guidelines"* and:

## UNIFORMED MEMBER OF THE SERVICE

1. Take necessary action to protect life and personal safety of all persons present, including subjects being placed into custody.
2. Utilize de-escalation techniques when appropriate and consistent with personal safety, which may reduce or eliminate the need to use force, and increase the likelihood of gaining the subject’s voluntary compliance.
3. Isolate and contain the subject, if appropriate.
4. Immediately request a supervisor to respond, as soon as appropriate and safety permits.
5. Request additional members, as necessary, to control situation.
6. Request the response of the Emergency Service Unit, if appropriate.

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**NOTE** *MOS should consider whether a subject's lack of compliance is a deliberate attempt to resist, or alternatively, an inability to comply, resulting from factors including, but not limited to, medical condition, mental impairment, developmental disability, physical limitation, language barrier, and/or drug interaction.*

**UNIFORMED MEMBER OF THE SERVICE (continued)** 7. Comply with P.G. 221-13, "Mentally Ill or Emotionally Disturbed Persons," if the subject is acting in a manner that would lead the member of service to believe that the subject is emotionally disturbed or under the influence of a mind-altering substance.

**SUPERVISOR ON SCENE** 8. Assume command of the incident and coordinate the use of de-escalation techniques, if appropriate and consistent with officer safety.  
9. Direct tactics to minimize the possibility of injury to members of the service, the subject, or bystanders.

**UNIFORMED MEMBER OF THE SERVICE/ SUPERVISOR ON SCENE** 10. If the use of de-escalation and conflict negotiation techniques fail to persuade an uncooperative subject to cooperate, the supervisor/members of the service present should, if appropriate and consistent with officer safety:  
a. Advise the offender that he/she will be charged with the additional offense of resisting arrest  
b. Devise a tactical plan with members present to restrain the subject while minimizing the possibility of injury to members of the service, the subject, and bystanders  
c. Advise the offender that physical force or other devices (e.g., O.C. pepper spray, shield, baton/asp, etc.) will be used to handcuff/restrain him/her before applying such force, if appropriate.

**NOTE** *Members of the service should not use O.C. Pepper Spray, Conducted Electrical Weapon, or impact weapons on persons who are passively resisting.*

- 11. Apply no more than the reasonable force necessary to gain control.
  - a. Avoid actions which may result in chest compression, such as sitting, kneeling, or standing on a subject's chest or back, thereby reducing the subject's ability to breathe.
- 12. Assess the situation continually and adjust the use of force as necessary.

**NOTE** *All members of the service must intervene to stop another member of the service from using excessive force. Failure to intervene in the use of excessive force, or report excessive force, or failure to request or to ensure timely medical treatment for an individual is serious misconduct that may result in criminal and civil liability and will result in Department discipline, up to and including dismissal. If a member of the service becomes aware of the use of excessive force or failure to request or to ensure timely medical treatment for an individual, the member must report such misconduct to the Internal Affairs Bureau Command Center. This report can be made anonymously.*

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**NOTE**  
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**UNIFORMED  
MEMBER OF  
THE SERVICE**

13. Rear-cuff the subject, when practical.
  - a. If it is safer for the member of the service and the subject, the member of the service may front-cuff the subject initially, and then rear-cuff as soon as it is practical and safety allows.
  - b. If members of the service are having difficulty rear-cuffing a subject, Department issued leg restraints or Velcro straps to immobilize the legs of a subject may be used as an effective tactic to gain control, limit the subject's ability to flee or harm other individuals, and allow the subject to be safely rear-cuffed with minimal force.

**NOTE**

*If available, Department issued alternative restraining devices should be used to restrain, or further restrain, subjects whose actions may cause injury to themselves or others.*

14. Position the subject to promote free breathing, as soon as safety permits, by sitting the person up or turning the person onto his/her side.
15. Observe the subject closely for injuries, signs of serious illness, or difficulty breathing.
16. Whenever any level of force is used, inquire if subject requires medical attention and document response to inquiry in **ACTIVITY LOG (PD112-145)**.
17. If the subject is injured or ill, ensure subject receives proper medical attention.
18. Ensure subject receives immediate medical attention and provide first aid, if appropriate and properly trained, if subject is having difficulty breathing or demonstrates any potentially life-threatening symptoms or injuries.
19. If the location of the police action is poorly lit, use a flashlight or other source of illumination to maintain a clear view of the subject at all times.
20. Notify immediate supervisor regarding the type of force used, the reason force was used, and injury to any person involved.
21. Document use of force in **ACTIVITY LOG**.

**IMMEDIATE  
SUPERVISOR**

22. Perform duties of the "immediate supervisor" as per *P.G. 221-03, "Reporting and Investigation of Force Incident or Injury to Persons During Police Action,"* when notified or after becoming aware of any use of force incident.

**RELATED  
PROCEDURES**

*Reporting and Investigation of Force Incident or Injury to Persons During Police Action (P.G. 221-03)*  
*Force Guidelines (P.G. 221-01)*  
*Mentally Ill or Emotionally Disturbed Persons (P.G. 221-13)*  
*Member of the Service Subjected to Force While Performing Lawful Duty (P.G. 221-06)*

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**FORMS AND  
REPORTS**

**ACTIVITY LOG (PD112-145)**  
**STOP, QUESTION AND FRISK REPORT (PD344-151A)**  
**ON LINE BOOKING SYSTEM ARREST WORKSHEET (PD244-159)**  
**MEDICAL TREATMENT OF PRISONER (PD244-150)**  
**AIDED REPORT WORKSHEET (PD304-152b)**