



PATROL GUIDE

Section: Tactical Operations

Procedure No: 221-01

FORCE GUIDELINES

DATE ISSUED:
06/01/16

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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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USE OF FORCE			
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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
(continued)

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.

**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)



CITY OF MADISON POLICE DEPARTMENT
STANDARD OPERATING PROCEDURE



Deadly Force – Use of

Eff. Date 05/26/2016

Purpose

Consistent with our Mission Statement, the Madison Police Department believes in the dignity of all people and recognizes the value of human life. Since we have a legal and moral obligation to use force wisely and judiciously, it is the procedure of this Department that deadly force will not be resorted to unless an officer reasonably believes that a lesser degree of force would be insufficient.

It is the procedure of the Madison Police Department (MPD) that officers, while in the performance of legal duties, shall always employ force in a manner that is objectively reasonable based on the totality of the circumstances, Graham v. Connor, 490 U.S. 386 (1989). The reasonableness test is an objective one and must be judged from the perspective of a reasonable officer at the scene. Members of the MPD shall act at all times within the standards for use of force established in the Use of Force procedures. At all times, members of the MPD shall act within the standards for use of force established in the Use of Force procedures and consistent with Department training.

As used in this SOP, deadly force refers to the intentional use of a firearm or other instrument, the use of which would result in a high probability of death. The purpose of deadly force is to stop the threat. It is the responsibility of involved officers to render aid when feasible.

Procedure

DEADLY FORCE AUTHORIZED

The use of deadly force is only authorized when, under any of the following circumstances, an officer reasonably believes a lesser degree of force would be insufficient:

1. In the defense of another person who the officer has reasonable cause to believe is in imminent danger of death or great bodily harm.
2. In defense of oneself, when there is reasonable cause to believe one is in imminent danger of death or great bodily harm.
3. To effect the arrest or prevent the escape of a suspect who the officer has reasonable cause to believe has committed, or attempted to commit, a felony involving the use or threatened use of deadly force, when a high probability exists that the suspect, if not immediately apprehended, may cause death or great bodily harm.
4. To protect one's self or another from an animal which an officer reasonably believes may cause great bodily harm if not immediately controlled, or to end the suffering of an animal gravely injured or diseased after considering public view, safety, and other reasonable dispositions.

VERBAL WARNING

Before using deadly force, officers shall, if reasonably possible, identify themselves and order the suspect to desist from unlawful activity.

DEADLY FORCE IS NEVER AUTHORIZED

Deadly force is never authorized:

1. As a warning shot.
2. From a moving vehicle, unless an officer has reasonable cause to believe that one's self or another is in imminent danger of death or great bodily harm.
3. At a moving vehicle unless an officer has reasonable cause to believe that one's self or another is in imminent danger of death or great bodily harm or Deadly Force Authorized, paragraph 3, regarding certain felons applies.

4. When its use unreasonably risks the lives of innocent bystanders.

USE OF FORCE TECHNIQUES/INSTRUMENTS

The intentional punching or striking of the trachea creates a substantial likelihood of death and is therefore considered deadly force and shall be used only in accordance with this SOP.

INVESTIGATION OF THE USE OF DEADLY FORCE

See Madison Police Department Standard Operating Procedure regarding "Officer Involved Critical Incidents".

Original SOP: 03/23/2015
(Revised: 03/26/2015, 05/26/2016)
(Reviewed Only: 12/22/2016)



BYRON W. BROWN
MAYOR

CITY OF BUFFALO
DEPARTMENT OF POLICE



DANIEL DERENDA
COMMISSIONER

June 7, 2016

Muck Rock
Dept. MR 26036
411A Highland Ave.
Somerville, MA 02144

Re: Use of Force policy

The Buffalo Police Department is in receipt of your request for records pertaining to the Buffalo Police Department's Use of Force policy.

The records you have requested are attached.

Also be advised that the Buffalo Police Department WEB page also has information pertaining to Use of Force.

Mark Antonio
Captain
CIR/CCB



26036-20442170@requests.
muckrock.com
06/04/2016 02:41 AM

To msantonio@bpdny.org,
cc
bcc
Subject Freedom of Information Law Request: Use of Force Policy
(Buffalo)

June 4, 2016
Buffalo Police Department
Buffalo Police Department
74 Franklin Street
Buffalo, NY 14202

To Whom It May Concern:

Pursuant to the New York State Freedom of Information Law (1977 N.Y. Laws ch. 933), I hereby request the following records:

All current policies maintained by the department regarding use of force.

The requested documents will be made available to the general public, and this request is not being made for commercial purposes.

In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 5 business days, as the statute requires.

Sincerely,

Samuel Sinyangwe

Filed via MuckRock.com
E-mail (Preferred): 26036-20442170@requests.muckrock.com

For mailed responses, please address (see note):
MuckRock
DEPT MR 26036
411A Highland Ave
Somerville, MA 02144-2516

PLEASE NOTE: This request is not filed by a MuckRock staff member, but is being sent through MuckRock by the above in order to better track, share, and manage public records

Reason force used:
 Overcome Resistance to Arrest Restrain Protection of (name) _____
 Terminate Unlawful Conduct Prevent Escape Other _____

NARRATIVE

Subject's Actions - Describe what caused Officer to use force.

Officer's Actions - Describe how and to where force was applied.

INJURY/MEDICAL

Was Subject Injured? Yes No Nature of Injury: _____
 Was Subject Treated? Yes No If yes, at what facility? _____

Was any Police Officer Injured as a result of this incident? Yes No Nature of Injury: _____
 Who? (Rank, Name, District) _____

Was the Officer(s) Treated? Yes No If so, at what facility? _____

WITNESS INFORMATION (If additional information, attach a supplemental P-73)

Witness Officer Used CAP - P-1394 submitted

Police Officer (Rank, Name, Command, MP#, Badge# and DID#)	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Police Officer (Rank, Name, Command, MP#, Badge# and DID#)	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Civilian Name	Tel# Day, Tel# Night	
Address		
Civilian Name	Tel# Day, Tel# Night	
Address		

OFFICER REPORTING/REVIEW OF COMMAND

Officer Reporting/Badge # _____ Date _____
 (Print name) (Badge #) (Signature)

Immediate Supervisor Reviewing _____ Date _____
 (Print name) (Signature)

Immediate Supervisor Comments: _____

Member in Chain of Command Reviewing _____ Date _____
 (Rank) (Print name) (Signature)

Member in Chain of Command Reviewing _____ Date _____
 (Rank) (Print name) (Signature)

6.2

USE OF FORCE - GENERALLY

A. Members of the Department must be familiar with Article 35 of the NYS Penal Law which outlines the legal parameters for the use of physical force and the use of deadly physical force.

B. Physical force shall only be used when no other viable option is available.

C. When force is used, only that amount of force that is reasonably necessary to overcome a subject's resistance or aggression shall be employed.

D. The use of force must be reasonable and can never be reckless.

E. During an encounter in which force has become necessary, the level of resistance or aggression displayed by the subject may vary at different points in the encounter. The level of force used by the Officer shall be adjusted to changes in the suspect's level of resistance or aggression.

6.3

USE OF FORCE CONTINUUM

A. Members of the Department may use no more than the amount of force reasonably necessary to achieve a legitimate law enforcement objective. In most cases, the degree of resistance or aggression displayed by a subject will be the primary factor in determining what level(s) of force by the Officer is reasonable and authorized. A subject's reaction to an Officer's attempts at control or restraint may be broadly classified into five categories. Those categories, together with the generally authorized Officer force response options, are set forth below.

1. Compliant/Cooperative

The subject generally complies with the commands of the Officer and offers no resistance. In this instance the use of force is not authorized, but customary handcuffing and escort techniques are authorized.

2. Passive/Verbal Resistance

The subject passively resists the Officer's attempts to gain compliance or is verbally abusive, insulting or taunting and refuses to comply with the Officer's commands, but is not verbally threatening to cause imminent physical harm to the Officer or another person. The Officer shall use verbal techniques to achieve compliance and if those techniques are unsuccessful, is authorized to take physical control of the subject by grabbing, holding, and/or using customary handcuffing techniques on the subject.

3. Active Resistance

The subject makes physically evasive movements to defeat an Officer's attempt at control (e.g. bracing, teasing, moving away) or verbally threatens imminent harm to the Officer or another person or verbally signals an intention not to be taken into or retained in custody, providing the subject's intent to physically resist is clear. The Officer is authorized to physically

6.0

USE OF FORCE

6.1

POLICY

It is the policy of the Buffalo Police Department to use only that amount of physical force that is reasonably necessary to achieve a legitimate law enforcement objective, including protecting a person from the imminent use of physical force, effecting an arrest or preventing an escape from custody. Any force used must be consistent with the Fourth Amendment of the United States Constitution and Article 35 of the New York State Penal Law. Excessive or unreasonable force shall not be used.

restrain and take control of the subject by grabbing, holding forcibly handcuffing and/or using pain compliance holds and/or chemical agent on the subject.

4. Physical Resistance

The subject engages in or is about to engage in resistance or aggression that is aimed directly at the Officer. This includes grabbing, pushing, punching, kicking, biting, throwing objects or any behavior in which the Officer becomes the object of the subject's actions. Physical resistance also includes that situation in which an Officer reasonably believes that the subject is using or is about to use the above degree of physical force against another person. The Officer is authorized to use the amount of force reasonably necessary to overcome the resistance or aggression by using chemical agent, physical skills, physical tactics or impact weapons, or any appropriate lesser means of force.

5. Deadly Resistance

The subject engages or is about to engage in such an escalated level of resistance or aggression that the Officer reasonably believes the subject's actions constitute "deadly physical force." "Deadly physical force" means physical force that, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury. It may include attempts to render the Officer unconscious, grabbing for the Officer's service firearm, blows to vital organs, stabbing, shooting, or any other action that would create a likelihood of causing the Officer's serious physical injury or death. This category also includes a subject who an Officer reasonably believes is using or is about to use deadly physical force on another person. This level of resistance or aggression authorizes the Officer to use the amount of force reasonably necessary to preserve life or prevent serious physical injury and includes the use of deadly physical force.

B. Although a subject's level of resistance or aggression is usually the primary factor that determines what level of force is reasonable and authorized, there may be other factors present that may reasonably cause an Officer to escalate or de-escalate the level of force used during an encounter. These factors include, but are not limited to:

1. Officer/Subject Factors (e.g. relative age, size, strength, skill level, injury/exhaustion, number of Officers versus number of subjects);
2. Influence of drugs or alcohol;
3. Presence/proximity of weapons;
4. Other tactical factors (e.g. position of advantages, cover, time for decision);
5. Availability of other viable force options.

6.4 USE OF DEADLY PHYSICAL FORCE

A. Members of the Department may use deadly physical force but only when it is necessary to defend the Officer or third person from what the Officer reasonably believes to be the use or imminent use of deadly physical force.

B. Even if the use of deadly physical force is authorized, the Officer may not be reckless in its use.

C. Depending upon the circumstances in which they are utilized, the use of the night stick, restraining holds, police vehicles, as well as service firearms, may be considered as the use of deadly physical force.

USE OF FIREARMS

A. Members of the Department shall discharge their firearms at a person only in those circumstances in which it is necessary to defend the Officer or another person from what the Officer reasonably believes to be the imminent use of deadly physical force. In attempting to take a suspect into custody, members of the Department shall discharge their firearms only in those circumstances in which the member reasonably believes that the use of deadly physical force by the suspect is imminent.

B. Members shall not discharge a firearm or shoulder weapon from or at a moving vehicle or its occupants unless the occupants of the other vehicle are using deadly physical force against you or another person by means other than the vehicle. Members shall not discharge their firearms at or from a moving vehicle when the consequences of so doing will jeopardize the safety of other members of the Department or innocent bystanders.

C. In those circumstances in which members of the Department are justified in discharging their firearms, they are not allowed to do so recklessly.

D. Warning shots are prohibited.

E. Members of the Department may use their firearms for target practice or competition at an approved range. Dry firing or other forms of practice on any Departmental property, except under the personal direction of a firearms instructor, is strictly prohibited.

F. Members of the Department may use their firearms to incapacitate wild, vicious or rabid animals consistent with the guidelines set forth in M.O.P. Chapter 2.

DRAWING WEAPONS

A. A member of the Department is authorized to remove his/her firearm from its holster or gun mount and have it ready for immediate use, in any circumstance in which the member reasonably believes his/her life or safety may be in danger.

B. A member of the Department may point his/her firearm at a person when the officer reasonably believes that the person poses an immediate risk of death or serious physical injury to any other person.

6.7 REPORTING REQUIREMENTS - USE OF FORCE OR INJURIES TO CIVILIANS

A. Reporting requirements shall apply whether an incident occurred on or off-duty. A member of the Department shall prepare a Use of Force Report (via Blue Team) when (s)he:

1. applies any level of physical force as defined in Section 6.3 A3, A4 or A5 above on a person;
2. uses chemical spray on or affecting a person;
3. changes a subject with resisting arrest in violation of the NYS Penal Law Section 205.30.
 - a. When a member of the Department charges a subject with resisting arrest in violation of the NYS Penal Law Section 205.36, that member shall promptly notify their immediate on duty supervisor. The on-duty Supervisor shall as soon as practical, and in any event prior to the end of their tour of duty, conduct an investigation into the circumstances of the arrest and enter their findings on the subordinate's Use of Force Report (via Blue Team).
 - b. If more than one officer is involved and uses any level force as defined above, each officer shall prepare a Use of Force Report Use of Force Report (via Blue Team).

B. In addition to a Use of Force Report, a member of the Department shall prepare a written report on an Intra-Departmental Memorandum (form P-73) whenever the member:

1. discharges his/her firearm for other than training or recreational purposes (refer to M.O.P. Chapter 3) (also see M.O.P. Chapter 8);
2. takes any law enforcement action that results in, or is alleged to have resulted in, serious physical injury or death to another person.

C. All reports submitted pursuant to subdivision "A" and "B" above shall be completed prior to the officer's tour of duty and forwarded through the chain of command to the Internal Affairs Division. The Use of Force Report shall be submitted (via Blue Team). Each member in the chain of command shall review the report for completeness, accuracy and conformity with the Department's use of force policy (via Blue Team). Each member in the chain of command shall enter their comments on the Use of Force Report (via Blue Team). The final approved report shall be completed within 10 days of the incident.

In the event the Use of Force Report (via Blue Team) cannot be utilized the following procedures will be followed:

The hard copy P-1374 will be completed. The on duty supervisor shall fax the P-1374 to the Internal Affairs Division at extension 5292 prior to the end of their tour of duty. If a fax is not possible, the on duty supervisor shall immediately send an email

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the IAD Inspector. The email shall contain an explanation for the inability to fax the report, the involved officer(s) name(s), the subject's name, and the incident number.

D. In the event an officer is incapacitated and unable to prepare the proper reports, the member's immediate Supervisor shall cause the reports to be prepared on the member's behalf (via Blue Team).

E. The Internal Affairs Division shall review all such reports and make recommendations to the Commissioner. In addition, the Internal Affairs Division shall make an annual review of all such incidents and report any patterns or trends that may necessitate additional or modified training or that may require alterations in policy.

F. The Training Academy Captain shall access Blue Team to determine if there are any training issues needing to be addressed

PERSONS INJURED RESULTING FROM THE USE OF FORCE

In all circumstances in which a person is injured by a member of the Department as a result of the use of force other than deadly physical force:

A. the member shall have the injured person taken for medical treatment to the Erie County Medical Center, ECMC;

B. notify his/her immediate supervisor;

C. prepare form P-1261 (Request For Medical Attention of Injured Prisoner).

USE OF CHEMICAL SPRAY

A. The Product
The only chemical agent projector (C.A.P.) to be used by an on duty member of the Buffalo Police Department is the Department issued.

B. Issuance

The Department issues authorized chemical agent projectors to those Officers trained in its use. The chemical agent projector issued by the Department is for on duty use only and it is not to be used or carried while the member is off-duty or while employed outside the Department.

C. Replacement

Requests for replacement of empty or malfunctioning chemical agent projectors shall be submitted to the Police Academy on an Intra-Departmental Memorandum (P-73), which shall include an explanation of the necessity for the replacement. When an Officer requests replacement of an empty container, a check will be made to determine if the appropriate number of reports (P-1174) have been submitted to reflect why the chemical agent container is empty. If an appropriate number of reports have not been submitted, the Officer will not be issued a replacement chemical agent

1. Although chemical agent containers are stamped with a date on the canister, the chemical agent is effective as long as the product is able to be discharged from the canister.
2. If an issued chemical agent projector is lost by any member of the Department, the member must immediately report the loss in writing. The report shall detail the circumstances of the incident and shall be forwarded to the Training Academy through the chain of command.

D. Use

1. In General
Chemical agent projector spray is a use of force and shall be used only in conformity with the Departmental policy on use of force. Accordingly, chemical agent projector spray may be used only when its use is reasonably necessary to achieve a legitimate law enforcement objective. As a general rule, chemical agent projector spray is authorized for use on a subject when an Officer encounters "Active Resistance" or "Physical Resistance", as those terms are defined in the Department's Use of Force Continuum.

E. Officer Accidentally Sprayed With A Chemical Agent

In the event that an Officer is accidentally sprayed with a chemical agent, or is intentionally sprayed by another person, the safety of that Officer becomes paramount. The attempted apprehension of the suspect must be abandoned if the safety of the sprayed Officer is unduly jeopardized.

F. Decontamination

1. The arresting Officer is responsible for the decontamination of any prisoner sprayed with a chemical agent. Decontamination will be accomplished in accordance with procedures and regulations at the City Court Lock-up.
2. If the chemical agent is used indoors, occupants are to be advised to air out the room where the chemical agent was used, for at least one hour before using the room.

G. Reporting

1. A Use of Force Report (via Blue Team) must be completed any time a member of the Department discharges a chemical agent, except those discharges occurring during testing, training a malfunction, a use against an animal or an accidental discharge with no person affected. A Use of Force Report (via Blue Team) shall be completed by each Officer using the chemical agent.
2. Accidental discharges with no person affected or uses against animals require an Intra-Departmental Memorandum with explanation directed to the Training Academy.

10 PERSONS KILLED OR SERIOUSLY INJURED AS A RESULT OF THE USE OF DEADLY PHYSICAL FORCE

A. While on duty

In all circumstances in which a person is killed or seriously injured by an on duty member of the Department and is the result of the use of deadly physical force:

1. the member shall call for medical attention if the person is still alive;
 2. the member shall immediately notify his/her immediate supervisor who shall notify the 911 Communications Lieutenant, whom will notify the Commissioner
 3. the Homicide Squad shall conduct the investigation.
 4. members shall follow the guidelines set out in M.O.P. Chapter 17.
- B. While off duty**
In all circumstances in which a person is killed or seriously injured by an off duty member of the Department and is the result of the use of deadly physical force:

1. the member shall immediately notify the law enforcement agency in the jurisdiction in which the incident occurred and shall request medical attention if the person is still alive;
2. the member shall immediately notify his/her commanding officer, or in the commanding officer's absence, the 911 Communications Lieutenant;
3. the member shall follow the guidelines set out in M.O.P. Chapter 17;
4. and if the incident occurred outside of the city, the 911 Communications Lieutenant shall send Buffalo Police personnel to investigate.

11 DISCHARGE OF FIREARMS - REPORTING REQUIREMENTS

A. BPD Firearms Report - Intra-Departmental Memorandum - E-Mail Message

Whenever a member discharges a firearm(s) while on duty, other than in practice or at a firearms range, (s)he shall immediately report the incident to the Supervisor on duty in the District in which the incident occurred, except that if the discharge occurred in the headquarters building, the 911 Communications Lieutenant shall be notified. The member must also immediately report the incident to his/her own Supervisor. The member's command will be responsible for obtaining an event number and transmitting an E-Mail message reporting the incident. The member shall prepare a report on an Intra-Departmental Memorandum prior to reporting off duty, relating the details of the incident. The Intra-Departmental Memorandum shall be addressed to the Commissioner, attention to the appropriate Commanding Officers in the chain of command. The member shall also prepare a Firearms Use Report (BFD-1) according to the instructions on that form and before the member reports off duty.

B. Investigation by Commanding Officer - Intra-Departmental Memorandum

The Commanding Officer of the member discharging the firearm shall conduct a complete investigation of the incident and file a report on an Intra-Departmental Memorandum. The report shall be addressed to the Commissioner, attention the appropriate District/Division Commanding Officer in the chain of command.

Distribution: Original and copy of form BPD-1, the member's Intra-Departmental Memorandum and the Commanding Officer's Investigation Report on an Intra-Departmental Memorandum shall be sent to the appropriate District/Division Chief, third copy to command files.

C. Action by the District/Division Chief
The District/Division Chief shall carefully examine all reports. They shall make further inquiry as they deem appropriate. The Chief shall make recommendations concerning training, discipline, approval of the member's action, or other appropriate action on an Intra-Departmental Memorandum.

D. Incidents Occurring While OFF Duty

1. If a member discharges a firearm while off duty, whether intentionally or accidentally, the member shall notify the police authorities in the jurisdiction in which the incident occurred, and (s)he shall also be responsible for submitting a Firearms Use Report (Form BPD-1) and an Intra-Departmental Memorandum to his/her commanding officer, except that no such notification or report need be made if the officer was legitimately engaged in target practice or hunting.

2. If a member intentionally or accidentally discharges a firearm while off duty and the result is an injury to himself/herself, or injury or death to another, the member shall immediately contact the law enforcement authorities in the jurisdiction in which the incident occurred. Medical attention shall be requested and the scene of the incident preserved (refer M.O.P. Chapter 17). The member must immediately contact his/her Commanding Officer, or in the Commanding Officer's absence, the 911 Communications Lieutenant, and shall as soon as practicable there after, complete a Firearms Use Report and an Intra- Departmental Memorandum.

E. Investigating Incidents Occurring Outside the City
Whenever a member of the Department intentionally or accidentally discharges their firearm while outside the city, other than when legitimately involved in hunting or target practice, the 911 Communications Lieutenant or the Duty Inspector will determine whether a member of the Buffalo Police Department will respond to the incident based on the following:

1. the apparent surrounding circumstances;
2. the severity of the injuries, if any;
3. the possibility of criminal conduct by the member;
4. the distance from the City.

6.12 ADMINISTRATIVE DUTY

At the discretion of the Police Commissioner or his/her designee, any member involved in a shooting or any other incident resulting in death or serious physical injury to another, may be temporarily assigned to administrative duty. Administrative duty, for purposes of this section, is any assignment that does not ordinarily require the making of arrests. Assignment to administrative duty is in no way a punitive measure and shall be

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used when it tends to advance the mission and goals of the Department.

ANNUAL INSTRUCTION ON USE OF FORCE

All members of the Department authorized to carry weapons shall receive a copy of the Department's use of force policies as established in this section and shall receive instruction on these policies during their annual firearms qualification at the Firearms Unit.