

Town of Poughkeepsie Police Department Policy and Procedure # 11-100		
<u>Title:</u> Use of Force	<u>Date of Issue:</u> December 1, 2020	
<u>Issuing Authority:</u> Chief Kevin P. Faber	<u>Effective Date :</u> December 1, 2020	
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USE OF FORCE

I. PURPOSE

It is the purpose of this policy to provide police officers with written guidance and set forth the policies and procedures for the Town of Poughkeepsie Police Department involving the use of force by sworn officers of this department.

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner.

In addition to those methods, techniques, and tools set forth below, the guidelines for the reasonable application of force contained in this policy shall apply to all policies addressing the potential use of force.

II. POLICY

Protecting human life is the most important mission of the Town of Poughkeepsie Police Department. Apprehending criminals is less important than protecting innocent human life, including the officer's own life.

Officers will maintain a constant state of readiness and ability to act in instances where, in their perception, the use of force or deadly physical force may be appropriate. By maintaining this readiness and ability, officers reduce the likelihood of opposition and of the actual need for a forceful response of any kind. While officer discretion is critical, the need for accountability and control of police activities is necessary to prevent potential abuses of authority. Officers will only use the amount of force reasonably necessary to protect life and enforce the law under guidelines established in this policy manual.

III. DEFINITIONS

- A. 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.
- B. Deadly Physical Force: Means physical force which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury.
- C. Imminent: Ready to take place, impending. Note that imminent does not mean immediate or instantaneous.
- D. 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.
- E. Probable Cause: When facts and circumstances with the police officer's knowledge would lead a reasonable person to believe that the suspect has committed, is committing or is about to commit a crime. Probable cause must come from specific facts and circumstances rather than simply from the officer's hunch or suspicion.
- F. Physical Injury: Impairment of physical condition or substantial pain.
- G. Serious Physical Injury: Physical injury which creates a substantial risk of death, or which causes death or serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.
- H. Chokehold or Similar Restraint: Any restraint that applies pressure to the throat or windpipe of a person in a manner that may hinder breathing or reduce intake of air.
- I. Vascular Neck Restraint: Any restraint that compresses the carotid artery, restricting blood flow.

IV. OBJECTIVELY REASONABLE STANDARD

Under this standard, a particular application of force must be judged through the perspective of a reasonable officer facing the same set of circumstances. The standard used to determine objectively reasonable force is articulated in the United States Supreme Court decision, Graham v. Conner, 490 U.S. 386 (1989). The determination of reasonableness must be based on the totality of circumstances and must include a consideration that police officers are often forced to make split second decisions in circumstances which are tense, uncertain and rapidly evolving. The determination of reasonableness is not based on the 20/20 vision of hindsight.

Factors that may be used when determining the reasonableness of force include, but are not limited to:

1. The severity of the crime or circumstance
2. The conduct of the individual being confronted, as reasonably perceived by the officer at the time
3. The level and immediacy of threat or resistance posed by the suspect
4. The potential for injury to citizens, officers, and suspects
5. The risk or attempt of the suspect to escape
6. The knowledge, training, and experience of the officer
7. Officer/subject considerations such as age, size, relative strength, skill level, injury or exhaustion, and the number of officers or subjects

8. Influence of drugs or alcohol on the subject
9. Proximity of weapons to the subject
10. Other environmental conditions
11. Other exigent circumstances

V. USE OF FORCE CONSIDERATIONS

- A. In general terms, force is authorized to be used when reasonably believed to be necessary to effect a lawful arrest or detention, prevent the escape of a person from custody, or in defense of one's self or another.
 1. Officers have no obligation to retreat before resorting to approved use of force, including deadly physical force. Officers may consider retreat or withdrawal where delay could make a more peaceable arrest likely if such tactics would not increase risk to himself/herself or others.
 2. Before using any force against a suspect during an arrest situation, time permitting, officers will:
 - a. Have probable cause to arrest that suspect
 - b. State their intentions to arrest and identify themselves as a police officer
 - c. State the reason for the arrest
 3. Officers will use handcuffs on all arrestees, unless it is obviously unnecessary or impractical. Officers will take reasonable precautions to protect arrestees from injury caused by handcuffs or other restraining devices. Absent an imminent threat only restraining devices and techniques approved by the department may be used.
 4. Before officers use physical force but not deadly physical force for the purpose of protecting a person from self-inflicted bodily injury, including a suicide attempt, or from uncontrollable circumstances, the officer will consider other available alternatives to protect that person from harm.

VI. USE OF DEADLY PHYSICAL FORCE

1. A police officer is authorized to apply deadly physical force to achieve the following lawful objectives:
 - a. To defend himself or others against threats of serious physical injury or death
 - b. To stop dangerous violent felony fleeing where there is serious imminent risk to the public of death or serious bodily injury
2. In life-threatening situations, the use of an impromptu weapon or any weapon of necessity is justified as lethal force when reasonable alternatives have been exhausted, are unavailable or are impractical.
3. Whenever possible, a verbal warning to submit to police authority shall be given prior to using lethal force and only if to do so would not increase the danger to the member or others.
4. The Chief of Police and the administration will be notified, as soon as practical when any type of deadly physical force is used.
5. The officer(s) who actually used the deadly physical force will be relieved of duty and transported to a local hospital where arrangements for all

necessary medical treatment, to include mandatory medical evaluation, will be arranged. At the time the officer is relieved of duty, the weapon(s) used in the incident will be collected and tagged as evidence.

- a. The ranking supervisor at the scene will ensure that the officer(s) involved do not make any statements to news media or other non-ranking officers.
- b. The officers should be advised not to discuss the incident with anyone except a supervisor, personal or agency attorney, union representative or department investigator, until the conclusion of the preliminary investigation.
- c. Upon completion of necessary duties, all other officer(s) involved will be directed by the supervisor at the scene to return directly to police headquarters.

VII. PROHIBITED USES OF FORCE

- A. Force shall not be used by an officer for the following reason:
 1. Officers are not authorized to use chokeholds or similar restraints, or vascular neck restraints, unless deadly physical force is authorized.
 2. To extract an item from the anus or vagina of a subject without a warrant, except where exigent circumstances are present.
 3. To coerce a confession from a subject in custody.
 4. To obtain blood, saliva, urine or other bodily fluid or cells, from an individual for the purposes of scientific testing in lieu of a court order where required.
 5. Against persons who are handcuffed or restrained unless it is used to prevent injury, escape or otherwise overcome active or passive resistance posed by the subject.
 6. Officers are not authorized to use flashlights or other impromptu weapons as an impact weapon except in extreme life-threatening emergencies.
 7. Deadly physical force may not be used under the following circumstances:
 - a. As a warning or threat (**No warning shots**)
 - b. On a person who has not caused or threatened to cause serious bodily injury or death to another person, including the officer
 - c. On a person who simply flees or evades arrest
 - d. At or from a moving vehicle unless exigent circumstances exist. These would be situations in which use of deadly physical force is justified to defend the officer(s) and/or the public from the immediate threat or use of force that could result in serious physical injury or death
 - e. Merely to prevent the destruction or theft of property

VIII. DUTY TO INTERVENE

- A. Any officer present and observing another officer using force that he/she reasonably believes to be clearly beyond that which is objectively reasonable under the circumstances, shall intercede to prevent use of unreasonable force, if and when the officer has a realistic opportunity to prevent harm.

- B. An officer who observes another officer use force that exceeds the degree of force reasonably necessary for the particular circumstance should promptly report these observations to a supervisor.

IX. MEDICAL CONSIDERATIONS

- A. Once it is reasonably safe to do so, medical assistance shall be obtained for any person who exhibits signs of physical distress, has sustained visible injury, expresses a complaint of injury or continuing pain, or was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed. Individuals should not be placed on their stomachs for an extended period, as this could impair their ability to breathe.

Based upon the officer's initial assessment of the nature and extent of the individual's injuries, medical assistance may consist of examination by an emergency medical services provider or medical personnel at a hospital or jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, 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.

- B. Police officers who have custody of a person must provide attention to the medical and mental health needs of a person in their custody and obtain assistance and treatment of such needs, which are reasonable and provided in good faith.
 - 1. This includes appropriate and timely medical attention being provided to a party injured as a result of a use of force incident.
 - 2. The immediate mental health needs of a person shall be based upon the reasonable cause to believe that a person, who appears to be mentally ill, is conducting themselves in a manner which is likely to result in serious harm to themselves or others.

X. REPORTING & NOTIFICATION TO SUPERVISORS

- A. See Use of Force Reporting Policy and Procedure #11-101

XI. PROCEDURES FOR INVESTIGATING USE OF FORCE INCIDENTS

- A. See Use of Force Reporting Policy and Procedure #11-101 and Use of Force Review Board Policy and Procedure #11-102

XII. TRAINING

- A. All officers should receive training and demonstrate their understanding on the proper application of force.
- B. Training topics will include use of force, conflict prevention, conflict resolution and negotiation, de-escalation techniques and strategies, including, but not limited to, interacting with persons presenting in an agitated condition, as well as duty to intervene and prohibited conduct.

- C. This policy is not intended to be a substitute for proper training in the use of force.