



# INTERIM ORDER

SUBJECT: <b>FORCE GUIDELINES</b>		
DATE ISSUED:	REFERENCE:	NUMBER:
<b>05-31-16</b>	<b>**P.G. 221-01, *P.G. 203-11, *P.G. 203-12, P.G. 212-119, P.G. 221-12 AND P.G. 214-33</b>	<b>34</b>

1. In order to ensure uniformed members of the service are made aware and comply with the Department’s force guidelines, a new procedure has been established.
2. Therefore, effective 0001 hours, June 1, 2016, all uniformed members of the service will comply with new Patrol Guide procedure 221-01, “Force Guidelines”:

## 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.

**SCOPE  
(continued)**

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.

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.

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

**UNIFORMED  
MEMBER OF  
THE SERVICE  
(continued)**

- 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.*

*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.*

3. Effective 0001 hours, June 1, 2016, Patrol Guide 214-33, “Care and Disposition of Animals” is amended as follows:

- a. **REVISE** “ADDITIONAL DATA” statement under heading “**USE OF FORCE/DEADLY PHYSICAL FORCE**,” on page “**4**” to read:

**ADDITIONAL  
DATA**

**USE OF FORCE/DEADLY PHYSICAL FORCE**

**The use of physical force against any animal will be used ONLY to the extent that such force is necessary to prevent harm or injury to such animal, other animals, or persons. As per P.G. 221-01, ‘Force Guidelines,’ a uniformed member of the service shall not discharge a firearm at a dog or other animal, except to protect a member or another person present from imminent physical injury and there is no opportunity to retreat or other reasonable means to eliminate the threat.**

**Before using deadly physical force, every attempt will be made to use other reasonable means to contain threats from dangerous animals.**

**In those instances where uniformed members of the service develop information to indicate a dangerous dog will be encountered at a particular location (e.g., an apartment where a warrant is to be enforced, etc.), the Emergency Service Unit’s Canine Team should be conferred with for their assistance.”**

- b. **REVISE** “RELATED PROCEDURES,” on page “**4**” to read:

**RELATED  
PROCEDURES**

**Desk Appearance Ticket - General Procedure (P.G. 208-27)  
Force Guidelines (P.G. 221-01)”**

**INTERIM ORDER NO. 34**

4. Effective 0001 hours, June 1, 2016, Patrol Guide 203-11, “Use of Force” is OBSOLETE and hereby **REVOKED**.

5. Effective 0001 hours, June 1, 2016, Patrol Guide 203-12, “Deadly Physical Force” is OBSOLETE and hereby **REVOKED**.

6. Effective 0001 hours, June 1, 2016, **REVISE** references to Patrol Guide 203-12, “Deadly Physical Force” wherever they appear in Patrol Guide 212-119, “Investigations of Animal Abuse” and Patrol Guide 221-12, “Active Shooter Response Protocol” to read:

**“Patrol Guide 221-01, ‘Force Guidelines’ ”**

7. Effective 0001 hours, June 1, 2016, this Interim Order will be incorporated into the On-Line Patrol Guide.

8. Any provisions of the Department Manual or any other Department directive in conflict with the contents of this Order are suspended.

**BY DIRECTION OF THE POLICE COMMISSIONER**

**DISTRIBUTION**

**All Commands**

**INTERIM ORDER NO. 34**