



The City of New York
Department of Investigation



GENERAL ORDER:
(Supersedes § 900.35(5))

SUBJECT:
USE OF FORCE

EFFECTIVE DATE:
FEBRUARY 26, 2021

GENERAL COUNSEL REVIEW:
GENERAL COUNSEL
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AUTHORIZED:
DEPUTY COMMISSIONER
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Purpose

The purpose of this policy is to provide NYC Department of Investigation (“DOI”) Peace Officers (“Officers”) with guidelines for the use of less-lethal and deadly physical force, consistent with federal constitutional and state statutory standards.

Policy

It is the policy of DOI to value and preserve human life and dignity without prejudice to anyone. The use of force is only authorized when it is objectively reasonable and for a lawful purpose. When force is necessary, officers shall use only the degree of force that is objectively reasonable given the circumstances perceived by the officer at the time of the event. Officers who use unauthorized force shall be subject to discipline, possible criminal prosecution, and/or civil liability.¹

Definitions

Deadly Physical Force - Physical force which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury.

Less-Lethal Physical Force – Any use of force other than that which is considered deadly physical force that involves physical effort to control, restrain, or overcome the resistance of another.

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

¹ The federal and state standards by which use of force is measured are both founded in the basic premise of objective reasonableness. Force which is objectively reasonable is insulated from criminal liability through Article 35 of the NYS Penal Law and civil liability by the 4th Amendment standard of objective reasonableness.

hindsight, and be based on the totality of the facts that are known to that officer at the time that the force was used.

Physical Injury – Impairment of physical condition or substantial pain.

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.

De-Escalation – Taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the 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. De-escalation may include the use of such techniques as command presence, advisement, warnings, verbal persuasion, and tactical repositioning.

Choke Hold: A physical maneuver that may prevent, hinder or otherwise restrict an individual's ability to breathe or take in air by applying pressure to the throat, neck or windpipe. For purposes of this policy, a choke hold is a form of deadly physical force.

Vascular Neck Restraint: The application of pressure to the blood vessels in the neck used to incapacitate or induce unconsciousness to individuals by restricting the flow of blood to their brain. This may sometimes be referred to as a "sleeper hold". For purposes of this policy, a vascular neck restraint is a form of deadly physical force.

Warning Shot – Discharge of a firearm for the purposes of compelling compliance from an individual, but not intended to cause physical injury.

General Provisions

1. Force is authorized to be used when reasonably believed to be necessary to effect a lawful arrest or detention, prevent escape of a person from custody, or in defense of one's self or another.
2. The amount of force used should be only that which is objectively reasonable given the circumstances perceived by the officer at the time of the event.
3. Use of physical force should be discontinued or reduced when the circumstances justifying such use cease (e.g., when resistance ceases or when the incident is under control).
4. Physical force shall not be used against individuals who are restrained, unless it is used to prevent injury, escape, or otherwise overcome active or passive resistance posed by the subject.
5. Once the scene is safe and as soon as practical, an officer shall provide appropriate medical care consistent with training to any individual who has visible injuries, complains of being injured, or requests medical attention. This includes appropriate and timely medical attention provided to a party injured as a result of a use of force incident. Such care may include providing first aid, requesting emergency medical services, and/or arranging for transportation to an emergency medical facility.

6. An officer must provide attention to 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. 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 a serious harm to themselves or others.
7. An officer shall intervene to prevent or stop the use of unreasonable force by another officer when it is safe and reasonable to do so. Failure to do so may result in both criminal and civil liability.
 - a. Officers who observe another officer use force that is inconsistent with this policy should promptly report these observations to the Deputy Commissioner/Chief of Investigations.
8. All uses of force shall be documented and investigated pursuant to this agency's policies.

De-escalation

1. An officer shall use de-escalation techniques and other alternatives to higher levels of force consistent with training whenever possible and appropriate before resorting to force and to reduce the need for force.
2. Whenever possible and when such delay will not compromise the safety of the officer or another and will not result in the destruction of evidence, escape of a suspect, or commission of a crime, an officer shall allow an individual time and opportunity to submit to verbal commands before force is used.

Use of Less-Lethal Physical Force

1. When de-escalation techniques are not effective or appropriate, an officer may consider the use of less-lethal physical force to control a non-compliant or actively resistant individual. An officer is authorized to use agency-approved, less-lethal force techniques and issued equipment
 - a. to protect the officer or others from immediate physical harm,
 - b. to restrain or subdue an individual who is actively resisting or evading arrest,
or
 - c. to bring an unlawful situation safely and effectively under control.

Use of Deadly Physical Force

1. Deadly physical force may be used by an officer to protect the officer or others from what is reasonably believed to be an immediate threat of death or serious physical injury.
2. Deadly physical force may be used to prevent the escape of a fleeing subject when (a) the officer has probable cause to believe that the person has committed a felony involving the infliction or threat of serious physical injury or death, **and** (b) the officer reasonably believes that the suspect poses an imminent threat of serious physical injury to the officer or others if the subject is not immediately apprehended.

3. Chokeholds and Obstruction of Breathing or Blood Circulation
 - a. Chokeholds or any other application of pressure to the throat, windpipe, neck, or blocking the mouth or nose of a person in a manner that may hinder breathing, reducing intake of air or obstruct blood circulation are a form of deadly physical force and may not be used unless deadly physical force is authorized.
 - b. Vascular neck restraints (sleeper holds) are a form of deadly physical force and may not be used unless deadly physical force is authorized.
 - c. Sitting, kneeling, or standing on the chest or back of any person, in the course of restraining or arresting that person, in a manner that compresses the diaphragm, or otherwise interferes with the person's ability to breath is a form of deadly physical force and may not be used unless deadly physical force is authorized.
4. Where feasible, the officer shall identify himself or herself as a law enforcement officer and warn of his or her intent to use deadly physical force.
5. Deadly Physical Force Restrictions
 - a. Deadly physical force should not be used against persons whose actions are a threat only to themselves or property.
 - b. Deadly physical force is never justified in defense of property.
 - c. Warning shots are strictly prohibited.
 - d. Firearms shall not be discharged at a moving vehicle unless
 - i. a person in the vehicle is threatening the officer or another person with deadly physical force by means other than the vehicle; or
 - ii. the vehicle is operated in a manner deliberately intended to strike an officer or another person, and all other reasonable means of defense have been exhausted (or are not present or practical), which includes moving out of the path of the vehicle.
 - e. Discharging a firearm from a moving vehicle is inherently dangerous and poses an increased risk of missing the intended target. Firearms shall not be discharged from a moving vehicle except in exigent circumstances that a reasonable officer would conclude justifies this increased risk.
 - f. Firearms shall not be discharged at a dog or other animal except to protect the officer or another person from serious physical injury and there is no other reasonable means to eliminate the threat.

Reporting & Reviewing the Use of Force

1. Pursuant to the [Peace Officer Unusual Incident Protocol](#) Policy, officers must notify the Incident Response Team of a significant reportable incident as soon as practicable.
2. The following use of force incidents are a "significant reportable incident" under the Peace Officer Unusual Incident Reporting Policy:
 - a. Use of force that results in a physical injury.
 - b. Use of force incidents that a reasonable person would believe is likely to cause an injury.
 - c. Incidents that result in a complaint of pain from the suspect except complaints of minor discomfort from compliant handcuffing.

- d. Incidents where a conducted energy device (CED) was intentionally discharged or accidentally discharged after being displayed by any member of a law enforcement agency, during any operation DOI is a part of.
 - e. Incidents where a firearm was discharged.
3. When reporting a use of force incident, officers should document any requests for necessary medical or mental health treatment as well as efforts of officers to arrange for such treatment.