



GENERAL ORDER

No. 214

Subject:

Use of Deadly Physical Force

Issuing Authority:

Chief of Police

Effective Date:

07/31/2024

Supersedes:

- I. **PURPOSE:** The purpose of this order is to establish policy and guidelines governing the use of deadly physical force by sworn officers of the Town of Manlius Police Department and to establish procedures for reporting, investigating, and evaluating the use of such force. Sworn members should make every effort to adhere to the sanctity of life, valuing and preserving human life in all situations when possible.
- II. **POLICY:** It is the policy of the Town of Manlius Police Department to recognize the value of all human life and dignity without prejudice to anyone and to prevent the unnecessary loss of human life. Officers may use deadly physical force only when the use of deadly physical force is objectively reasonable and necessary to:
 - A. Prevent or terminate the use or imminent use of deadly physical force against the officer or a third person, pursuant to Article 35 of the New York State Penal Law.
 - B. Effect the arrest, or to prevent the escape from custody of a person whom the officer reasonably believes to have committed an offense, and the use of deadly physical force is necessary to defend the officer or another person from what the officer reasonably believes to be the use or imminent use of deadly physical force by the offender.
 1. It is the responsibility of each officer to be aware of the requirements of Article 35 of the New York State Penal Law and the standard of objective reasonableness, established by the United States Supreme Court in *Graham v. Connor* to guide their actions based upon that law, department policy and training. As the Supreme Court has recognized, this inquiry embodies “allowance for the fact that police officers are often forced to make split-second judgments in circumstances that are tense, uncertain, and rapidly evolving about the amount of force that is necessary in a particular situation.”
 2. The primary consideration in the employment of deadly physical force is justification. The fact that a police officer is justified in using deadly physical force does not allow reckless conduct by the police officer if the use of deadly physical force may injure innocent persons whom he is not seeking to arrest or retain in custody.
 3. The discharge of a firearm will always be considered to be the use of deadly physical force, unless the projectile is an impact munition deployed from a dedicated platform.
 4. Deadly physical force can be expanded to include the use of non-lethal weapons and force if the intent is to cause serious physical injury. This shall include, but is not limited to impact weapons, chemical agents, flashlights, motor vehicles and bare hands.
 5. Any application of pressure to the throat, windpipe, neck or blocking the mouth or nose of a person in a manner that may hinder breathing, reduce intake of air, or obstruct blood circulation, is prohibited unless deadly physical force is authorized.
 6. Only issued or approved firearms or impact weapons will be carried on duty and used when encountering resistance, except in extreme emergency situations when an officer may use any justifiable resource at their disposal.

7. Officers should provide a warning prior to the use of deadly physical force when possible.

III. **DEFINITIONS:**

- A. **DEADLY PHYSICAL FORCE** - Physical force which, under the circumstances in which it is used, is readily capable of producing death or other serious physical/bodily injury.
- B. **PHYSICAL INJURY** - Impairment of physical condition or substantial pain.
- C. **SERIOUS PHYSICAL INJURY/SERIOUS BODILY INJURY** - Physical injury which creates a substantial risk of death, unconsciousness or which causes death or serious and protracted and obvious disfigurement, protracted impairment of health or protracted loss or impairment of a bodily member, organ, or mental faculty.
- D. **REASONABLE BELIEF** - Those facts and circumstances within the knowledge of the individual which would make a reasonable and prudent person tend to believe that the facts and circumstances are true.
- E. **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 hindsight and be based on the totality of the facts that are known to that officer at the time that the force was used.
- F. **ACTIVELY POINTING** - The intentional targeting of a person with a Conducted Energy Weapon (CEW), firearm, impact weapon, impact projectile or chemical agent.

IV. **GUIDELINES:**

- A. **TRAINING** - All sworn members shall receive instruction regarding the use of deadly force, and be provided a copy of this order, and shall familiarize themselves with pertinent sections of Article 35 of the New York State Penal Law prior to receiving authorization to carry firearms or police batons. All sworn members shall review this general order and receive annual, in-service training in the use of deadly physical force.
- B. **DRAWING AND DISPLAYING WEAPONS**
 1. The drawing or displaying of an officer's weapon represents escalation toward the use of deadly physical force, increasing the risk of accidental discharge or weapon loss, and may contribute to fear or panic. Officers are justified in removing firearms from holsters and/or gun mounts if:
 - a. The member reasonably believes that the situation poses or may pose an immediate threat of death or serious physical injury to the officer or another person; and/or
 - b. There is justification to use deadly physical force against a person.
- C. **WARNING SHOTS** - Warning shots are prohibited under any circumstances.
- D. **MOVING VEHICLES** - Discharging a firearm at a moving vehicle is prohibited unless the officer reasonably believes that the occupants of the vehicle are using or about to use deadly physical force against the officer or another person and all other options have been exhausted. Officers should note that a motor vehicle presents a formidable shield

against most firearms and if the officer disables the operator the vehicle can be expected to continue uncontrolled creating a hazard to officers and the public.

- E. ANIMALS** - Officers are justified in discharging firearms to destroy an animal for self-defense, to prevent substantial harm to the officer or another or when the animal is so badly injured that humanity requires its relief from further suffering. The watch supervisor shall be notified as soon as practical whenever a firearm is discharged to destroy an animal.
- F. JUVENILES** - No distinction shall be made relative to the age of the intended target of deadly physical force. Self-defense and imminent threat shall be the only procedural guidelines for employing deadly physical force.
- G. FLEEING FELONS** - Officers may use deadly physical force against fleeing felons only when the use of deadly physical force is necessary to effect the arrest or to prevent the escape from custody a person whom the officer reasonably believes to have committed an offense listed in Article 35 of the New York State Penal Law and the use of deadly physical force is necessary to defend the officer or another person from what the officer reasonably believes to be the use or imminent use of deadly physical force by the offender.
- H. RISK TO INNOCENT PERSONS** - Officers are prohibited from discharging firearms when it appears likely that an innocent person in the immediate line of fire may be injured.
- I. DUTY TO INTERVENE** - In order to maintain the trust placed in the agency by the community, any member:
 - a. Who observes another agency employee or member of another public safety agency engage in any unreasonable use of force shall intervene to prevent the use of unreasonable force, if and when the member has a realistic opportunity to do so.
 - b. Who becomes aware of any violation of departmental policy, state or federal law or local ordinance shall intervene and notify a supervisor or the duty chief as soon as reasonably possible.
- J. DE-ESCALATION TECHNIQUES** - Officers should utilize de-escalation techniques, such as tactical communication, when reasonable, appropriate, and not prevented by physical environment, distance, or other situational circumstances.

V. DETERMINING THE OBJECTIVE REASONABLENESS OF FORCE:

- A.** When used, force should be only that which is objectively reasonable given the circumstances perceived by the officer at the time of the event.
- B.** Factors that may be used in determining the reasonableness of force include, but are not limited to:
 - 1. The severity of the crime or circumstances.
 - 2. The level and immediacy of threat or resistance posed by the suspect.
 - 3. The potential for the injury to citizens, officers, and suspects.
 - 4. The risk or attempt of the suspect to escape.
 - 5. The knowledge, training, and experience of the officer.

6. Officer/subject considerations such as age, size, relative strength, skill level, injury or exhaustion and the number of officers or subjects.
7. Other environmental conditions or exigent circumstances.

VI. PROCEDURE:

A. Officers involved in the use of deadly physical force, on or off-duty, shall immediately notify the watch supervisor or Duty Chief in their absence after notifications to a 911 Center have been made. This requirement shall apply to all firearms discharges except for the following instances:

1. Authorized training.
2. Target practice.
3. Hunting.

B. OFFICER-INVOLVED INCIDENTS

1. Whenever deadly physical force is employed and results in death or serious physical/bodily injury or where a firearm was discharged at a suspect, the officer should do the following:
 - a. Immediately evaluate the need for medical attention/treatment for the person upon whom the force was used, other officers or bystanders. The officer shall arrange for such treatment by requesting emergency medical services when the person has sustained a visible injury, is unconscious, complains of injury or discomfort, or requests medical attention. [Revised: 07/31/2024]
 - b. Notify the Control Center of the incident and location.
 - c. Request assistance as needed. [Revised: 07/31/2024]
 - d. Notify the watch supervisor or Duty Chief in their absence.
 - e. Isolate an encrypted radio channel. [Revised: 07/31/2024]
 - f. Provide immediate mental health needs to the person based upon the reasonable cause to believe that the 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 in accordance with General Order #454, "Interacting with Persons Suffering from Mental Illness."
 - g. Limit further communications regarding the incident to telephones if an encrypted channel was not available. [Revised: 07/31/2024]
 - h. Secure the incident scene and act to protect all physical evidence and to identify all potential witnesses.
 - i. Remain at the scene (unless injured) until the arrival of the appropriate command staff. However, if the circumstances are such that the officer's continued presence at the scene might cause a more hazardous situation to develop (violent crowd), the ranking commanding officer at the scene shall have the discretion to instruct the officer to respond to another more appropriate location.

- j. Protect their weapon for examination.
- k. Brief watch supervisor/Duty Chief of the incident.
- l. When relieved by a senior ranking officer, return to Headquarters or other designated location, and cooperate with investigative personnel by completing and signing a Public Safety Statement which provides basic details needed to further the investigation (who, what, when, where, why, how). This is separate from a detailed written statement. The involved officer must be accompanied by the Operations Division Commander or a designated supervisor or senior officer.
- m. Between 24-72 hours at the discretion of the Chief of Police, the officer shall prepare and submit all necessary departmental reports and be available for the internal affairs investigation portion of the case. This may include an internal memorandum detailing the incident as well as a formal interview with the IA officer or their designee. This deadline shall be extended if the officer is unable to respond due to hospitalization or unconsciousness.
- n. With regards to the criminal investigation, the involved officer shall be afforded all rights that are consistent with the U.S. Constitution.
- o. Be allowed to communicate with family members, PBA representative, chaplain, attorney, or anyone else required.
- p. Refrain from discussing the incident with unauthorized personnel. Advise the Chief of Police of any discussions with authorized personnel outside the department. Authorized personnel are as follows:
 - i. Chief of Police.
 - ii. Duty Chief.
 - iii. Division Commander.
 - iv. Internal Affairs Officer.
 - v. Watch supervisor of involved officer.
 - vi. Assigned investigative personnel.
 - vii. Department/PBA attorney.
 - viii. Privately retained attorney.
 - ix. Department/private psychologist.
 - x. Chaplain.
 - xi. PBA representative.
 - xii. Physician.
 - xiii. Immediate family.
- q. Submit to counseling with a department-approved psychologist. The purpose of this debriefing will be to allow the officer to express their feelings and to deal with the moral, ethical, and/or psychological after-effects of the incident. The debriefing

shall not be related to any department investigation, and nothing discussed in the briefing will be reported to the department. The debriefing will remain protected by the privileged physician-patient relationship.

2. Guard Officer responsibilities:

- a. Secure and preserve all evidence found on the suspect's person.
- b. Advise the Chief of Police or Duty Chief in their absence of the suspect's condition.
- c. Remain with the suspect at all times. Accompany the suspect in the ambulance and through all stages of medical treatment until properly relieved.
- d. Obtain clothing from the suspect at the hospital. Secure the names of all attendants removing clothing or treating the suspect. Preserve all items as evidence.
- e. Obtain a search warrant, if necessary, for toxicology tests to be performed; (e.g., blood/urine, etc.). Secure the names of persons to whom requests are made.
- f. Maintain a list of all medications administered and by whom.
- g. Secure the names of all persons involved with the suspect and their extent of involvement.
- h. If suspect is deceased, advise all medical personnel and the medical examiner that all personal items must be preserved as evidence.
- i. Do not discuss the incident with unauthorized personnel.

3. Buddy Officer responsibilities: [Added: 07/31/2024]

- a. Ensure that the involved officer makes no statements to unauthorized personnel.
- b. Do not solicit any information regarding the event from the officer and do not make any comments as the nature of the shooting (e.g., Great job, I would not have done that, etc.). Try to find other things to talk about to try and ensure you are doing everything possible to preserve the officer's memory.
- c. Encourage the officer to notify necessary persons of the incident and that they are fine. Once that is done, encourage the officer to turn off their phone and suggest that it remains off for several days, as numerous officers, friends, and colleagues will likely be reaching out and this conversation and recollection of events can taint the involved officer's recollection of the event.
- d. Accompany the involved officer to Headquarters or another designated location as soon as possible.

4. Watch supervisor or in their absence, Senior Ranking Officer (SRO) responsibilities:

- a. Respond immediately to the scene.
- b. Assume control and maintain integrity of the scene until properly relieved.

- c. Establish a command post. [Added: 07/31/2024]
 - d. Ensure appropriate inner and outer perimeter are clearly established at the scene(s). [Added: 07/31/2024]
 - e. Notify the Chief of Police/Duty Chief, Operations Division Commander, Administrative Division Commander, Internal Affairs Officer, and the CSU supervisor.
 - f. Verify that all officers present at the time of the incident did not utilize their firearms by manually checking their magazine capacity against the remaining ammunition observed.
 - g. Request investigative/forensic personnel from the agency selected by the Chief of Police or Duty Chief when directed to do so.
 - h. Direct and assign incoming officers pending the arrival of command personnel.
 - i. Document and photograph all injuries.
 - j. Secure names and addresses of all witnesses and make arrangements for their seclusion and subsequent statements.
 - k. Isolate the involved officer from the scene as soon as possible. [Revised: 07/31/2024]
 - l. Treat the weapon(s) used by the officer(s) as evidence. If the firearm used was the involved officer's duty weapon, issue a spare pistol as soon as possible. [Added: 07/31/2024]
 - m. Assign a buddy officer to accompany any involved officer(s) and to remain with them at all times. If more than one officer is involved, each officer should have a buddy officer. When possible, this buddy officer should be a senior officer to the involved officer. [Added: 07/31/2024]
 - n. If the officer is injured, ensure the buddy officer accompanies them at all times and accounts for any uniform items that may need to be removed for medical treatment. [Revised: 07/31/2024]
 - o. Administer the Public Safety Statement to the involved officer(s). The current Public Safety Statement may be located on the department database electronically and pocket versions are issued to supervisors.
 - p. Assign an officer to guard and accompany the suspect at all times.
 - q. Perform other duties as assigned.
 - r. Ensure that all officers present at the scene complete a report as to their actions and observations. These will be completed after the officers are relieved at the scene.
 - s. Prepare a detailed report as to actions taken, observations and participation in the investigation.
5. Operations Division Commander Responsibilities:
- a. Respond immediately to the scene.

- b. Contact the OMFU Officer Involved Death Investigation Unit, or another agency selected by the Chief of Police or Duty Chief and request an investigative response. [Revised 07/31/2024]
 - c. Coordinate with the Chief of Police/Duty Chief at the scene. At the direction of the Chief of Police, act as a liaison with the selected agency.
 - d. Ensure that the weapon(s) used by the officer(s) is/are treated as evidence. If the firearm used was the involved officer's duty weapon, issue a spare pistol as soon as possible.
 - e. Ensure that the Public Safety Statement has been completed with the involved officer. The supervisor obtaining the Public Safety Statement should outrank the involved officer.
 - f. Ensure that the involved officer makes no statements to unauthorized personnel.
 - g. Ensure that the involved officer has been or is removed from the scene and ensure that they are transported to Headquarters or another designated location as soon as possible with a buddy officer. [Revised: 07/31/2024]
 - h. When appropriate make arrangements for the involved officer to be taken for examination and required blood tests.
 - i. Provide whatever support needed for the involved officer. When appropriate, ensure that the officer's rights are protected.
 - j. Make arrangements for the involved officer to contact family members and anyone else requested or if unable to do so, make those contacts for them.
 - k. Ensure adequate patrol coverage (e.g., call-ins, etc.).
 - l. Arrange for the involved officer to undergo a debriefing with the department psychologist as soon as possible, but within 24 hours of the incident.
 - m. Avail the services of the department chaplain to the involved officer and their family to aid them with the after-effects of the incident. The chaplain services shall not be related to any department investigation of the incident and will remain protected by the privileged relationship.
 - n. Arrange for a debrief of all involved department personnel with applicable critical incident stress management professionals.
 - o. Prepare a written report for the Chief of Police detailing actions during the incident, and the subsequent internal investigation.
6. Assistant Operations Division Commander Responsibilities:
- a. Respond to the scene immediately.
 - b. Coordinate with the Operations Division Commander at the scene.
 - c. Assign personnel to identify witnesses and to take any statements that cannot be held for the responding agency.

- d. Ensure that the crime scene is secured and held for the agency selected by the Chief of Police or Duty Chief.
 - e. Ensure that all-necessary reports are completed.
7. Internal Affairs Officer Responsibilities:
- a. Respond to the scene immediately.
 - b. Ensure the Public Safety Statement has been administered to the involved officer(s).
 - c. Conduct a separate but concurrent investigation to determine if the incident falls within department policy.
 - d. Inform the Chief of Police of the status of the investigation.
 - e. Prepare a full report to the Chief of Police regarding their investigation and conclusion.
8. Chief of Police or in their absence Duty Chief Responsibilities:
- a. The Chief will immediately be notified of any officer-involved incident.
 - b. Ensure the Public Safety Statement has been administered to the involved officer(s).
 - c. Delegate a department liaison (Operations Division Commander or Assistant Operations Division Commander) to the investigating agency.
 - d. Be responsible for implementing and monitoring the public information plan contained in this order.
 - e. Notify the Town Attorney.
 - f. Place the involved officer on administrative leave or duty.
 - g. Keep the involved officer, their division commander and watch supervisor apprised of the status of the investigation.
 - h. Establish and maintain a liaison with the District Attorney.
 - i. Present the case to the District Attorney for review.
 - j. At the conclusion of both the criminal and/or departmental investigation, make the final determination of action to be taken.
 - k. Review policies, training, equipment, etc., with division commanders for possible improvement.
 - l. Report the incident to the Town of Manlius Police Committee.

C. PUBLIC INFORMATION PLAN

- 1. Due to the sensitive nature of a use of deadly physical force all members should be prepared for the media to be on scene quickly with requests for information. The Chief of Police, or their designee, shall be responsible for media coverage of the incident. The actions of all members who have contact with the media shall be

guided by General Order #228, "Media Guidelines – Public Information." The following public information plan shall act as a guide for media contact following a use of deadly physical force, that results in death or serious physical injury to another:

- a. Immediately following a use of deadly physical force, a media staging area should be established which is outside the perimeter and preferably does not have a direct view of the scene. All units on scene must be notified of the media staging area so they may direct the media to this location.
- b. The Chief of Police, or their designee, should be prepared to publish a press release and address the media members present at the staging area as soon as reasonably possible. This initial press release should contain the minimum information necessary to convey public safety information or to solicit information from the public.
- c. Whenever a press release is published, or a press conference is completed the media should be told a rough timeline of when they can expect more information. Press releases/press conferences should be scheduled on a regular basis and this timeline should be strictly adhered to if at all possible. The frequency of press releases/press conferences will be dictated by the nature of the incident and the response from the community.
- d. No information should be released regarding the investigation until it has been discussed with the investigating agencies (e.g., district attorney's office, attorney general's office, etc.).
- e. Joint press conferences with all represented investigating agencies are preferred when possible.
- f. If the nature or perception of the incident is causing a negative response from the community it is recommended that the Chief of Police take control of the narrative through the use of social media, press releases and press conferences.

D. USE OF FORCE REPORT

1. In addition to documenting the incident in their police report, officers shall prepare a "Use of Force Report" whenever deadly physical force is used, including when:
 - a. A firearm is discharged for purposes other than training or recreation at or in the direction of another person whether or not a person was struck or injured by the projectile to include any accidental discharge.
 - b. Any conduct that results in or is alleged to have resulted in, injury or death of another person.
 - c. Deadly force is applied through the deploying of lethal or less-than lethal weapons.
2. When a "Use of Force Report" is prepared as a result of a firearms discharge, the reporting officer shall include:
 - a. The make, model, serial number, and caliber of the firearm used.
 - b. The type of ammunition used.

- c. The number of rounds discharged.
 - d. Notation of any weapon or ammunition malfunction.
 - e. Number of bystanders present if any and their proximity to the discharge.
3. If more than one officer is involved in the use of deadly physical force, each officer shall complete the "Use of Force Report" describing the force used by that officer.
4. If the officer is incapacitated a supervisor shall prepare the use of force report based upon the supervisor's investigation of the incident.
5. A superior officer shall review the "Use of Force Report" for completeness and accuracy.
6. All use of force reports, following initial supervisory review shall be directed to:
 - a. The officer's Division Commander for review.
 - b. The Internal Affairs officer for review.
 - c. The Chief of Police for findings.

E. HUMANE ANIMAL DESTRUCTION

1. Officers shall prepare a "Humane Animal Destruction Report" whenever a firearm is discharged for purposes other than training or recreation to facilitate the destruction of a dangerous or injured animal in addition to any police report, if applicable.

F. INVESTIGATING THE USE OF DEADLY PHYSICAL FORCE

1. Based upon the incident, there may be multiple separate but concurrent investigations into officer involved incidents. These may include a criminal investigation(s), investigation into the justification for the use of deadly force, and the departmental internal investigation.
2. An outside agency selected by the Chief of Police or Duty Chief may assist or take primary responsibility for the investigation. The Office of the Attorney General will also be involved in the investigation into the use of deadly force. The Onondaga County Office of the District Attorney may be involved in any criminal investigation. Either the Operations Division Commander or the Assistant Operations Division Commander will be designated as the departmental liaison with the involved agencies. The Internal Affairs Officer will conduct the internal departmental investigation. Both the Operations Division Commander and Internal Affairs Officer shall report directly to the Chief of Police.
3. The departmental investigation shall be conducted in accordance with General Order #211, "Internal Affairs."
4. In conducting the departmental investigation, the Internal Affairs Officer shall continuously inform the Chief of Police of the status of the investigation.
5. The Internal Affairs Officer shall prepare a full report to the Chief of Police regarding their investigation and conclusion.

G. EVALUATING THE USE OF DEADLY PHYSICAL FORCE

1. The Chief of Police shall review the investigations to ensure that the use of deadly physical force was objectively reasonable, authorized, necessary, not reckless and in accordance with department policy and therefore justified.
2. Upon the conclusion of investigations, the Chief of Police will make a final determination of action to be taken.
3. If the use of force report was submitted as the result and the ensuing investigation supports that the discharge was negligent or inappropriate, the officer involved shall be required to undergo remedial training in the use of force and rectification in the use of firearms.

H. ADMINISTRATIVE LEAVE/DUTIES

1. The involved officer shall be relieved of regular duty and assigned to administrative leave or duties at Police Headquarters until the investigation has been completed. Assignment to administrative leave or duties shall be non-disciplinary and is intended to serve two purposes:
 - a. To address the personal and emotional needs of an officer involved in the use of deadly physical force, which results in injury or death.
 - b. To assure the community that verification of all the facts surrounding such incidents are fully and professionally explored.
2. While on administrative leave the officer shall remain available at all times for official departmental interviews and statements and shall be subject to recall to duty at any time.
3. Upon returning to duty, the officer may be assigned to administrative duty for a period of time as deemed appropriate by the involved officer, their psychologist, and the Chief of Police.

I. MISCELLANEOUS

1. All personnel should be sensitive to the psychological trauma that is associated with these types of incidents. Behavior such as blaming, ridiculing, teasing, and isolating the involved officer will only increase the potential trauma and therefore shall not be tolerated.
2. Supervisors shall ensure that the officer is treated in a dignified manner. A fellow officer should accompany them during the initial phases of the inquiry.
3. The Internal Affairs Officer shall cause an annual analysis of all use of force incidents to be completed. The analysis should identify:
 - a. Date and time of incidents.
 - b. Types of encounters resulting in the use of force.
 - c. Trends or patterns resulting in injury to any person including employees.
 - d. Impact of findings on policies, practices, equipment and training.

J. POSTING THE USE OF FORCE POLICY

1. This Use of Force policy shall be conspicuously posted on the department's public website in accordance with Executive Law Section 837-t (Currently 72 hours after amendments).

K. TRAINING

1. Training will be provided for agency personnel responsible for managing incidents where use of force or other police actions result in death or serious physical injury to an individual
2. This general order shall be reviewed annually during in-service training for all sworn personnel.
3. All sworn members shall receive training in the use of de-escalation techniques during the field training program and additional training as determined by the department.

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