



RULE & PROCEDURE

No:501

SUBJECT: Operations – Use of Deadly Physical Force

ISSUE DATE: June 17, 2020

EFFECTIVE DATE: June 17, 2020

REVISES/SUPERSEDES: All Previous Versions

DISTRIBUTION: ALL MEMBERS OF THE DEPARTMENT

ISSUING AUTHORITY: MICHAEL J. TRACEY, CHIEF OF POLICE

I. Purpose

To establish Rules and Procedures, outline Department Policy and set operational guidelines for the use of deadly physical force. These rules have been developed, not to restrict officers from properly performing their duty, but rather to make it incumbent upon them to use good judgment before using deadly force. This Rule and Procedure is intended to eliminate inappropriate use of deadly physical force.

II. Justification

This Rule and Procedure defines Department Policy governing the use of deadly physical force, which will ensure that all personnel conform to the mandates set forth by law. The primary responsibility of this Department and each of its members is to protect the lives of the citizens we serve. It is critical that every action taken by this Department and each of its members be consistent with this responsibility.

III. Policy

The value of human life in our society is immeasurable. Police officers have been delegated the substantial responsibility to protect life and property and to apprehend criminal offenders. Thus, there is probably no more serious act that a law enforcement officer can engage in than the use of deadly force. The occasions for such use are, literally, life and death situations, which are invariably confused and complex, affording precious little time for mediation or reflection. It is imperative that the officer, through training and the absorption of these rules, be able to respond quickly, confident that he or she is acting within the limits of Departmental rules. This enables the officer to act, without hesitation, to protect him/herself or another, and it also serves to protect the public from unlawful and unreasonable use of force.

This Department values the safety of its officers and that of the public. It is the belief of this Department that officers should use deadly physical force with a maximum degree of restraint. The use of deadly physical force is never to be considered routine, is permissible ONLY in defense of life, is objectively reasonable and even then only after all alternative means have been exhausted.

IV. Training

A training officer, designated by the Chief of Police, shall annually review this Rule and Procedure with all department personnel. Any amendments to Article 35/Section 35.15 - Defense of Justification/Use of Physical Force in Defense of a Person as specified in the New York State Penal Law shall immediately be brought to the attention of all members. In addition, officers will complete annual Suffolk County DIIT Testing on the use of Deadly Physical Force.

V. Definitions

- A. 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.
- B. 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.
- C. Chokehold – Any force applied to the throat or windpipe that restricts blood flow or airflow of the person to which it is applied.
- C. Superior Officer - Member of the department with the rank of Sergeant or above.
- D. Supervisor - Members of the Department with the rank of Sergeant or above or the Senior Police Officer or other Police Officer on duty that has been designated by the Chief of Police as Officer in Charge (OIC).

VI. Procedure

The use of Deadly Physical Force by any member of this department shall in every instance conform to the provisions of Article 35 - Defense of Justification as specified in the New York State Penal Law and this Rule and Procedure. All officers are responsible for maintaining a working knowledge of Article 35, specifically Section 35.15 - Justification; Use of Physical Force in Defense of a Person. Justification for the use of deadly physical force must be Objectively Reasonable.

A. Use of Deadly Physical Force:

1. An officer may use deadly physical force only in the following situations:

- (a) CONFRONTATION SITUATIONS: When reasonable and necessary to defend an officer or another person from what the officer reasonably believes to be the use, or imminent use, of deadly force.
- (b) APPREHENSION IN PURSUIT SITUATIONS: To affect the arrest or prevent the escape of a person when:
 - (1) there is no other reasonable means to effect the arrest, AND
 - (2) the use of deadly force creates no foreseeable risk to innocent bystanders, AND
 - (3) if practicable and consistent with personal safety, the officer has identified him/herself by voice and warned the fleeing subject to STOP, without success, before using deadly force AND the officer has reasonable cause to believe that:
 - a) the subject has committed or attempted to commit a felony involving the use, attempted use or threatened use of deadly physical force against a person AND
 - b) the subject poses a significant threat of death or serious physical injury to the officer or another if not IMMEDIATELY apprehended.

B. Chokehold:

The use of a chokehold is only authorized when the use of deadly physical force is authorized and necessary.

C. Any officer who has used deadly physical force will:

1. Immediately, determine the physical condition of any injured person, render appropriate first aid and request necessary emergency medical assistance.
2. Request that his/her superior officer respond to the scene of the incident.
3. Remain at and secure the incident scene (unless injured) until the arrival of the appropriate superior officer.
4. Prepare and file a complete detailed incident report and a Department and New York State Police Use of Force report, as specified in Rule and Procedure 502-V-H, with a superior officer and remain available at all times for any official interviews and/or statements.

D. Supervisor Requirements:

1. Whenever deadly physical force, by any means, is used by any officer, the on-duty or responding supervisor will:
 - (a) Respond to the scene of the incident and assure that appropriate emergency medical assistance is responding.
 - (b) Immediately secure the area as a crime scene.

- (c) Notify his/her supervisor and order investigative personnel to respond.
- (d) Gather any/all information pertinent to the incident, detain and separate any witnesses.
- (e) Remain at the scene until relieved.
- (f) Ensure all incident and Use of Force reports are filed and completed by the officer(s) using deadly force and all witnessing officers.

E. Investigation:

On any occasion in which Deadly Physical Force is used by a member of this Department, an immediate investigation will be conducted into the incident. A thorough investigation shall be conducted by a superior officer, designated by the Chief of Police.

F. Deadly Force Review:

1. Psychological Services - In all cases where any person has been injured or killed as a result of deadly physical force being used by an officer, the involved officer may be required to undergo a debriefing with a department provided psychologist as soon as possible and practical after the incident. The purpose of the debriefing will be to allow the involved officer(s) to express his/her feelings and to process the moral, ethical and/or psychological after effects of the incident. The debriefing shall not be related to any department investigation of the incident and anything discussed in the debriefing session will remain protected by the privileged physician-patient relationship.
2. Administrative Leave - Any officer involved in a deadly force incident shall be placed on "Administrative Leave" directly upon completion of his/her preliminary report of the incident. This leave shall be ordered without loss of pay or benefits, pending the completion of the investigation. The assignment to "Administrative Leave" shall not be interpreted to imply or indicate that the officer acted improperly. While on "Administrative Leave", the officer shall remain available at all times for official department interviews and statements regarding the incident and shall be subject to recall duty at any time. The officer shall not discuss the incident with anyone except appropriate department personnel assigned to the investigation, the District Attorney, his/her private attorney, chosen clergy and immediate family. Upon returning to duty, the officer may be assigned to "Administrative Duty" for a period of time as deemed appropriate by the Chief of Police.

VII. Discipline

- A. Disciplinary action will be initiated whenever a member fails to comply with the Department Rules and Procedures as specified herein.
- B. The Supervisors are ultimately responsible to see that officers under their command comply with this Department policy and procedure.
- C. No officer will be disciplined for using deadly physical force, by any means, in self-defense or in defense of another threatened with the imminent use of deadly physical force. Accordingly, no officer will be disciplined for NOT using deadly physical force if that force might threaten the life or safety of an innocent person or if using deadly physical force is not clearly authorized by the Policy and/or Rules and Procedures of this department.

VIII. Legal Disclaimer

This Rule and Procedure is for department use only, and does not apply in any criminal or civil proceeding. The department policy should not be construed as a creation of higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this Rule and Procedure will only form a basis of departmental administrative sanctions. Violations of law will form the basis of criminal and civil sanctions in a recognized judicial setting.

Accreditation Standard Reference

- 20.1 Necessary Force
- 20.7 Reporting Requirements
- 21.1 Review of Firearms
- 21.2 Review of Force Causing Injuries
- 32.3 Firearms Training