



Oswego City Police Department

Date: 01/26/2021
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OPERATIONS

Standards: NYS 6.2, 20.1, 20.5, 20.6, 21.1, 21.2, 32.4
CALEA 4.1.1, 4.1.2, 4.1.3, 4.1.4, 4.1.5, 4.1.6, 4.1.7, 4.2.1, 4.2.2, 4.2.4

Article/Section: 215

Subject:
SUBJECT MANAGEMENT

I. PURPOSE

- A. Law enforcement officers are authorized to use reasonable and legitimate force in specific circumstances. Federal constitutional and state statutory standards dictate when and how much force can be used. The purpose of this policy is to provide members with the guidelines for the use of deadly and non-deadly force.

II. POLICY

- A. It is the policy of the Oswego Police Department that members, in compliance with Article 35 of the New York State Penal Law and other applicable case law & federal statutes, use only the force that reasonably appears necessary to effectively bring an incident under control, while protecting the lives of the member and others. Officers will attempt to use de-escalation techniques whenever reasonably possible (4.1.1). The standards by which a use of force is measured are both founded in the basic premise of objective reasonableness, which governs that the amount of force that is used by the officers shall be the amount of force that is objectively reasonable under the circumstances for the officer involved to effect an arrest, prevent an escape, or in defense of themselves or others. Such force should be consistent with the training and policies of the Oswego Police Department. The appropriateness of force used is dependent on the extent and type of resistance encountered taking into account, but not limited to, all officer/subject factors and special circumstances. Only issued and approved equipment will be used when encountering resistance, except in emergency situations when a member may use any resource at his/her disposal consistent with the training and policies of the Oswego Police Department. Any use of a weapon, whether personally owned or department owned, while off-duty must also conform to all department policies and procedures pertaining to their use.

III. DEFINITIONS

- A. Objectively Reasonable (Reasonable belief) – 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. (4.1.2)
- B. Physical Injury – Impairment of physical condition or substantial pain.
- C. 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.
- D. Physical Force (non-deadly force) – defined as any use of force, other than that which is considered deadly force. This includes any physical effort used to control or restrain another, or to overcome the resistance of another.
- E. Deadly Physical Force – defined as physical force, which under the circumstances in which it is used, is readily capable of causing death or other serious physical injury.
- F. Use of Force Matrix – consists of four levels, level one through level four, and is used as a conceptual model outlining force escalation & de-escalation progressions.

Note: Use of force definitions shall be reviewed during annual in-service training. (4.1.2)

IV. USE OF FORCE

- 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. Under the 4th Amendment, a police officer may use only such force as is “objectively reasonable” under the circumstances. The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene.
- B. Officers will attempt to use de-escalation techniques whenever reasonably possible (4.1.1).

- C. When determining the necessity for force and the appropriate level of force, the member shall evaluate each situation in light of the known circumstances, including, but not necessarily limited to;
 - 1. The seriousness/severity of the crime;
 - 2. The level and immediacy of threat or resistance posed by the suspect;
 - 3. The potential for 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.
- D. Officers should request back-up units and/or a supervisor response if they reasonably believe that a use of force technique must be applied and there is reasonable time to do so. (4.1.1)
- E. Use of Force Matrix
 - 1. The situations in which force is used are often in a state of flux; therefore, the member must continually assess the circumstances and, as appropriate, escalate or de-escalate the use of force. A control option or options i.e. levels in the progression / regression may be skipped due to the circumstances, a member has all control options available based on circumstances.
 - 2. When possible, the member should give the subject the opportunity to comply for each control option selected. Once compliance is achieved, the progression ceases. To do otherwise is to use excessive force. Force is judged in light of reasonableness and necessity.

V. 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 the 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 as described in subdivision A of this section should promptly report these observations to a supervisor.

VI. USE OF DEADLY PHYSICAL FORCE

- A. Deadly physical force may be used by an officer to protect themselves or another person from what the officer reasonably believes is an imminent threat of serious physical injury or death. (4.1.2)
- B. Deadly physical force may be used to stop a fleeing suspect where:
 - 1. The officer has probable cause to believe the suspect has committed a felony involving the infliction or threat of serious physical injury or death; and,
 - 2. The officer reasonably believes that the suspect poses an imminent threat of serious physical injury to the officer or to others.
 - 3. Where feasible, some warning should be given prior to the use of deadly physical force.
- C. Chokeholds, obstructing breathing and/or carotid restraints are considered deadly physical force. This applies to 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 the intake of air or obstruct blood circulation (**these are not a trained technique, they have further been outlawed by NYS. PL 121.13—a Aggravated strangulation A person is guilty of aggravated strangulation when, being a police officer as defined in subdivision thirty-four of section 1.20 of the criminal procedure law or a peace officer as defined in section 2.10 of the criminal procedure law, he or she commits the crime of criminal obstruction of breathing or blood circulation, as defined in section 121.11 of this article, or uses a chokehold or similar restraint, as described in paragraph b of subdivision one of section eight hundred thirty-seven-t of the executive law, and thereby causes serious physical injury or death to another person**). (4.1.6) (4.1.7)

VII. PROHIBITED USES OF FORCE

- A. Force shall not be used by an officer for the following reasons:
 - 1. To extract an item from the body or a cavity of a subject without a warrant, except where exigent circumstances are present;
 - 2. To coerce a confession from a subject in custody;
 - 3. To obtain physical evidence from an individual to include blood, saliva, urine, or other bodily fluid or cells for the purposes of scientific testing in lieu of a court order where required;
 - 4. 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.

VIII. FIREARM PROCEDURES

- A. Prohibitions include, but are not necessarily limited to:
 - 1. Warning shots are not allowed. (4.1.3)

2. Discharge of a firearm from or at a moving vehicle is prohibited unless the member reasonably believes that the occupant(s) of the vehicle are using or about to use deadly physical force against the member or another person. Therefore, shooting at a fleeing vehicle or a vehicle that is going away from the member, and said vehicle and occupants are no longer posing a deadly physical force threat, is prohibited.
3. The fact that a member is justified in using deadly physical force does not allow reckless conduct by said member if the use of said force may injure innocent persons.
 - a. Members will at all times ensure that the muzzle of any weapon being handled is pointed in a safe direction. Generally, members are justified in removing firearms from holsters, vehicle racks, other secure location; and pointing the firearm if there is justification to use a firearm against a person or animal and/or the member reasonably believes that a person or situation poses or may pose an immediate threat of death or serious physical injury either to the member or another person. Members will keep their finger off of the trigger and outside the trigger guard, with safeties "on" when applicable, until prepared to discharge said weapon.

IX. LESS LETHAL PROCEDURES (4.1.4)

- A. Members are authorized to use department approved less lethal force techniques and issued equipment to:
 1. Protect the member or others from physical harm.
 2. Restrain or subdue a resistant individual when legally authorized.
 3. Bring an unlawful situation safely and effectively under control when legally authorized.
- B. Members will evaluate the situation to determine which available less-lethal control technique or issued equipment should be utilized to control a situation without compromising the safety of the officer, another officer, or an innocent citizen.
- C. Members must be trained in the use of less lethal equipment prior to use. Training will be conducted in accordance with department policy.
- D. The procedures in the following General Orders for use of less lethal shall be adhered to as follows:
 1. Collapsible Baton
 2. Emergency Restraint Chair
 3. K-9 Deployment
 4. Oleoresin Capsicum
 5. SRT Equipment i.e. 40mm Launcher, Sponge Round, Expulsion Grenade, etc.
 6. Tire Deflation Device
 7. Taser Deployment

X. TRAINING

- A. All officers shall receive training and demonstrate their understanding on the proper application of force.
 1. Training topics will include use of force, conflict prevention, conflict resolution and negotiation, and 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.
 2. In addition to training required for firearms qualifications, officers shall receive department authorized training designed to simulate actual shooting situations and conditions and, as otherwise necessary, to enhance officers' discretion and judgment in using deadly and non-deadly force in accordance with this policy.
 3. Firearms qualification, aerosol subject restraint, expandable baton, Taser, and any other less lethal training shall be conducted, at a minimum, annually. Defensive tactics shall be conducted, at a minimum, bi-annually.

XI. REPORTING AND DOCUMENTATION PROCEDURES (4.2.1)

- A. The following will require the filing of a subject management form:
 1. Any time he or she participates in the use of physical force to include but not limited to; (4.2.1d)
 - a. physical control tactics (other than a blanket / escort position),
 - b. tire deflation devices,
 - c. cell extraction and/or emergency restraint chair use,
 - d. canine deployment,
 - e. distraction devices or other similar types of force / (level two-four techniques / devices).
 - f. If an officer brandishes, uses, or discharges a firearm at or in the direction of another person; (4.2.1a)
Note: Any discharge of a department firearm, other than directed by a firearms instructor during training, will require the completion of a Weapon Discharge Form.
 - g. If an officer uses a chokehold or similar restraint that applies pressure to the throat or windpipe of a person in a manner that may hinder breathing or reduce intake of air;
 - h. If an officer displays, uses or deploys a chemical agent, including, but not limited to, oleoresin capsicum, pepper spray or tear gas; (4.2.1c)

- i. If an officer brandishes, uses or deploys an impact weapon, including, but not limited to, a baton or billy; (4.2.1c)
- j. If an officer brandishes, uses or deploys an electronic control weapon, including, but not limited to, an electronic stun gun, flash bomb or long-range acoustic device; (4.2.1c)
- k. If a technique or action by an officer causes any person, at a minimum, a physical injury. (4.2.1b)

Note: The mere placing of handcuffs on an individual will not require a Subject Management Form unless said handcuffs become an appliance to exert pressure necessary to further control an individual.

B. The following procedures shall be followed:

1. Members who use physical and/or deadly physical force, whether on-duty or off-duty, must immediately report such actions to the OIC. The OIC will ensure the completion of a subject management form. The OIC will make notification via the chain of command for any situations involving:
 - a. Death
 - b. Serious physical injury
 - c. Suspected improper conduct.

Note: In the event of serious physical injury or suspected improper conduct, whether inside or outside of our jurisdiction, a supervisor (unless the distance reasonably prohibits) will respond to the incident location. If outside our jurisdiction, said supervisor will function as a liaison between the investigating agency and our department, as well as ensuring that all rules and regulations of the department are followed.
2. The member must be aware that use of force must be properly documented, evidence protected and secured, and witnesses identified and separated. OIC's must ensure that these tasks are accomplished by qualified personnel so that a contemporaneous record of what happened can be established.
 - a. The member must complete all necessary paperwork to include but not necessarily limited to, an entry into the Records Management System, Subject Management Form, and if applicable a Weapon Discharge Form. All forms and attachments should be entered in the RMS unless directed otherwise by a member of the command staff.
 - i. The primary officer will complete the Subject Management Form, other directly involved officers will document their specific actions on a RMS supplement.
 - a) All subject management documentation will be completed prior to the member's ending tour of duty, unless otherwise approved by the OIC. In these instances, said documentation will be completed on the member's next tour of duty. This time frame should be adhered to unless a specific timeframe is given by the Chief of Police or his/her delegate.
 - b) Separate documentation will be required for each separate and distinct use of force.
 - c) All Subject management forms and Weapon discharge forms will be reviewed, at a minimum, by a first line supervisor, an appropriate department instructor, and the Patrol Division Commander. (4.2.2)
3. Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall intercede to prevent the use of unreasonable force, if and when the officer has a realistic opportunity to prevent harm. An officer who observes another employee use force that exceeds the degree of force permitted by law and/or policy should promptly report these observations to a supervisor.
4. Any use of force that results in physical injury (as defined in the N.Y.S. penal Law) and above, to the member or another, whether on or off-duty, will necessitate an investigation. A first-line supervisor is authorized to conduct said investigation for physical injuries, lieutenants and above for serious physical injuries and deaths. When practical and safe to do so, the investigating supervisor should respond to the scene to begin the preliminary force investigation. Said investigations, at a minimum, will determine the following:
 - a. Whether the use of force was within or outside of departmental policies, or the result of an accident.
 - b. Whether the use of force was within or outside of departmental training guidelines, also, is additional training required.
 - c. Evaluation of the condition and adequacy of the departmental equipment utilized.
 - d. Evaluation of the supervision prior to, during, and after the incident.
5. All weapon discharges involving physical injury and above, will be forwarded to the District Attorney's Office for review. Other types of discharges, or other uses of force, may also be forwarded for review.
6. When a member discharges a weapon, whether on or off-duty, when said discharge is directed at a person, whether or not the person is struck, or when, as a result of said discharge, a person is injured or killed, in addition to other procedures herein contained, the Officer-Involved Deadly Force Investigations Policy will be followed.

- C. Reporting Use of Force Incidents to the Division of Criminal Justice Services (DCJS):
1. The Patrol Division Commander or delegate will make a report to DCJS in accordance with New York State Executive Law 837-t of any instances of use of force by members of the Oswego Police Department when:
 - a. An officer engages in conduct which results in the death or serious bodily injury of another person;
 - b. Brandishes, uses or discharges a firearm at or in the direction of another person;
 - c. Uses a chokehold or similar restraint that applies pressure to the throat or windpipe of a person in a manner that may hinder breathing or reduce intake of air;
 - d. Displays, uses or deploys a chemical agent, including, but not limited to, oleoresin capsicum, pepper spray or tear gas;
 - e. Brandishes, uses or deploys an impact weapon, including, but not limited to, a baton or billy.
 2. Data to be transmitted to DCJS include date of incident, agency involved, county, town/city, description of circumstances and demographics of all persons involved in the incident.

XII. MEDICAL (4.1.5)

- A. After any type of force is used, members shall immediately evaluate the need for medical attention when the member, or another, have sustained a suspected physical injury and above, or the involved person(s) complain of injury or pain/discomfort, or requests medical attention. If determined that medical attention is needed, it shall be provided in an appropriate and timely manner. In addition to the request of medical services, this medical attention may include techniques consistent with the officer's training (for example; flushing of an individual's eyes after a chemical agent use or application of a tourniquet when applicable).
1. Involved person(s) in custody, who refuse medical treatment, must either be transported to the hospital or an ambulance called, any further refusal should be witnessed and documented on a Subject Management Form.
 2. Involved person(s) who are released, who refuse medical treatment, should be encouraged to go to a hospital, and if requested, transported there, generally by ambulance.
 - a. In any of the described circumstances, photographs shall be taken. Photographs should be taken which sufficiently document any injuries or lack thereof to the officers or subjects. If possible, said photographs will be obtained at various intervals.
 3. Any member listed in the department used scheduling program or on a Time Card as "INJ" (Injured), "LWP" (Leave w/ Pay), or UPL (Unpaid Leave) will be prohibited from entering or remaining in the police department unless authorized by a command staff member and while conducting official city / department business.

XIII. REVIEW OF USE OF FORCE INCIDENTS (4.2.4)

- A. Annually, the Oswego Police Department with conduct an analysis of its use of force activities to include policies and practices. The analysis shall include:
1. Date and time of incidents;(4.2.4a)
 2. Types of encounters resulting in use of force situations;(4.2.4b)
 3. Trends or patterns related to race, age and gender of subjects involved;(4.2.4c)
 4. Trends or patterns resulting in injury to any person including employees; and (4.2.4d)
 5. Impact of findings on policies, practices, equipment, and training. (4.2.4e)

ATTACHMENTS:

[SUBJECT MANAGEMENT FORM \(215 a\)](#)

[WEAPON DISCHARGE FORM \(215 b\)](#)



By Order of the Chief of Police