



Brockport Police Department General Order



General Order: 315	Effective Date: June 27th, 2021
Subject: Use of Physical Force	
Reference Standards: 20.1, 20.6, 20.7, 40.2	
Rescinds: G.O. 315, all prior versions; G.O. 503 Taser X26 Deployment/Policy.	
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I. PURPOSE

Law enforcement officers around the country and here in New York State 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. This policy is founded in these standards.

II. POLICY

The federal and state standards by which use of force is measured are both founded in the basic premise of objective reasonableness. 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.

The standard of objective reasonableness, established by the United States Supreme Court in *Graham v. Connor*, is used in this policy and is intended to provide officers with guidelines for the use of force, including deadly physical force.

As the Supreme Court has recognized, this reasonableness 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.”

This policy is written in recognition of the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires a careful balancing of all interests.

III. DEFINITIONS

A. **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

B. **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.

C. **Physical Injury** – Impairment of physical condition or substantial pain.

D. **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.

E. **Brandish** - to point a use-of-force implement in the direction of a person.

F. **Use** - to manipulate, operate, or perform.

G. **Deploy** - to actively use or discharge.

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.

B. 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."

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 circumstance;
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.

VI. 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.

VII. 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.

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.

VIII. PROHIBITED USES OF FORCE

A. Force shall not be used by an officer for the following reasons:

1. To extract an item from the anus or vagina 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 blood, saliva, urine, or other bodily fluid or cells, from an individual 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.

Note- the use of chokeholds or similar restraints is prohibited by Brockport Police Department policy, except in circumstance where the use of deadly physical force is authorized and such technique is used in an emergency situation.

IX LESS-LETHAL WEAPONS

1. The Monadnock Expandable Baton (MEB) is to be used according to the techniques trained through the Public Safety Training Facility, qualified instructors of this Department, or other qualified Monadnock certified instructors.

2. Aerosol Weapons (Aerosol Subject Restraints or ASRs) such as Oleoresin Capsicum (O.C. or pepper spray) are to be used according to the techniques trained through the Public Safety Training Facility, qualified instructors of this Department, or other qualified ASR certified instructors. Only non-alcohol-based O.C. will be used by members of this Department.

3. TASER X-26P electronic control device (ECD) may be used according to the techniques trained through the Public Safety Training Facility, qualified instructors of this Department, or other qualified TASER certified instructors using approved curricula of TASER International.

X. PROCEDURES

A. Any Officer using physical force pursuant to his/her duties (whether on or off duty) shall report or cause to be reported all facts related to the incident on a Subject Control Report.

B. Only issued or approved equipment will be carried on duty and used when encountering resistance, except in emergency situations when an employee may use any resources at their disposal.

C. The use of an active countermeasure, pressure point control technique, MEB baton, ASR, TASER, or leg hobble will require that Officer complete a Subject Control Report forwarded to the Defensive Tactics Coordinator indicating why it was used, the circumstances surrounding its use, and the results of its use.

D. Use of a restraining device (handcuffs, hobble as applicable, etc.) is mandatory on all prisoners unless in the employee's judgment unusual circumstances exist which make the

use of restraining devices impossible or unnecessary (e.g.; prisoner is very elderly, handicapped, etc.).

E. The mere placing of handcuffs on a prisoner will not require a Subject Control Report. However, if the handcuffs become an appliance to exert pressure necessary to further control a prisoner or where the suspect physically resists the application of handcuffs, a Subject Control Report must be completed.

F. Following the use of physical force, the Officer will immediately evaluate the need for medical attention or treatment for that person upon whom the physical force was used, and arrange for any necessary treatment (summon EMS or transfer to a hospital) when:

1. The person has a visible injury.
2. The person complains of injury or discomfort, or requests medical attention.
3. The Officer feels that medical attention is needed.
4. The person is exposed to TASER energy drive stun.

XI. TASER POST DISCHARGE

1. Any person who has been exposed to TASER X-26P probe deployment shall be transported to a hospital for examination.
2. TASER probes will not be routinely removed from the subject's body by police personnel, unless there are exigent circumstances (such as the potential for further injury due to probe placement). In an urgent situation, Officers will follow procedures for probe removal established by TASER International through their approved lesson plans.
3. In all cases, probes, discharged air cartridges and a sample of dispersed AFID tags, will be secured as evidence in accordance with training, and turned in to the property clerk.
4. The TASER Coordinator or Training Sergeant/Defensive Tactics Coordinator will make a download of the TASER X26P data as soon as practical following use.
5. Jail personnel will be informed that the subject was exposed to TASER energy when applicable.

XII. MEDICAL CARE:

Any injuries resulting from a use of force incident shall result in the appropriate and timely medical attention being provided to the injured party.

1. Persons refusing medical treatment in such cases where the Officer reasonably believes medical attention is warranted will be transported to a hospital while in custody. A physician will make any further determination regarding medical treatment. Where hospital personnel will accept the refusal of medical care, this refusal and the witnesses present will be noted on the Officer's report.

2. In the event a person refuses emergency medical care provided by ambulance personnel, wherein there is no reasonable grounds to believe the person will suffer further injury or no reasonable need for medical attention appears to exist, the person will not be forced to go to a hospital for the purpose of refusing medical treatment. Emergency medical service personnel will be consulted regarding the person's capability to refuse based on medical guidelines, and EMS will obtain the person's signed or witnessed verbal refusal. This refusal and the witnesses present will also be noted on the Officer's report.

3. Individuals under arrest, detained, encountered, or otherwise in custody, will be provided the necessary attention to their medical and mental health needs. Officers will obtain assistance and treatment of such needs for such person, which are reasonable and provided in good faith under the circumstances. Such assistance may include, but not necessarily be limited to, transport to a medical facility, referrals to the Forensic Intervention Team (FIT), the Mobile Crisis Team, transporting to a 9.39 hospital pursuant to NYS Mental Hygiene Law 9.41, or in the absence of meeting the 9.41 criteria, transporting on a voluntary basis to a 9.39 hospital. In the event of alcohol or drug intoxication, if the Officer has reasonable suspicion that an individual is unable to care for themselves, a mental hygiene evaluation should be considered under section 22.09 of the NYSMHL. At the very least, the individual will be released to the custody/care of a sober, competent, third party.

XIII. REPORTING & REVIEWING THE USE OF FORCE

Effective immediately, the categories of reportable Use of Force incidents are as follows:

- 1. Display a chemical agent** – To point a chemical agent at a subject.
- 2. Use/Deploy a chemical agent** – The operation of the chemical agent against a person in a manner capable of causing physical injury.
- 3. Brandishes/Uses/Discharges a firearm** – To point at or the operation of a firearm against a person in a manner capable of causing physical injury.
- 4. Brandishes/Uses/Deploys an impact weapon or electronic control weapon** – To point at or the operation of an impact weapon or electronic control weapon against a person in a manner capable of causing physical injury.
- 5. Uses a chokehold or other similar restraint** - Any application of sustained pressure to the throat or windpipe of a person in a manner that may hinder breathing or reduce intake of air.
- 6. Conduct that Resulted in Death**
- 7. Serious bodily injury** - Bodily injury that creates or causes:
 - a substantial risk of death; or

- unconsciousness; or
- serious and protracted disfigurement; or
- protracted loss or impairment of the function of any bodily member, organ or mental faculty.

8. Incidents that result in a complaint of pain from the suspect, to include active countermeasure or pressure point control, **EXCEPT** complaints of minor discomfort from compliant handcuffing.

9. Brandishes, uses or deploys an electronic control weapon, including, but not limited to, an electronic stun gun, flash bomb, or long range acoustic device.

XIV. PROCEDURES FOR INVESTIGATING USE OF FORCE INCIDENTS

A. Where practicable, a supervisor should respond to the scene to begin the preliminary force investigation.

B. A supervisor that is made aware of a force incident shall ensure the completion of a "**Subject Control Report**" (**Attachment A**) by all officers engaging in reportable use of force and, to the extent practical, make a record of all officers present.

C. Supervising Officers insure that Officers receive all necessary assistance, including medical treatment. They shall also ensure that any injuries to employees are properly documented on an Incident Report and any forms required by the Village of Brockport in accordance with Workers' Compensation Law.

D. Determine if a crime scene technician should respond to the scene, and the level of technician's services to be utilized (including photos, measurements, and diagrams).

a) If an injury or complaint of pain exists, supervisors are encouraged to obtain photographs.

Note: A photograph showing no injury may be as important as one that shows injury.

E. Ensure that a thorough investigation is conducted and all reports are prepared and submitted. In the event that an employee is unable to complete reports due to injuries, the supervisor will prepare or cause to be prepared necessary reports and ensure that all reports are submitted through the Officer's chain of command. The supervisor will include their personal reports and/or comments. A complete package, including the Subject Control Report and copies of all related reports, will be forwarded to the Chief of Police.

F. Supervisory Review:

The Platoon Sergeant will review the Subject Control Report for accuracy, completeness, and sufficiency, in accordance with normal supervisory review processes for any report.

G. Defensive Tactics Instructor:

1. The Subject Control Report and all Addenda/IARs will be forwarded to the Defensive Tactics Coordinator, or another qualified Defensive Tactics Instructor delegated by him, for review.
2. Upon review, the Defensive Tactics Instructor will evaluate the situation as reported, the tactics used, and their effectiveness using the comments section to report such findings or recommendations, if any.
3. The Defensive Tactics Instructor and/or the Training Sergeant will make arrangements through the Officer's immediate supervisor for remedial training, if recommended. Any and all remedial training will be thoroughly documented, and said documentation will be forwarded to the Chief's Office for final review.

H. Chief of Police Review and Reporting:

1. The Chief of Police will review all incidents wherein force was used, and refer any recommendations for action, remediation, retraining, or review to the appropriate Command Officer.
2. Report information for members involved in use-of-force incidents that meet the criteria of the data collection. The Chief or his designee, shall submit details of reportable incidents to DCJS, via the "Use of Force Reporting Interface" (**effective December 1st 2020**) accessible through the [eJustice New York Integrated Justice Portal \(IJ Portal\)](#)

Information that will be reported to this site will include, but not limited to: date of incident, agency involved, county, town/city, description of circumstances, and demographics of all persons engaging in the use of force or suffering such injury.

3. Post or cause to be posted conspicuously on the Department's web page, a current copy of this agency's guidelines pertaining to the use of force by Department members.

XV. TRAINING

- A. All officers will receive annual training and demonstrate their understanding on the proper application of force.
- B. 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.