

VILLAGE OF WALDEN

POLICE DEPARTMENT

ONE MUNICIPAL SQUARE
WALDEN, NEW YORK 12586

Jeffry Holmes
Chief of Police

GENERAL ORDER

NO: 09.05

Issue Date: 12/04/09	Effective Date: 12/28/09
Revises: 1.48- 1/01/80 6/24/2011, 9/02/2014	CALEA: 1.3.1, 1.3.2, 1.3.4, 1.3.6, 1.3.7, 1.3.8, 1.3.9, 1.3.10, 1.3.11
Subject: Use of Force	
Distribution: All Personnel	STATE: 20.1, 20.6, 20.7, 21.2, 32.4, 41.3,
Reevaluation Date: 1/1/2017	Page: 1 of 7
Issuing Authority: Chief Jeffry Holmes	

PURPOSE:

The purpose of this General Order is to establish a policy for the use of force that is within the limits established by Article 35 of the New York State Penal Law, and consistent with training given by this department. It is the responsibility of each member to be aware of the requirements of Article 35 and to guide his/her actions based upon that law and department policy on the Use of Force.

I. DEFINITIONS:

Definitions of terms in this order are consistent with the definitions as set forth in Article 10 and elsewhere in the New York State Penal Law when applicable.

II. USE OF PHYSICAL FORCE:

- A. The practice of courtesy in all public contacts encourages understanding and cooperation. Lack of courtesy arouses resentment, and often-physical resistance. Simple verbal directions, which are complied with while you accompany the subject, are by far the most desirable method of dealing with an arrest situation. Control may be achieved through advice, persuasion and warnings before resorting to actual physical force. This should not be construed to suggest that officers should ever relax and lose control of a situation, thus endangering personal safety or the safety of others.
- B. Officers shall use only the **MINIMUM** force necessary to affect our lawful objectives.
- C. Officers may use physical force in the performance of his/her official duties only during the following occasions:
 1. effecting or attempting to effect an arrest,
 2. preventing or attempting to prevent the escape from custody of a person, whom the officer reasonably believes to have committed an offense,
 3. defending himself or another person from what he believes to be the use or imminent use of physical force.

- D. Any other physical force used by an employee other than as outlined in this General Order shall be inconsistent with the goals of this department.
- E. The use of a weapon or instrument by an employee is also the use of force. Employees may use only those weapons or instruments authorized by the Chief of Police. Employees must be **properly trained and demonstrate proficiency** before being authorized to carry or use any weapon. The following are the only weapons that are authorized for use by employees of this department:
 - 1. Primary, secondary and off-duty firearms,
 - 2. department issued shotgun,
 - 3. department issued oleoresin capsicum,
 - 4. department approved impact weapon,
 - 5. department issued Colt tactical patrol rifle,
 - 6. department approved flashlight,
 - 7. department approved folding knife with a blade not exceeding 4" in length when opened.
 - 8. department issued Advanced Taser X2 and X26 ECD
- F. The Chief of Police will issue a Department Memorandum which will be updated as needed listing the types of weapons and ammunition which are authorized for use by Department personnel.

III. Use of Force Continuum:

A number of factors are taken into consideration when an officer selects force options, and when evaluating whether the officer has used reasonable force. The Department recognizes that officers are expected to make split second decisions and that the amount of time available to evaluate and respond to a situation may impact the officer's decision. By establishing a policy that includes a use of force continuum, the Department hopes to provide additional guidance to officers making those split-second decisions.

- A. Examples of factors which affect an officer's force selection include, but are not limited to:
 - 1. Officer/subject factors (age, size, relative strength, skill level, injury/exhaustion, number of officers versus number of subjects)
 - 2. Influence of drugs or alcohol
 - 3. Proximity to weapons
 - 4. Availability of other options
 - 5. Seriousness of the offense in question
 - 6. Other exigent circumstances
- B. **Actions of Subject(s):** (As reasonably perceived by the officer or based on the officer's reasonable perceptions.) A subject's demeanor and actions are

instrumental factors in an officer's decision of what level of force is appropriate to take control of a situation. Subjects may be classified into the following categories;

1. *Cooperative*: Subject is cooperative and complies with verbal commands or other directions.
2. *Non-responsive or Uncooperative*: Subject is uncooperative when taken into custody, or fails to respond to verbal commands or other directions.
3. *Passive Resistance or Aggression*: Subject is passively resisting an officer's authority and direction. Includes verbal and physical cues of non-compliance.
4. *Active Resistance or Aggression*: Subject is attempting to interfere with the officer's actions by physically resisting him or inflicting pain or physical injury to the officer without the use of a weapon or object.
5. *Combative*: Subject assumes a fighting stance, charges an officer or verbally or physically indicates intent to commit an assault.
6. *Life Threatening Assault or Assault Likely to Cause Great Bodily Harm*: Subject commits an attack using an object, a weapon, or an empty hand assault, wherein the officer reasonably believes that the assault will result in serious physical injury and/or death.

C. Officer Response Options:

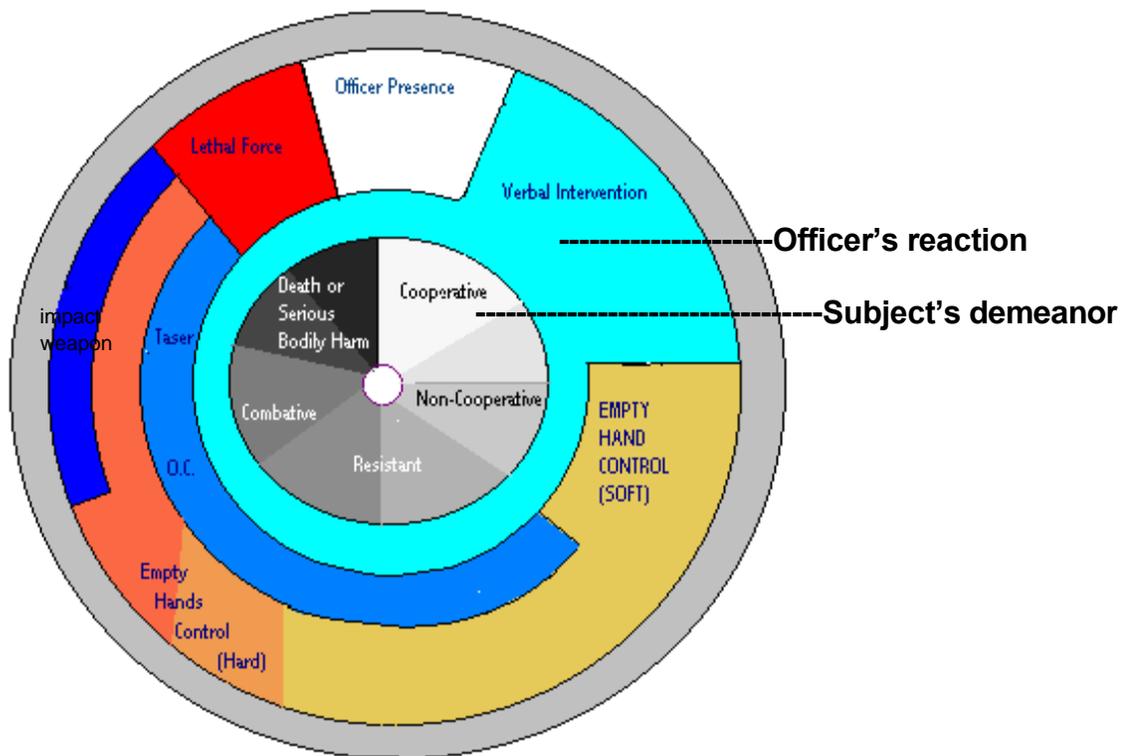
1. *Low Level (Presence, Verbalization, and Empty Hands)(soft hand)*:
Includes display of authority as a police officer and such non-verbal means of communication as body language, demeanor, and manner of approach. Verbalization involves the directions and commands given to the subject.
 - a. Empty Hands includes restraining and detaining; Examples include the use of a firm grip, escort position or grappling types of techniques designed to hold a subject down by using the weight of an officer's body. Also included in this level would be pressure points and the application of temporary restraining devices such as handcuffs and leg restraints.
2. *Intermediate Level (Compliance Techniques)*:
Includes joint manipulation, take-down type techniques, and the use of intermediate weapons in control type configurations such as the use of the oleoresin capsicum based products and the Advanced Taser X2 and X26.
3. *High Level (Physical Contact, Impact Device)*:
Includes the use of an impact weapon in an impact mode, such as a department approved baton, and personal weapons such as hands, feet, elbows and knees to strike a subject.

4. *Lethal Force:*

Includes the use of a firearm or any force which has a reasonable likelihood of causing death or serious physical harm.

It is important to note that an officer need not attempt to gain control over an individual by use of the lowest level of force on the continuum when reason dictates and the officer can articulate that a higher level of force is reasonable. The skipping of steps may be appropriate given the resistance encountered.

This continuum should be viewed as an elevator, not a ladder, that an officer may go to any level of the continuum provided that the force selected is reasonable. Note that the category descriptions above are non-exclusive and are intended to serve as illustrations of actions which fall within the various levels. The following table is an illustration of the Use of Force Continuum as it may relate to a subjects demeanor.



***Officers are required to use the least amount of force necessary to effect an arrest.**

IV. USE OF NON LETHAL WEAPONS:

- A. Only approved equipment will be carried on duty and used when applying physical force, except in an emergency when the officer may use other resources at his disposal.
- B. Oleoresin capsicum (O.C.) and Advanced Taser X2 and X26 are alternative uses of force in those situations where the potential for injury to an officer, suspect or a third party exists.
- C. The use of O.C. or the Advanced Taser X2 and X26 will be limited to that degree of force, which is reasonably necessary to provide protection for the officer, a third party, in preventing an escape of a person from custody, and/or to effect a legal arrest.
- D. The use of the police baton maybe used as an alternative force in those situations where potential for injury to an officer or third party exists, but where the application for deadly physical force would be considered extreme. The use of the police baton will be limited to that degree of force, which is reasonably necessary to provide protection for the officer, a third party, in preventing an escape of a person from custody, and/or to effect a legal arrest. Medical attention shall be provided in a timely manner with such use, if requested or required.
- E. Any time an employee uses any type of force on a person, in addition to fully documenting the incident in a case report the officer will complete the Use of Force Report form. The shift supervisor will be notified immediately. A copy of the Incident Report and the original Use of Force Report form will be forwarded to the Chief of Police. Additionally, if the Advanced Taser is utilized, a Supervisory Taser Use Report will be completed by a certified instructor or Supervisory Officer and submitted to the Chief of Police. Medical attention shall be provided in a timely manner with such use, if requested or required.

V. USE OF DEADLY PHYSICAL FORCE:

- A. A police officer may use Deadly Physical Force under the following circumstances:
 - 1. to protect himself or another from what he reasonably believes to be an immediate threat of death or serious physical injury,
 - 2. to effect an arrest or prevent an escape of a suspect whose freedom is reasonably believed to represent an imminent threat of serious physical injury or death to the officer or another person(s),
 - 3. to destroy an animal ONLY for the following reasons:
 - (a) self-defense, or to prevent substantial harm to the another person, or
 - (b) when the animal is so badly injured that humanity requires its relief from further suffering and all attempts have been made to get assistance from a Humane Society or agency responsible for the care and disposal of such animal.
 - 4. for target practice at an approved firing range.

- B. Deadly Physical Force through the use of firearms is to be used ONLY after consideration of ALL other reasonable means of attaining the legal objective of control have been considered as modeled in section III of this order (Use of Force Continuum).
- C. If a situation arises in which an officer is authorized to use Deadly Physical Force, he should attempt to identify himself to the suspect prior to the use of such force. This identification need not be made if it places the life of the officer or another person in greater risk.

VI. USE OF LETHAL WEAPONS:

- A. The discharging of a firearm by a police officer is authorized only when permitted to use deadly physical force according to the provisions stated in Section V, of this order or as stated in GO#09.06, Firearms Policy.
- B. The responsibility of any use of deadly physical force shall in all cases, be borne solely by the employee who uses such force and/or by the commanding officer ordering such use.
- C. The fact that an employee is justified in using deadly physical force does not allow reckless conduct by the employee if the use of deadly physical force may injure innocent persons whom he/she is not seeking to arrest or retain in custody.
- D. Any employee whose actions(s) or use of force in an official capacity results in the death or serious physical injury of a person(s) will be placed on administrative leave or duty for a period of time as determined by the Chief of Police. This assignment to administrative leave shall not be interpreted to imply or indicate that the employee has acted improperly.

VII. USE OF FORCE INCIDENT REVIEW:

- A. The Chief of Police and/or his designee(s) will review all reports of the use of force and make a determination to ensure that the use of force was consistent with departmental policies.
- B. The final review forms will be filed by the Chief of Police.



Jeffry Holmes,
Chief of Police

VILLAGE OF WALDEN POLICE DEPARTMENT

USE OF FORCE REPORT

Case Type: _____ Blotter No. _____ Case No. _____

Date: ____/____/____ Time: ____:____ Location: _____

Defendant: _____ Age: ____ DOB: ____/____/____ Sex: ____
Defendants Condition: ___ Sober ___ Had been drinking ___ Intox (alcohol) ___ Intox (drugs) ___ Mental Problem

Charges: _____

Injured: ___ Yes ___ No Medical Treatment Provided: ___ Yes ___ No Refused Treatment: ___ Yes ___ No

Transported to Hospital: ___ Yes ___ No Which Hospital: _____ By: ___ TOMVAC ___ Police Car

Nature of Injuries: _____

Officer: _____ Sh# _____

Injured: ___ Yes ___ No Medical Treatment Provided: ___ Yes ___ No Refused Treatment: ___ Yes ___ No

Transported to Hospital: ___ Yes ___ No Which Hospital: _____ By: ___ TOMVAC ___ Police Car

Nature of Injuries: _____

Type of Force Used: ___ Hands ___ Feet ___ Oleoresin Capsicum ___ Baton ___ Firearm
___ Advanced Taser ___ Other

NOTE: Fully describe reason forced used & what type forced was used in narrative of case.

Names of Witnesses and Police Officers at the Scene: (Include full address and phone numbers in Case Report.)

Officer Signature Sh# _____ Shift Supervisor Signature Sh# _____

FOR USE BY USE OF FORCE REVIEW DESIGNEE(S)

Was use of force used consistent with Departmental policies? [] YES [] NO
If NO internal investigation must take place.

Reviewed by: