

SOUTH NYACK – GRAND VIEW POLICE DEPARTMENT

GENERAL ORDER

<u>General Order No.</u> 313	<u>Subject</u> USE OF FORCE	<u>Effective Date</u> 02/23/2021	
<u>Rescinds</u>	<u>Amends</u> 05-2004 issued 07/28/2004 07/26/2017, 01/14/2020	<u>Cross Reference</u> GO 315	<u>Page</u> 1 of 13

I. POLICY

- A. Officers may use only that level of physical force necessary in the performance of their duties, within the limits established by Article 35 of the New York State Penal Law, and consistent with the training authorized by the South Nyack-Grand View Police Department.
- B. It is the responsibility of each officer to be aware of the requirements of Article 35 and to guide his/her actions based upon that law and Department policy and training.
- C. 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.

II. 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.

III. 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.

IV. 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.

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.
- 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 and Obstruction of Breathing or Blood Circulation
 1. 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.

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 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.

VIII. PROCEDURES FOR INVESTIGATING USE OF FORCE INCIDENTS

- A. Employees
1. Any injuries resulting from a use of force incident shall result in the appropriate and timely medical attention being provided to the injured party.
 2. Members involved in use of force incidents as described below shall notify the Sergeant or Chief of Police as soon as practicable and shall complete a Use of Force Report (UFR). The Sergeant or Chief of Police shall complete a Supervisory Use of Force Report (SUFR).
 - a. Use of force that results in a physical injury to the subject, a police officer, or a third party.
 - b. Use of force incidents that a reasonable person would believe is likely to cause an injury.
 - c. Incidents that result in a complaint of pain from the suspect except complaints of minor discomfort from compliant handcuffing.
 - d. Incidents where a conducted energy device (CED) was intentionally discharged or accidentally discharged after being displayed.
 - e. Incidents where a firearm was discharged or used to control a subject.
 - f. Whenever OC is used to control a subject.

- g. Whenever the ASP is used to control a subject.
 - h. Force is not limited to the use of department issued equipment. Force may be considered as anything used to control or subdue a subject in order to gain their compliance.
3. Where practicable, the Sergeant or Chief of Police should respond to the scene to begin the preliminary use of force investigation.
 4. The Sergeant or Chief of Police that is made aware of a force incident shall ensure the completion of a Use of Force Report (UFR) by all officers engaging in reportable use of force and, to the extent practical, make a record of all officers present.
 5. Photographs should be taken which sufficiently document any injuries or lack thereof to officers or suspects.
 6. All completed Use of Force Reports (UFR) and Supervisor Use of Force Reports (SUFR) shall be forwarded to the Chief of Police.
 7. Officer using physical force pursuant to his duties as a police officer (whether on or off duty) shall report or cause to be reported all facts relative to the event on the incident report pertaining to that particular incident. This report will include the completion of the department's "Use of Force Report" (Form UFR).
 - a. If the incident occurs outside the geographical confines of the Villages of South Nyack or Grand View, the officer shall make a full report to the police agency having jurisdiction, and as soon as possible complete a South Nyack-Grand View Police incident report, listing the type of complaint as an assist to an outside agency (F.O.A.).
 - b. Supervisors will complete the Supervisory Use of Force Report form (SUFR). The Chief will then review the SUFR and UFR to determine if additional training or equipment needs are evident.
 8. The use of force shall be limited to that which is reasonably necessary to carry out authorized duties.
 - a. Officers must be aware that each individual situation will dictate the level of force ultimately utilized. Beginning with the officer's presence at the scene, the officer will determine the appropriate level of force to control the situation based upon what is reasonable and meets the guidelines of the Department's "USE OF FORCE CONTINUUM", as found in this General Order.

- b. The completed Use of Force Report along with a copy of the incident report will be forwarded to the Chief for review. The Chief will maintain a file containing the Use of Force Reports.
- 9. Only issued and approved equipment will be carried on duty and used when applying physical force, except in emergency situations when an officer must use any resources at his disposal. The use of the ASP baton, standard baton or a chemical spray (I.E. OC) is considered a use of force.
- 10. Use of restraining devices, (such as handcuffs) is mandatory on all prisoners unless unusual circumstances exist which make the use of restraining devices impossible or impractical (e.g.; prisoner is very elderly, handicapped, etc.). The mere placing of handcuffs on a prisoner will not be construed to be a use of physical force. However, when the handcuffs become an appliance to exert force necessary to further subdue a prisoner or where the suspect physically resists the application of handcuffs, a use of physical force has occurred, and as such must be justified.
 - a. All prisoners will be handcuffed with their hands placed behind their backs, with the cuffs double locked when possible. This will apply under all circumstances except as in A-4 above.
- 11. Amendments to New York Executive Law section 837-t mandate the Chief of Police shall report any qualifying use of force incident with the necessary information to New York State DCJS effective July 11, 2019.

IX. GUIDELINES - USE OF OLEORESIN CAPSICUM AEROSOL SPRAY

- A. All South Nyack-Grand View Police Officers will be issued an aerosol projector weapon. While on duty officers are only authorized to carry chemical weapons approved by the Chief of Police.
- B. There will be a canister of O.C. foam placed in the booking room area. This canister will be placed in a suitable container to disguise its location but should be used in place of an O.C. spray should a subject need to be controlled in the booking room area.
- C. The Officers of this Department are expected to use all the force necessary to protect themselves and the public in a controlled and judicious manner. The use of Oleoresin Capsicum aerosol spray (O.C.), as an alternative to traditional forms of self-defense, is consistent with the spirit and intent of that policy statement.
- D. O.C. may generally be used when physical force is necessary in the following circumstances:

1. In self-defense or the defense of others.
2. To control and effect the arrest of an offender when physical force is justified under law and Departmental guidelines.
3. To assist in taking control of a violent emotionally disturbed person (E.D.P.) who is a danger to themselves or others.

E. Guidelines for use in an arrest or self-defense situation are as follows:

1. Whenever an officer (s) is required to make a lawful arrest and is met with physical resistance or the threat of physical resistance, and is justified to use force as per this General Order, O.C. may be used to prevent/end the threat or effect the arrest.
2. A reasonable effort must be made to use verbal commands to compel the offender to follow the directions of the Officer.
3. O.C. may be used for the defense of self or others from the threat of or an actual physical attack.
 - a. Care should be taken not to spray the victim of the attack, or other uninvolved third parties.

F. Guidelines for use with violent E.D.P.'s are as follows:

1. When an Officer is confronted with a violent E.D.P., O.C. may be used if the circumstances are such that attempts at other forms of physical restraint will likely result in injury to the subject or the Officer (s).
2. An attempt should be made to calm the E.D.P. through reasoning and verbal persuasion whenever possible.
3. When an E.D.P. is armed with a dangerous instrument or other weapon, O.C. may be used immediately to disarm and take control of the person.

G. Decontamination after the use of O.C. When a person has been sprayed with O.C. the Officer (s) shall:

1. When possible transport the subject to Police Headquarters immediately.
 - a. During the transportation of the subject the front windows of the Police car shall be open to allow for a maximum amount of airflow to the subject.

- i. During the summer months and or warm weather the vehicle's air conditioner shall be turned on and put at its coldest setting, with the blower on high.
 2. When the subject is no longer combative, the subject will be given copious amounts of cold water to flush the face and eyes and other contaminated areas.
 - a. Contact lenses must be removed to facilitate the decontamination of the eyes.
 - b. Soap will also be provided to complete and aid the decontamination process.
 - c. Do not apply saves, creams, oils, or lotions which can trap the irritant.
 3. An Officer will remain with the subject until the effects of the O.C. reach a level where the subject can see.
 4. Officers should be aware that not every person exposed to O.C. may be capable of self-decontamination and may require assistance in the process.
 5. When practical if the above steps have not diminished the effects of the OC spray, or if the subject requests it, the subject should be treated by a paramedic and, if warranted, transported to the hospital for further treatment.
- H. In all cases where O.C. is used, the Officer will document in the Incident Report all facts that relate to the justification and use of O.C.
 1. The Officer will complete a Use of Force Report (UFR).
 2. The Supervisor will complete a Supervisory use of Force Report (SUFR).
 3. Patrol officers will carry department issued OC when on duty.
- I. When an officer is subjected to O.C. spray they should be given copious amounts of cold water to flush the face and eyes and other contaminated areas.
 1. Contact lenses must be removed to facilitate the decontamination of the eyes.
 2. Soap will also be provided to complete and aid the decontamination process.
 3. Do not apply saves, creams, oils, or lotions which can trap the irritant.
 4. Another officer will remain with the affected officer until the effects of the O.C.

reach a level where the affected officer can see. The affected officer shall take any steps necessary to protect themselves and arrange for transportation of their vehicle if required.

5. Officers should be aware that not every person exposed to O.C. may be capable of self-decontamination and an affected officer may require assistance in the process.
6. The officer should be treated by a paramedic as soon as practical.
7. If warranted, the officer should be transported to the hospital for further treatment.

X. GUIDELINES- USE OF THE ARMAMENT SYSTEMS AND PROCEDURES (ASP) COLLAPSIBLE BATON OR STANDARD BATON:

- A. Officers that have been issued the ASP collapsible baton will be trained in accordance with the recommendations of the agency instructor.
 1. Officers will attend refresher courses on the ASP as scheduled.
- B. In all cases where the ASP is used, the Officer will document in the Incident Report all facts that relate to the justification and use of the ASP.
 1. The Officer will complete a Use of Force Report (UFR).
 2. The Supervisor will complete a Supervisory use of Force Report (SUFR).
 3. Officers will carry the department issued ASP or standard baton when on duty.
- C. Officers must exercise due care that the ASP or standard baton is used in accordance to the guidelines set forth by the agency instructors and that its use be directed at those target areas recommended as appropriate for this equipment.

XI. GUIDELINES – USE OF LESS LETHAL IMPACT MUNITIONS

- A. Less lethal impact munitions – Less lethal impact munitions are extended range impact beanbag rounds that are fired from weapons that are designated to fire beanbag rounds to incapacitate a subject with less potential for causing death or serious physical injury than firearms.
- B. Less lethal impact munitions may be used to control and arrest a violent or potentially violent suspect. This may also include suspected carriers of communicable diseases and those subjects that appear emotionally disturbed.
- C. Weapon and ammunition
 1. The less lethal impact munitions weapon along with its rounds will be stored in assigned vehicles. The less lethal impact munitions weapon delivery system shall be the Remington 870 Shotgun with a fluorescent orange slide and stock. No other weapon is authorized for use with these munitions.

2. At no time will the less lethal impact munitions weapon be loaded with anything other than less lethal impact munitions rounds.

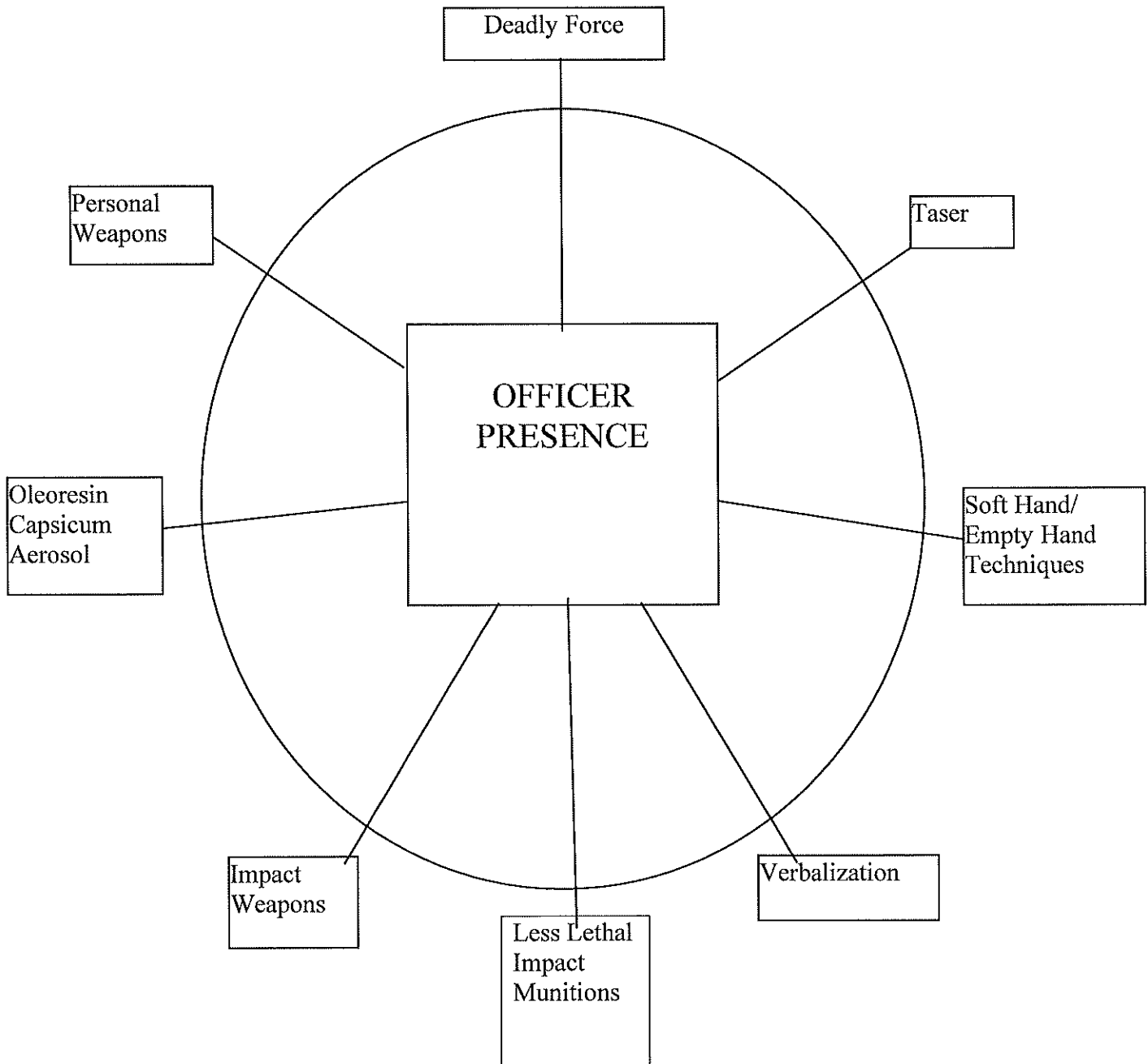
D. Procedure

1. The Officer in Charge, Sergeant, or Chief of Police may summons trained and certified personnel for anticipated use of the less lethal impact munitions rounds.
2. Only officers trained and qualified in the operation and tactics of the less lethal impact munitions shall be authorized to use it barring exigent circumstances.
3. When the less lethal impact munitions are utilized and the suspect is struck with the projectile, he/she must be provided appropriate and timely medical attention.
4. Whenever a certified member of this Department utilizes less lethal impact munitions, the Sergeant or Chief of Police shall be notified as soon as practicable. The member will complete a Use of Force Report (UFR). The Sergeant or Chief of Police shall complete a Supervisory Use of Force Report (SUFR).
5. Where practicable, the Sergeant or Chief of Police should respond to the scene to begin the preliminary use of force investigation.

XII. TRAINING

- A. All officers should receive 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.

USE OF FORCE CONTINUUM



**SOUTH NYACK-GRAND VIEW POLICE DEPARTMENT
USE OF FORCE REPORT**

INCIDENT INFORMATION

Incident # _____ **Date:** _____ **Time:** _____
Officer: _____ **Address:** _____

Nature of original incident (brief): _____
_____ **Situation upon officers' arrival (brief):** _____

Type(s) of force used: _____ **Was force effective:** _____
 OC Spray Air Taser Firearm Yes
 ASP/Baton Physical Other _____ No

Witness Officers: _____

Were any officers injured: _____ **Injuries occurred:** _____ **Hospital care:** _____
 Yes Prior to the use of force Yes
 No After/during the use of force No

Injuries (specify): _____

SUBJECT INFORMATION

Name (Last, First, MI): _____ **Sex:** Male **Age:** _____ **Height:** _____
_____ Female **Build:** _____ **Weight:** _____

Condition prior to the use of force:
 Combative Alcohol influenced Drug influenced
 Hostile Suicidal Mentally Ill
 Fail to follow verbal instructions Other _____

Arrest: _____ **Suspect armed:** _____ **Threatened use of a weapon:** _____
 Yes Yes w/ _____ Yes Describe _____
 No No No _____

Injured: _____ **Injury occurred:** _____ **Describe:** _____
 Yes Prior to the use of force _____
 No After/during the use of force _____

Injuries (specify): _____ **Hospital care:** Yes
_____ No

Supervisor notified: _____

Officers Signature: _____ **Supervisor (initial):** _____

For Taser Only

Description of clothing: _____

Location of barbs: _____

**SOUTH NYACK-GARND VIEW POLICE DEPARTMENT
SUPERVISORY USE OF FORCE REPORT**

Incident Report #: _____ Date/Time of the Incident: _____

Location of the Incident: _____

Officer(s) Involved: _____

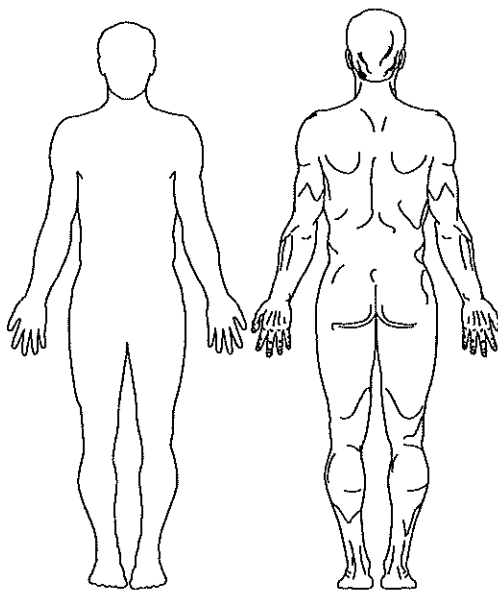
Nature of the Call or Incident: _____

Type of Force Used OC Physical ASP Air Taser
 Other _____ Firearm (Check all that apply)

Nature of the Injuries and Medical Treatment Required: _____

Was an Officer, Police Employee, Volunteer or Citizen Injured? Yes No

APPLICATION AREAS - Points of contact



Summary of the Actions of Officer(s) Involved: (use NYSIR page 2, if necessary)

Supervisor Signature

SUFR