



GENERAL ORDER

No. 336

Subject:
Impact and Aerosol Weapons

Issuing Authority:
Chief of Police

Effective Date:
11/30/2020

Supercedes:
06/01/2016

- I. **PURPOSE:** The purpose of this order is to establish policies and procedures for the use of impact and aerosol weapons by sworn officers of the Village of North Syracuse Police Department.
- II. **POLICY:** It is the policy of the Village of North Syracuse Police Department that sworn officers shall carry and deploy only those impact/aerosol weapons issued by the department, and that the deploying of those weapons shall be within the limits established by Article 35 of the New York State Penal Law, the standard of objective reasonableness, established by the United States Supreme Court in *Graham v. Connor* and consistent with the training and policies of the department. [Revised: 11/30/2020]
- III. **DEFINITIONS:** [Revised:11/30/2020]
 - A. **IMPACT WEAPON** - A device used to apply force against a resisting or assaultive subject, or to affect a blocking or defensive technique. This shall include police batons, Collapsible Tactical Batons and Impact Projectiles.
 - B. **IMPACT PROJECTILES** – A less lethal impact projectile, delivered from a 40mm launcher or 12-gauge pump action shotgun. These weapons are designed to introduce impact energy to a violent aggressor sufficient enough to cause the subject to comply at a safe range while avoiding otherwise dangerous officer/subject contact.
 - C. **AEROSOL WEAPON** - Purified Oleoresin Capsicum aerosol spray and similar agents.
 - D. **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.
 - E. **DEADLY PHYSICAL FORCE** - Physical force which, under the circumstances in which it is used, is readily capable of producing death or other serious physical/bodily injury.
 - F. **PHYSICAL INJURY** - Impairment of physical condition or substantial pain.
 - G. **SERIOUS PHYSICAL INJURY/SERIOUS BODILY INJURY** - Physical injury which creates a substantial risk of death, unconsciousness or which causes death or serious and protracted and obvious disfigurement, protracted impairment of health or protracted loss or impairment of a bodily member, organ or mental faculty.
 - H. **ACTIVELY POINTING** - The intentional targeting of a person with an Electronic Control Weapon (ECW), firearm, impact weapon, impact projectile or chemical agent.
 - I. **PHYSICAL FORCE** - A degree of physical contact directed against a person. Physical force includes, but is not limited to, striking, kicking, pushing, biting, pressure points, joint manipulation, joint locks, use of a choke hold or similar restraint, actively pointing a firearm at another person or any force used to disable by means actively pointing or deploying a chemical agent, including but not limited to, oleoresin capsicum, pepper spray or tear gas; actively pointing or deploying any impact weapon, including, but not

limited to a baton or billy or actively pointing or deploying a CEW and when such force is unlikely to result in serious physical injury or death.

- J. REASONABLE BELIEF** - Those facts and circumstances within the knowledge of the individual which would make a reasonable and prudent person tend to believe that the facts and circumstances are true.

IV. USE OF FORCE [Revised:11/30/2020]

- A.** 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: [Revised:11/30/2020]

- 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 circumstances.
 2. The level and immediacy of threat or resistance posed by the suspect.
 3. The potential for the 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 [Revised: 11/30/2020]

- 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.** Any officer who observes another officer use force that exceeds the degree of force as described should promptly report these observations to a supervisor.

VII. USE OF DEADLY PHYSICAL FORCE [Revised:11/30/2020]

- 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

VIII. PROHIBITED USE OF FORCE: [Revised:11/30/2020]

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.

IX. PROCEDURE:

A. Authorized Impact/Aerosol Weapons

1. Sworn officers of the Village of North Syracuse Police Department shall carry and use only those impact/aerosol weapons that are authorized by the police department.
2. Officers shall be provided with training in the proper use of any issued impact or aerosol weapon prior to being authorized to carry those weapons.
3. Aerosol and impact weapons authorized by the department shall be listed in the uniform standards manual. Officers are authorized to carry the following type of impact/aerosol weapons:
 - a. Long or straight police baton.
 - b. Collapsible baton.
 - c. Pepper spray.
4. During Defensive Tactics In-Service training, a qualified Defensive Tactics Instructor shall inspect all impact/aerosol weapons to ensure that the impact/aerosol weapons are free of defects and are serviceable.

5. Equipment inventory forms shall include administrative numbers or manufacturer serial numbers of each police baton used by the agency.
6. Canisters of pepper spray shall be marked with an administrative control number.
7. Canisters of pepper spray that are not assigned shall be stored in the department storage area.
8. Impact weapons not assigned to officers shall be stored in the department storage area.
9. Designated department vehicles may be outfitted with a dedicated and specially marked 12-gauge-pump shotgun equipped with agency approved impact munitions. Only officers who have been trained in the proper use of impact munitions shall be authorized to use this less lethal weapon.
10. Unless specifically authorized by the Chief of Police, officers may not carry any impact or aerosol weapon other than those listed in the uniform standards manual.
11. No changes, alterations, modifications or substitutions shall be made to any authorized impact or aerosol weapon.
12. The decision to use an impact or aerosol weapon must be made with consideration of the severity of resistance or threat, as well as the possible injuries that may be caused by its use. Impact/aerosol weapons may be used in those situations where the use of force is justified and necessary. Under certain circumstances the use of an impact weapon may constitute a use of deadly physical force (example: head or neck strikes). In such cases the impact weapon shall only be used when the deadly physical force is justified by Article 35 of the New York State Penal Law to include the Tennessee v. Garner, 1985 decision.
13. Officers are responsible for providing maximum security for all impact/aerosol weapons while in their possession or under their control. Impact/aerosol weapons shall not be left in police vehicles when officers are not on-duty, or in unsecured areas of headquarters.
14. In the event that an officer determines that an impact/aerosol weapon has become unsafe the officer shall:
 - a. Remove impact/aerosol weapon from service.
 - b. Turn unsafe impact/aerosol weapon into their Supervisor.
 - c. Make a written request (memo, e-mail) to their Supervisor requesting that a new impact/aerosol weapon be provided.
15. Impact/aerosol weapons shall not be used for demonstration purposes unless specifically authorized by the Chief of Police.

B. POLICE BATON

1. Patrol officers must have their issued police baton available to them while on patrol. When an officer carries the police baton on his/her person, it shall be carried holstered in the officer's baton ring unless its use is imminent.

2. Police batons shall not be used to strike at the head, neck or groin, except in those extreme instances in which the use of deadly physical force is both justified and necessary.

C. COLLAPSIBLE BATON

1. Patrol officers must carry the collapsible baton on their duty belt while on duty. Unless the use of the collapsible baton is imminent, it shall be carried holstered in the issued carrying case. All other officers may carry the collapsible baton on their person in an appropriate manner.
2. Collapsible batons shall not be used to strike at the head, neck or groin, except in those extreme instances in which the use of deadly physical force is both justified and necessary.

D. IMPACT MUNITIONS

1. The use of Impact Munitions is a use of force alternative, available to officers when confronted with violent and or armed individuals. When properly used, impact projectiles frequently contribute to the successful resolution of difficult problems with only minor injuries to the suspect.
2. Advantages to the proper use of an impact munitions include:
 - a. A less lethal use of force option when dealing with suicidal and or extremely aggressive individuals.
 - b. Keeping safe distances between officers and violent and or armed individuals.
 - c. The likelihood of minimal suspect injuries.
3. Impact munitions have the ability to deliver a flexible projectile from safe distances. Upon impact, the projectile conforms to the shape of the target and transfers a significant level of energy to the target. This level of energy, roughly equivalent to a professional boxers punch, may temporarily incapacitate a violent and or armed individual safely.
4. When impact projectiles are used, there is always the possibility that injuries may occur, as with the use of conventional impact devices such as the police baton. The effectiveness and potential for suspect injury are directly related to shot placement. Understanding that exact shot placement may be difficult under extreme circumstances, coupled with the necessity to justifiably incapacitate the suspect, officers should target soft tissue area such as the calf, thigh, buttocks, upper arms, shoulder, abdomen, wrist, elbow, knees, or a nerve group such as the common peroneal.
5. Unless it is necessary, and justified to use deadly physical force, officers may not intentionally select any of the following body target areas:
 - a. Head/face.
 - b. Neck.
 - c. Chest.
 - d. Groin.

- e. Spine.
6. Officers may select the range of munitions deployment based on the given circumstances. Flexible Impact Munitions are generally “point of aim-point of impact” with-in 50 feet. Minimum of 20 feet and maximum of 75 feet but most effective at 20-50 feet.
7. Impact munitions shall be deployed through a dedicated delivery system. Dedicated delivery systems consist of a specially designated 12-gauge-pump action shotgun. The stock of the shotgun will be painted bright orange in color to distinguish it as a dedicated impact munitions delivery weapon. The weapon shall be stored with both the magazine tube and chamber empty; the bolt shall be forward with the action placed on a dead trigger.
8. Prior to each use, officers must visually inspect the weapon. It is the user’s responsibility to ensure that the weapon is functioning properly and loaded with the correct munitions.
9. When possible, officers at the scene shall be made aware that an impact weapon is involved and may possibly be deployed.
10. Officers deploying impact munitions shall continuously evaluate the effects of the device and when necessary, consider alternative use of force measures.
11. As soon as practical, officers shall collect the dispensed impact munitions shell casing and projectile and secure them as evidence in accordance with department procedures.

E. PEPPER SPRAY

1. The use of pepper spray is an option granted to officers as an alternative in those situations where the potential for injury to an officer or a third person exists.
2. Patrol officers must carry the issued pepper spray on their duty belt while on duty. All other officers may carry the aerosol spray in an appropriate manner.
3. Officers are responsible for monitoring the condition of their aerosol spray canister and for requesting replacement when the canister is expended or damaged.
4. Supervisors shall periodically inspect the canisters issued to their officers to insure compliance with this order.
5. Application of pepper spray:
 - a. In electing to use pepper spray, officers must understand that its effects are not uniformly predictable and that certain individuals may remain undeterred by its application. Intoxicated, drugged, demented or enraged persons may have reduced sensitivity to discomfort. Any such use should be accompanied by a realization that the officer may need to take further action to ensure his/her, or a third person’s safety. Conversely, all officers should be aware of the potential, however limited, for injury arising from the use of this spray.
 - b. Officers should be aware of the increased potential for injury to the person upon whom the spray is used when the subject:
 - i. Is less than two feet away from the officer,

- ii. Is in an enclosed area without ventilation,
 - iii. Lacks normal reflexes, such as the ability to blink, or is otherwise incapacitated.
- c. The spray should be used at distances no less than two and no more than twelve feet from the subject. Using the spray at less than two feet may result in a lessened effect or increase potential for an injury. Beyond twelve feet the effectiveness of the aerosol spray significantly decreases.
 - d. Wind conditions and other environmental factors, including the proximity of innocent persons, should be considered before applying pepper spray. (i.e. school or medical facility)
 - e. The spray should be applied in controlled bursts, directed at the upper respiratory / facial area.
 - f. After the spray has been used and the subject is under control, it is the officer's responsibility to ensure that the proper first aid is administered and to seek, when necessary, medical attention. As soon as practical, but within thirty minutes, the exposed areas should be treated with a decontamination product or with water. If the spray has made contact with the eyes, they should be flushed with plenty of cool water. The water should be splashed, not rubbed on the affected eye(s). Should difficulty breathing persist he should be removed to fresh air, and emergency medical assistance requested. If necessary, the emergency medical service personnel should provide treatment and transport to a medical facility.
 - g. When a defendant has been exposed to the spray and is taken to the Onondaga County Justice Center jail, the transporting officer shall advise jail personnel of the exposure so that they may take the necessary precautions. Notification is to be made at the booking desk as the defendant is being initially interviewed to ensure that the notification is recorded on the jail video in addition to being noted in the officer's report.
 - h. After using the spray, it shall be the responsibility of the officer to ensure that there is a sufficient amount left in the canister to remain serviceable. If the canister has been expended the officer shall inform his supervisor and obtain a replacement.
 - i. Pepper spray generally expires five years past its production date; officers should inspect the canister for expiration and inspect the holster for damage or wear periodically. During that inspection officers should vigorously shake the canister to prevent the contents from settling.
 - j. Pepper spray is effective against many animals and may be employed by officers to deter an attacking animal.

X. MEDICAL ATTENTION [REVISED: 11/30/2020]

- A.** Police or Peace officer or other law enforcement entity who has custody of a person must provide attention to the medical and mental health needs of a person in their custody and obtain assistance and treatment of such needs, which are reasonable and provided in good faith. In these instances the officer should do the following:

1. Immediately evaluate the need for medical attention or treatment for the person upon whom the force was used. The officer shall arrange for such treatment by requesting emergency medical services when the person has sustained a visible injury, complains of injury or discomfort, requests medical attention or if pepper spray was deployed.
 2. This includes appropriate and timely medical attention being provided to a party injured as a result of a use of force incident.
 3. The immediate mental health needs of a person shall be based upon the reasonable cause to believe that a person, who appears to be mentally ill, is conducting themselves in a manner which is likely to result in a serious harm to themselves or others.
- B.** If the person refuses to be treated, they must sign the refusal statement on the emergency medical service's Pre-hospital Care Report form. If the person refuses to sign, the refusal must be witnessed on the form. The subject's acceptance or refusal of medical care shall also be documented in the officer's police report.

XI. REPORTING PROCEDURES [REVISED: 11/30/2020]

- A.** Members involved in use of force incidents on or off duty as described below shall notify their Watch Supervisor, or Duty Chief in his absence as soon as practicable and shall complete a departmental use of force report. Note: If the member is off-duty and outside the Village of North Syracuse when the use of force occurred, he will also notify the police agency with jurisdiction for the investigation.
1. Use of force that results in a physical injury.
 2. Use of force incidents that a reasonable person would believe is likely to cause an injury.
 3. Incidents that result in a complaint of pain from the suspect except complaints of minor discomfort from compliant handcuffing.
 4. Incidents where a Conducted Energy Weapon (CEW) was intentionally discharged or accidentally discharged after being displayed.
 5. Incidents where a firearm was discharged at a subject.
- B.** Officers shall document any requests for necessary medical or mental health treatment as well as efforts of police to arrange for such treatment.
- C.** Officers shall attempt to locate and identify any witnesses, documenting their statements.
- D.** Officers shall document and photograph all injuries. A photograph showing an absence of injury may be as important as one that shows injury.
- E.** Whenever an officer employs an impact or aerosol weapon, the officer will complete a "Use of Force Report", except when used for authorized demonstration or training purposes approved by the Chief of Police.

XII. PROCEDURES FOR INVESTIGATING USE OF FORCE INCIDENTS [REVISED: 11/30/2020]**A.** Whenever force is used, the officer shall:

1. Immediately evaluate the need for medical attention or treatment for the person upon whom the force was used. The officer shall arrange for such treatment by requesting emergency medical services when the person has sustained a visible injury, complains of injury or discomfort, requests medical attention or if chemical agents were used.
2. If the person refuses to be treated, he must sign the refusal statement on the emergency medical service's Pre-hospital Care Report form. If the person refuses to sign, the refusal must be witnessed on the form. The subject's acceptance or refusal of medical care shall also be documented in the officer's police report.
3. Attempt to locate and identify any witnesses, documenting their statements.
4. Document and photograph injuries. Note: A photograph showing an absence of injury may be as important as one that shows injury.
5. Report or cause to be reported all facts relative to the incident on a police incident report, whether or not an arrest was made. In addition, complete a "Use of Force Report", when required.

B. The Supervisor shall immediately respond to the scene of the incident to ensure that:

1. The scene is safe and properly secured.
2. The officer involved receives necessary assistance, including medical treatment.
3. The person upon whom the force was used receives necessary medical attention.
4. A thorough preliminary investigation of the use of force is conducted including, but not limited to:
 - a. Locating, interviewing and deposing witnesses, including other officer's on-scene. Conducting a neighborhood canvass as necessary.
 - b. Documenting and photographing injuries and the lack of injuries to the officer and the person upon whom the force was used.
 - c. Documenting the scene.
 - d. Collecting and preserving physical evidence.
 - e. Debriefing the subject of the use of force and documenting any admissions.
 - f. Debriefing the officer who used the force.

- g. Completing a supplement report detailing the supervisor's investigation.
5. All reports, including a "Use of Force Report" when required, are prepared and submitted. In the event that an officer is unable to complete reports due to injuries, the Supervisor shall prepare or cause them to be prepared, along with his own reports of the incident.
6. The supervisor's report, including all necessary paperwork (e.g., Use of Force Report, incident reports and all supplements, arrest reports; medical reports, statements) shall be forwarded to the Chief of Police.
7. The Police Chief shall be notified, if through the use of force:
 - a. Injury is sustained or inflicted by a member of the department.
 - b. A firearm was discharged or deadly physical force was employed.
 - c. There is an allegation of misconduct on the part of a member of the department.
8. The Chief shall respond to the scene when and if he deems appropriate. In the absence of the Supervisor, the Chief shall insure that those tasks described above are accomplished.

C. USE OF FORCE REPORT:

1. In addition to documenting a use of physical force in their police report, officers shall prepare and submit a "Use of Force Report" when:
 - a. The use of force involved the discharge of a firearm, other than training or recreational purposes, whether or not a person was struck or injured by the projectile.
 - b. He takes action that results in, or is alleged to have resulted in, injury of another person.
 - c. Incidents that result in a complaint of pain from suspect, except complaints of minor discomfort from the suspect being handcuffed.
 - d. The use of force-involved acts such as striking, punching, kicking, K-9 bite or the use of pressure point controls.
 - e. The use of force involved the employment of an impact weapon, impact munitions, chemical agent, Taser or pepper spray.
 - f. The person is charged with the crime of resisting arrest.
 - g. The officer actively points a firearm at another person.
 - h. The officer is directed to complete a "Use of Force Report" by a superior officer.
2. If more than one officer is involved in the use of force, each officer shall complete the "Use of Force Report" describing the force used by that officer.

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 and a duty to intervene if and when the officer has a realistic opportunity to prevent harm. Any officer who observes another member use force that exceeds the degree of force permitted by law and/or policy shall immediately report those observations to a supervisor.
4. Physical force used against crowds or unknown persons will be documented recording all possible information.
5. If an officer is incapacitated, his supervisor shall prepare the use of force report based upon the supervisor's investigation of the incident.
6. A superior officer shall review the "Use of Force Report" for completeness and accuracy.
7. All use of force reports, following initial supervisory review, shall be directed to the Chief of Police for review and findings.

D. EVALUATING THE USE OF FORCE: [REVISED: 11/30/2020]

1. The Chief of Police, or his designee, shall review the incident to ensure that the use of force was:
 - a. Objectively Reasonable.
 - b. Authorized by Article 35 and department policies.
 - c. Necessary.
 - d. Not reckless.
 - e. Out of department policy, excessive or in violation of applicable laws.
2. The Chief of Police, or his designee, shall annually complete an analysis of all Use of Force incidents in order to identify:
 - a. Patterns or trends that support future training needs.
 - b. Any equipment upgrades.
 - c. Any policy modifications.

E. TRAINING:

1. Only officers, who have completed initial training with these weapons are authorized to do so. Officers must also complete the department's use of force training, and have demonstrated proficiency
2. This policy is not intended to be a substitute for proper training in the use of force. Comprehensive training is the key to the real-world application of the concepts discussed within this policy.

3. All sworn members, authorized to use less lethal substances/devices, shall receive training annually.
4. Impact and aerosol weapons instructors shall be responsible for recording and submitting all records of training.
5. All officers should receive training and demonstrate their understanding on the proper application of force.
6. Training topics will include use of force, conflict prevention, conflict resolution and negation, 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.
7. Agency personnel who are unable to demonstrate proficiency and qualify with an authorized department weapon must attend and successfully complete remedial training prior to being allowed to resume official duties.
8. When practical, the departments certified instructor for that weapon shall immediately conduct remedial training in an effort to correct any deficiency.
9. If the deficiency cannot be corrected before the member's next tour of duty, the instructor shall:
 - a. Immediately notify the member's supervisor regarding the member's duty status.
 - b. Reschedule additional remedial training as soon as practical.
 - c. Keep the Chief of Police apprised of the member's duty status.
10. All remedial training shall be documented.
11. A failure to demonstrate proficiency after reasonable attempts of remedial training has been provided may serve as the basis of disciplinary action.

[Original: 02/01/2013] [Revised: 06/01/2016] [Revised: 11/30/2020]