



Town of Marlborough Police Department

GENERAL ORDER

SUBJECT: Use of Physical Force

Order Number: 3.22

DATE ISSUED: 09/10/10 BY ORDER OF POLICE CHIEF: COCOZZA

DATE EFFECTIVE: 09/10/10 REPLACES ORDER #(S): APR.

USE OF PHYSICAL FORCE

PURPOSE: To establish guidelines for the use of physical force

I. POLICY

A. A member of this police department may only use 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 given by the police department. It is the responsibility of each member to be familiar with the requirements of Article 35 and to guide his/her actions based upon that law. The use of unnecessary force is prohibited.

B. Generally, members may use force in the performance of their duties in the following circumstances:

1. To prevent the commission of a breach of the peace or other unlawful act.
2. To prevent a person from injuring himself/herself.
3. To effect the lawful arrest of persons resisting arrest or attempting to flee from custody.
4. In self-defense or in the defense of another person.

C. Only authorized equipment will be carried on duty and used when applying physical force, except in an emergency when the member may use other resources at his/her disposal.

D. 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.

II. DEFINITIONS

A. Restraining Force – Is the use of a minimal amount of physical strength or energy exerted to hold, restrain, control, etc., required to overcome resistance or reluctance to obey the direction of an officer.

B. Physical Force – Is the striking, kicking, fighting or any other physical or violent confrontation and force greater than restraining force not amounting to deadly physical force.

C. 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.

III. PROCEDURE

A. Members

1. Physical force may be used when it is lawful and when the exercise or persuasion, advice and/or warning is found to be insufficient to obtain cooperation and control.
 - 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.

2. After physical force is used, members shall immediately evaluate the need for medical attention or treatment for that person upon whom the physical force was used and arrange for such treatment if that person is injured or complains of injury or discomfort.
 - A. 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.
 1. This includes appropriate and timely medical attention being provided to a party injured as a result of a use of force incident.
 2. 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.

3. Decontamination after deploying aerosol restraint shall be done as soon as the officer determines that the further aggression has stopped. Decontamination shall be carried out according to training. Medical attention will be summoned if the subject requests it or if symptoms persist beyond 45 minutes.

4. The member will immediately notify his/her supervisor of the incident.

5. The member shall submit written reports regarding the incident including a use of force report. He/she shall include detailed events leading up to and after its use as well as all photographs of injuries to any persons involved.

B. Supervisors

1. Supervisors will ensure that members and civilians receive any necessary assistance, including medical treatment. They shall also ensure that any injuries to members and civilians shall be properly documented and reported.
2. Supervisors will determine if a department or other police agency investigator is required to assist in the investigation.
3. Supervisors will ensure that a thorough investigation is conducted which should identify police and civilian witnesses to the incident and ensure appropriate statements are obtained. The supervisor will include a written report documenting his/her actions and opinions of the incident should the use of force by a department member result in an injury to any person.
4. In the event that a member is unable to complete reports due to injuries, the supervisor will prepare or cause them to be prepared and submit them through the chain of command.