



TOWN OF MACEDON POLICE DEPARTMENT

General Order: 315	Effective Date: April 22, 2021
Subject: Use of Force	
Reference Standards: 20.1, 20.6, 21.2, 32.4, 40.2	
Rescinds: GO 315 Issued March 3, 2021	
Page 1 of 14	Attachments: 1- Confrontational Continuum; 2- Subject Management Resistance Report

I. Policy

- A. Police officers, which includes all sworn personnel, may use only the level of force which is necessary and objectively reasonable in the performance of their duties. Any use of force must be within the limits established by Article 35 of the New York State Penal Law, consistent with the training provided by the Macedon Police Department, and in the recognition of the value of human life and dignity, without prejudice to anyone.
- B. The Macedon Police Department will comply with NYS Executive Law § 837-t which mandates the reporting of specified use of force incidents to the Department of Criminal Justice Services (DCJS) for data collection purposes.

II. Definitions

- A. **Asphyxia-** The condition of deficient supply of oxygen to the body that arises from abnormal breathing.
- B. **Brandish/Display** (a chemical agent, a weapon or a firearm) Point such chemical agent, weapon, or firearm at a person.
- C. **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. For the purpose of this General Order, the use of a chokehold, or any similar application of pressure to the throat, windpipe, neck, or blocking of the mouth or nose of a person in a manner that may hinder breathing, reduce intake of air or obstruct blood circulation, by a subject or an officer will be deemed a use of deadly physical force.
- D. **De-escalation-** Taking action or communicating verbally or non-verbally during a

potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force, or with a reduction in the force necessary.

- E. **Exigent circumstances-** Those circumstances that would cause a reasonable person to believe that a particular action is necessary to prevent physical harm to an individual, the destruction of relevant evidence, the escape of a subject, or some other consequence improperly frustrating legitimate law enforcement efforts.
- F. **Objective reasonableness-** An objective standard of judging a particular application of force through the perspective of a reasonable officer facing the same set of circumstances, without the benefit of 20/20 hindsight. Such judgment should be based upon the totality of the facts that were known to the officer at the time that the force was used.
- G. **Physical injury-** Impairment of physical condition or substantial pain.
- H. **Positional Asphyxia-** A form of asphyxia which occurs when someone's position prevents the person from breathing adequately.
- I. **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.
- J. **Unnecessary Force-** Unnecessary force occurs when it is apparent that the type or degree of force employed was either unnecessary or inappropriate, or when utilizing any degree of force as summary punishment or vengeance.
- K. **Uses/Deploys/Discharges** (a chemical agent, a weapon or a firearm) Operates such chemical agent, weapon or firearm against a person in a manner capable of causing physical injury.

III. Procedures

A. Carrying of equipment

1. Only issued or approved equipment may be carried on duty and used when encountering resistance. In emergency situations, an officer may use any resources at his/her disposal.
2. The carrying or use of any instrument as a weapon not specifically authorized by the Chief of Police or issued by the Macedon Police Department is prohibited except as authorized. The Taser X-26 & X-2 are only authorized

for certified Taser Officers. Examples of unauthorized weapons include, but are not limited to batons, blackjacks, weighted gloves, and brass knuckles.

B. Confrontational continuum

1. When safe and feasible under the totality of circumstances, officers should attempt to slow down or stabilize the situation so that more time, options, and resources are available for incident resolution. Officers should utilize appropriate tactical and officer safety principles to avoid unreasonably putting themselves at risk. Examples of De-escalation include, but are not limited to:
 - a) Placing barriers between an uncooperative subject and an officer.
 - b) Containing a threat.
 - c) Moving from a position that exposes officers to potential threats to a safer position.
 - d) Communication from a safe position intended to gain the compliance using dialogue.
 - e) Decreasing the exposure to a potential threat by using:
 - (1) Backup
 - (2) Distance/Time
 - (3) Cover/Concealment
 - f) Any other tactics and approaches that attempt to achieve the law enforcement objectives.
2. An officer's awareness of these possibilities, when time and circumstances reasonably permit, should then be balanced against the facts of the incident facing the officer when deciding which tactical options are the most appropriate to bring the situation to a safe resolution.
3. Mitigating the immediacy of the threat gives officers time to utilize extra resources and increases time available to call more officers or specialty units.
4. The number of officers on scene may increase the available force options and may improve the ability to reduce the overall force used. When feasible, officers should approach an individual whom they anticipate may be taken into custody with backup present or immediately available.
5. The use and amount of force utilized by an officer is based on the amount of resistance displayed by the subject. The use of force by an officer will escalate and de-escalate in relation to the level of resistance displayed by the subject.

a) Level I

(1) Verbal persuasion

- (a) The practice of courtesy in all public contacts encourages understanding and cooperation. Lack of courtesy arouses resentment and often physical resistance. Simple directions that are complied with while escorting a subject are by far the most desirable method of dealing with an arrest situation. Control may be obtained through advice, persuasion, warnings and commands before resorting to actual physical force.
- (b) The mere issuance of verbal advice, persuasion, warnings and/or commands by an officer is not considered a use of force.

b) Level II

(1) Physical Techniques

- (a) Frequently, subjects are reluctant to be taken into custody and offer some degree of physical resistance. At this level, appropriate physical techniques include escorts, grabs, takedowns, ground stabilization, pressure points, and joint manipulation.

(2) Aerosol chemical agents

- (a) Officers may employ the use of an Oleoresin Capsicum (OC) aerosol weapon when a subject is non-compliant. Aerosol Subject Restraints are to be used according to the techniques trained by this department.

c) Level III

(1) Physical Techniques

- (a) At this level, officers are permitted to utilize physical techniques to overcome active aggression and resistance, such as blocking and striking techniques.

(2) Conducted Electrical Weapons

- (a) The X26 & X-2P Advanced Tasers are to be used only by certified Taser Officers in accordance with approved training and techniques.

d) Level IV

(1) Lethal weapons

- (a) An officer may utilize a firearm, or any weapon, instrument, and/or means necessary to defend himself/herself or another person when the use of deadly physical force is justified.

B. Use of force

1. Generally, officers may use force to:
 - a) Effect a lawful arrest or detention of an individual.
 - b) Prevent the escape of a person from custody.
 - c) Defend oneself or another.
 - d) Prevent a person from harming himself/herself.
2. The use of indiscriminate force is prohibited. Pursuant to the Fourth Amendment, an officer may only use the level of force that is objectively reasonable under the circumstances. Factors that determine the objective reasonableness of the level of force used include, but are not limited to:
 - a) The severity of the crime or circumstances.
 - b) The level and immediacy of resistance or threat posed by the subject.
 - c) The potential for injury to the public, the officers involved, and the subject.
 - d) The level of risk or the attempt of the subject to escape.
 - e) The training, experience, and knowledge of the officer.
 - f) The age, size, strength and skill level of the officer and the subject.
 - g) The injury, disability, or exhaustion level of the officer and subject.
 - h) The number of subjects and number of officers involved.
 - i) Ground fighting, or proximity of the subject to the officer's firearm.
 - j) Environmental conditions.
 - k) Exigent circumstances.

3. Pursuant to NYS Executive Law § 837-t a use of force incident requiring mandatory reporting to DCJS occurs whenever a police officer:
 - a) Brandishes, uses, or discharges a firearm at or in the direction of another person.
 - b) Uses a chokehold or other similar restraint that applies of pressure to the throat or windpipe of a person in a manner that may hinder breathing or reduce intake of air.
 - c) Displays, uses or deploys a chemical agent, including, but not limited to, oleoresin capsicum, pepper spray, or tear gas.
 - d) Brandishes, uses or deploys an impact weapon, including, but not limited to, a baton or billy.
 - e) Brandishes, uses or deploys an electronic control weapon, including, but not limited to, an electronic stun gun, flash bomb or long-range acoustic device.
 - f) Engages in conduct which results in the death or serious bodily injury of another person.
4. In addition to the incidents defined in NYS Executive Law § 837-t, the Macedon Police Department deems that a police officer has engaged in a use of force whenever he/she:
 - a) Utilizes physical force and/or other defensive tactics, including but not limited to active countermeasure and/or pressure point controls.
 - b) Uses handcuffs as an appliance to exert pressure necessary to control a subject.
 - c) Applies a hobble restraint to the legs of a subject.
5. The use of handcuffs is mandatory on all prisoners, unless in the officer's judgment unusual circumstances exist that make the use of handcuffs impossible or unnecessary, such as when a prisoner is handicapped or elderly to the extent that they do not present a threat of escape or injury to themselves, the officer, or the public. The mere placing of handcuffs on a prisoner will not be considered a use of force. If the handcuffs become an appliance to exert pressure necessary to further control a prisoner, or where the subject physically resists the application of handcuffs, a Subject Management Resistance Report must be completed.

C. Use of deadly physical force

1. A police officer is authorized to use deadly physical force to protect himself/herself or another person from what the officer reasonably believes to be the imminent threat of death or other serious physical injury.
2. A police officer is authorized to use deadly physical force to stop a fleeing felon when:
 - a) The officer has probable cause to believe that the subject has committed a felony involving the threat or infliction of death or serious physical injury; and
 - b) The officer reasonably believes the subject still poses a threat of serious physical injury or death to the officer or the public.
3. When reasonably possible, an officer should provide a verbal warning prior to using deadly physical force.

D. Prohibited uses of force

1. A chokehold or other similar restraint that applies pressure to the throat or windpipe of a person are prohibited unless an officer is overcoming lethal force directed at him/her or a third party.
2. Physical force must not be used:
 - a) Against a person in restraints, except as reasonable to prevent their escape, or prevent imminent bodily injury to that person, or another person. In these situations, only the minimal amount of force necessary to control the situation shall be used.
 - b) To extract an item from the anus or vagina of a subject without a search warrant, except where exigent circumstances are present.
 - c) To coerce a confession.
 - d) To obtain blood, saliva, urine, or other bodily fluid or cells from an individual for the purpose of scientific testing in lieu of a court order where required.

E. Duty to intervene

1. Every officer must prevent or stop the use of unnecessary force by another officer when it is safe and reasonable to do so.
2. Every officer who observes another officer use unnecessary force must promptly report these observations to his/her immediate supervisor.

3. Every officer who observes a subject in an apparent medical crisis during a use of force incident against that subject must promptly:
 - a) Assess the restraint tactics being utilized and adjust as is reasonably practicable, if the tactics appear to be the cause of the medical crisis.
 - b) Ensure EMS is requested to the scene.
 - c) Monitor the subject and/or provide emergency medical attention to the subject as is reasonably practicable, until EMS arrives.

F. Officer responsibilities during a use of force incident

1. During a use of force incident, the officer utilizing force must be cognizant of the physical condition and well-being of the subject, especially when the subject is being stabilized on the ground and/or physically restrained. Officers must continuously monitor the subject for signs of positional asphyxia.
2. Officers must not restrain subjects in a prone position any longer than is reasonably practicable to stop the subject's resistance and/or aggression.
3. During a use of force incident, the officer must immediately arrange for medical attention and/or treatment for that person upon whom the force was used as soon as reasonably practicable when:
 - a) The person becomes unresponsive and/or vomits
 - b) The person has a visible injury.
 - c) The person complains of injury or discomfort or requests medical attention.
 - d) A chemical agent was utilized.
 - e) A Conducted Electrical Weapon was utilized.
 - f) The officer feels that medical attention is necessary.
4. Persons refusing medical treatment must be transported to a hospital where hospital personnel will witness the refusal. The officer will retain a copy of the hospital form used for refusing treatment, if any exists. This refusal and the witnesses present must also be noted on the officer's report.

5. The officer must notify the Road Patrol Sergeant and the Administrative Sergeant of the incident as soon as reasonably possible.
 - a) In the case of off-duty incidents, the officer must notify the Road Patrol Sergeant and the Administrative Sergeant as soon as reasonably possible.
 - b) If the incident is outside the Town of Macedon, the officer must also make a report to the police agency of the jurisdiction in which the incident occurred.
6. The officer must attempt to locate and identify any witnesses and document their statements.
7. The officer must complete and submit all required reports.
8. When an officer uses force he/she will categorize all body worn camera video as “use of force.”

G. Supervisor responsibilities

1. For on-duty uses of force, the on-duty supervisor must:
 - a) Immediately respond to the scene of the incident if within Wayne County.
 - b) Notify the Chief of Police If the scene is outside Wayne County, the Chief of Police will determine the department’s response.
 - c) Ensure that all necessary medical attention is provided.
 - d) Evaluate the level of relevant technical services needed and secure those services if needed from the Wayne County Sheriff’s Office or the New York State Police. At the least, photographs of the subject, scene, and any other relevant evidence should be taken by an Evidence Technician or using a Macedon Police Department camera. A photograph showing no injury may be as important as one that shows injuries.
 - e) Determine if additional investigative support should be requested to respond to the scene from the Wayne County Sheriff’s Office or the New York State Police.
 - f) Ensure that a thorough investigation is conducted, and all reports are prepared and submitted.
 - (1) The Administrative Sergeant, Patrol Sergeant or Chief of Police shall conduct a thorough preliminary investigation into the use of force

incident, ensuring proper handling of the subject, collection and documentation of physical evidence, and documentary evidence as well as securing all evidentiary statements from any witnesses or persons with knowledge.

- (2) If an officer is unable to complete reports due to injuries, the Administrative Sergeant, Patrol Sergeant or Chief of Police will prepare or cause to be prepared the necessary reports and documents required to ensure the commencement of prosecution for the subject.
- (3) The Patrol Sergeant will forward a complete copy of the arrest package including the SMRR and copies of all related reports to the Chief of Police.
- g) Ensure that any officer injuries are properly documented on a Standard Incident Report and the C-2 & C-3 reports.
- h) Ensure that any officer injuries are brought to the attention of the judge upon arraignment of the subject.
- 2. If an officer utilizes deadly physical force and the event occurs within Wayne County, the Patrol Sergeant, or in his absence the Administrative Sergeant must:
 - a) Respond to the scene.
 - b) Ensure the immediate notification of the Chief of Police.
 - (1) If no Sergeant is on duty any officer on-duty will notify the Chief of Police.
 - c) Ensure that all necessary medical attention is provided.
 - d) Ensure that the involved officer:
 - (1) Receives medical assistance, if needed.
 - (2) Is afforded privacy from inquiries from the public and law enforcement personnel not involved in the actual investigation of the incident.
 - (3) Is allowed to contact a representative from the Macedon Police Association, Council 82, and a lawyer.
 - e) Conduct a preliminary investigation of the circumstances surrounding the incident, and promptly report the results of the preliminary investigation to the Chief of Police.

- f) Determine if an Evidence Technician should respond to the scene and the level of technical services to be utilized.
- 3. If an officer utilizes deadly physical force and the event occurs outside Wayne County, the on-duty Sergeant must ensure the immediate notification of the Chief of Police. If no Sergeant is on duty the officer will notify the Chief of Police
 - a) The Chief of Police will decide the department response. The Chief of Police will consider the following:
 - (1) Apparent circumstances.
 - (2) Injuries to police officers and/or non-police personnel.
 - (3) Distance from Town of Macedon.

H. Custody of evidence

- 1. If an officer uses deadly physical force, or if a person received serious physical injury or was killed as a result of a use of force by an officer within the Town of Macedon, the department will take custody of any firearm, related equipment, weapon, or object utilized by the officer.
- 2. If an officer uses deadly physical force, or if a person received serious physical injury or was killed as a result of a use of force by an officer outside the Town of Macedon, the department will only take custody of any firearm, related equipment, weapon, or object utilized by the officer if the local investigating law enforcement agency does not.
- 3. An on-duty supervisor, Evidence Technician, or if utilized, investigative personnel from the WCSO or NYSP will take custody of all evidence. Evidence may include but is not limited to the officer's departmental issued firearm, weapons, ammunition and related leather goods.
 - a) Any firearm or other weapon will be made safe.
 - b) Proper documentation must be made of all items taken via notes, reports, photographs, etc.
 - c) A member of the firearms staff will replace any department issued firearm, weapon and/or equipment.
- 4. All items must be placed in the custody of the Property Office pursuant to General Order 480 or in the custody of the WCSO or NYSP until:

- a) Authorized for release by the Wayne County District Attorney's Office or the New York State Attorney General's officer involved shooting group and the Chief of Police; or
- b) The termination of any internal or legal proceedings.

I. Reporting procedures

1. Any officer using force must complete the appropriate reports for the incident as outlined in General Order 615. In addition to the elements of the incident, the narrative of the report will outline any actions or behavior of the subject and the techniques used by the officer to stop a threat, and/or effect an arrest or a lawful detention, as well as any need or request for medical treatment as well as efforts to obtain such treatment.
2. Any officer using physical force and/or other tactics to stop a threat or effect a lawful arrest or detention pursuant to his/her duties, whether on or off duty, must report or cause to be reported all facts related to the incident on a Subject Management Resistance Report (Attachment 2). The use of an active countermeasure, pressure point control, ASRs, a hobble, or any less lethal or lethal weapon requires the officer to complete and submit a Subject Management Resistance Report. A copy of the SMRR must be attached to and made a part of the arrest package.
3. If more than one officer is involved in the use of force, only one officer will complete the SMRR outlining his/her involvement in the incident. All other officers must complete an addendum or supplemental narrative in SJS outlining his/her involvement in the use of force.
4. A copy of all related reports must then be forwarded together to the reviewing supervisor for approval. The supervisor must forward a complete copy of the arrest package, including the original SMRR and copies of all related reports to the Administrative Sergeant. The Administrative Sergeant will prepare a second copy that must be forwarded to the Chief of Police for all incidents involving the use of deadly physical force or which result in the death or serious physical injury of a person.
5. Use of force incidents as outlined under section III-C-3 of this order requiring mandatory reporting under NYS Executive Law § 837-t will be reported to the NYS Division of Criminal Justice Services.

J. Assignment to administrative duty

1. The Chief of Police or his/her designee will assign an officer to administrative duty after a use of force when that officer has:

- a) Used any level of force which resulted in death or serious physical injury to another person.
 - b) Used deadly physical force.
 - c) Violated any provisions of this General Order; or
 - d) When deemed necessary by the Chief of Police or his/her designee.
2. The assignment to administrative duty does not imply guilt nor innocence of the officer involved. Administrative duty assignments will be made in the best interests of the department and the officer. The administrative duty will not place the officer in a position where the use of force may be necessary due to the nature of the assignment.
3. When an officer is assigned to administrative duty, they must:
- a) Refrain from routine exercise of police arrest and intervention powers.
 - b) Refrain from any public discussion of their administrative assignment or the circumstances related to the use of force.
 - c) Retain all rights, privileges, and employee benefits.
 - d) Retain responsibility for compliance with all laws, department rules and regulations, General Orders, and directives governing department personnel not specifically exempted by this order.
4. The officer will remain on such assignment until notified otherwise by the Chief of Police.

K. Review and disposition

1. Upon receipt of the arrest package and SMRR the Chief of Police, or his/her designee, and a training officer will review them. The review process must include but not be limited to the following:
- a) Reviewing the reports documenting the use of force.
 - b) Reviewing the retention of training and application of tactics in subduing an uncooperative subject.
 - c) Determining if the use of physical force was within department guidelines.
 - d) Determining if there is a need for remedial, reinforced, or additional training.

2. The Administrative Sergeant, Patrol Sergeant or his/her designee must forward a copy of the SMRR and all accompanying reports to the Chief of Police. Based on the investigation the Chief of Police may implement any recommendations or other actions deemed necessary.
3. A copy of the SMRR and all accompanying reports will be maintained in each officer's "Use of Force" file and maintained by the Chief of Police or his/her designee.

By Order of the Chief of Police

John P. Colella
John P. Colella (Apr 25, 2021 08:33 EDT)

John P. Colella
Chief of Police
Dated this 22nd day of April, 2021