



**WATERVLIE T NEW YORK**  
**POLICE DEPARTMENT**  
 2-15TH STREET  
 WATERVLIE T, NY 12189



1788

**USE OF PHYSICAL FORCE**  
**GENERAL ORDER NO: 1.3.00**

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<b>Issuing Authority:</b> Acting Police Chief Brian J. Strock	<b>Page:</b> 1 of 26

**I. PURPOSE:**

The purpose of this policy is to establish policies and procedures governing the use of reasonable and legitimate physical force by sworn officers of this department and to establish procedures for investigating and reporting the use of such force.

**II. POLICY:**

It is the policy of the Waterliet Police Department that sworn officers of this department shall only employ the degree of physical force that is objectively reasonable<sup>1</sup> and necessary, based on the totality of the circumstances, to accomplish lawful objectives, as established by [Article 35 of the New York State Penal Law](#) and the policies and procedures set forth by this department.

The sanctity of life and protection of the public shall be the cornerstones of the Waterliet Police Department’s Use of Physical Force policy.

Any officer present and observing another member utilizing force that they believe to be clearly beyond that of which is objectively reasonable under the circumstances shall have a duty to intercede to prevent the use of unreasonable force, if and when the officer has a realistic opportunity to prevent harm. Any officer who observes another officer use force that exceeds what is authorized by applicable law and/or department policy and procedures shall immediately report such to a supervisor.

Members of the Waterliet Police Department whom must exercise control of a situation or subject should attempt to de-escalate the situation prior to utilizing force, if at all possible. The Department recognizes that policing in general is dynamic and ever-evolving. Clearly not every potential violent confrontation can be de-escalated however officers should recognize they have the ability to impact the direction and the outcome of many situations they handle based on their decision making and tactics they choose to employ. Officers should use advisements, warnings, verbal persuasion, and other strategies and alternatives to higher levels of force wherever possible.

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<sup>1</sup> Force which is objectively reasonable is insulated from criminal liability through Article 35 of the NYS Penal Law and civil liability by the 4<sup>th</sup> Amendment standard of objective reasonableness.

### III. DEFINITIONS:

1. **Reasonable Cause to Believe/Reasonable Belief** –Reasonable belief means 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.
2. **Physical Force** – The physical presence, action or exercise of strength to compel another to act or refrain from certain behavior which does not amount to deadly physical force.
3. **Less Lethal Force** – Less lethal force means response options that are not designed or used with the intention of causing (and have less potential for causing) death or serious bodily injury, including but not limited to: impact weapons, chemical agents, and conductive energy weapons.
4. **Physical Injury** – Physical injury means the impairment of physical condition or substantial pain, as defined in [Article 10 of the New York State Penal Law](#).
5. **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, as defined in [Article 10 of the New York State Penal Law](#).
6. **Sanctity of Life** – No person's life is intrinsically more valuable than another; the Watervliet Police Department holds all life in the highest regard.
7. **Deadly Physical Force** – Deadly physical force means force which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury, as defined in [Article 10 of the New York State Penal Law](#).
8. **Carotid Restraint** – a control technique in which the carotid arteries on the side of the neck are compressed, restricting the blood flow to the brain, causing the subject to pass out.
9. **Less Lethal Weapons** – a weapon which is primarily designed to temporarily disable or stop non-compliant persons, thereby providing law enforcement personnel with an alternative to lethal force when appropriate. This department currently authorizes the following less lethal weapons: conducted energy weapons (Taser X26P), impact weapons (composite or wood baton and/or expandable baton), O.C. spray, and other weapons approved by the Office of the Chief.
10. **Conducted Energy Weapon (CEW)** – A weapon designed primarily to discharge electrical charges into a subject that will cause involuntarily muscle contractions and override the subject's voluntary motor responses. A CEW delivers approximately 50,000 volts but that is only to make the initial contact between the CEW probes and the skin. Once contact is made, the voltage drops to approximately 1,200 volts at about 19 pulses per second.
11. **Arcing** – The activation of a CEW without discharging the probes. This may be done as a warning to the subject or to test the CEW prior to deployment (also referred to as a spark test). The Taser cartridge must be removed from the weapon prior to arcing.
12. **Drive Stun** – A action which requires pulling the trigger and placing a CEW in direct contact with the subject, causing the electric energy to enter the subject directly. Drive stun is frequently used as a non-incapacitating persuasive compliance technique. It may also be used to incapacitate the subject where at least one probe is attached to the subject's body and the CEW contact will complete the circuit. A drive stun performed in absence of probe contacts will not result in neuro muscular incapacitation (NMI).

- 13. Laser Painting** – The act of un-holstering and pointing a CEW at a subject and activating the CEW's laser/ LED light to show that the weapon is aimed at the subject.
- 14. Support Hand Side** – The opposite side of a person's strong hand and firearm
- 15. Impact Weapon** – A device used to apply force against another or to affect a blocking or defensive technique. This shall include cocobolo/composite wood batons and expandable batons.
- 16. Capsicum** – A genus of plants, the ripe fruit of the capsicum mimum (or frutescans), contains the active principal capsaicin.
- 17. Capsaicin** – A colorless, pungent crystalline compound that is derived from capsicum and is a strong irritant to skin and mucous membranes.
- 18. Objectively Reasonable<sup>2</sup>** – 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.
- 19. Oleoresin** – A naturally occurring mixture of oil and resin extract from various plants.
- 20. Orthoclorobenzal Malononitrile (CS)** – A gas causing tears, salivation, and painful breathing, C<sub>6</sub>H<sub>4</sub>ClCH:C(CN)<sub>2</sub>.
- 21. Decontamination** – The removal of hazardous substances (bacteria, chemicals, radioactive materials) from a person, clothing, equipment, tools, and/or site to the extent necessary to prevent the occurrence of adverse health and/or environmental effects.
- 22. Weapon of Opportunity** – A weapon of opportunity consists of any object, other than a department approved less lethal or lethal weapon (e.g., flashlight, portable radio, etc.).
- 23. Imminent** - The determination of whether a particular threat or danger is imminent is based on an assessment of all of the circumstances known to the officer at the time. Imminent does not necessarily mean immediate or instantaneous.
- 24. Excessive Force** - A use of force greater than that which a reasonable officer would use under the circumstances. A type or degree of force that is neither reasonable nor necessary, or utilizing any degree of force as summary punishment or vengeance.
- 25. Positional asphyxia** - A medical emergency that occurs when a subject's body position interferes with breathing, either when the chest is restricted from expanding properly or when the position of the subject's head obstructs the airway which may lead to death or serious physical injury.
- 26. Excited Delirium** – A condition in which a subject presents with extreme agitation, aggression, and acute distress. The condition is typically associated with the use of drugs that alter dopamine processing or hyperthermia<sup>3</sup>. The condition can be life threatening if immediate emergency medicine measures are not taken.
- 27. Strategically Disengage** – Tactically withdrawing from a position, when withdrawal does not increase the risk of injury to innocent persons, which allows greater distance and additional security for an officer to gain additional time to consider or deploy a greater variety of force options.

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<sup>2</sup> Graham v Connor, 490 U.S. 396 (1989)

<sup>3</sup> Takeuchi, Asia et al. "Excited delirium." The western journal of emergency medicine vol. 12,1 (2011): 77-83.

## IV. AUTHORIZED USE OF FORCE

### A. Use of Reasonable Force:

While in the performance of official duties, officers shall only employ the degree of physical force or deadly physical force that is objectively reasonable and necessary, based on the totality of the circumstances, to accomplish lawful objectives, as established by Article 35 of the New York State Penal Law and the policies and procedures set forth by this department.

1. Lawful objectives include, but not limited to: detentions, frisks, arrests, self-defense and in defense of others, defense of property, preventing a person from self-injury or protective custody commitments, preventing a person from destroying evidence, preventing a prisoner escape, quelling a riot.
2. Factors that assist in determining the totality of the circumstances include:
  - a. The severity of the crime or circumstance;
  - b. The level and immediacy of threat or resistance posed by the suspect;
  - c. The potential for injury to citizens, officers, and suspects<sup>4</sup>;
  - d. The risk or attempt of the suspect to escape<sup>5</sup>;
  - e. The knowledge, training, and experience of the officer<sup>6</sup>;
  - f. Other environmental conditions or exigent circumstances<sup>7</sup>.
3. Other factors that assist in determining the necessity to use force include, but are not limited to<sup>8</sup>:
  - a. the number of subjects present
  - b. The number of suspect's present;
  - c. Pre-assault indicators (actions, statements, etc.);
  - d. Size, age, and physical condition of the officer and subject;
  - e. Known or perceived physical abilities of the suspect;
  - f. Previous violent or mental history;
  - g. Perception of the use of alcohol or drugs by the subject;
  - h. Perception of the suspect's mental or psychiatric history based on specific actions;
  - i. The availability and proximity to weapons;
  - j. Environmental factors (e.g. night/day, snow/ice, terrain)
  - k. Injury to the officer or prolonged duration of the incident;
  - l. Officer on the ground or other unfavorable position; and
  - m. Characteristics of being armed (e.g., bulges, adjustment of clothing, "security touches").

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<sup>4</sup> *Scott v. Harris*, 550 U.S. 372 (2007)

<sup>5</sup> *Graham*, 490 U.S. at 396 (1989)

<sup>6</sup> *Analysis of cases under the 4th Amendment require the focus to be on the perspective of a reasonable officer on the scene which includes the training and experience of the officer. Graham v. Connor*, 490 U.S. 386 (1989), *Terry v. Ohio*, 392 U.S. 1 (1968)

<sup>7</sup> *Sharrar v. Felsing*, 128 F. 3d 810 (3rd Cir. 1997) (numbers of officers or subjects))

<sup>8</sup> *Graham v Connor*, 490 U.S. 396 (1989)

## **B. De-Escalation and Sanctity of Life:**

### *1. De-escalation*

Policing requires that at times an officer must exercise control of a violent or resisting subject to effect an arrest, or to protect an officer or others, from risk of imminent harm. Clearly, not every potential violent confrontation can be de-escalated, but officers do have the ability to impact the direction and the outcome of many situations they handle based on their decision-making and the tactics they choose to employ.

When reasonable under the totality of the circumstances, officers should gather information about the incident, assess the risks, assemble resources, attempt to slow momentum, and communicate and coordinate a response. In their interaction with the subjects, officers should use advisements, warnings, verbal persuasion, and other tactics and alternatives to higher levels of force. Officers should recognize that they may strategically disengage to a position that is tactically more secure or allows them greater distance in order to consider or deploy a greater variety of force options when withdrawal does not increase the risk of innocent persons or themselves

### *2. Sanctity of Life*

No person's life is intrinsically more valuable than another. The Watervliet Police Department holds all life in the highest regard. Factors that should influence the decision-making process in a critical incident where lives are in the balance shall be based on the totality of the circumstances known to the law enforcement at that time. Generally, the safety priorities should be 1) Hostage(s) 2) Innocent civilians 3) Police Officers 4) Suspect.

Any prioritization of the efforts of Law Enforcement to effectively resolve a critical incident should be based primarily on the person's ability to remove themselves from the dire situation they may be in. Suspects have the most ability to remove themselves or affect the outcome of the situation through surrender.

Conversely, a hostage will have the highest priority, based not on any valuation of their life, but rather based on the fact that they are in the most peril with the least amount of control. When contemplating an action, officers must evaluate who would benefit or suffer the most.

## **C. Duty to Intercede**

1. Any officer present and observing another officer using force that they reasonably believes to be clearly beyond that which is objectively reasonable under the circumstances shall intercede to prevent the use of unreasonable or excessive force, if and when the officer has a realistic opportunity to prevent harm.
2. Any officer present and observing another officer using force that they reasonably believes to be clearly beyond that which is objectively reasonable under the circumstances shall promptly report these observations to a supervisor.

## V. LEVELS OF RESISTANCE

There are many reasons a suspect may be resisting arrest or may be unresponsive. For example, the person in question may not be capable of understanding the gravity of the situation for a variety of reasons. Officers must consider several factors when dealing with a non-compliant subject. A subject may be non-compliant due to a medical condition, mental, physical, or hearing impairment, language barrier, drug interaction or emotional crisis, and have no criminal intent. This may not make the subject any less dangerous, but it may require a change in tactics that will be more effective while maintaining officer safety.

1. **Compliant-** A person contacted by an officer who acknowledges direction or lawful orders given and offers no passive/active, aggressive, aggravated aggressive resistance.
2. **Passive Resistance-** The subject is not complying with an officer's commands, and is uncooperative, but is taking only minimal physical action to prevent the officer from placing the subject in custody and taking control. Examples include: standing stationary and not moving upon lawful direction, falling limp and refusing to use their own power to move (becoming "dead weight"), holding onto a fixed object, or locking arms with another during a protest or demonstration.
3. **Active Resistance-** The subject's verbal or physical actions are intended to prevent an officer from placing the subject into custody and taking control, but are not directed at harming the officer. Examples include: walking or running away, breaking the officer's grip.
4. **Aggressive Resistance-** The subject displays intent to harm the officer, themselves, or another person and prevent an officer from placing the subject into custody and taking control. The aggression may manifest itself through a subject taking a fighting stance, punching, kicking, striking, attacks with weapons or other actions which present an imminent threat of physical injury to the officer or another.
5. **Aggravated Aggressive Resistance-** The subject's actions are likely to result in serious physical injury or death to the officer, themselves, or another. These actions may include a firearm, use of blunt or bladed weapon, and extreme physical force.

## VI. LEVELS OF FORCE

The subject's actions shall dictate the officer's use of force. Force transition is the shift to either de-escalate or escalate the application of force from one type to another. The force transition is determined by what the officer believes is objectively reasonable. Because use of force situations are dynamic and require an officer to continually measure the subject's actions, officers shall modify their level of force in relation to the amount of resistance offered by a subject. Nothing contained within this policy shall require an officer needing to progress through each level of force before reaching the final level of force.

1. **Presence** – The mere presence of an officer, whether uniformed or not, is considered the best method for deterring a crime or diffusing a situation. Presence may be accomplished by, but is not limited to: professional and non-threatening disposition of officer(s), marked patrol vehicle(s), visible police canine(s).
2. **Verbal Persuasion** - 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 are by far the most desirable method of dealing with an arrest situation. Control may be obtained through advice, persuasion, and warnings before resorting to physical force. This should not be construed to suggest that officers relax and lose control of a situation, thus endangering their personal safety or the safety of others. Officers may increase their volume and shorten commands in an attempt to gain compliance. Such short commands may include "Stop" or "Don't Move".
3. **Empty-Hand Control** - Frequently, subjects are reluctant to be taken into custody and offer some degree of physical resistance. Under circumstances when the subject offers passive or active resistance, an officer may overcome this resistance through physical strength and skill in arrest tactics to include:
  - a. Soft-Hand Techniques- Officer's use of grabs, holds, and joint locks to restrain an individual; and/or
  - b. Hard-Hand Techniques- Officer's use of punches, kicks, strikes to gain compliance or assist in restraining an individual.
4. **Less-Lethal Weapons** – Officers who encounter a subject(s) who is displaying active resistance and/or aggressive resistance, less-lethal weapons may be utilized.

- a. *Impact Weapons*: Officers will make every effort to use their primary department issued or approved impact weapon. In the event that the officer's primary impact weapon has been lost as a result of that confrontation, broken or taken away, the officer may be justified in using an alternative impact weapon (flashlight, radio or any other impact weapon not issued or approved specifically as a defensive weapon as a means of force). An alternative impact weapon should only be used when no other reasonable alternative is present.
  - b. *Oleoresin Capsicum (OC)*: When properly used under the correct circumstances, OC Spray is usually quite effective on humans. OC Spray will incapacitate most subjects for a period of approximately thirty (30) minutes without permanent injury. Whenever possible, a verbal warning of OC deployment and a command to desist the undesirable behavior shall be given. A person exposed to OC must be decontaminated as soon as practical.
  - c. *Conducted Energy Weapon (CEW)*: The department issued CEW may be used in accordance with policy and procedure.
5. **Weapon of Opportunity** – At times, an officer may be in the midst of a sudden use of force scenario or find themselves without the ability to utilize department issued equipment resulting in the utilization of an improvised weapon to assist them. An officer must be able to articulate a compelling need to use a weapon of opportunity.
6. **Deadly Force** - While in the performance of official duties, an officer may use deadly force only when it is objectively reasonable to believe that the action is in defense of human life, including the officer's own life, or in defense of any person in imminent danger of serious physical injury. In addition, officers may use deadly physical force as outlined in Article 35 of the New York State Penal law to prevent the escape of a fleeing felon who the officer has probable cause to believe has committed a violent felony crime and is an imminent threat to human life should escape occur. An officer in this scenario should give a verbal warning, if feasible, prior to the use of deadly force.

Officer should note that deadly physical force can also result from a force option that is being improperly applied or use. Deadly force is not limited to the use of firearms. An example of this includes, but not limited to, improper baton strikes to the head, neck, sternum, spine, etc. Vehicle ramming, if applied, could result in serious physical injury or death thus requiring justification for the use of deadly physical force.

Deadly force should be used as a last option when all other lesser alternatives have been considered and/or exhausted (when feasible) prior to the use of deadly force. This includes strategic disengagement.



In addition to these guidelines, officers are referred to other applicable General Orders, such as the department's Use of Deadly Physical Force policy.

## **VII. PROHIBITED USES OF FORCE & EQUIPMENT**

- A.** Members are prohibited from using excessive force, as defined in this policy.
- B.** Discharging warning shots from a firearm are prohibited under any circumstance.
- C.** Discharging a firearm at a moving vehicle is prohibited unless the officer reasonably believes the occupants of the vehicle are using, or are about to use deadly physical force against the officer or another person, and other options are not immediately available.
  - 1. Officers should avoid positioning themselves in a tactically inferior location when working near a motor vehicle and the potential for harm exists.
  - 2. Officers should note that a motor vehicle presents a formidable shield against most firearms and if the officer disables the operator the vehicle, it can be expected the vehicle may continue to move, uncontrolled, thereby creating a hazard to officers and the public.
- D.** Officers are prohibited from discharging firearms or less-lethal weapons when it appears likely that an innocent person may be injured.
- E.** The use of a carotid restraint shall be prohibited unless the member has no other means available to stop a deadly physical force situation *and* the member has received department-approved training on the carotid restraint technique. If a carotid restraint is applied, the officer shall immediately request for the on-duty supervisor and EMS to respond to the scene regardless if the restraint was effective or not.
- F.** An officer is prohibited from using force 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.
- G.** Only issued or approved equipment will be carried on duty and used when applying physical force, except in emergencies when an officer may use any resource at their disposal. The carrying or use of any instrument as a weapon not specifically authorized or issued by the Watervliet Police Department is prohibited. Examples of unauthorized weapons include, but are not limited to, a blackjack, weighted gloves, stun guns, brass knuckles, steel toe shoes or boots.
- H.** Failure to adhere to use of force guidelines will be addressed pursuant to existing disciplinary procedures.

## **VIII. UNLAWFUL ASSEMBLY/CROWD DISPERSAL**

- A.** With the approval of the Chief of Police or designee, the use of chemical agents, such as CS or OC, in response to an unlawful assembly may be reasonable depending on the totality of the circumstance. Members of the Watervliet Police Department should consider when, where, and how chemical agents may be deployed, and consider potential collateral effects. The minimum amount of chemical agent shall be used to obtain compliance.
- B.** An audible warning of the imminent use and a reasonable amount of time should be provided to disperse the crowd, on-scene media, other observers, and Watervliet Police Department members that are present prior to the use of any chemical agents.
- C.** If chemical agent use is contemplated in crowd situations, Emergency Medical Services should be on site prior to its use and shall make provisions for decontamination and medical screening for those persons affected by the chemical agent.
- D.** The use of chemical agents against passive resisters is prohibited absent exigent circumstances.
- E.** Only members who have received specialized training in the deployment of chemical agents are authorized to utilize such.
- F.** Additional guidance is contained within this policy. See Section "IX" *Less Lethal Weapons Operating Procedure*, sub-section "C" *Chemical Agents*.

## **IX. LESS-LETHAL WEAPONS OPERATING PROCEDURES**

- A.** Conducted Energy Weapons (CEWs)
  - 1. CEWs shall be carried and utilized only as authorized in accordance with department policies and procedures.
    - a. The Watervliet Police Department's authorized CEW is the Taser X26P.
    - b. The use of personally owned CEWs while on duty is not authorized.
  - 2. CEWs shall be stored in a secure area when not in use. Upon starting their tour of duty, qualified members will be assigned a CEW by the on-duty shift supervisor. The on-duty supervisor shall log the CEW's designated number and the name of the member carrying it in the daily blotter. Once issued, the member is required to complete the following:
    - a. Turn the CEW to the "on" position and perform a conditions check of the CEW. Members must verify the battery life percentage of their CEW is above twenty percent (20%). If a battery level is below this level, the department CEW instructor shall be contacted via email and advised of such. The CEW should not be utilized until the battery is replaced.
  - 3. A spark test (five-second cycle) of every CEW shall be conducted daily to ensure proper operation of the weapon. This spark test is to be

recorded on a monthly log sheet. Completed monthly sheets shall be submitted to the CEW instructor to be retained.

- a. If any member discovers a CEW is not functioning properly, or appears to be in need of repair, the CEW is to be immediately taken out of service and the CEW instructor is to be notified.
4. Each on-duty shift supervisor is to account for all CEWs and CEW related equipment at the beginning and end of their tour.
5. Members issued a CEW shall return said equipment at the end of their tour of duty. CEWs shall not be stored in any locations other than the designated secure area.
6. CEW operators shall use due care with any CEW or CEW related equipment.
7. Deployment/Use of a CEW:
  - a. The CEW is a defensive operation weapon and shall be used in accordance with [Article 35 of the New York State Penal Law](#) and Watervliet Police Department policies and procedures.
  - b. Generally, CEWs shall not be used against passive resistant subjects, unless extenuating circumstances exist. Additionally, a fleeing subject *shall not* be the sole justification for using a CEW against a subject. Officers must consider and clearly articulate the following factors:
    - i. The severity of the offense the officer has reasonable cause to believe occurred or about to occur;
    - ii. The subject's threat levels to others; and
    - iii. The risk of injury to the subject.
  - c. Prior to deploying a CEW, officers shall consider the following:
    - i. The level of force exhibited by the subject;
    - ii. Proximity and/or access to the subject; and
    - iii. Safety of involved individuals to include hostages, uninvolved civilians, other first responders, and the involved subject.
  - d. CEW's shall *not* be used under the following circumstances, unless deadly physical force is justifiable and in accordance with [Article 35 of the New York State Penal Law](#) and Watervliet Police Department policies and procedures:
    - i. Where the subject is elevated on an object and has the potential to fall (e.g. building roof tops, trees, river banks, bridges, fences);
    - ii. Obviously pregnant or known to be pregnant woman;
    - iii. Apparent juveniles, unless personnel are justified in using deadly physical force;
    - iv. The elderly or visibly frail;
    - v. Handcuffed subjects(s); unless it is necessary to prevent the subject from causing harm to themselves, personnel, or others and all other lesser attempts of control are deemed ineffective;

- vi. Subjects that are in physical control of a vehicle in motion (e.g., driver of a car, truck, motorcycle, ATV, bicycle, scooter);
  - vii. Where the subject has a known heart condition, or an apparent debilitating illness;
  - viii. Intentionally utilizing the CEW in the facial or head area of a subject;
  - iv. In areas where flammable liquids and/or gases are present, due to the potential for ignition of said liquids and/or gases;
  - v. CEWs shall not be deployed when a subject has been sprayed with an alcohol based chemical spray or alcohol based pepper spray. *Note:* The Watervliet Police Department's issued OC spray is non-alcohol based and safe to be deployed in conjunction with a CEW;
  - vi. To threaten or elicit information from a person; or
  - vii. As a means of punishment.
- e. Members should be aware that there is a higher risk to the subject when the CEW is utilized when the subject is in medical or mental crisis or the subject is obviously under the influence of drugs and/or alcohol.
  - f. When safe and practical, members should give a verbal warning to the subject that a CEW will be used if they do not comply. This can also include laser painting and/or arcing, as defined in this policy.
  - g. When possible, personnel shall not use a CEW unless there is another officer present to provide lethal cover.
  - h. The officer deploying the CEW shall inform all other present personnel that a CEW is being utilized.
  - i. It is the responsibility of the cover officer to properly assess the situation and appropriately provide lethal cover, as the circumstance dictates.
  - j. If compliance of the subject is achieved, it shall be the responsibility of the back-up officer(s) to take control of the subject (e.g., handcuffing).
  - k. Officers shall not intentionally use more than one (1) CEW against a subject at a time.
  - l. Officers should use a CEW for one (1) standard cycle (five seconds) and then evaluate the situation to determine if subsequent cycles are necessary.
    - i. Personnel shall consider that exposure to the CEW for longer than fifteen (15) seconds, whether due to multiple applications or continuous cycling, may increase the risk of death or serious injury.
    - ii. Any subsequent applications should be independently justifiable, and the risks should be weighed against other force options.

- iii. For maximum effectiveness, personnel shall use a CEW at distances between 7-14 feet, unless utilizing the drive stun method.
    - iv. Members shall not use a CEW on an individual subject more than three (3) times during a single incident (this includes both deployment of the probes and drive-stun).
  - m. Drive Stun Utilization:
    - i. Utilized to complete the circuit when one of the probes is ineffective or becomes dislodged.
    - ii. Utilized in close quarters to protect the officer, others, or to create a safe distance between the officer and the subject.
    - iii. The primary function of the drive stun mode, when not used to complete the circuit, is to gain subject compliance through the administration of pain.
    - iv. Using the CEW to achieve pain compliance may have limited effectiveness and, when used repeatedly, may even exacerbate the situation by inducing rage in the subject.
  - n. Probe Mode Utilization:
    - i. The CEW probes shall be delivered to the subject target areas based on the following circumstances:
      - 1. Availability;
      - 2. Clothing;
      - 3. Established safety priorities; and
      - 4. Level of force necessary.
    - ii. The subject's lower center mass should be the target area, unless exigent circumstances dictate otherwise.
  - o. Personnel shall keep in mind that subjects affected by the CEW may be unable to physically perform verbal commands given by personnel (e.g., "put your hands on top of your head") during the cycle.
- 8. Post Deployment:
  - a. Following a CEW usage, the on-duty supervisor shall be immediately notified and, if possible, respond to the scene.
    - i. The supervisor shall:
      - 1. Ascertain the facts surrounding the incident;
      - 2. Conduct interviews of all involved parties and witnesses;
      - 3. Photograph the impact site where the CEW was deployed. (It may be more feasible to photograph the site in the Watervliet Police Department booking facility). If a subject refuses to submit to photographs, or if the impact site is a sensitive/private area (groin, breast, etc), the

supervisor is to photograph the clothed area of the site instead; and

4. Make an initial determination that the CEW deployment was in compliance with applicable laws, policy, and procedures.
- b. When a CEW is deployed on a subject, personnel shall, as soon as safe and practical, request Emergency Medical Services for the subject.
- c. These procedures shall be followed for deployment of the probes and for drive-stuns, and shall occur before transporting any subject to Watervliet Police Headquarters.
  - i. In accordance with a member's training, the department is responsible for the removal of the probes from any subject.
  - ii. If a CEW is deployed on any subject by members of this department, that subject is assumed to be in custody and cannot refuse medical attention.
  - iii. Emergency Medical Services personnel shall determine if a subject should be treated at the scene or if they should be transported to a hospital for medical attention, via an ambulance.
  - iv. Once removed, the probes, expended cartridge, & any collected AFID's (anti-felon identification) shall be packaged as evidence & treated as a biohazard due to tissue & blood remnants on the probe.
- d. Personnel need to be cognizant of how positional asphyxia may exacerbate the condition of any individual who has received a CEW application. Personnel shall utilize a restraint technique that does not impair a subject's respiration following a CEW application.

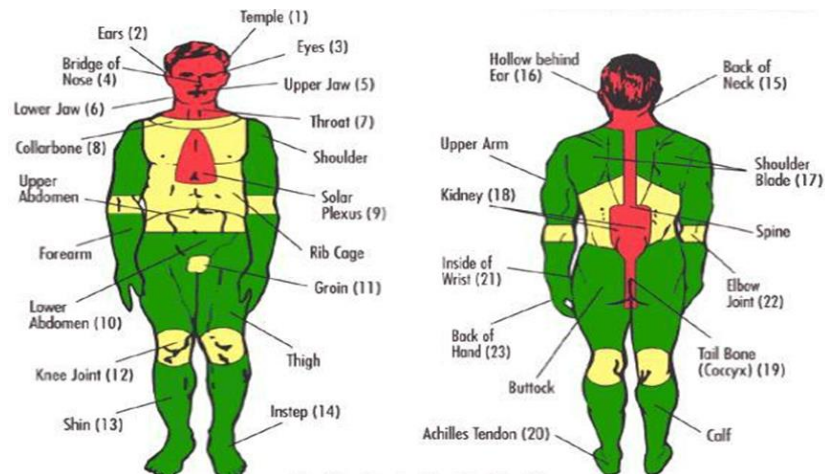
**B. Impact Weapons:**

1. Impact weapons shall be carried and/or utilized only as authorized and in accordance with department policies and procedures.
  - a. The Watervliet Police Department's authorized impact weapons are:
    - i. Cocobolo Police Baton - Up to 26";
    - ii. Composite Wood Police Baton - Up to 26";
    - iii. ASP Expandable Baton - Up to 26";
    - iv. Riot Batons – up to 36".
    - v. A retention end cap, window breaker cap, and/or a combo of them both are authorized.
  - b. The use of personally owned impact weapons is not authorized.
2. For uniformed members; at least one impact weapon shall be carried on their persons while on duty. For non-uniformed members; at least one impact weapon shall be immediately available for potential use while on duty.
3. Officers will make every effort to use their primary department issued or approved impact weapon. In the event that the officer's primary

impact weapon has been lost as a result of that confrontation, broken or taken away, the officer may be justified in using an alternative impact weapon (flashlight, radio or any other impact weapon not issued or approved specifically as a defensive weapon as a means of force). An alternative impact weapon should only be used when no other reasonable alternative is present. If an alternative impact weapon is used, it will be used in a manner consistent with the training given for department issued or approved impact weapons.

4. Members shall use due care when utilizing any impact weapon.
5. General deployment/use of an impact weapon:
  - a. A impact weapon is a defensive operation weapon and shall be used in accordance with [Article 35 of the New York State Penal Law](#) and Watervliet Police Department policies and procedures.
  - b. Generally, impact weapons shall not be used against passive resistant subjects, unless extenuating circumstances exist. Officers must consider and clearly articulate the following factors:
    - i. The severity of the offense the officer has reasonable cause to believe occurred or about to occur;
    - ii. The subject's threat levels to others; and
    - iii. The risk of injury to the subject.
  - c. Prior to utilizing an impact weapon, officers shall consider the following:
    - i. The level of force exhibited by the subject;
    - ii. Proximity and/or access to the subject; and
    - iii. Safety of involved individuals to include hostages, uninvolved civilians, other first responders, and the involved subject.
  - d. Impact weapons shall *not* be used under the following circumstances, unless deadly physical force is justifiable and in accordance with [Article 35 of the New York State Penal Law](#) and Watervliet Police Department policies and procedures:
    - i. Obviously pregnant or known to be pregnant woman;
    - ii. Apparent juveniles, unless personnel are justified in using deadly physical force;
    - iii. The elderly or visibly frail; and
    - iv. Handcuffed subjects(s); unless it is necessary to prevent the subject from causing harm to themselves, personnel, or others and all other lesser attempts of control are deemed ineffective.
    - v. To threaten or elicit information from a person; or
    - vi. As a means of punishment.
  - e. Accurately directed blows to the following areas are usually effective, with less chance of serious physical injury to the intended subject.
    - i. A hard forehand/backhand strike to the non-compliant person's thigh (inside or outside). The

- intent is to cause temporary cramping, as well as a temporary inability to walk.
- ii. A hard forehand/backhand strike to the outside of the forearm or upper arm should also stop an attacker. The intent is to cause temporary immobility to said arm.
  - iii. A directed strike to the back of the hand or wrist. The intent is to cause temporary immobility to said hand.
  - iv. Directed defensive strikes to the shin area.
  - v. Strikes to center mass targets. The intent is to generate fluid shockwaves which have a high potential for gaining control over the subject.
  - vi. Thrust or jab to the solar plexus. Short jabs, with the end of the baton, to the stomach areas are effective in clearing away crowds or clearing a pathway through a large, combative group.
- f. Officers must always attempt to avoid jabbing, striking, or pressing on a subject's head, neck, spine, sternum, or groin, as these areas have a higher chance of resulting in serious physical injuries or death.
- g. The following illustration depicts vital and venerable areas in red. Those areas shall be avoided at all costs, unless deadly physical force is authorized. Members are cautioned against strikes or jabs to the yellow areas unless a specific purpose or response is sought for. The green areas are ideal for jabbing, striking or pressing an impact weapon.



6. Post Deployment:

- a. Following any strike, jab or other use of an impact weapon, the on-duty supervisor shall be immediately notified and, if possible, respond to the scene.
  - i. The supervisor shall:
    1. Ascertain the facts surrounding the incident;



2. Conduct interviews of all involved parties and witnesses;
  3. Photograph the impact site (It may be more feasible to photograph the site in the Watervliet Police Department booking facility). If a subject refuses to submit to photographs, or if the impact site is a sensitive/private area (groin, breast, etc), the supervisor is to photograph the clothed area of the site instead; and
  4. Make an initial determination that the impact weapon usage was in compliance with applicable laws, policy, and procedures.
- b. When an impact weapons is used on a subject, personnel shall, as soon as safe and practical, assess the need for immediate Emergency Medical Services for the subject<sup>9</sup>.
- i. If a visible injury is present, EMS shall be summoned to evaluate the subject, regardless if the subject refuses treatment.
    1. If an impact weapon is deployed on any subject by members of this department, that subject is assumed to be in custody and cannot refuse medical attention if it appears it is necessary.
  - ii. If a subject complains of pain or requests EMS, members shall immediately summon EMS for an evaluation, regardless of the presence of a visible injury or level of force used<sup>9</sup>.

**C. Chemical Agents:**

1. Chemical agents shall be carried and/or utilized only as authorized and in accordance with department policies and procedures.
2. The Watervliet Police Department's authorized chemical agents are:
  - a. Oleoresin Capsicum (OC); and
  - b. Orthochlorobenzal Malononitrile (CS).
3. The use of personally owned chemical agents is not authorized.
4. For uniformed members; the department issued 1.5 ounce OC canister shall be carried on their persons while on duty. For non-uniformed members; the department issued 1.5 ounce OC canister shall be immediately available for potential use while on duty.
5. Larger 18.5 ounce fogger-style OC canisters shall be available for use and carried, at a minimal, in the supervisor's vehicle. Deployment of additional 18.5 ounce canisters may be authorized in additional police department vehicles by the Office of the Chief. When deployed on a scene and not in use, the 18.5 ounce canister is to be carried in the accompanying holster.
6. Members shall use due care when utilizing any chemical agents.

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<sup>9</sup> ([Civil Rights Law §28](#)).

7. Deployment/Use of a chemical agents:
- a. Chemical agents are a defensive operation weapon and shall be used in accordance with [Article 35 of the New York State Penal Law](#) and Watervliet Police Department policies and procedures.
  - b. Generally, chemical agents shall not be used against passive resistant subjects, unless extenuating circumstances exist. Officers must consider and clearly articulate the following factors:
    - i. The severity of the offense the officer has reasonable cause to believe occurred or about to occur;
    - ii. The subject's threat levels to others; and
    - iii. The risk of injury to the subject.
  - c. Prior to utilizing chemical agents, officers shall consider the following:
    - i. The level of force exhibited by the subject;
    - ii. Proximity and/or access to the subject;
    - iii. Safety of involved individuals to include hostages, uninvolved civilians, other first responders, and the involved subject;
    - iv. Third party contamination (to include other officers);
    - v. Wind direction and other weather conditions; and
    - vi. The adverse effects if deployed in confined or enclosed space.
  - d. Chemical agents shall *not* be used under the following circumstances, unless deadly physical force in justifiable and in accordance with [Article 35 of the New York State Penal Law](#) and Watervliet Police Department policies and procedures:
    - i. Where the subject is elevated on an object and has the potential to fall (e.g. building roof tops, trees, river banks, bridges, fences);
    - ii. Obviously pregnant or known to be pregnant woman;
    - iii. Apparent juveniles, unless personnel are justified in using deadly physical force;
    - iv. The elderly or visibly frail;
    - v. Handcuffed subjects(s); unless it is necessary to prevent the subject from causing harm to themselves, personnel, or others and all other lesser attempts of control are deemed ineffective;
    - vi. Subjects that are in physical control of a vehicle in motion (e.g., driver of a car, truck, motorcycle, ATV, bicycle, scooter);
    - vii. Where the subject has a known heart condition, or an apparent debilitating illness to include respiratory conditions.

- viii. Civil demonstrations in which the subjects are passively resisting;
  - ix. Indiscriminately in crowded areas, except with supervisor approval or in exigent circumstances;
  - x. To threaten or elicit information from a person; or
  - xi. As a means of punishment.
- e. Whenever possible, a verbal warning of OC deployment and a command to desist the undesirable behavior shall be given.
  - f. OC may be deployed effectively up to twelve feet away. The stream should be directed at the intended subject's face, at a minimum distance of three (3) feet, utilizing a one to two second burst.
  - g. Post Deployment:
    - i. Following the deployment of chemical agents, the on-duty supervisor shall be immediately notified and, if possible, respond to the scene.
      - 1. The supervisor shall:
        - a. Ascertain the facts surrounding the incident;
        - b. Conduct interviews of all involved parties and witnesses;
        - c. Photograph the site where the chemical agent was deployed. (It may be more feasible to photograph the site in the Watervliet Police Department booking facility).
        - d. Make an initial determination that the chemical agents usage was in compliance with applicable laws, policy, and procedures.
    - ii. When chemical agents are deployed on a subject, personnel shall, as soon as safe and practical, request Emergency Medical Services for the subject.
    - iii. The subject shall be provided the opportunity to wash the affected areas as soon as practical after the application of the spray, absent exigent circumstances.
    - iv. Officers shall not use any creams, ointments, or bandages on affected areas.
    - v. Personnel need to be cognizant of how positional asphyxia may exacerbate the condition of any individual who has been exposed to chemical agents. Personnel shall utilize a restraint technique that does not impair a subject's respiration following chemical agent application.
      - 1. Officers shall *not* keep a sprayed subject in a face-down position for a period longer than

necessary in order to avoid positional asphyxia.

- h. Authorized use of Orthochlorobenzal Malononitrile (CS) gas:
  - i. The use of CS gas is reserved for the following applications:
    - 1. Barricaded subjects;
    - 2. Unlawful Assembly/ Crowd Dispersal; or
    - 3. Other situations as deemed necessary by the Chief of Police.
  - ii. Only those members who are specifically authorized by the Watervliet Police Department may use CS gas. At a minimum, the Municipal Police Training Counsel's Chemical Agent Instructor course, or its equivalent, is required for Watervliet Police Officers to deploy CS gas.
  - iii. Prior to the usage of CS gas, the incident shall be contained with a command structure in place that is appropriate for the time frame, the location, and the tactical situation presented. CS gas must have the approval of the Chief of Police, or their designee, prior to usage. Several factors shall be considered, to include:
    - 1. The seriousness of the offense or civil unrest;
    - 2. The threat to the community posed by the suspect(s), subject(s), or rioters;
    - 3. Location demographics: size, single level or multi-level, available windows or area for insertion of chemical agents, wind and weather, neighborhood effects;
    - 4. The available positions and locations from which chemical agents can be deployed;
    - 5. The potential for injury to person(s) at the location of use;
    - 6. Consideration of collateral effects, and
    - 7. Other uninvolved subject(s) present at the location of use;
  - iv. Only the volume of chemical agents that is reasonable shall be used.
  - v. For Unlawful Assembly/ Crowd Dispersal situations, an audible warning of the imminent use and a reasonable amount of time should be provided to disperse the crowd, on-scene media, other observers, and Watervliet Police Department members that are present prior to the use of any CS gas.
  - vi. If CS use is contemplated, Emergency Medical Services should be on site prior to its use and shall make provisions for decontamination and medical

screening for those persons affected by the chemical agent.

1. Decontamination for CS gas should include:
  - a. The removal of any person from a contaminated area;
  - b. Removal of clothing items; and
  - c. Transportation to a local hospital, if needed.

## **X. RENDERING AID/ MEDICAL TREATMENT**

- A.** Members of the Watervliet Police Department have the duty to provide attention to the medical and immediate mental health needs of any person(s) in custody and to obtain assistance and treatment of such needs, which are reasonable and provided in good faith<sup>10</sup>.
  1. The immediate mental health needs of a person shall be based upon the reasonable cause to believe that a person, who appears mentally ill, is conducting themselves in a manner which is likely to result in a serious harm to themselves or others<sup>11</sup>.
- B.** When physical force is used, and when it is safe to do so, the officer utilizing force shall evaluate the need for medical attention/treatment for that person upon whom the physical force was used as soon as is feasible and without unnecessary delay. Depending on the seriousness of the resulting injuries to either the officer or subject, Emergency Medical Services shall be summoned to the scene or to police headquarters once the officer and/or subject are in the secured confines of the station. Officers and/or the on-duty supervisor shall exercise prudent discretion regarding the need for medical services.
- C.** When an officer has used force, the Watervliet Fire Department Emergency Medical Services shall be requested when:
  1. There is visible injury;
  2. The person complains of injury or discomfort;
  3. The person is in custody, and the officer reasonably believes that medical attention is needed, even if the subject refuses medical attention.
  4. In cases where an officer suspects excited delirium.
  5. Whenever a subject receives an exposure to a CEW, regardless of whether or not the CEW was effective;
  6. Whenever a subject receives an exposure to chemical agents (OC or CS).
- D.** In the case of a person in custody refuses medical attention from Watervliet Fire Department medical personnel, officers shall note such refusal on the subject's arrest report.
- E.** Injuries sustained to a person in custody *prior to* police contact or sustained as the result of some reason other than the use of force, shall be documented on the

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<sup>10</sup> [Civil Rights Law §28](#)

<sup>11</sup> [MHL §9.41](#)

subject's arrest sheet. Medical attention shall be provided to said subject when a reasonable and prudent Officer would believe such injuries require it.

- F. In all cases wherein any person sustains an injury during an arrest, the on-duty supervisor shall immediately be notified. If the injured person requires hospital or emergency care, the patrol supervisor shall in turn notify the Office of the Chief.
- G. In all cases, injuries should be photographed, whether visible or not.
- H. All officers shall be cautious of positional asphyxia and take necessary measures to reduce potential contributing factors.
- I. All officers should be alert to a subject who may be manifesting signs of an excited delirium episode. This condition can be life threatening if immediate emergency medicine measures are not taken. If suspected, the on-duty supervisor and Emergency Medical Services are to be immediately requested *to the scene*. If in doubt, members should err on the side of caution and request a medical evaluation.

## **XI. ADMINISTRATION**

### **A. Reporting Requirements:**

1. Any officer using physical force in the performance of duty shall report, or cause to be reported, all facts about the incident on a Use of Force report ([WPD137](#)). In the event of an injury to the officer that prevents his or her completion of this report, the immediate supervisor shall be responsible for preparing this report.
2. The Use of Force report ([WPD137](#)) shall be used in situations when a duty firearm had been displayed or "pointed only".
  - a. If multiple officers are involved in the incident, a notation of the names of the involved officers that displayed their duty weapons shall be made on the Use of Force report (WPD137). This shall suffice for reporting requirement purposes. Each involved officer does not need to complete their own Use of Force report or Use of Force Supplemental report (WPD137-b) for instances of this nature.
3. If more than one officer is involved in the use of force incident upon an individual subject(s), the primary officer shall complete the Use of Force report ([WPD137](#)), and each assisting officer shall complete a Use of Force Supplemental ([WPD137-b](#)).
4. Members completing a use of force or a supplemental report shall clearly articulate the factors perceived and why they believed the use of force was reasonable under the circumstances
5. Injuries to any party involved, and the medical attention received, shall be clearly detailed in the report(s).
6. The use of a CED (Taser), impact weapon, chemical agent, pepper spray (OC) is considered a use of force and all necessary reports must be completed.
7. The arresting officer shall attempt to locate and identify any witnesses and document their statements.
8. The arresting officer shall prepare and submit reports required by current directives. Reports shall be submitted to the on-duty supervisor for review.

- a. The on-duty supervisor shall be responsible for conducting an administrative review to determine whether policy, training, equipment, or discipline issues should be addressed. If such opinion is made, the on-duty supervisor shall notify the Office of the Chief via [IOM](#) and document the reasons why.
9. Photographs of the injured areas, regardless of whether or not a visible injury is observed, shall be secured and kept with the Use of Force form.
10. The Office of the Chief shall ensure that reports are submitted to the Department of Criminal Justice Services when an officer<sup>12</sup>:
  - a. Brandishes, uses, or discharges a firearm at or in the direction of another person.
  - b. Uses a carotid control hold or similar restraint that applies pressure to the throat or windpipe of a person in a manner that is reasonably likely to hinder breathing or reduce intake of air.
  - c. Uses, or deploys a chemical agent or control device, including but not limited to oleoresin capsicum (OC), pepper projectiles, tear gas, batons, or kinetic energy projectiles.
  - d. Brandishes, uses, or deploys an impact weapon.
  - e. Brandishes, uses, or deploys an electronic control weapon, including 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.
11. All officers utilizing physical force shall make immediately notification to their immediate supervisor and document such on applicable reports.
12. If physical injury are sustain to a subject or officer, notification shall be made to the Office of the Chief by the on-duty supervisor.
  - a. Serious physical injury to any involved parties shall require immediate notification to the Office of the Chief.

## B. RESPONSIBILITIES

1. On-duty supervisor
  - a. Where practicable, the on-duty supervisor should respond to the scene of a use of force incident and begin a preliminary investigation into the use of force incident. The on-duty supervisor will document the results of their initial investigation on the Use of Force report ([WPD137](#)) under the “Review” section.
    - i. If an on-duty supervisor’s preliminary investigation yields a perceived failure from an officer to adhere to use of force guidelines, they shall document such on an [IOM](#), and notify the Office of the Chief.

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<sup>12</sup> [Executive Law § 837-t](#)

- b. The on-duty supervisor shall ensure the immediate completion of a use of force report by all officers engaged in a reportable use of force incident.
  - c. Ensure photographs and video (if available) are secured. The photographs (and video) should sufficiently document any injuries, or lack thereof, to the officers or suspect. When video is available showing the use of force incident, such as street cameras, security cameras, body cameras, etc, the on-duty supervisor shall make every attempt to secure it at the time of the incident. If the video is unavailable at the time of the incident, the on-duty supervisor shall make arrangements to attain the video. The supervisor shall document the disposition on the Use of Force report ([WPD137](#)) under the "Audio/Video (A/V) Review" section of said report.
  - d. The on-duty supervisor shall immediately notify the Office of the Chief under the following circumstances:
    - i. An officer discharging their firearm for any reason, other than to humanely dispatch a sick or injured animal;
    - ii. An officer or subject suffers serious physical injury;
    - iii. An officer or subject suffers physical injury which requires them to seek hospital/emergency room care;
    - iv. Any gross deviation from an officer in established policies, procedures, or laws;
    - v. Any use of force incident which would draw significant public/media attention; and
    - vi. Any other circumstance the supervisor feels necessary.
  - e. Submit the original of all Use of Force reports ([WPD137](#)) and photographs to the Office of the Chief without unnecessary delay. Photocopies of the Use of Force report shall be placed in the applicable arrest folder and/or attached to the incident report. Use of Force reports shall be included in the discovery file for an incident.
2. Office of the Chief
- a. The Office of the Chief shall conduct an administrative review of all use of force incidents. In cases of seeming unauthorized use of force or other extraordinary circumstances, the Chief of Police may direct an immediate investigation into the incident be commenced.
  - b. The Office of the Chief shall retain all original Use of Force reports ([WPD137](#)) and comply with directives contained in section XI (A) (10) of this policy.

### C. TRAINING

- 1. All sworn members of the Watervliet Police Department shall receive training to demonstrate their understanding on the proper application of force.
- 2. 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.
3. 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.
  4. Members will receive annual CEW training by a qualified CEW instructor.
  5. Officers shall demonstrate proficiency in the use of less-lethal and lethal weapons prior to being authorized to carry said weapons.
    - a. Training shall be completed by a certified weapons instructor and documented.
    - b. Annual training in CEW's and firearms shall be required.
  6. Members should receive annual training with regard to recognizing the signs of excited delirium and the hazards associated with positional asphyxia.

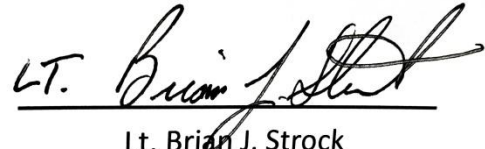
#### **D. Public Information & Community Relations**

1. An annual use of force analysis shall be completed by the Office of the Chief.
  - a. The Executive Lieutenant shall ensure an annual analysis is conducted of the department's use of force activities, policies, and practices to reveal any patterns or trends that could indicate training needs, equipment upgrades, and/or policy modifications. The results of this analysis shall be documented on an IOM to the Chief of Police.
  - b. The annual analysis shall utilize data from Use of Force Reports and PowerDMS between the dates of January 1st and December 31st of each calendar year.
  - c. The annual analysis shall be completed by March 31st of each calendar year.
2. The department's use of physical force policy shall be made available and conspicuously posted on the department's website<sup>13</sup>
  - a. Revisions to such use of force policies shall be updated on the department's website within seventy-two hours of approval of any amendment.
3. The department will comply with Freedom of Information Law (FOIL) requests to inspect Use of Force reports as per applicable laws and procedures set forth by the City of Watervliet's records access officer. Redactions to protected information shall be made prior to release.
  - a. If audio/ video is present following a use of force incident, it may be made available for public release when the investigation into the matter is completed.
  - b. The Chief of Police shall have the sole discretion when to release audio/video of a Use of Force incident.

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<sup>13</sup> [Executive Law 840\(4\)\(d\)\(4\)](#)

- c. Members are forbidden to release documents or audio/video surrounding any use of force incident without the permission from the Office of the Chief.

A handwritten signature in black ink, appearing to read "LT. Brian J. Strock", written over a horizontal line.

Lt. Brian J. Strock  
*Acting Chief of Police*