



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



1788

**USE OF DEADLY PHYSICAL FORCE & APPROVED LETHAL WEAPONS
GENERAL ORDER NO: 1.3.05**

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I. PURPOSE:

The purpose of this policy is to establish policies and procedures governing the use of reasonable and legitimate deadly 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 Watervliet Police Department that sworn officers of this department shall only employ the degree of deadly physical force that is objectively reasonable¹ and necessary, based on the totality of the circumstances, to defend another human life, including the officer’s own life, or in defense of another person in imminent danger of serious physical injury, 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 Watervliet 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 Watervliet 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.

¹ Force which is objectively reasonable is insulated from criminal liability through Article 35 of the NYS Penal Law and civil liability by the 4th 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. **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.
11. **Objectively Reasonable²** – 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.
12. **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.).

² *Graham v Connor*, 490 U.S. 396 (1989)

- 13. 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.
- 14. 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.
- 15. 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.
- 16. Firearm** – Any pistol, revolver, shotgun, rifle, or assault weapon as defined in [Article 265](#) of the NYS Penal Law.
- 17. Patrol Rifle** – An optional firearm that is meant to provide department members with increased safety by offering a firearm with greater range capabilities and an ability to defeat modern body armor. The patrol rifle is not a fully automatic weapon, and will fire in semi-automatic mode only.
- 18. Weapon Mounted Light** – A weapon mounted light is a tool that is attached to an individual officer’s assigned weapon to assist them in a low or no light environment which will enhance the officer’s ability to identify possible targets and/or safely perform their duties during a high risk situation.
- 19. Deadly Force Investigation Team (DFIT)**- Tasked to investigate and thoroughly document any officer-involved shooting or critical incident. The DFIT should be comprised of members of the Watervliet Police Department’s Criminal Investigations Unit, New York State Police Bureau of Criminal Investigation, Albany County District Attorney Office’s Criminal Investigators and other local, state or federal law enforcement partners as deemed appropriate.
- 20. Special Impact Munitions (SIMS)**– SIMS are defined as those munitions which can be fired, launched or otherwise propelled for the purpose of encouraging compliance, overcoming resistance, or preventing serious injury without posing a significant potential of causing death. SIMS are generally used when dealing with combative, non-compliant armed, and/or violent subjects.
- 21. Less Lethal Shotgun** – A department issued Remington 870 12-gauge shotgun designated for SIMS use only. The less lethal shotgun is readily identified with an orange stock and foregrip.

IV. AUTHORIZED USE OF DEADLY PHYSICAL FORCE

A. Use of Deadly Physical Force:

While in the performance of official duties, officers shall only utilize deadly physical force that is objectively reasonable and necessary based on the totality of the circumstances to defend another human life, including the officer’s own life, or in defense of another person in imminent danger of serious physical injury, as established by [Article 35 of the New York State Penal Law](#) and the policies and procedures set forth by this department. Deadly physical force may also be utilizing to stop a fleeing suspect where the officer has probable cause to believe the suspect has committed a felony involving the infliction of threat of serious physical injury or death and the officer reasonable believes the suspect

poses an imminent threat of serious physical injury to the officer or others. Where feasible, some verbal warning should be given prior to use of deadly physical force³.

1. 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 suspects⁴;
 - d. The risk or attempt of the suspect to escape⁵;
 - e. The knowledge, training, and experience of the officer⁶;
 - f. Other environmental conditions or exigent circumstances⁷.
2. Other factors that assist in determining the necessity to use deadly physical force include, but are not limited to⁸:
 - a. the number of subject's 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").
3. Lethal weapons shall be carried and/or utilized only as issued and authorized, and shall be deployed in compliance with Article 35 of the New York State Penal Law.
 - a. Under no circumstances shall changes, alterations, modifications, or substitutions be made without prior written consent from the Chief of Police, or their designee.
4. Officers may only employ lethal weapons within the guidelines of department training, policies, and procedures.
 - a. Officers must be able to articulate a compelling need to use a weapon of opportunity, which results in physical injury, serious physical injury, and/or death.
5. Officers are not required to sustain an injury before applying authorized deadly physical force⁹.

³ NY Penal Law §35.30(1), as restricted by *Tennessee v. Garner*, 47 U.S. 1 (1985)

⁴ *Scott v. Harris*, 550 U.S. 372 (2007)

⁵ *Graham*, 490 U.S. at 396 (1989)

⁶ *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)

⁷ *Courts have repeatedly declined to provide an exhaustive listing of factors. Chew v. Gates*, 27 F. 3d 1432, 1475 n.5 9th Cir. (1994)

⁸ *Sharrar v. Felsing*, 128 F. 3d 810 (3rd Cir. 1997) (numbers of officers or subjects)

⁹ *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.

D. Legal Authority to Carry/Use Weapons

1. Sworn officers are authorized by the Chief of Police to carry and use department approved firearms and ammunition in the performance of their official duties. All sworn officers shall satisfactorily complete the basic course of instruction in the use of deadly force and the use of firearms as approved by the Municipal Police Training Council Program, or other programs that meet or exceed this instruction. Certifications shall be maintained by the Training Unit in the member's training folder.
 - a. Only members demonstrating proficiency in the use of department authorized weapons shall be approved to carry such weapons.
2. Non-Sworn personnel are not authorized to possess any type of firearm or ammunition in the performance of their official duties, including while in a vehicle, building, or any other facility that is owned/leased by the City of Watervliet. This includes non-sworn members who have been issued a license/permitted to carry a firearm.

V. LEVELS OF RESISTANCE

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.
 - d. *Less Lethal Shotgun*: When deployed by duly trained members, the Less Lethal Shotgun may assist in de-escalation of potentially violent confrontations. Members are to refer to [G.O. 1.3.10 Less Lethal Impact Munitions](#) for further.
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 Physical Force* policy or *Officer Involved Shootings or Other Critical Incidents* 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 except in emergency situations, where the life or safety of a police officer is endangered and no other reasonable means to summons assistance is available.
- 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.
 - 3. In the event of a coordinated terrorist style attack where a motor vehicle is utilized as an instrument designed to cause mass casualties, members are authorized to discharge their weapons at such a vehicle for the sole purpose of eliminating the vehicle and/or it's operator as immediate threats.
- D. Officers are prohibited from discharging firearms 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, or threat thereof, for the following reasons;
 - a. To extract an item from the anus or vagina of a subject without a warrant, except where exigent circumstances are present;
 - b. To coerce a confession from a subject in custody
 - c. 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;
 - d. 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 deadly 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 deadly physical force guidelines will be addressed pursuant to existing disciplinary procedures.

VIII. LETHAL WEAPON PROCEDURES

A. Drawing or Displaying Firearms

1. The drawing or display of an officer's firearm represents escalation toward the use of deadly physical force, increasing the risk of accidental discharge or weapon loss, and may contribute to fear or panic. Officers are justified in removing firearms from their holsters and/or gun mounts according to the following:
 - a. The officer reasonably believes that the situation may pose an immediate threat of death or serious physical injury to themselves or another person; and/or
 - b. There is justification to use deadly physical force against a person.

B. Animals

1. An officer may utilize a firearm on animals when:
 - a. An animal is attacking or presenting an imminent danger of substantial harm to the officer or any person.
 - i. Officers are required to complete a Standardized Incident Report (SIR) and a Use of Force report ([WPD#137](#)) whenever a firearm is utilized in these situations.
 - b. With supervisor approval, officers are justified in using firearms to humanely dispatch animals provided the following criteria is met:
 - i. An animal is badly injured, diseased, threatening, or destructive; and
 - ii. There is no threat of injuring any other party in the immediate vicinity or the surrounding area.
2. In all instances where an officer humanely dispatches an animal, the officer shall complete the following:
 - a. A Standardized Incident Report (SIR);
 - b. Notification to the owner of the animal, if applicable; and
 - c. Notification to the Animal Control Officer or Department of Environmental Conservation, when applicable
 - d. Notification to DPW requesting that the animal is removed, unless the animal is removed by the owner(s) or their representative.

C. Unintentional Discharge of a Firearm

1. Whenever an officer unintentionally discharges a firearm, on or off duty, the officer shall immediately notify a supervisor. The notification and reporting procedures for the unintentional discharge of a firearm shall be the same as reporting the use of deadly physical force, except a Use of Force report is not required.
2. All instances of unintentional discharges shall require immediate notification to the Executive Lieutenant.

D. Authorized Firearms and Patrol Rifles

1. In the performance of official duties, sworn officers of this department shall only carry and use department authorized lethal weapons, unless specifically

authorized by the Chief of Police. Department issued/authorized lethal weapons include the following:

- a. Glock 22 semi-automatic .40 caliber handgun;
- b. Glock 27 semi-automatic .40 caliber handgun;
- c. Remington 870 12-gauge shotgun;
- d. Various model .223 caliber rifles

2. In the performance of official duties, sworn officers of this department shall only carry and use department authorized lethal ammunition, unless specifically authorized by the Chief of Police. Department issued/authorized lethal ammunition include the following:

- a. Federal, .40 Caliber Speer Gold Dot, 180 Grain, Controlled Expansion Projectile.
- b. Federal Slugs and 00 Buck.
- c. Federal .223 Caliber 55 Grain Tactical Bonded Projectile.

3. Member's holsters shall be worn on the officer's strong side, in line with the seam of the trousers. The use of cross-drawn holsters is prohibited.

4. While off-duty officers are *not* required to carry their department issued handgun and ammunition. However, members are permitted to carry such, if they so choose. Members are reminded that department-issued firearms and ammunition that is carried off-duty must be utilized in accordance with this policy and current department directives.

5. Personally owned firearms or "back-up guns" may not be carried on-duty, unless written approval is sought from the Chief of Police. This includes patrol rifles.

- a. Officers or Detectives requesting to carry a personally owned firearms on-duty must first request written permission from the Chief of Police by submitting an IOM ([WPD#123](#)) to the Office of the Chief. The IOM must include the make, model, caliber, serial number of weapon. Following a review by the Office of the Chief, the below procedures must be met prior to final authorization for carrying said weapon:
 - i. If the request is for a handgun, the handgun and holster must be inspected and approved by a certified department firearms instructor and armorer;
 - ii. For handguns and rifles, the caliber must be of the same caliber of the department's standard issued weapons (.40 and .223 cal);
 - iii. A copy of the "[C form](#)" or a pistol permit shall be attached to the IOM request documenting the member's legal right to carry said weapon;
 - iv. The member must successfully pass the WPD Firearms Qualification ([WPD#157](#)) Course of Fire (QCF) administered by a department firearms instructor;
 - v. A copy of the QCF ([WPD#157](#)) and IOM ([WPD#123](#)) will be kept in the member's training file. The member must meet any subsequent firearm qualifications during each and every department firearm's training until such time they no longer wish to carry their personally owned firearm on-duty.
 - vi. Upon meeting these requirements, the member will be notified by the Office of the Chief of the request's approval. Members

are forbidden from modifying their personally owned firearm for on-duty use without seeking approval from a department firearms instructor.

- vii. All maintenance and damage to the firearm are the responsibility of the individual Officer/ Detective.
- viii. Authorized ammunition, as defined in this policy, shall be provided by the department for use on-duty.

E. C- Form Procedure

1. Officers who wish to purchase or sell an off-duty handgun must complete the following procedures *prior to* purchasing/selling the firearm:
 - a. Submit a completed [C-Form](#) to the Office of the Chief;
 - b. Upon approval of the Chief of Police, the Office of the Chief shall forward an approved copy to the requesting officer and the Training Unit/Firearms Instructor. The original shall be submitted to the NYSP;
 - c. Any officer who carries an off-duty handgun for purposes other than recreational must complete the department firearms training requirements, and qualify with such handgun annually.
 - d. All maintenance and damage to the handgun are the responsibility of the individual member;
 - e. Members carrying or using handguns off-duty shall adhere to the same regulations pertaining to the use and display of firearms while on duty. The use of discretion and good judgment are required at all times.

F. Both on and off-duty, whenever armed and off police premises, members in plain clothes shall wear their weapon in such fashion so as to conceal same from the general public. When on police premises, the weapon may be exposed to public view, but shall be holstered with a safety strap or mechanism in use. In both instances, the member's department-issued shield shall be prominently displayed, and the department ID carried.

G. Inspection of Firearms

1. Prior to the start of each tour of duty, members shall conduct a conditions check of their duty weapon(s). At a minimum, each member shall ensure their firearms are clean, functional and operational. Additionally, members must ensure the appropriate amount of correct ammunition is loaded into their firearms/magazines.
2. If a member discovers a defect or otherwise unsafe firearm, the firearm shall immediately be removed from service and brought to the department's armorer for repair/replacement.

H. Safety and Security of Department Issued and Personally Owned Firearms

1. Officers are responsible for the care, cleaning, and maximum security of departmental weapons issued to them.
2. Officers shall provide maximum security for all lethal weapons they possess and shall exercise the necessary control for its security to prevent its theft, loss, or misuse.
3. Firearms shall not be left in unsecured areas of the department.
4. Firearms shall not be left in an unsecured portion of any motor vehicle.
 - a. Firearms may be placed in a locked and secured trunk where access should not be easily attained from the passenger compartment.

- b. All patrol rifles that are deployed during routine patrol are to be secured in the gun rack of the patrol vehicle while on patrol, unless the patrol rifle is actually being carried by an officer while outside of his/her vehicle.
 5. Except during authorized training or for maintenance and inspection, officers shall only draw, exhibit, or point their firearm when they reasonably believe that it may be necessary to use the weapon in the performance of their duty.
 6. Firearms are prohibited from entering the booking room or any cell block or cell, except for exigent circumstances or when deadly physical force is necessary.
 7. Officers shall never lend their firearm to unauthorized persons.
 8. When stored or not in use, firearms should be unloaded and locked in a secure compartment, container, or safe; magazines removed.
 9. All weapons, department owned/issued and personally owned, shall be stored in compliance with the New York State Penal Law.
- I. Weapon Mounted Lights:
 1. A weapon mounted light is NOT intended to replace the officer's handheld flashlight.
 2. Mounting a light on a weapon is NOT authorized if the light mount must be removed prior to holstering.
 3. For officer safety reasons, handguns with a light attachment must be carried in an approved Watervliet Police Department hard framed holster, molded for a specific weapon system.
 - a. The holster must be designed to carry the weapon with the light mount still attached to the weapon.
 - b. Holsters made solely of nylon material are not authorized. These types of holsters tend to collapse once the weapon is removed making it difficult to re-holster the weapon.
 4. Approval for use of a weapon-mounted light must be requested via IOM to the Office of the Chief.
 5. A Watervliet Police Department approved training course in the proper use and deployment of a weapon mounted light must be completed prior to carrying and utilizing the weapon light.
- J. Shotguns
 1. Supervisors are responsible for the deployment and oversight of department shotguns.
 - a. Officers may be assigned a shotgun during regular patrol duties.
 - b. Officers should only deploy this weapon when a situation exists dictating the use of a shotgun over the use of a handgun.
 2. At the start of each tour of duty, officers taking a department shotgun are responsible for conducting a safety check of the weapon and securing ten (10) rounds of department approved ammunition; five (5) rounds "00" buckshot and five (5) rounds of 12 gauge slug ammunition.
 3. The shotgun shall not be brandished or removed from the vehicle other than in the performance of authorized official duties.
- K. Patrol Rifles
 1. A department authorized patrol rifle and three (3) magazines shall be issued to certified patrol rifle operators for deployment during the officer's

shift/assignment. The patrol rifle, along with the magazines, shall be stored in the secured department gun locker. Prior to beginning their tour, the rifle operator shall conduct a safety check of the rifle ensure it is clean, functional and operational. Additionally, members must ensure the appropriate amount of correct ammunition is loaded into the magazines.

2. When utilized, the patrol rifle shall be removed from the gun locker and placed in a gun case (if not already in case), unloaded with the magazine detached from the weapon.
3. The gun case shall be secured in the trunk of the patrol vehicle or the gun rack, if applicable.
4. At the end of the shift, the assigned officer shall return the patrol rifle to the secured gun locker in an unloaded condition with the magazine detached.
5. When the officer has pre-existing knowledge that an impending call involves a substantial risk of death or serious bodily injury, access to the patrol rifle would be deemed prudent and justifiable. Whenever practical, the patrol rifle should be deployed with the permission for the on-duty supervisor.
 - a. The patrol rifle is generally used as a “stand-off” type weapon, where adequate distance exists between the officer and the potential threat. It is therefore suggested that the patrol rifle be utilized wherever threat containment/control is to be facilitated at distances generally greater than fifteen (15) yards.
 - b. The patrol rifle should be used in a manner that accentuates the strengths of the weapon, and does little to expose potential liabilities of the firearm.
 - c. Any unfired, chambered rounds should be placed in a “safe container” in the armory to be disposed of by the department certified armorer. Officer should be aware that the frequent chambering of the same round may lead to an unintentional discharge of the round when chambered.

L. Less Lethal Shotgun

1. Members are to refer to [G.O. 1.3.10 Less Lethal Impact Munitions](#) for further.

- M.** In the event of a theft or loss of any officer’s firearm, whether department issued or personal property, the Office of The Chief shall be notified immediately through the proper chain of command. In addition, the officer shall immediately notify the agency within which the theft or loss occurred.
- N.** Officers carrying or using handguns off-duty shall adhere to the same regulations pertaining to the use and display of firearms while on duty. The use of discretion and good judgment are required at all times.
- O.** The department does not authorize any other lethal weapon(s) that are not outlined this policy.

IX. RENDERING AID/ MEDICAL TREATMENT

- A.** Members of the Watervliet Police Department have the duty to provide immediate attention to the medical & 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 faith¹⁰.

- B. When deadly 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 deadly 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.
- C. Injuries sustained to a person in custody *prior to* police contact, or sustained as the result of some reason other than the use of deadly physical force, shall be documented on a Standardized Incident Report (SIR). Medical attention shall be provided to said subject when a reasonable and prudent officer would believe such injuries require it.
- D. In all cases wherein any person sustains an injury as a result of an officer's use of a firearm, the on-duty supervisor shall immediately be notified.
- E. In all cases, injuries should be photographed, whether visible or not.

X. ADMINISTRATION

- A. Members involved in, or investigating, any use of deadly physical force are reminded that their actions may be governed by other department policies such as, but may not be limited to, [G.O.3.9.25, Officer Involved Shootings or Other Critical Incidents](#).
- B. Reporting Requirements:
 - a. Any member who uses, displays or discharges a firearm or utilizes a carotid restraint on or off-duty shall immediately notify the on-duty supervisor¹¹.
 - i. The Office of the Chief shall be notified as soon as practical following the use of deadly physical force by a member of this agency, other than those of humanly dispatching animals.
 - b. Any officer utilizing deadly physical force on or off duty shall report all facts about the incident on a Use of Force report ([WPD#137](#)). 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.
 - c. The Use of Force report ([WPD#137](#)) shall be used in situations when a duty firearm had been displayed or "pointed only".
 - i. If multiple officers are involved in the incident, the primary officer completing the report shall make a notation of the names of the involved officers that displayed their duty weapons. 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 ([WPD#137-b](#)) for instances of this nature.
 - d. If more than one officer is involved in the use of deadly physical force upon an individual subject, the primary officer shall complete the Use

¹⁰ [Civil Rights Law §28](#)

¹¹ [Executive Law §837-V](#) requires that any discharge of a weapon, while either on duty or off duty, in the direction of a person be verbally reported to the involved officer's supervisor within six hours and a written report prepared within forty-eight hours of occurrence

- of Force report ([WPD#137](#)), and each assisting officer shall complete a Use of Force Supplemental ([WPD#137-b](#)).
- e. Members completing a use of force report or a supplemental report shall clearly articulate the factors perceived and why they believed the use of deadly physical force was reasonable under the circumstances
 - f. Injuries to any party involved, and the medical attention received, shall be clearly detailed in the report(s).
 - g. The on-duty supervisor of a member utilizing deadly physical force shall attempt to locate and identify any witnesses and arrange for documenting their statements.
 - h. The arresting officer shall prepare and submit reports required by current directives. Reports shall be submitted to the on-duty supervisor for review.
 - i. 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.
 - i. 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.
 - j. The Office of the Chief shall ensure that reports are submitted to the Department of Criminal Justice Services when an officer¹²:
 - i. Brandishes, uses, or discharges a firearm at or in the direction of another person.
 - ii. 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.
 - iii. 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.
 - iv. Brandishes, uses, or deploys an impact weapon.
 - v. Brandishes, uses, or deploys an electronic control weapon, including an electronic stun gun, flash bomb, or long-range acoustic device.
 - vi. Engages in conduct which results in the death or serious bodily injury of another person.
 - k. The New York State Department of Criminal Justice Services shall be notified within 48-hours after a member discharges his or her weapon while on or off duty under circumstances wherein a person could be struck by a bullet from the weapon, including situations wherein such officer discharges his or her weapon in the direction of a person¹³.

¹² [Executive Law § 837-t](#)

¹³ [Executive Law §837-V](#)

C. Responsibilities

a. On-duty supervisor

- i. The on-duty supervisor shall respond to the scene whenever a member utilizes deadly physical force incident and begin a preliminary investigation into the incident. The on-duty supervisor will document the results of their initial investigation on the Use of Force report ([WPD#137](#)) under the “Administrative Review” section.
 - i. If an on-duty supervisor’s preliminary investigation yields a perceived failure from an officer to adhere to use of deadly physical force guidelines, they shall document such on an [IOM](#), and notify the Office of the Chief.
- ii. 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.
- iii. 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 ([WPD#137](#)) under the “Audio/Video (A/V) Review” section of said report.
- iv. The on-duty supervisor shall immediately notify the Office of the Chief and the Criminal Investigation Unit supervisor whenever an officer discharges their firearm for any reason, other than to humanely dispatch a sick or injured animal or utilizes a carotid restraint
- v. The on-duty supervisor shall ensure the submittal of all original Use of Force reports ([WPD#137](#)) 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.

b. Office of the Chief

- i. The Office of the Chief shall conduct an administrative review of all use of force incidents, to include the use of deadly physical force. 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.
- ii. The Office of the Chief shall ensure the establishment of the Deadly Force Investigation Team (DFIT). The DFIT will be tasked to investigate and thoroughly document any officer-involved shooting or critical incident

- iii. The Office of the Chief shall retain all original Use of Force reports ([WPD#137](#)).


D. Training

- a. All sworn members of the Watervliet Police Department shall receive training to demonstrate their understanding on the proper application of deadly force.
 - i. Training topics will include use of deadly force, [Officer Involved Shooting or Other Critical Incident's policy](#), 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.
- b. 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.
- c. At least annually, all officers authorized to carry weapons shall receive in-service training on the department's use of deadly physical force policies and demonstrate proficiency with all approved lethal weapons that the officer is authorized to use.
 - i. All qualifications and proficiency training must be monitored by a certified firearms instructor.
 - ii. The Training Unit shall document and maintain records of all training and proficiency ratings.
 - iii. Any officer who does not demonstrate proficiency with an authorized lethal weapon will be instructed to complete remedial training in the proper use of that weapon *prior to resuming official duties*. Officers who fail to demonstrate a satisfactory level of proficiency will not be permitted to carry that particular weapon in the performance of official duties until the officer successfully completes remedial training. Remedial training shall be documented on an Inter-Office Memo (IOM) to the Chief of Police and maintained in the officer's training file and personnel file.
- d. Only those officers who have successfully completed a department approved training course in the proper use and deployment of an approved patrol rifle shall be authorized and issued a patrol rifle to utilize during their tour of duty.

E. Public Information & Community Relations

- a. An annual use of force analysis, to include use of deadly physical force, shall be completed by the Office of the Chief.
 - i. 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.

- ii. 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.
- iii. The annual analysis shall be completed by March 31st of each calendar year.
- b. The department's use of deadly force policy shall be made available and conspicuously posted on the department's website¹⁴
 - i. Revisions to such use of force policies shall be updated on the department's public website within seventy-two hours of approval of any amendment.
- c. 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.
 - i. 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.
 - ii. The Chief of Police shall have the sole discretion when to release audio/video of a Use of Deadly Physical Force incident.
 - iii. Members are forbidden to release documents or audio/video surrounding any use of force incident without the permission from the Office of the Chief.


Lt. Brian J. Strock
Acting Chief of Police

¹⁴ [Executive Law 840\(4\)\(d\)\(4\)](#)