



GENERAL ORDER		#3.01
USE OF FIREARMS & DEADLY PHYSICAL FORCE		
<i>ISSUING AUTHORITY:</i> CHIEF ROBERT M. NOBLE		
<i>ISSUE DATE:</i> 01/06/81	<i>EFFECTIVE DATE:</i> 01/06/81	
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3.01.05 PURPOSE –

To establish clear guidelines for officers regarding the use of deadly physical force.

Officers of the Department have traditionally displayed commendable restraint in resorting to the use of deadly physical force. The irreversible consequences of such force places a responsibility on the Department to establish policy which:

- A. Clearly guides personnel in its application
- B. Maximizes officers safety
- C. Minimizes the possibility of injury to innocent persons
- D. Reduces the unnecessary loss of human life to the lowest level consistent with the need for public safety.

3.01.10 BACKGROUND –

There is probably no more serious act that a law enforcement officer can engage in than the use of a firearm. The occasions for such use are, literally, life and death situations which are invariably confusing and complex, affording precious little time for meditation or reflection. It is imperative then, that the officer, through training and the absorption of these guidelines, be able to respond quickly, confident that he or she is acting within the limits of Department policy. This serves to protect the public from unlawful and unreasonable use of force; at the same time, it enables officers to act without hesitation, to protect themselves or another person. Perhaps equally important, it minimizes the second-guessing to which the officer is subjected when no such guidelines exist.

Officers should have a thorough knowledge of Article 35 of the New York State Penal Law and should periodically review this body of law. Officers should bear in mind that Article 35 of the Penal Law only authorizes use of physical force/deadly physical force; it does not command its use. Officers should also be aware that **DEPARTMENT POLICY IS MORE RESTRICTIVE THAN ARTICLE 35 IN THE USE OF PHYSICAL FORCE/DEADLY PHYSICAL FORCE.**

3.01.15 DEFINITION -

For the purpose of this order, Deadly Physical Force is defined as physical force which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury.



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3.01.20 POLICY –

In all cases of use of force, only the minimum amount of force necessary to affect lawful objectives in the performance of their duties is authorized. (Rev 11/18)

It is the policy of the Yorktown Police Department that:

"DEADLY PHYSICAL FORCE MAY BE USED TO DEFEND THE OFFICER OR ANOTHER FROM WHAT THE OFFICER REASONABLY PERCEIVES AS AN IMMINENT THREAT OF DEATH OR SERIOUS PHYSICAL INJURY WHEN THERE IS NO APPARENT PRACTICAL ALTERNATIVE."

3.01.25 PROCEDURE –

An officer may discharge a firearm ONLY under the following situations:

- A. CONFRONTATION SITUATIONS - To defend the officer or another from what the officer reasonably perceives as an imminent threat of death or serious physical injury when there is no apparent practical alternative.
- B. ANIMALS - To kill a dangerous animal or an animal so seriously ill or injured that it should be destroyed to prevent further suffering. All other options should be exhausted, however, and before shooting the animal, all other Department procedures governing same must be adhered to.
- C. FIREARMS PRACTICE - For target practice at an approved range.
- D. Repairs and Maintenance – A Firearm may be discharged by a department armorer or Firearms Instructor or by an officer at the direction of and armorer or instructor to verify and insure proper working order but only in a manner and location where safety for all is paramount. Proper working order is not to include accuracy verification – but merely operability. (Rev. 5/13).

3.01.30 CONSIDERATIONS AND PROHIBITIONS

- A. JUVENILES - The use of deadly physical force is based on the officer's reasonable perception of the dangers presented and the person's potential to cause death or serious physical injury, not merely the person's age. (Rev 11/18)
- B. MOVING VEHICLES - Officers may not discharge firearms at or from a moving vehicle unless Deadly Physical Force is being used against them or other persons present. (Rev 11/18)
- C. WARNING SHOTS - No officer shall fire so-called "warning shots".
- D. DRAWING OR DISPLAYING FIREARMS - An officer shall un-holster or display a firearm only if directed by competent authority or there is reason to believe such may be necessary for the safety of the officer or others.



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- E. DRY FIRING - "Dry Firing" a department owned firearm is forbidden except when authorized by a firearms instructor during training programs. (Rev 11/18)
- F. FIRING SHOTS FOR ALARM - Firearms shall not be discharged to summon assistance except where the officer's safety or that of another is endangered and there is no reasonable alternative. Extreme care must be exercised in such situations to prevent injury to another person.
- G. CHOKE HOLDS AND CAROTID HOLDS - Choke holds, carotid holds, and similar compressions of the neck represent use of deadly force in New York State and are prohibited, unless an officer or another person is in imminent danger of death or serious physical injury. All officers must be mindful that he or she are subject to New York State Penal Law 121.13-a, which reads that, "a person commits aggravated strangulation, a class C violent felony, when he or she, being a police officer, commits the crime of criminal obstruction of breathing or blood circulation as defined in section 121.11 and causes serious physical injury or death to another person." (Rev 6/20)
- H. NON-LETHAL & LESS-LETHAL WEAPONS AND EQUIPMENT – Non-lethal weapons, such as: batons, Tasers, etc., shall be used only as prescribed in Departmental training. These items or other authorized equipment should not be used in such a way as to represent the use of deadly force unless the officer reasonably believes such is necessary to repel the imminent use of deadly force against the officer or another. (Rev 11/18)

3.01.35 DEADLY FORCE EMERGENCY MEASURE –

Since all possible combinations of circumstances cannot be envisioned, notwithstanding any provisions of these Rules and Procedures, a police officer may use deadly force to defend the officer or another from what the officer reasonably perceives as an imminent threat of death or serious physical injury when there is no apparent practical alternative. (Rev 11/18)

3.01.40 LEGAL DISCLAIMER –

This directive regarding the use of force and firearms is for Departmental administrative use only and, to the extent that it constrains conduct otherwise permissible under law, shall not apply in any criminal or civil proceeding. The Yorktown Police Department rules regarding the use of deadly force should not be construed as creating a higher standard of safety or care, in an evidentiary sense, with these rules will only be used as the basis for Departmental administrative sanctions. Violations of law will form the basis for civil and criminal sanctions in recognized judicial settings.

3.01.45 SANCTIONS –

In all cases where an officer's action is determined to be a violation of these rules but not a violation of law, this distinction shall be made clear in all public discussion of such Incidents and in any disciplinary action which may result. An officer found to have acted in violation of this order shall be subject to internal discipline ranging from reprimand up to and including dismissal, in addition to any criminal sanctions which may be imposed in the courts.



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RESPONSIBILITY –

The responsibility for the un-holstering and/or use of a firearm shall be borne by the officer who un-holsters or fires the weapon.