



GENERAL ORDER		#3.04
REPORTING, EVALUATION & INVESTIGATION OF THE USE OF FORCE, BRANDISH & THE DISCHARGE OF WEAPONS OR DEVICES		
<i>ISSUING AUTHORITY:</i> CHIEF ROBERT M. NOBLE		
<i>ISSUE DATE:</i> 02/04/91	<i>EFFECTIVE DATE:</i> 02/04/91	
<i>REVISIONS:</i> 10/02, 06/08, 11/18, 11/19, 11/20, 2/21		
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3.04.05 PURPOSE – To establish guidelines for the reporting, evaluation and investigation of the use of force, brandish* and for the discharge of weapons or devices. *In compliance with 837-t of the Executive Law. (Rev 2/21)

3.04.10 BACKGROUND – No aspect of policing elicits more passionate concern or more divided opinions than the use of force, especially the use of deadly force. It is of the utmost importance for this Department to utilize a system whereby the use of force by its members is accurately reported, evaluated and investigated to ensure it is Objectively Reasonable. (Rev 11/19)

3.04.15 POLICY/PROCEDURE – It is the policy of this Department that the USE OF FORCE by a Department member will be accurately reported and subject to a thorough and objective evaluation. This policy will cover all USE OF FORCE, whether on-duty, off-duty, within the Town Boundaries and also while performing duties outside the boundaries of the Town of Yorktown.

3.04.20 USE OF FORCE CLASSIFICATIONS:

- A. Class 1 - The non-injurious use of or accidental discharge of a firearm. This classification will also include the destruction of any ANIMAL.
- B. Class 2 - The injurious (visible or non-visible) use of non-deadly force.
- C. Class 3 - The non-fatal use of deadly force. (Rev 11/20)
- D. Class 4 - The fatal use of deadly force.
- E. Class 5 - The non-injurious use of non-deadly force.
- F. Class 6 – Brandish only. (Rev 11/20)

3.04.25 REPORTING METHOD:

CLASS 1, 2, 5 AND 6 USE OF FORCE: (REV 11/19)

- A. The officer using force will notify the Tour Supervisor of such force as soon as practical after the occurrence.



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- B. The officer using force will describe the circumstances of the use of such force in IMPACT. (Rev 11/18)
- C. The officer using force will complete a USE OF FORCE REPORT (YPD144). All reports will be presented to the Tour Supervisor as soon as is practical. (Rev 11/18)
- D. Any Department member who is witness to, or participates in, the use of force will complete a supplement to the original Blotter in IMPACT; except if the force used is for the destruction of a sick or injured animal. (Rev 11/18)
- E. Upon the completion of the investigation, all documentation shall be submitted to the Patrol Service Division Commander for review by the Department's Use of Force Review Board. (Rev 11/18)
- F. Officers using Oleoresin Capsicum (AKA Pepper Spray or OC) will also complete an Oleoresin Capsicum Use Report (YPD144A). G.O. 3.60. (Rev 11/18)
- G. Officers using a TASER/CEW will also complete a TASER Use of Force Report (YPD144T) G.O. 3.96. (Rev 11/20)
- H. Officers who Brandish a weapon or device (meaning: intentionally pointing a weapon or device in the direction of a person) shall complete a YPD144 as a Class 6 classification. (Rev 2/21)
- I. Officers using a BolaWrap (aka device) on a person, shall complete a YPD 144, Use of Force Report, as a Class 2 or 5 classification. (Rev 2/21)

CLASS 3 AND 4 USE OF FORCE:

- A. The officer using force shall notify the Tour Supervisor of force as soon as practical after the occurrence.
- B. The officer using force should describe the circumstances of the use of such force in IMPACT. (Rev 11/18)
- C. The officer using force will complete the Use of Force Report. The USE OF FORCE REPORT, and any other reports, will be submitted to the Tour Supervisor and noted in IMPACT. (Rev 11/18)
- D. Any Department member on the scene at the time of the occurrence, who is a witness to or participates in the occurrence, will complete a supplement to the original Blotter in IMPACT. (Rev 11/18)
- E. The Tour Supervisor will respond to the scene and shall:
 - 1. Determine which support services would be beneficial to the reporting and evaluation of the occurrence.
 - 2. Determine which Division Commander has the responsibility for the investigation of the reported incident and notify that Division Commander of the incident and the use of force.
 - 3. Preserve the integrity of the scene until such time as the arrival of the Division Commander and/or Duty Detective and/or District Attorney's Investigators and/or Medical Examiner and/or whatever support services are needed to conduct an investigation of the occurrence.



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- 4. Discretely take officer's service pistol and all magazines as evidence. Promptly replace the officer's pistol by temporarily issuing your pistol and magazines to the involved officer. If more than one officer has discharged their weapon, exchanging service pistols will not apply.
- F. A Detective or Supervisor should be dispatched to the hospital to consult with the attending physician as to the extent of and location of the wound(s), if applicable.
- G. Upon completion of all reports and investigation, all documentation shall be submitted to the Patrol Service Division Commander by the Tour Supervisor, for review by the Department's USE OF FORCE REVIEW BOARD.

3.04.30 WEAPONS DISCHARGE REPORTING: (REV 11/20)

- A. New York State Law requires: "Any Law Enforcement Officer or peace officer who discharges their weapon, while on duty or off duty, where a person could be struck by a bullet from the weapon, is required to verbally report the incident to his or her supervisor within six hours and prepare and file a written report within 48 hours of that incident. (Rev 11/20)

3.04.35 PHOTOGRAPHS: (REV 11/19)

- B. In any incident involving injury due to the use of force, the Tour Supervisor should take, or cause to be taken, appropriate photographs. (Rev 11/19)
- C. If there are no injuries or property damage, it will be left to the discretion of the Tour Supervisor whether photographs will be completed. (Re 11/19)

Note: Photographs showing lack of injury may be as important as ones with an injury. Additionally, persons not in custody have the right to refuse to be photographed. (Rev 11/19)

3.04.40 USE OF FORCE REVIEW BOARD:

COMPOSITION – The "USE OF FORCE REVIEW BOARD" will be composed of Division Commanders. (Rev 2/21)

CONVOCAION OF THE BOARD:

- A. The "Use of Force Review Board" shall be convened and shall review and evaluate every Class of Use of Force. This evaluation review should take place as soon as practical after the incident and/or after the completion of the investigation, depending on the nature of the USE OF FORCE. However, the evaluation by the USE OF FORCE REVIEW BOARD must take place within sixty (60) days of the filing of the USE OF FORCE REPORT (YPD-144).



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FUNCTION OF THE BOARD:

- A. The Board shall review the use of force to determine whether or not it is consistent with the policies of this Department, was Objectively Reasonable and conforms to professional law enforcement standards. (Rev 11/19)
- B. The Board shall forward its conclusions and recommendations as to policy compliance, or non-compliance as the case may be, and determine if additional training is needed, or policy changes, or changes in equipment, or other recommended action by majority vote of the Board, for disposition to the Chief of Police.
- C. Any Board member not in agreement with the majority conclusion may forward written dissenting opinions to the Chief of Police.
- D. In the event the Board cannot reach a majority conclusion, both opinions will be forwarded to the Chief of Police for his disposition.
- E. The Operations Commander will maintain "Use of Force" Review Records.
- F. The Operations Commander will see that incidents are reported to DCJS in conformance with 837-t of the Executive Law. (11/19)

3.04.45 DETERMINING THE OBJECTIVE REASONABLENESS OF FORCE: (REV 11/19)

- 1. When used, force should only be that which is Objectively Reasonable given the circumstances perceived by the officer at the time of the event.
- 2. Factors that may be used in determining the Reasonableness of force include, but are not limited to:
 - a. The severity of the crime or circumstance.
 - b. The level and immediacy of the threat or resistance posed by the suspect.
 - c. The potential of injury to citizens, officers and suspects.
 - d. The risk or attempt of the suspect to escape.
 - e. The knowledge, training and experience of the officer.
 - f. Officer/suspect considerations such as age, size, relative strength, skill level, injury or exhaustion and the number of officers or subjects.
 - g. Other environmental conditions or exigent circumstances. (Rev 11/20)

3.04.50 AMENDING USE OF FORCE REPORT:

If an officer uses force on a subject AND FILES a Use of Force Report for a Class 5 classification (non-injurious use of non-deadly force) and the officer and/or the Department is later advised that a person is claiming that he/she suffered an injury, the classification of the use of force must be changed from a Class 5 to a Class 2. This change in the use of Force classification must be filed within seventy-two (72) hours of when the officer and/or the Department is notified that an injury occurred. It will be the responsibility of the Department member who receives this information to assure that the classification is



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changed; this will be accomplished by the filing of a Department memorandum directed to the Patrol Service Division Commander.

EXAMPLE OF ABOVE SITUATION:

An officer(s) forcibly places handcuffs on a subject being arrested who is offering resistance. The subject does not claim to be injured at the time, and the officer believes that no injury resulted in his/her application of force. The officer and/or the Department is later notified that an injury did occur.