

- d. Do not discharge a weapon from or at a moving vehicle unless the occupants are using deadly physical force against you or another person.
- e. Be alert to the possibility that the driver may deliberately abandon his vehicle in your path or attempt to run you off the road.

2.00 Deadly Physical Force

Policy,

Definition - Deadly Physical Force

"Deadly Physical Force" as used in this policy is defined as that force which is intended to cause death or grave injury or creates some specified degree of risk that a reasonable and prudent person would consider likely to cause death or grave injury.

This directive is for departmental use only and does not apply in any criminal or civil proceeding. This policy should not be construed as a creation of higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this directive will only form the basis for departmental administrative sanctions. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting.

The value of human life is immeasurable in our society. Police officers have been delegated the awesome responsibility to protect life and property and apprehend criminal offenders. The apprehension of criminal offenders and protection must at all times be subservient to the protection of life. The officer's responsibility for protecting life must include his own. In keeping with this responsibility, the following guidelines and procedures with regard to the use of deadly physical force by all members of this department shall be followed.

Procedure,

A. Defense Of Life

An officer may use deadly physical force to protect himself or others from what he reasonably believes to be an immediate threat of death or critical bodily harm.

B. Fleeing Felon

An officer may use deadly physical force to effect or prevent the escape of a suspect whose freedom is reasonably believed to represent an immediate and imminent threat of grave bodily harm or death to the officer or other persons.

C. Juveniles

No distinction shall be made relative to the age of the intended target of deadly physical force. Self-defense and imminent threat shall be the only policy guideline for employing deadly physical force.

D. Risk to Innocent Persons

Officers are prohibited from discharging firearms when it appears likely that an innocent person may be injured.

E. Shots Fired at Motor Vehicles

Officers shall not discharge a firearm at or from a moving vehicle except as the ultimate measure of self-defense or defense of another when the suspect is using deadly physical force.

F. Shots to Destroy Animals

The killing of an animal is justified;

1. For self-defense.
2. To prevent substantial harm to another person.
3. When the animal is so badly injured that humanity requires its relief from further suffering.

G. Warning Shots

An officer is not justified in using his firearm to fire a warning shot.

H. On-Duty Handgun and Ammunition

All on-duty officers shall be armed with a department approved firearm and ammunition.

I. Back-up or Secondary On-Duty Weapon

A secondary (back-up) on-duty handgun is authorized but only upon meeting specific department approval.

I. Off-Duty Weapons

Officers are encouraged, but are not mandated, to carry a handgun when off duty. An officer who elects not to carry a handgun while off duty shall not be subjected to disciplinary action if an occasion should arise in which he could have taken police action if he were armed. (Exception) Off duty officers while operating a department vehicle shall be armed with an approved weapon.

J. Registration of Police Officer's Weapons

A department approved handgun (on-duty, off-duty, or secondary) intended for official use by any police officer must meet the following requirements:

- 1) The firearm must be at least .40 caliber.
- 2) The firearm must be inspected, fired and certified safe by the department armorer.
- 3) The firearm must be registered with the department by make, model and serial number.
- 4) The officer must demonstrate his safe and proficient use of the weapon during regular firearm qualification sessions.
- 5) The officer must meet certification requirements with each approved weapon.

K. Firearms Training

All officers shall be "certified" with their primary and secondary on-duty weapons and their off-duty weapon. "Certification" shall include training regarding the legal, moral, and ethical aspects of firearms use; safety in handling firearms; and proficiency in the use of firearms.

Firearms "certification" shall be required at least annually. And, in the event of any accidental discharge, the officer involved must undergo an immediate recertification training prior to returning to full duty.

Officers who fail to meet certification requirements will be granted a 10-day grace period. Within the 10-day period, the officer must on his own time report to the firearms instructor for remedial training and certification. Officers who fail to achieve certification after attending remedial firearms training will be placed on suspension. After one week on suspension, if the officer has still failed to achieve certification, he shall be suspended for failing to maintain standards or, in the case of physical or mental disabilities, the officer shall become eligible for disability retirement.

L. Legal Issues

A department-furnished attorney should be immediately notified of any officer-involved shooting incident. The attorney shall immediately proceed to the scene of the shooting to meet with and establish a lawyer-client relationship with that officer, and refrain from acting on behalf of the department at this initial stage of investigation until officer and departmental interests are deemed consistent with each other. The attorney should assist the officer in drafting a formal statement as to the underlying facts and the reasonableness as perceived by the officer justifying his or her use of deadly physical force. The statement shall be drafted to insure (if that be appropriate) that legal sufficiency for such use of force is included in the officer's statement. The officer will also be advised of his legal rights regarding

statements. The attorney will continue to assist the officer during the post-shooting investigations as well as criminal, civil, and federal civil rights actions, including the initial interview conducted by federal agents in a criminal civil rights action. Should this initial lawyer-client interview indicate that the officer has not acted lawfully, in good faith, or within the scope of his or her duties, the attorney assigned by the department all future legal representation on his behalf will have to be financed personally by the officer. However, all communications between the officer and department-furnished legal counsel are privileged and will remain confidential and undisclosed. Should this be the case, and in view of the severe criminal consequences involved, department-assigned counsel should advise the officer to refrain from making any further statements on the matter save those for strictly departmental, internal purposes. Whenever departmental, internal counsel is required to withdraw from providing legal assistance to the department because of prior involvement and relationship with the officer, a request to the state, county, or local legal entity providing such services to the department by statute shall be made to seek the assignment of another publically employed attorney to assist in whatever departmental or criminal action is deemed appropriate. This can be done on a case-by-case basis to insure propriety at all times and avoid any unnecessary conflict of interest for legal counsel, as well as provide necessary legal service to the departmental command personnel.

M. Psychological Services Provided Officers

In all cases where any person has been injured or killed as a result of firearm discharge by a police officer, the involved officer will be required to undergo a debriefing with a department provided psychologist as soon as possible, but within 24 hours of the incident. The purpose of this debriefing will be to allow the officer to express his feelings and to deal with the moral, ethical, and/or psychological after-effects of the incident. The debriefing shall not be related to any department

investigation of the incident and nothing discussed in the debriefing will be reported to the department. The debriefing session will remain protected by the privileged physician-patient relationship.

In all cases where any person has been injured or killed as a result of a firearm discharge by a police officer, the involved officer and his family will have available to them the services of a police chaplain. The purpose of this offer is to provide the officer and/or his family with a source of professional consultation to aid them in dealing with the after-effects of a shooting incident. The chaplain services shall not be related to any department investigation and nothing discussed will be divulged to the department. The consultation sessions will remain protected by the privileged relationship.

N. Administrative Leave

Any officer directly involved in a deadly physical force incident shall be placed on "administrative leave" directly upon completion of his preliminary report of the incident. This leave shall be without loss of pay or benefits, pending the results of the investigation. The assignment to administrative leave shall not be interpreted to imply that the officer has acted improperly.

While on administrative leave, the officer shall remain available at all times for official departmental interviews and statements regarding the shooting incident, and shall be subject to recall to duty at any time. The officer shall not discuss the incident with anyone except the district attorney, departmental personnel assigned to the investigation, the officer's private attorney, the officer's psychologist, the officer's chosen clergy, and the officer's immediate family.

Upon returning to duty, the officer may be assigned to "administrative duty" for a period of time as deemed appropriate by the officer, his psychologist, and the Officer in Charge.

O. The Post-Shooting Investigative Process

The following procedures will be used to investigate every incident of firearms discharge by a department member except for target practice, hunting, ballistic examinations, and incidents involving the destroying of an animal.

1) Involved Officer

Whenever a member discharges his firearm either accidentally or officially, he shall immediately;

- a. Determine the physical condition of any injured person and render first aid when appropriate.
- b. Request the necessary emergency medical assistance
- c. Notify the Officer in Charge of the incident and location.

The officer will remain at the scene (unless himself injured) until the arrival of the appropriate command personnel and investigators. However if the circumstances are such that the continued presence of the officer at the scene might cause a more hazardous situation to develop (violent crowd), the ranking commanding officer at the scene shall have the discretion to instruct the officer to respond to another, more appropriate location.

The officer will protect his weapon for examination and submit said weapon to the appropriate investigator.

The officer shall prepare a detailed report of the incident as soon as practical.

The officer should not discuss the case with anyone except (1) supervisory and assigned investigative personnel, (2) the assigned District Attorney, (3) the officer's attorney, psychologist, clergy, or immediate family.

The officer shall be available at all times for official interviews and statements regarding the case and shall be subject to recall to duty at any time.

2) Sr. Patrolman

The Sr. Patrolman shall:

- a. Proceed immediately to the scene
- b. Secure the scene
- c. Conduct a preliminary field investigation.
- d. Render command assistance to the assigned investigators
- e. Assist the involved officers
- f. Submit a detailed written report of the results of the investigation to (1) the Officer in Charge, and (2) the assigned investigators.

In the case of a homicide, the officer shall be placed on administrative leave, without loss of pay or benefits, pending the results of the investigation.

3) Criminal Investigation Unit

The assigned criminal investigation unit will conduct a thorough investigation of every shooting incident which results in injury or death. A detailed report will be submitted to (1) the Officer in Charge, and (2) the District Attorney. The investigators shall be selected by the Officer in charge or his designee.

4) Officer in Charge

The Officer in Charge and those he designates to assist him will conduct an investigation (subordinate to any criminal investigation) to determine:

- a. Whether the shooting was
 - within policy
 - out of policy
 - accidental

- b. Evaluate training considerations
 - drawing and exhibiting firearms-firing of weapon- tactics prior to drawing and discharging
 - tactics during and following discharge

- c. The quality of supervision prior to, during, and after the shooting incident.

The Officer in Charge or his designee will prepare a detailed report of findings for the Village Board for submission to the Village Attorney.

3.0 Physical Force

1. Policy

Members of the Alexandria Bay Police Department shall only use that level of physical force necessary in the performance of their duties within the limits established by Article 35 of the New York State Penal Law and consistent with training given or approved by this Department. It is the responsibility of each officer to be familiar with the requirements of Article 35 and to guide his/her actions based upon that law.

2. Procedure

Generally, officers may use physical force in the performance of their duty in the following circumstances:

- A. To prevent the commission of a breach of the peace or other unlawful act.
- B. To prevent a person from injuring him/herself.
- C. To effect a lawful arrest of persons resisting arrest or attempting to flee from custody.
- D. In self-defense or in the defense of another person.

3. Equipment

Only issued and approved equipment will be carried on duty and used when applying physical force, except in an emergency when the officer may use other resources at his/her disposal.

4. Authorized Non-Lethal Weapons

A. The ASP Tactical Baton, the Straight Baton, and the Prosecutor-24 (PR-24) are recognized by the Alexandria Bay Police Department. Only those officers who have received specific training in that weapon are authorized to use it as a defensive/offensive weapon and may carry such on duty.

B. Oleoresin Capsicum Aerosol Spray is recognized by the Alexandria Bay Police Department and only those officers who have been trained and issued such may carry it on duty. Whenever (OC) is used by authorized personnel, except for training purposes, a narrative report of its implementation and decontamination procedures and other medical attention provided in connection with its use will be written as soon as practicable.

C. It is the officers responsibility to see that proper medical attention is administered after (OC) or any other type of force is used. This activity will be documented and be part of the case file.

5. Unauthorized Non-Lethal Weapons

A. The carrying or use of any instrument as an offensive or defensive weapon, not specifically authorized or issued as a weapon by the Alexandria Bay Police Department is prohibited. Examples of unauthorized weapons include but are not limited to the following:

1. Blackjacks
2. Weighted or "sap" Gloves
3. Stun Guns
4. Brass Knuckles, ect.

December 7, 2020

To: All Sworn Members

Subject: Amendment to Article 3 section 3.00 Physical Force

Effective Immediately, the use of any type of arrest, restraint, or technique involving the application of pressure or constricting the throat, neck or cervical spine area of a subject is expressly prohibited. Any officer employing any type of these techniques will be subject to disciplinary action and may be charged with a violation of the New York State Penal Law relating to this type of violation.

Further it is the duty of all officers to intervene if they witness this illegal use of force of any type being used. It is incumbent on all of us to watch each other so that an inadvertent contact with a subject's throat or neck area is not continued on a subject in the heat of a confrontation and if witnessed, to immediately modify our approach in a safe manner for the officer and the subject.

Respectfully,

Joshua M. David



Officer in Charge