

SANDS POINT POLICE DEPARTMENT

	Subject: Use of Force	No. 700.1
Effective Date: 6/15/2020	Revises: All Prior Directives	Review: Annual
Authority: Thomas Ruehle, Chief of Police		Page(s): 5

Purpose: To establish procedures for the use of force in situations where it is objectively reasonable and the documentation of such force.

Policy: The Policy of the Sands Point Police Department is to prevent crime and arrest offenders while protecting human life. In situations where it is necessary to engage in the lawful use of force, (See Definition), or Deadly Physical Force, (See Definition), members of the department will use said force based upon the totality of circumstances (See Definition), using an objectively reasonable (See Definition), standard to effectively bring an incident or person under control.

Definitions:

- **Actively Resistant Person/Self-Destructive Behavior:** an actively resistant person is one who takes an offensive or a physically resistant action. These actions can take the form of the person standing at the ready and menacing with an object, device, or material capable of inflicting serious injury; the person using bodily force such as punching, striking, scratching, grabbing, holding; the using active physical resistance to custody; or presenting an imminent biohazard threat such as spitting or throwing a biohazard at the member or attempt of same. Also in this category: evading custody, escape, destroying evidence, or attempting to harm self (suicide attempt), making explicit verbal threats to cause injury to the member or others present and which the member reasonably believes the person will carry out that threat. The member objectively and reasonably perceives an actual or imminent threat to self, other or evidence. In the interest of officer safety, members shall be particularly vigilant of person presenting physical cues of an imminent attack (yawning with outstretched arms, glancing and assessing environment, staring at officer's duty belt, balling fists, shifting body weight into a fighting stance, etc.)
- **Deadly Active Person:** a deadly active person is one who is presenting a deadly threat with a firearm, edged weapon, deadly ordinance, electronic control device (ECD), motor vehicle, or any other instrument or substance capable of causing death or serious physical injury. Also included is an attempt to disarm the member, incapacitate the member or a life-threatening weaponless assault. The member objectively and reasonably perceives an imminent threat of death or serious physical injury to self or innocent others.

- **Force:** means the following actions by a member: any physical strike or instrumental contact with a person, or any significant physical contact that restricts movement of a person. The term includes, but is not limited to, the brandishing, use or discharge of firearms; brandishing, use or deployment of electronic control devices, (ECDs); display, use or deployment of chemical spray; empty hands; the taking of a person to the ground; physical force such as kicks, punches, or martial arts techniques; compliance and control holds such as twist locks, wrist locks, pressure point; or the deployment of a canine. The term does NOT include escorting or handcuffing a person, with no or minimal resistance.
- **Deadly Physical Force:** means physical force which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury. (NYS Penal Law 10.00 (11)). It may involve firearms, but also includes any force or instrument of force, (i.e., vehicle, edged weapon), capable of causing death or serious physical injury. Deadly physical force includes the firing at or in the direction of a person, and head strikes with a police baton or any hard object. Deadly physical force is anything that severely restricts the breathing of a person.
- **Imminent:** does NOT mean immediate or instantaneous, but rather that an action is pending. Thus, a subject may pose an imminent danger even if he is not at that very moment pointing a weapon at an Officer. For example, imminent danger may exist if Officers have probable cause to believe any of the following:
 - 1 - a subject possesses a weapon or is attempting to gain access to a weapon under circumstances indicating an intention to use it against the Police Officer or others, or
 - 2 - a subject is armed and running to gain a tactical advantage of cover, or
 - 3 - a subject with the capability of inflicting death or serious physical injury or otherwise incapacitating a police officer and is demonstrating an intention to do so, or
 - 4 - a subject is attempting to escape from the vicinity of a violent confrontation where the subject inflicted or attempted to inflict death or serious physical injury.
- **Intermediate Weapons:** compliance devices authorized, approved, and issued by the Sands Point Police Department and used to stop and control individuals when the use of force is reasonable and necessary. These instruments or devices include, but are not limited to, the following: OC pepper-spray, MEB or Monodnock Expandable Baton, electronic control device (ECD), a propelled beanbag round, and the deployment of a canine.
- **Objectively Reasonable:** an objective standard used to judge a police officer's actions. Under an objectively reasonable standard, a particular application of force must be judged through the perspective of a reasonable police officer possessing the same information and faced with the same circumstances as the officer who actually used force. The use of objectively reasonable force is not analyzed with hindsight, but will consider, where appropriate, the fact that the officers must make rapid decisions regarding the amount of force to use in tense, uncertain, and rapidly evolving situations.
- **Passively Resistant Person:** a passively resistant person is one who fails to follow voice commands. A passively resistant person may be verbally abusive using non-threatening language. A passively resistant person is also any person who resists arrest simply by passively refusing to comply as directed (dead weight). The police member does not objectively and reasonably perceive an imminent physical threat.
- **Physical Injury:** impairment of physical condition or substantial pain. (NYS Penal Law 10.00 (9)).

- **Serious Physical Injury:** means 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. (NYS Penal Law 10.00 (10)).
- **Totality of circumstances:** the facts and circumstances of a particular case, including the severity of the crime, whether an individual poses and immediate threat to the safety of a police officer or others, and whether an individual is actively resisting arrest or attempting to evade flight, judged from the perspective of a reasonable police officer at the scene of an incident.

Rules:

- 1- Members of the Sands Point Police Department will not use force except as provided by law.
- 2- Members of the Sands Point Police Department will render aid to a sick or injured person in accordance with their level or training and summon an ambulance if necessary.
- 3- Members of the Sands Point Police Department will not use choke holds, or restrict the breathing of any individual unless Deadly Physical Force is being used against that officer or another person.
- 4- Members of the Sands Point Police Department will not fire warning shots.
- 5- Members of the Sands Point Police Department will not fire shots from a moving vehicle or at a moving vehicle unless deadly physical force is being used upon a member or another person.

Procedure:

A. Use of Force: POLICE OFFICER

1. Encounters a situation where the totality of circumstances suggests the use of force may be necessary.

Note: The totality of circumstances should be considered when deciding the force necessary to overcome resistance when trying to maintain control of a violent person or to effect an arrest.

Note: Force is authorized to be used when reasonably believed to be necessary to effect a lawful arrest or detention, prevent the escape of a person from custody, or in defense of one's self or another.

Note: Under the 4th Amendment, a police officer may only use such force as is "objectively reasonable" under the circumstances. The reasonableness of a particular use of force must be judged from the perspective of a reasonable person on scene.

2. Requests assistance, as necessary.
3. Initiates Mental Aided Persons procedure (OPS 300.1) if the subject appears to be suffering from mental illness or experiencing emotional distress.
4. Considers if the behavior displayed by the subject is viewed as:
 - a. A passively resistant person (See Definition)
 - b. An actively resistant person/self-destructive behavior (See Definition)

- c. A deadly active person. (See Definition)
5. Considers additional factors that may be used in determining the reasonableness of force, including:
 - a. The severity of the crime or circumstance,
 - b. Whether the subject poses as immediate threat to the safety of the officers, himself or others,
 - c. Whether the subject is attempting to evade arrest by flight,
 - d. Knowledge, training, and the experience of the police officer,
 - e. The subject's age, size and relative strength,
 - f. Number of subjects at the scene,
 - g. Number of police officers at the scene,
 - h. Other environmental conditions or exigent circumstances.
6. If the use of force is not objectively reasonable, continues with the incident as appropriate.

Note: Force shall NOT be used by a member for the following reasons:

 - a. To coerce a confession from a subject in custody
 - b. To extract an item from the anus or vagina of a subject without a warrant, except where exigent circumstances are present,
 - 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 an active or passive resistance posed by the subject,
 - e. Whenever use of force is not legally justified.
7. If the use of force is objectively reasonable (See Definition) initiates use of force techniques if appropriate, such as:
 - a. Empty hand
 - b. Take down
 - c. Kick
 - d. Punch
 - e. Martial arts technique
 - f. Twist lock
 - g. Wrist lock
 - h. Pressure point
8. Intercedes to prevent the use of unreasonable force by another officer.

Note: Any officer present and observing another officer using force that he/she reasonably believes to be clearly beyond that which is objectively reasonable under the circumstances shall intercede to prevent the use of unreasonable force, if and when the officer has a realistic opportunity to prevent harm.
9. Promptly reports incident to a supervisor, if an officer observes another officer use force that exceeds the degree of force as described in Step 8.
10. Continually assesses the circumstances and, as appropriate, escalates or de-escalates the use of force.
11. If an intermediate weapon (See Definition) is necessary, initiates procedures including:
 - a. Notifying supervisor immediately that such weapon was deployed or even shown.
 - b. Supervisor will complete use of force form, and forward with his findings to the executive officer for review.
12. If the use of deadly physical force (See Definition) is necessary, (go to OPS 700.1a). (End of Procedure)
13. Restrains the subject once compliance is met.

14. Checks subject's condition and renders aid, if necessary.
15. Initiates aided case procedure (OPS 200.1), if any of the following conditions exist:
 - a. The suspect has visible injuries,
 - b. The suspect complains of injury,
 - c. The use of force is likely to result in injury
 - d. If an electronic control device (ECD), is used on the subject.
16. Notifies a supervisor if involved in a use of force incident that results in any of the following:
 - a. The suspect complains of pain, except complaints of minor discomfort from compliant handcuffing,
 - b. A reasonable person believes the use of force is likely to cause an injury,
 - c. Physical injury
 - d. Serious physical injury,
 - e. Death,
 - f. An ECD was intentionally or accidentally discharged after being displayed,
 - g. A firearm was discharged or displayed,
 - h. OC spray was discharged.
17. Initiates Arrest Processing Procedure if necessary.

SUPERVISOR/DESK OFFICER

18. If notified that a member was involved in a use of force incident,
 - a. Notifies the Lieutenant or Executive officer, who will notify the Chief of Police
 - b. Responds to the scene
 - c. Maintains the scene
 - d. Conducts an investigation
 - e. Ensures the security of the scene in its present state for evidentiary recording and collecting, if detectives are responding.
 - f. Directs and ensures all involved officers who used force prepare Use of Force report PDCN 258.