

NEW CANAAN POLICE DEPARTMENT

SUBJECT: USE OF FORCE

GENERAL ORDER NUMBER: 89-17-70

FILE: SRVS 7

LAW ENFORCEMENT

ROLE & RESPONSIBILITIES

I PURPOSE/POLICY

The purpose of this general order is to provide the policies and procedures as it relates to the use of force by officers of the New Canaan Police Department. The guidelines discussed here have been developed, not to restrict officers from properly performing their duty, but rather to make it incumbent upon them to use good judgment before employing the use of force.

The officers are sworn to protect property, prevent crime, preserve the sanctity of human life and apprehend violators of the law. However in doing so, and in order to preserve the high standards of this department, citizens, suspects and prisoners must at all times be afforded their basic constitutional rights and humane treatment by all officers. In addition to conforming to the applicable laws and procedures pertaining to the use of force, officers shall always be cognizant of the legal and ethical implications of their actions.

This general order is for departmental use only and does not apply in criminal or civil proceedings. It should not be construed as the creation of a higher level of standard of safety or care in an evidentiary sense with respect to third party claims. Violations of law will form a basis for civil and criminal sanction in a recognized judicial setting.

II RESPONSIBILITY

It is the responsibility of all departmental personnel to adhere to this general order. It is the additional responsibility of the supervisory and command staff to insure its compliance.

III PROCEDURES

A The following terms, for purposes of this general order, shall be defined as follows:

1. Deadly Force - That force which is intended to cause death or which creates a degree of risk so that a reasonable and prudent person would consider it likely to cause death.
2. Force - Conduct on the part of police personnel that is designed to control or compel a person or persons to submit to lawful authority.
3. Less-than-Lethal Weapon - Any weapon, other than a firearm, used to control persons or defend police personnel or others from harm. Such less-than-lethal weapons may include:
 - a. M.E.B Autolock, or other impact device

- b. Electro-Muscular Disruption Device (Taser)
 - c. Specialty Impact Munitions (SIMs)
 - d. Oleoresin Capsicum (O.C.) Spray
 - e. BOLA Wrap
4. Progressive Force - The escalation of force used by police personnel in order to control a situation or the actions of persons, from minimum to maximum, (i.e. Verbal Force, Physical Force, Intermediate Force, Deadly Force).
 5. Reasonable Belief - The facts and circumstances the officer knows, or should know, are such as to cause an ordinary and prudent person to act or think in a similar way under similar circumstances.
 6. Serious Physical Injury - Physical injury which creates a substantial risk of death. Or which causes serious disfigurement, serious impairment of health or serious loss or impairment of the function of any bodily organ
- B** Police personnel shall use only the minimum amount of force which is necessary and reasonable to affect lawful objectives.
1. The use of force may be required in order to:
 - a. Control a situation
 - b. Effect an arrest
 - c. Overcome resistance to an arrest
 - d. Defend themselves or others from harm
 2. **Officers shall apply de-escalation techniques when possible in any given use of force situation.**
 3. When the use of force is necessary, the degree of force that is employed should be in direct relationship to the amount of resistance employed by the person or the immediate threat the person poses to police personnel and others.
 4. The use of force by police personnel shall, whenever possible, be progressive in nature. This force may be in the form of:
 - a. Advisement
 - b. Warning
 - c. Persuasion
 - d. Physical Contact
 - e. Use of less-than-lethal Weapons
 - f. Use of Deadly Force

5. Police personnel must weigh the circumstances of each situation and employ only that amount of force that is necessary and reasonable to control the situation. Under no circumstance shall unreasonable or excessive force be used against any person.
6. Factors that may cause an officer to progress through the continuum of force include:
 - a. Age - An older officer confronting a much younger subject, who is violent, may need to utilize a greater level of force in order to control or regain control of the subject. Conversely, it would be expected that a younger officer confronting an older subject would use less force to control resistance.
 - b. Size - A relatively small officer who encounters a large resistive subject may have to use greater force for control than an officer of equal or superior size.
 - c. Strength - An officer who is being resisted by a subject displaying greater strength may need to employ greater levels of force to control or regain control of a situation.
 - d. Skill - The skill levels of the officer and the subject also enters in the use of force determination. The officer facing a subject whose skill level is obviously higher than that of the officer may use a higher level of force when faced with resistance
 - e. Multiple Subjects - When an officer faces multiple subjects, he/she will likely need to employ greater force to achieve control.
7. Circumstances that may cause an officer to escalate very rapidly through the continuum of force include,
 - a. Imminent Danger - The officer responding to a call, where he/she has reason to believe that the subject they expect to encounter may be armed, must be prepared to move from the level of persuasion directly to the level of impede or stop as the situation requires.
 - b. Special Knowledge - The officer knows that the subject has special skills or history that makes the subject a greater threat to the officer or others (i.e. boxer, martial arts training or violent history).
 - c. Injury/Exhaustion - The officer, having been injured in a confrontation, but still obliged to control the subject and situation, may need to use a higher level of force immediately.
 - d. Proximity to the Officers Firearm - At any point in time, the officer's primary concern should be the accessibility of his firearm to the subject. The officer may need to employ a greater amount of force to protect his firearm.
 - e. Ground Fighting - An officer's ability to control a resistive subject is greatly minimized when the officer is on the ground. An officer will use more force to control the subject.

C Police personnel have several options available to them where determining what type of force is necessary and justified. These options shall include:

1. Verbal Force

- a. When dealing with the public, police personnel must attempt to inspire respect and generate cooperation. In addition, police personnel shall be courteous and respectful in their relationship with the public.
- b. Verbal force may be in several different forms including warnings, advise and persuasion.
- c. Volume and tone control may in and of itself, be progressive depending upon the situation. By using reasonable and necessary verbal force, it may be possible to avoid using the other forms of force.

2. Physical Force

- a. Physical force involves actual physical body contact with a person and forcibly subduing that individual until resistance is overcome. Physical force excludes the use of weapons or objects that could be used as weapons, (i.e., Baton, Electro-Muscular Disruption Device (Taser), Specialty Impact Munitions (SIMs), O.C. Spray and BOLA Wrap.
- b. In no instance, shall police personnel use physical force in excess of that which is reasonable and necessary to lawfully and properly neutralize an unlawful assault or overcome resistance by a person being taken into custody.

3. Intermediate (less-than-lethal) Force

- a. Intermediate force involves the use of less-than-lethal weapons against a person and forcibly subduing that individual with the assistance of less-than-lethal weapons until resistance is overcome. Such force may be necessary to:
 - 1) To affect an arrest or prevent the escape from custody of a person whom the officer reasonably believes has committed an offense.
 - 2) Defend himself/herself or a third person from the use or imminent use of physical force, while effecting or attempting to affect an arrest or while preventing or attempting to prevent an escape.
 - 3) Thwart another person from attempting suicide or from inflicting serious physical injury to himself/herself.
 - 4) Successfully affect a search and seizure warrant.
- b. The use of less-than-lethal force must fully comply with existing Connecticut General Statutes relative to the use of such force.
- c. The Police K-9, Monadnock Expandable “Autolock” Baton (MEB), Electro-Muscular Disruption Device (Taser), Specialty Impact Munitions (SIMs), O.C. Spray and BOLA Wrap are examples of authorized less-than-lethal weapons. These weapons shall only be employed in accordance with departmental training standards.
- d. The use of intermediate force shall be restricted to physical confrontations where lesser verbal or physical force would be or have been ineffective or inappropriate.
- e. An EMS response shall be requested for any person subjected to the use of a firearm, impact weapon, impact projectile, conducted energy weapon (CEW), oleoresin capsicum (OC) spray, or K-9 apprehension. A supervisor shall be

immediately notified of any EMS response initiated under these conditions, and injuries shall be documented and photographed whenever possible.

4. Deadly Force

- b. Deadly force may be used by police personnel where they reasonably believe that such use to be necessary to defend himself or herself or a third person from the use or imminent use of deadly physical force; or he or she has exhausted the reasonable alternatives to the use of deadly physical force, reasonably believes that the force employed creates no substantial risk of injury to a third party, and reasonably believes such action is in defense of any human life in imminent danger of death or serious bodily injury and if, where feasible under this subdivision, he or she has given warning of his or her intent to use deadly physical force.
- c. The use of a chokehold or any other technique that restricts the intake of oxygen is prohibited unless deadly force would be considered reasonable.
- d. Any method of restraint applied to the neck area of another person including but not limited to Carotid Artery Hold, Lateral Vascular Neck Restraint, Neck Restraint or hold with knee or another object is prohibited.
- e. Justification for the use of deadly force, in order to be considered objectively reasonable, will evaluate the officer's knowledge at the time of the incident, to include:
 - 1. Whether the person upon whom the deadly physical force was used, possessed or appeared to possess a deadly weapon,
 - 2. Whether the officer engaged in reasonable de-escalation measures before using deadly physical force,
 - 3. Whether any of the officer's conduct led to an increased risk of the situation that led up to the use of such force.
- f. Facts unknown to an officer, no matter how compelling, cannot be considered in later determining whether the use of such force was justified.

D Restrictions on the use of firearms include:

- 1. Use of Firearms - Officers shall use a firearm during authorized training at a target range and where it becomes reasonably necessary to:
 - a. Protect him/her from death or serious physical injury.
 - b. Protect another officer or any other person(s) from death or serious physical injury.
 - c. Affect the capture of a suspect where the officer reasonably believes that the suspect poses a threat of serious physical injury either to the officer or others.
 - d. Use of deadly force against a "fleeing felon" shall meet the conditions required by section III,C,4,a-c of this general order.
 - e. Destroy an animal. The shooting of an animal is justified only for:
 - 1) Self-defense

- 2) To prevent substantial harm to the officer or other person(s).
 - 3) Where the animal is so badly injured or sick that humanity requires its relief from further suffering.
 - 4) The Animal Control Officer, or police officer, may kill any dog which he or she observes attacking a domestic animal.
2. Warnings - When officers are about to invoke deadly force, they will, when possible or practicable, issue a verbal warning to the suspect. In this warning, officers shall identify themselves as police officers and instruct the suspect to cease and stop whatever action the suspect is doing that caused the officer to consider the use of deadly force. This command will be "Police, Don't Move" or other similar type of warning.
 3. Surrendering Weapon - An officer may be at the mercy of an armed suspect who has the advantage, but experience has shown that the danger to an officer is not reduced by his giving up his or her firearm upon demand. Surrendering his firearm might mean giving away his only chance for survival; therefore, an officer should use every tactical tool at his disposal to avoid surrendering his firearm. (Re: N.C.P.D. Policy Manual, Section 564).
 4. Moving Vehicles - Officers shall not discharge a firearm at or from a moving vehicle except where all other reasonable means on the continuum of the use of force have been exhausted and Section III,C,4 of this general order is applicable.
 5. Risk to Innocent Bystanders - Officers shall not discharge a firearm when it appears likely that an innocent person may be injured or killed.
 6. Warning/Attention Shots - Officers are prohibited from firing warning or attention shots.
 7. Misdemeanor/Traffic Violators - Officers are not justified in using their firearm to affect an arrest of a misdemeanor and/or traffic violator.
 8. Drawing or Displaying Weapons - Officers shall not unholster a firearm in the performance of their duty, except:
 - a. Under circumstances known or reasonably believed to be potentially dangerous.
 - b. For safekeeping prior to entering the holding facility (Re: General Order 89-13-66, Holding Facility).
 - c. For inspection, training, repair or cleaning.
 - d. For safe storage when an officer is going off duty.
 - e. To euthanize injured animals.
 9. Firearms as Clubs - Firearms are not designed or intended for use as clubs and are not to be used to strike another person. Their use as such is prohibited, except where immediately necessary to protect the officer from death or serious physical injury.

- 10. Security of Firearms - Officers are responsible for providing maximum security for all firearms in their possession and under their control.
 - 11. Modifications to Firearms - No department-issued weapon may be altered or modified in any manner. Officers shall not disassemble any departmental handgun further than the recommended "Field Stripping" necessary to clean the weapon.
- E.** Officers may carry a firearm while off-duty. If an officer elects to carry a firearm, said firearm shall be carried in accordance with General Order 89-22-75, Firearms Training.
- F.** Approved less-than-lethal weapons that may be utilized by officers include the Police K-9, Monadnock expandable "Autolock" baton (MEB), Specialty Impact Munitions (SIMs), Elector-Muscular Disruption Device (Taser), O.C. Spray and BOLA Wrap.
- 1. Less-than-lethal weapons shall be utilized and/or carried by officers and may only be used in accordance with the provisions of this general order and current established training standards.
 - 2. At least annually, all officers shall demonstrate proficiency in the use of all issued less-than-lethal weapons, as well as weaponless control techniques.
 - a. Such proficiency shall be determined by a certified weapons instructor.
 - b. Any Officer, who fails to demonstrate proficiency with any less-than-lethal weapons, shall not carry said weapon on duty until he/she receives remedial training by a certified weapons instructor and demonstrates proficiency to the established standard.
 - 3. The use of the Police K-9 unit shall be at the discretion of the K-9 Officer and in accordance with General Order Canine Unit Operations, 11-01-115.
 - 4. The Special Response Team (SRT) shall have access to specialized less-than-lethal weaponry including tear gas as needed.
 - a. Only authorized members of the Special Response Team may use this equipment.
 - b. The equipment shall be utilized as directed by the Commander of the Special Response Team.
- G.** Only firearms and ammunition that meet departmental specifications shall be used by officers while on duty. A list of approved weapons and ammunition shall be maintained by the Training Officer and updated as required.
- 1. Uniformed & non-uniformed officers are only authorized to carry the *Sig-Sauer 229R-DAK*, .40 caliber S&W semi-automatic pistol. Officers are required to qualify with this firearm in accordance with Section III, I of this general order.
 - a. All officers shall wear this firearm and specified adjunct equipment when on duty or while working any extra-duty assignment, which requires the officer to act within the scope of his profession as a law enforcement officer (Re: General Order 88-3-47, Uniforms).
 - 2. The approved ammunition for departmental use is: *.40 caliber Smith & Wesson 180 grain, jacketed hollow-point*, or other ammunition approved by the Chief of Police.

3. Additional firearms may be carried by qualified officers when authorized by the Chief of Police or designee. These firearms shall consist of:
 - a. The Bushmaster model M4 rifle, utilizing *55 or 65 grain, full metal jacket or hollow point .223 ammunition* or its equivalent.
 - b. The Mossberg model 590 12 gauge shotgun, utilizing *rifled slugs*.
4. No officer shall carry a non-issued or secondary "back-up" firearm without the approval of the Chief of Police.

H Only officers demonstrating proficiency in the use of firearms and less-than-lethal weapons shall be authorized to carry or use such weapons. The proficiency course will be determined by the Chief of Police, Department training officer or POSTC as appropriate. Failure to qualify with a less-than-lethal weapon shall result in that officer being prohibited from carrying such less-than-lethal weapon until qualification standards are met. Officers who fail to qualify with a firearm shall be subject to the provisions established in section III, I, 3 of this general order.

1. The shift supervisor, Special Response Team Member, Investigative Commander or designated authority, shall have the authority to enter the armory and use whatever equipment is deemed necessary to control a given situation. The Commander of Operations and other supervisory staff shall be contacted in accordance with General Order 87-7-42, Notification.

I Officers are required to pass, at least annually, a qualification course for each firearm they are authorized to carry, (Re: General Order 89-22-75, Firearms Training). The courses are approved by either the Police Officer's Standards Training Council (POSTC) or the Department's Training Office.

1. Authorized weapons include:
 - a. Duty side arm
 - b. Shotguns
 - c. Specialized weapons
 - d. Approved off-duty weapons
2. Annual qualification for the duty weapon shall include one qualification score, which conforms to the provisions established by the POSTC. Additionally, there will be at least two separate qualifications, which will consist of a modified version of the POSTC course.
 - a. The qualification score of the POSTC approved course will fall into categories 2-4 using the K-5 target.
 - 1) 0-239 Points - Non-qualifying
 - 2) 240-254 Points - Marksman
 - 3) 255-284 Points - Sharpshooter
 - 4) 285-299 Points - Expert

5) 300 Points - Distinguished Expert

3. Those officers who fail to qualify will be placed on administrative duty with no duty weapon shown or worn until qualification standards are met.
 4. Any officer who is injured or has mitigating circumstances, which prohibit the officer from being on full-duty status shall have the requirement for qualification delayed until they are ready to be returned to full-duty status.
 - a. No officer shall be reassigned to regular patrol duties until annual requirements have been satisfied.
- J.** Officers shall render medical aid as quickly as reasonably possible following any law enforcement action in which injuries have been sustained, obvious severe injuries have occurred, medical distress is apparent, the individual becomes unconscious, and when requested by any individual.
- K.** When an officer uses deadly or less-than-lethal force and it is determined that an injury has occurred, officers shall utilize the following procedures when rendering medical assistance.
1. The officer(s) will ensure that the scene is secure and notify the desk officer/dispatcher of the incident. Whenever possible, officers should attempt to establish the nature of the injury(s) and relay any pertinent information to the desk officer/dispatcher.
 2. When a person/arrestee exhibits symptoms which may be serious or life threatening, the emergency medical service will be notified immediately. Officers will provide basic life support and first aid at the scene until relieved by qualified emergency medical personnel. In all other cases, the shift supervisor will determine if medical treatment is required.
 - a. If a determination is made that medical treatment is required, the emergency medical service will be dispatched. The emergency medical personnel shall be responsible for evaluating the injuries and determining if the injured person/arrestee should be transported to a medical facility.
 - 1) If transport is required and the injury was sustained by an arrestee, then an officer will accompany the arrestee to the facility and remain with him/her at all times. As a general policy, restraining devices should be utilized when transporting injured arrestees. Exceptions to this policy include; if such devices would further compound the injuries, age, past history, psychological state, handicaps or other attributes which may reduce the risk posed by the arrestee. When an arrestee is transported without the use of restraints, it is recommended that a second officer accompany the arrestee.
 - 2) Upon completion of the treatment, the accompanying officer(s) will obtain a written release and any prescribed medications from the medical facility. The officer(s) must also obtain any special instructions regarding the care of the arrestee while in the custody of the police department.

K. Police Action Death Investigation

1. In all cases where use of force actions by Department personnel have resulted in the death or serious physical injury of any person, it shall be the Shift Commander's responsibility to make notifications per General Order 87-7-42, NOTIFICATION; Section III, A,4

- a. The Shift Commander shall have the additional responsibility of notifying the State's Attorney Office – Part A
 - b. The Shift Commander will insure that the following is done after notification to the State's Attorney is made:
 - 1) Secure the scene
 - 2) Conduct investigation per direction of State's Attorney
 - 3) Secure weapon used without altering its condition (if firearm, secure all ammunition as well
 - 4) Secure Officer's clothing as soon as reasonably possible
2. If death or serious physical injury has occurred as a result of the actions of any Department personnel, those individuals whose actions directly resulted in or contributed to, the serious physical injury or death shall be removed from duty and placed on administrative assignment pending the outcome of an administrative review of the incident.
3. Criminal investigative authority—The Office of the Inspector General, an independent office within the Division of Criminal Justice, is responsible for conducting investigations related to uses of force by police that result in death, all uses of deadly force by peace officers, deaths of persons in custody of the agency, and instances where a police officer fails to intervene and report in a use of force incident as required by C.G.S. § 7- 282e. The Inspector General also serves as the prosecuting authority in most of these instances.
- a. **Use of deadly force or use of force resulting in death**
Whenever a peace officer in the performance of his or her duties uses physical force upon another person and such person dies as a result thereof or uses deadly force, as defined in C.G.S. § 53a-3, upon another person, the Inspector General shall investigate and determine whether the use of physical force by the peace officer was justifiable under C.G.S. § 53a-22.
 - b. **Death of any person in care, custody or control of the department**
Whenever a person dies in custody or the custody of the New Canaan Police, the Inspector General shall investigate and determine whether physical force was used by a peace officer upon the deceased person, and if so, whether the use of physical force by the officer was justifiable under C.G.S. § 53a-22.
 - 1. In accordance with C.G.S. § 4-8a, the Commander of Operations or his/her designee shall promptly notify the Division of Criminal Justice of any death of a person in the care, custody or control of any person or entity under the jurisdiction of the New Canaan Police Department.
 - c. For incidents investigated under subsections J(1)(a) and J(1)(b) above, the Inspector General shall request the appropriate law enforcement agency to provide such assistance as is necessary to determine the circumstances of the incident.
4. This administrative review shall be conducted by the Captain of the Operations Division and shall be forwarded to the Chief of Police when completed. The review shall be concerned with the following:

- a. Identifying all persons involved.
 - b. Identifying the circumstances leading to the use of force.
 - c. Determining if the use of force was justified.
 - d. Determining if Department policy was followed.
 - e. Recommendation of any discipline (if necessary).
 - f. Reviewing the incident thoroughly to identify any policy, training, or equipment issues that may be improved.
 - g. Recommendation for the time of return to patrol assignment for all personnel involved.
5. Any Department personnel involved in incidents that have resulted in death or serious physical injury shall be provided with post-incident counseling through the Employee Assistance Program (EAP) or other provider.
6. Media Relations and dissemination of public information
- a. In the early stages of an investigation Public Information Officer (PIO) shall, to the extent feasible, collaborate/coordinate with the Chief of Police and the Office of the Inspector General, and any involved police departments for dissemination of press releases and providing timely information to the public.
 - b. The Public Information Officer (PIO) shall reference standing orders and directives pertaining to critical incident communications plans to determine which agencies will be handling media inquiries regarding the incident.
- 7. Training for agency personnel regarding police action deaths and similar Incidents**
- a. Agency personnel who by virtue of their positions have responsibility for managing incidents involving the use of force involving death or serious injury shall receive process training. This training may be accomplished through new supervisor training or any other method deemed suitable by the Training Office.
 - b. All sworn personnel shall receive awareness training regarding an overview of police action death investigations. This may be in the form of presentations, training bulletin, policy review, etc., as deemed suitable by the Training Office.
- L** Officers shall complete a detailed report anytime that they take action, which results or is alleged to have resulted, in injury or death to another person and/or applies force at or above the level of physical force (i.e., through the application of lethal, less-than-lethal and/or physical force).
- 1. At least annually the Captain of Operations shall review all use of force incidents and prepare a report to be forwarded to the Chief of Police. The report should include any and all recommendations for policy changes or implementation. The analysis shall identify:
 - a. Date and time of incidents

- b. Types of encounters resulting in use of force
 - c. Trends or patterns related to race, age and gender of subjects involved
 - d. Trends or patterns resulting in injury to any person, including employees
 - e. Impact of findings on policies, practices, equipment, and training
- L Any employee shall intervene and attempt to stop if they observe another employee engage in any unreasonable use of force or if they become aware of any violation of department policy, any federal or state law, or any local ordinance. As soon as practicable, that witnessing employee shall report the occurrence to departmental supervisory staff.
- 1. Any employee, who witnesses or otherwise becomes aware of unreasonable, excessive, or illegal use of force by another law enforcement agency employee, shall report such conduct to the force-using officer's agency.
 - 2. Any employee who reports unreasonable, excessive, or illegal use of force shall be free from retaliation by another employee.
- M On an annual basis, the Commander of Operations shall conduct a review of all assaults on sworn personnel to determine trends or patterns, with recommendations to enhance officer safety, revise policy, or address training issues.

IV DISTRIBUTION

This general order will be reproduced in electronic and traditional media. All sworn personnel shall have access to Department general orders through a read-only file on their individual domain of the Department's computer network. Printed copies and/or CD's will also be placed in locations throughout headquarters so that they are easily accessible to all personnel.

This General Order shall also be disseminated and reviewed with each recruit prior to initiating their Field Training Program. Newly hired officers will be issued this General Order, along with all related policies and instruction, prior to being authorized to carry any lethal or less lethal weapons.

V EFFECTIVE DATE

This general order approved by the Police Commission on April 19, 1989, and is effective April 27, 1989.

Revised December 1993
 Revised June 1997
 Reviewed April 2000
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 Revised January 2011
 Revised June 2014
 Revised September 2020
 Revised November 2020
 Revised October 2021

Per Order,

Leon M. Krolikowski
Chief of Police