



**POLICE DEPARTMENT, COUNTY OF SUFFOLK, NY**  
 ACCREDITED LAW ENFORCEMENT AGENCY  
**DEPARTMENT DIRECTIVE**  
 PDCS-2008-1

<b>ORDER NUMBER 20-02 20-02a</b>
--------------------------------------

TYPE DEPARTMENT GENERAL ORDER	AUTHORITY GERALDINE HART POLICE COMMISSIONER	SIGNATURE	
SUBJECT/TOPIC/TITLE USE OF FORCE - USE OF FIREARMS AND DEADLY PHYSICAL FORCE			
DISTRIBUTION ALL MEMBERS OF THE DEPARTMENT	SECTION CREATED 06/01/92	DATE EFFECTIVE 01/01/20 02/05/20	DATE AMENDED 01/17/20 02/11/20

**RULES AND PROCEDURES**

**CHAPTER 2: TITLE: GENERAL REGULATIONS**

**SECTION 12: TITLE: USE OF FORCE - USE OF FIREARMS AND DEADLY PHYSICAL FORCE**

**I. PURPOSE**

This Order establishes the limits within which the use of deadly force, particularly the use of firearms, by members of the Suffolk County Police Department is permitted, and outlines certain situations in which the use of firearms, or other means of deadly force, is not permitted. These rules 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 using deadly force. They thus are intended to reduce inappropriate uses of deadly force including shooting incidents, and consequently protect life and property.

**II. POLICY**

The value of human life in our society is immeasurable. Police officers have been delegated the substantial responsibility to protect life and property and to apprehend criminal offenders. Thus, there is probably no more serious act that a law enforcement officer can engage in than the use of deadly force. The occasions for such use are, literally, life and death situations which are invariably confused and complex, affording precious little time for mediation or reflection. It is imperative then, that the officer, through training and absorption of these rules, be able to respond quickly, confident that he or she is acting within the limits of Departmental rules. This enables the officer to act, without hesitation, to protect himself or another, and it also

serves to protect the public from unlawful and unreasonable use of force.

### **III. DEFINITIONS**

A. Deadly Force - for the purposes of this Order "deadly 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.

B. Reasonable Cause to Believe - Reasonable cause to believe that a person has committed an offense exists when evidence or information which appears reliable, discloses facts or circumstances which are collectively of such weight and persuasiveness as to convince a person of ordinary intelligence, judgment and experience that it is reasonable likely that such offense was committed and that such person committed it. Except as otherwise provided in Article 70 of the Criminal Procedure Law, such apparently reliable evidence may include or consist of hearsay.

C. Serious Bodily Injury (Serious Physical Injury) - Bodily injury that creates or causes:

- a. a substantial risk of death; or
- b. unconsciousness; or
- c. serious and protracted disfigurement; or
- d. protracted loss or impairment of the function of any bodily member, organ or mental faculty.

D. "Display a chemical agent" - To point a chemical agent at a subject.

E. "Use/Deploy a chemical agent" - The operation of the chemical agent against a person in a manner capable of causing physical injury.

F. "Brandishes/Uses/Discharges a firearm" - The operation of a firearm against a person in a manner capable of causing physical injury.

G. "Brandishes/Uses/Deploys an impact weapon or electronic control weapon" - The operation of an impact weapon or electronic control weapon against a person in a manner capable of causing physical injury.

H. "Uses a chokehold or other similar restraint" - Any application of sustained pressure to the throat or windpipe of a person in a manner that may hinder breathing or reduce intake of air.

I. "Mere Pointing of a firearm, impact weapon or electronic control device at a subject" - **Not** a reportable Use of Force incident.

#### IV. REFERENCES

- A. New York State Penal Law, Article 10, Section 10.00, Article 35, Sections 35.10 to 35.30
- B. New York State Criminal Procedure Law, Article 690, Section 690.50
- C. NYS Executive Law § 837-t, Use of Force Reporting.

#### V. RULES AND REGULATIONS

A. Use of Firearms - An officer may discharge a firearm only in the following situations:

1. Confrontational Situations

a. When reasonable and necessary to defend an officer or another from what the officer reasonably believes to be the use, or imminent use, of deadly force.

2. Apprehension in Pursuit Situations

a. To effect the arrest or prevent the escape of a person when:

(1) there is no other reasonable means to effect the arrest, and

(2) the discharge creates no foreseeable risk to innocent bystanders, and

(3) if practicable and consistent with personal safety, the officer has identified himself or herself by voice and warned the fleeing subject to "STOP", without success, before firing, and the officer has reasonable cause to believe that:

(a) the subject has committed or attempted to commit a felony involving the use, or attempted use or threatened imminent use of physical force against a person, and

(b) the subject poses a significant threat of death or serious physical injury to the officer or another if not immediately apprehended.

3. Vicious/Injured Animal

a. To put to death an animal which presents an immediate serious physical threat to the officer or a third party, or an animal that is so seriously injured that humaneness demands the immediate cessation of its further suffering. All reasonable alternatives to the use of the firearm must be exhausted before shooting the animal, and all applicable Department procedures must be followed.

4. Firearms Practice

a. Firearms practice, for target practice at an approved range, or by members of the Firearms Training Section to test weapons as required.

B. Specific Prohibitions

1. Moving Vehicles

a. Discharging a firearm at or from a moving vehicle is prohibited, except as the ultimate measure of self-defense or defense of another when the officer reasonably believes the occupants are using deadly force against the officer, or another, by means other than the vehicle.

2. Warning Shots

a. No "warning shots" shall be fired.

3. Firing Shots for Alarm

a. 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 other persons.

4. Drawing or Displaying Firearms

a. An officer shall unholster or display a firearm only if authorized by these procedures, directed by competent authority, or there is reason to believe such may be necessary for the safety of the officer or others.

b. To reduce the potential for accidental discharge, an unholstered or displayed firearm will not be cocked.

c. "Dry firing" or snapping the action of an unloaded firearm is prohibited in view or presence of the public, or in or on any Departmental premises, except by or under the direction of a firearms instructor or armorer, or when necessary to clean and lubricate a weapon.

NOTE: Submission of the **Use of Force Report, (PDCS-1040)**, is required whenever an officer brandishes, uses or discharges a firearm at or in the direction of another person.

5. Chokeholds and Carotid Holds

a. Chokeholds, carotid holds, and similar compressions of the neck represent potential use of deadly force and shall never be used unless an officer or another is in imminent danger of death or serious physical injury and all other measures to reasonably repel the attack have been exhausted.

NOTE: Submission of the **Use of Force Report** is required whenever an officer uses a chokehold or similar restraint that applies sustained pressure to the throat or windpipe of a person in a manner that may hinder breathing or reduce intake of air.

**VI. PROCEDURES****A. Deadly Force Emergency Measure**

1. Since all possible combinations of circumstances cannot be envisioned, notwithstanding any provisions of these Rules and Procedures, a police officer may use deadly force as an emergency measure to avoid the imminent unlawful use of deadly force which is about to occur by reason of a situation occasioned or developed through no fault of the officer; and, which is of such gravity that, according to ordinary standards of intelligence and morality, the desirability of avoiding such injury clearly outweighs the desirability of avoiding the conduct sought to be prevented by these Rules and Procedures.

**B. Legal Disclaimer**

1. 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 Suffolk County 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 respect to third party claims. Violations of 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.

**C. Sanctions**

1. 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 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.

D. Reporting Procedures - Reporting requirements for the use of force, including the use of deadly physical force, are contained within Chapter 2, Section 11 of these Rules and Procedures.

1. When a use of force case is being investigated by the Homicide Section, the **Use of Force Report, (PDCS-1040)**, and **On-Line Use of Force Report** shall not be completed.

2. Reporting requirements for firearms discharges are contained within Chapter 5, Section 10 of these Rules and Procedures. When a use of force case involves a firearms discharge and is being investigated by the Homicide Section, the **Shooting Incident Survey form, (PDCS-6123)**, shall not be completed.

E. Reassignment of Member Pending Review

1. On the occasion when a member's use of force results in the death of another person, that member will be assigned to an administrative post within his or her command. The future assignment of the member shall be determined by the Police Commissioner following his administrative review of the incident.

## VII. ACCREDITATION

A. NYSLEAP - 20.1, 21.1, & 21.2

## VIII. INDEX

Deadly Physical Force, Use of 2/12

END