
SUBJECT:**FORCE - USE OF PHYSICAL FORCE**

I. POLICY

- A. Officers are confronted daily with situations where control must be exercised to effect an arrest and to protect the public safety.

It is the policy of the Binghamton Police Department to provide clear procedures to sworn officers regarding the use of force in the performance of their duties. The safety of innocent persons and officers is of paramount importance.

The main responsibility of officers is to protect the life and property of citizens. In compliance with applicable law, officers shall use the amount of force reasonable to control a situation, effect an arrest, overcome resistance to arrest, or defend themselves or others from harm. When force is necessary, the degree of force employed should be in direct relationship to the amount of resistance exerted, or the immediate threat to the officers or others. There is a compelling public interest that officers authorized to exercise the use of force do so in an objectively reasonable manner and in a way that does not violate the civil rights guaranteed by our constitution and applicable law. Officers who use excessive or unjustified force degrade the confidence of the community that they serve, undermine the legitimacy of a police officer's authority, and hinder the department's ability to provide effective law enforcement services to the community.

Officers who use excessive or unauthorized force shall be subject to discipline, possible criminal prosecution, and/or civil liability. Use of force is only authorized when it is objectively reasonable and for a lawful purpose. Accordingly the department will thoroughly review and/or investigate all uses of force by officers to assure compliance with all legal requirements and this policy.

FORCE: Any physical strike or instrumental contact with a person; any intentional attempted physical strike or instrumental contact that restricts the movement of a person. The term includes the discharge of a firearm, pointing of a firearm at a person, use of chemical spray, chokeholds or hard hands, taking of a subject to the ground, or the deployment of a canine. The term does not include escorting or handcuffing a person with minimal or no resistance.

OBJECTIVELY REASONABLE FORCE: The degree of force used in effecting an arrest, investigatory stop, or other seizure is evaluated by using an objective, reasonable police officer standard. The reasonableness of each particular use of force will be judged from a perspective of a reasonable officer on the scene, based on the facts and circumstances known to and confronting the officer at the time. (see

Graham v Conner, 490 US 388- (1989)). In determining the appropriate level of force to be used, officers shall evaluate each situation in light of the unique facts and circumstances of each case. Those factors include, but are not limited to, the seriousness of the crime or suspected offense; the level of threat or resistance presented by the subject; the risk or apparent attempt by the subject to escape; and whether the subject was posing an imminent threat to officers or others.

- B. When tactically feasible, officers shall attempt to gain control through advice, warnings, and persuasion prior to the use of physical force.
- C. Force shall be de-escalated immediately as resistance decreases. When feasible based on the circumstances, officers will use disengagements; area containment; surveillance; waiting on a subject; or summoning reinforcements and or specialized units in order to reduce the need for force and increase officer and civilian safety. Officers shall allow individuals time to submit to arrest before force is used wherever possible.
- D. It is the responsibility of each Officer to be aware of the requirements of Article 35 of the NYS Penal Law and to guide his actions based upon that law as well as Departmental training and policy.

II. ARTICLE (# 35) -NYS PENAL LAW

- A. An Officer in the course of effecting or attempting to effect an arrest, or preventing or attempting to prevent an escape from custody, or to defend himself or a third person from what the Officer reasonably believes to be the use or imminent use of physical force, may use physical force when and to the extent the Officer believes it necessary to effect the arrest, prevent escape from custody, or to defend himself or a third person, from the use or imminent use of physical force.

NOTE: Refer to Section 35.30 of the NYS Penal Law

- B.

The authorized use of physical force ends when resistance ceases and /or the officer has accomplished the purpose necessitating the use of force. Justification for the use of force is limited to the facts known or perceived by the officer at the time such force is used, including levels of resistance, suspect's behavioral cues, the number of officers and/or offenders present, and the availability of other options. Force shall never be used to subject a person to torture and/or other cruel or inhumane or degrading treatment or punishment.

III. USE OF NON-DEADLY / LESS LETHAL FORCE

1. Officers shall only use weapons and control techniques that are issued and/ or approved for use by the department. The use of non deadly force shall be limited to defensive and control purposes. Officers shall use only the reasonable amount of force necessary to overcome resistance. The use of non deadly force shall conform to applicable department standards of conduct, policies, procedures and training. Officers shall not carry any less lethal weapons, or employ any non deadly techniques, prior to successfully completing relevant department approved training for each weapon or technique.

2. Non-Deadly Force Restrictions

The following tactics of non deadly force may be permitted in circumstances only when deadly force is authorized by this policy:

- a. Any chokeholds or neck restraints, with or without a device, that restricts a person's airway or blood flow to the brain.
- b. Any strike with an impact weapon or object to a person's head or neck.
- c. Any use of flashlights, radios, or any other items not issued or trained specifically as defensive weapons. Note: in limited circumstances when a confrontation escalates quickly, however, an officer may use any means or device at hand such as a flashlight, radio, and other equipment, to defend him/herself, as long as the level of defensive action is objectively reasonable given the existing circumstances.
- d. Force shall not be used against persons in handcuffs, except as objectively reasonable to prevent imminent bodily harm to the officer or another person, or as objectively reasonable, where physical removal is necessary to overcome passive resistance.

3. AUTHORIZED LESS-LETHAL EQUIPMENT

Authorized less lethal equipment may only be used when an officer is confronted with occurring or imminent active aggression against him/herself or another person

- A. Officers of the Binghamton Police Department will carry while on duty only equipment that has been Department issued or approved.
- B. For additional reference, Officers should refer to General Order (# 311) of this Manual titled "Uniforms and Equipment."
- C. No unauthorized weapons or equipment may be carried or used by any member of this Department, absent specific approval by the Chief of Police.

- D. The following equipment has been approved for use by Officers of this Department:

1. THE POLICE BATON

- a. The use of the police baton is a legal right granted to Police Officers as an alternative force in those situations where the potential for serious injury to an Officer or citizen exists.
- b. Officers, when on duty, must carry a Departmental issued baton, or one purchased on their own, provided that it is no less than (24") or more than (26") in length, and no more than (1+1/4") in thickness. The Police baton may be either of wood or plastic provided it is Department approved.
- c. The Police baton shall be carried in the holster belt baton ring holder.
- d. The use of the Police baton will be limited to that degree of force which is objectively reasonable to provide protection for the Officer, another person, and/or to affect a legal arrest.
- e. An Officer may not strike a subject in the head or face area, unless an Officer's or another person's life is in danger, or there is danger of serious physical injury.

2. PEPPER MACE (OLEORESIN CAPSICUM - "OC")

- a. The use of pepper mace is a legal right granted to Police Officers as an alternative force in those situations where the potential injury to an Officer or citizen exists. As in all situations where force is used, it must be objectively reasonable.
- b. Pepper mace has been authorized to be carried by Officers of the Binghamton Police Department.
- c. Officers will have the responsibility for maintaining the pepper mace, insuring that the container is properly functioning, and that the expiration date of the pepper mace itself has not expired.
- d. Officers are authorized to carry various quantities and/or containers of non-alcohol and/or nonflammable based pepper mace as approved by the Training Officer.
- e. Pepper mace shall be carried by Officers in the appropriate mace holder worn on the holster belt or in an approved manner.

Using Pepper Mace:

- (1) In electing to use pepper mace, the Officer should realize that it may be utilized on individuals who are under the influence of narcotics or alcohol, as well as a person who is mentally ill. It may

also be utilized on animals. If mace is used on a person who is mentally ill or under the influence of narcotics or alcohol and is subsequently taken for medical treatment or evaluation, hospital personnel will be informed that the individual has been maced so they may take precautions not to subject themselves to the effects of mace residue. When it is necessary to mace an animal/pet the owner of the animal will be notified, if they can be contacted, so that they do not subject themselves to the effects of mace residue. It will be the responsibility of the officer dispensing the mace to see that this notification is made.

- (2) If an Officer has utilized pepper mace to subdue an individual who displays signs or symptoms of asthma, emphysema or other breathing disorders, the officer will immediately provide fresh air to the subject and notify the desk supervisor, who will dispatch medical assistance at once for treatment and transportation to the hospital.
 - (3) Officers should be fully aware that the use of Pepper Mace on an individual might produce the following physical reactions:
 - (a) Subject's eyes shut and stay shut for 30-45 minutes;
 - (b) Subject feels he can't breathe and becomes confused;
 - (c) Continued hostile action may initiate choking and nausea.
 - (4) Pepper mace should be directed to the head and face of the subject.
 - (5) Pepper mace should be used in short 2 1/2-second blasts rather than one continuous spray. Its maximum effective range is [REDACTED] to [REDACTED] feet.
 - (6) The method of discharge should be crisscross or side to side.
 - (7) Pepper mace works immediately. After application, the Officer should verbalize what he wants from the subject and what he will do for him. He should then be handcuffed and transported.
- g. First aid of Pepper Mace:
- (1) The subject may be decontaminated via fresh air and rinsing the affected area with water. The subject should be told to relax and not to panic in order to reduce additional effects of the pepper mace.
 - (2) Normally there is no need for additional medical treatment.

- (3) Area decontamination may be accomplished by opening doors and windows.

3. FLASHLIGHTS

- a. Flashlights carried by on duty Officers are to be utilized only as an illumination device.
- b. Flashlights carried by on duty Officers may be used as a means of force in extreme cases only, when the Officer has no other recourse and no other adequate instrument for defense is available.
- c. An Officer may not strike another person in the head or face area with a flashlight unless an Officer's or another person's life is in danger or there is danger of imminent serious physical injury.

4. HANDCUFFS

- a. Handcuffs will be carried as part of the Departmental required equipment by all Officers while on duty or in uniform.
- b. Generally, all prisoners should be handcuffed. The facts and circumstances surrounding the arrest, however, would dictate the procedure. Circumstances may exist at times when the use of handcuffs would be impossible or unnecessary (e.g., the prisoner is very elderly or handicapped, etc.).
- c. Handcuff all felony prisoners, with his/her hands behind the back, preferably with the back of the hands together.
 - a. Double lock handcuffs to prevent injury to the prisoner from the handcuffs tightening.
 - b. Do not handcuff prisoners to yourself.

5. THE ASP TACTICAL BATON

- a. Only Binghamton Police Officers who have been trained and certified in the use of the Asp Tactical Baton may carry this instrument while on duty.
- b. The formal certification document must be presented to the Officer in Charge of Training prior to the Officer being authorized to carry and/or utilize the ASP as part of his uniform equipment.
- c. Officers who have not received formal training and certification in the use of the ASP may not carry or use the ASP in any manner while on duty.
- d. At this time the use of the ASP will be at the discretion of the individual Officer.

- e. The use of the ASP will be limited to that degree of force that is objectively reasonable to provide protection to the Officer, another person, and/or when necessary to effect a legal arrest.
 - f. An Officer MAY NOT strike a subject in the head or face area unless the Officer's or another person's life is in danger or there is danger of imminent serious physical injury.
6. TASER MODEL Electronic Control Device – is authorized for use when other less lethal options have been ineffective, or when it reasonably appears that such options will be ineffective in subduing the subject. Tasers shall only be used in situations where the subject is actively resisting or attempting to avoid arrest by escape AND poses an imminent threat to the safety of the subject, another person, or the officer.
- a. Tasers are based on an electro-muscular disruption technology which uses a 26-watt electrical signal to temporarily override the central nervous system and directly control the skeletal muscles. This causes uncontrollable contraction of the muscle tissue and physically incapacitates a subject regardless of pain tolerance or mental focus.
 - b. Officers designated to carry the Taser will do so while on duty. Only Binghamton Police Officers who have been trained and certified in the use of the Taser will be designated to carry the device while on duty as directed by their supervisor. Non certified officers will not handle the device unless specifically authorized to do so by the officer in charge of the device.
 - c. Only Binghamton Police Department issued cartridges assigned to the issued Taser will be utilized in the device. While cartridges are interchangeable, all cartridges are individually assigned to a specific device for evidence and tracking documentations.
 - d. The issued Tasers and spare cartridges will only be carried on the opposite side of the body from the duty weapon and only in the Department issued holster and spare cartridge containment attachment. If an officer wishes to carry the Taser in any other holster, said holster must be approved by the sergeant of training.
 - e. USE OF THE TASER
 - (1) The Electronic control device hereafter referred to as the Taser may be used in situations where a person demonstrates an overt intention to use violence or force against an officer, another person, themselves or resists arrest and other alternatives for controlling

them are not appropriate. Use of the Taser must be objectively reasonable. Officers must consider the totality of the circumstances in every use-of-force situation to ensure that the best overall decision is made. Although time is generally not available to weigh all the circumstances surrounding a potential deployment, officers should, where possible, be aware of the following concerns:

- (a) Is there a need to immediately incapacitate the subject? Consider factors such as: intoxication from alcohol or drugs, apparent mental state, and the level of aggression displayed;
- (b) Type of clothing worn by the subject that may impact the effectiveness of the Taser;
- (c) Physical environment of the subject that may increase the risk of injury from falling, such as a stairwell, ledge, or near water that may pose a risk of drowning;
- (d) Other risk factors including flammables such as gasoline, alcohol-based pepper spray, etc, or fumes that may ignite upon use of the Taser;
- (e) Distance or range from the subject; The Taser should only be used within [REDACTED] feet of the target, depending on cartridge authorized for use.
- (f) Clear sightlines to the target; The Taser requires an unobstructed view and must be held in alignment with the long access to the body or the bottom probe may be off target.
- (g) The use of a second Taser should be used only when the first malfunctions or appears to be ineffective.
- (h) If a subject is armed with an electronic control device (such as a Taser) and attacks or threatens to attack a police officer, the officer may defend his/her self to avoid becoming incapacitated thus risking the possibility the attacker or another could gain control of the officer's firearm. When possible, the officer should attempt to move outside the device's range (approximately [REDACTED] feet) and seek cover, as well as request back up officers to mitigate the danger. This should not be construed to rule out the use of deadly physical force if necessary.

f. PROHIBITED use of the TASER unless exigent circumstances exist:

- (1) the subject is known or appears to be pregnant;
 - (2) the subject is elderly;
 - (3) the subject is very young;
 - (4) the subject is of small stature;
 - (5) the subject is known to have heart problems;
 - (6) the subject is known to be in ill health;
 - (7) the subject is holding a firearm (muscle contractions could activate the trigger);
 - (8) for more 5 second electronic cycles than are necessary to control the subject; each application or trigger pull must be objectively reasonable.
 - (9) targeting the head or face area;
 - (10) the subject is near the edge of a building or at a height where a fall could be fatal;
 - (11) the subject is in water of a depth that could cause a drowning;
 - (12) the subject is handcuffed;
 - (13) when the subject is in physical control of a vehicle in motion to include automobiles, trucks, motorcycles, all terrain vehicles, snowmobiles, scooters, or anything else that once under motion may create the risk of serious physical injury or death to the subject of others, unless exigent circumstances exist.
 - (14) when a subject is fleeing and poses no threat of harm to him/herself or others. The seriousness of the offense should be considered when evaluating the necessity to employ the Taser.
- g. Unless involved in a training session or function test, any discharge, intentional or accidental, shall necessitate the immediate notification of a supervisor.

h. POST DEPLOYMENT PROCEDURES

After a Taser is used to take a subject into custody, the officer shall:

- (1) Ensure any Tased subject is evaluated by Emergency Medical personnel as soon as possible for injury assessment. Subjects will be transported to a hospital emergency room only if medically necessary and/or for probe removal. The arresting officer will ride in the ambulance with the suspect if used.
- (2) Ensure officers take photographs of probe penetration, drive stun markings, and/or any injuries caused by falling to the ground, etc. Photographs can be taken with the digital cameras assigned to the Patrol Division and entered into evidence.
- (3) Ensure that incidents involving any discharge of the Taser are investigated and appropriately documented. Ensure the Taser is turned over to the Training Officer for post deployment data retrieval. It shall be the responsibility of the Shift Supervisor to make sure this procedure is followed.
- (4) AFID Tags (identifying confetti discharged from the cartridge) will be collected and entered into evidence. Not all of the tags need to be collected.
- (5) Air cartridges and probes shall be retained as evidence and handled in the manner as prescribed in G.O.618, Biohazard Evidence and Property. The wires shall be wound around the cartridge and probes inverted into the portals before packaging for handling safety reasons.
- (6) Complete an incident report and Use of Force/Taser report.

7. BEAN BAG SHOTGUNS

- a. Bean Bag shotguns are authorized to be used as a less-lethal weapon by Binghamton Police Officers. Use of the Bean Bag shotgun must be objectively reasonable given the totality of the circumstances.
- b. Bean Bag shotguns will only be used by officers who have been trained in their use.

IV. UNAUTHORIZED WEAPONS/INSTRUMENTS

- A. The Binghamton Police Department DOES NOT allow Officers to carry or utilize in any manner the following items or weapons:
 1. The instrument commonly referred to as the "claw";

2. Weapons referred to as blackjacks, billys or saps, including weighted, or padded or plastic enhanced gloves;
3. Any firearms or ammunition that have not been approved and/or issued by this Department;
4. Any type or style of knife or sharp instrument, with the exception of a common folding pocketknife;
5. Any weapons or instruments which could be utilized as a weapon not specifically approved by this Department, and/or not listed as being approved by this General Order Manual.

V. TRAINING AND QUALIFICATIONS

- A. In addition to required training for firearms qualifications, officers shall receive department authorized training designed to simulate actual situations and conditions and as otherwise necessary to enhance officers' discretion and judgment in using deadly and less lethal force in accordance with this policy. In addition, officers will be trained on the use of force continuum.
 1. All officers shall, at least annually, receive in-service training in the department's Use of Force Policy and related case law updates.
 2. All officers qualified in the use of impact weapons, OC spray, electronic control devices, and control techniques, shall at least every two years re-qualify on such weapons and/or techniques under the instruction of a certified instructor.
 3. Training and proficiency results for any authorized weapon will be documented in the training files.
 4. Officers who fail to demonstrate the required proficiency with department issued weapons shall receive remedial training.
 5. Officers who fail to demonstrate proficiency with a weapon shall not return to duty with that weapon until such time proficiency is demonstrated and documented.

VI. MEDICAL PROCEDURES

- A. Whenever an Officer has used force towards an individual, the Officer shall immediately evaluate the need for medical attention or treatment.
- B. The Officer, through the authority of the Desk Lieutenant, shall arrange for such treatment when:
 1. The subject has a visible injury requiring medical attention.
 2. The subject complains of pain, injury, dizziness or nausea.

3. The subject is unconscious or in a semi-conscious condition.
- C. The decision to arrange medical treatment for prisoners who are in custody at Headquarters will be made by the Main Desk supervisor, or when immediate or obvious treatment is required, by the Officer observing such condition. The criteria for determining whether to request treatment is the same as in section VI B 1,2,3 above.

VII. REPORTING PROCEDURES

- A. Any Officer encountering physical resistance pursuant to his duties as a Police Officer shall notify his immediate Supervisor of the incident as soon as possible. In cases where use of force results in serious physical injury or death the chief of police will be immediately notified.
- B. Any incident where Binghamton Police Officers are required to use physical force requires a BPD incident report to be completed as soon as practical after the incident. This report will reflect all pertinent information as well as the action taken by the Officer in order to control the situation. The report will include any injuries suffered to the Officer or to others, as well as whether or not an arrest has been made.
- C. Whenever an officer uses force while performing his/her duties, completion of a Binghamton Police Subject Resistance Report is also required as soon as practical after the incident.
1. The purpose of this form is to more accurately document incidents of force and the demographic data regarding subjects whom resist police action.
 2. Subject Resistance Reports need to be filled out completely; however, there is no requirement to repeat any narrative information on the form as the police incident report must continue to record all police actions taken relative to an incident, and must still include the justification for any force used.
 3. In cases of Taser use, the Taser Form must also be completed.
 4. For the purposes of the Subject Resistance Form, use of force shall also include the threat of force, such as drawing a weapon and pointing it at a person.
 5. In cases of no knock search warrants, a Subject Resistance Report need only be completed if a person resists actively during the execution of the warrant.
- D. Officers assisting or acting as backup units to an incident where any physical force has been used are required to complete a BPD supplemental report outlining their involvement in the incident and what they observed.

E. Investigation of Use of Force Incidents

1. In all incidents of use of force, a supervisor will conduct an investigation of the use of force to the extent practical at the time. This investigation will determine whether the action was consistent with department policy and procedure, including but not limited to the level of threat presented to the officer(s), the objective reasonableness of the use of force, proper response and documentation of any injury to any person/officer involved in the incident, and all other pertinent facts. The investigation will include interviews of involved persons, photographs as necessary, and video when available.
2. The supervisor's investigation will be documented on an Interdepartmental Correspondence, and include copies of any photographs / video, and forwarded to the shift/unit captain/OIC for review. The shift captain/OIC will then forward the documents (Subject Resistance Report, incident report copy, and supervisor IDC) to Police Administration/Internal Affairs.
3. Police Administration will review the incident and determine whether the incident warrants further review / investigation.
4. A copy of the Subject Resistance Report will be forwarded to Training to identify any training needs, equipment effectiveness, etc.
5. Incidents involving the use of Deadly Physical Force will be investigated per G.O. 620-B of the General Order Manual.

SUBJECT:**FORCE - USE OF DEADLY PHYSICAL FORCE**

I. POLICY

- A. Members of the Binghamton Police Department may use deadly physical force when the use of deadly physical force is necessary to defend the Officer or another person from what the Officer reasonably believes to be the use or imminent use of deadly physical force.
- B. Members of the Binghamton Police Department may use deadly physical force to apprehend a subject who is committing or has committed a felony in which deadly physical force has been used or has been threatened, and the Officer has reasonable cause to believe that such subject would cause death or serious injury to others, unless immediately apprehended.
 - 1. Where feasible, the officer should give warning of the intent to use deadly physical force.
- C. The fact that an Officer is justified in using deadly physical force does not allow reckless conduct by the Police Officer if the use of deadly physical force may injure innocent persons.
 - 1. Tennessee v. Garner, 471 U.S. 1,85 (1985): The U.S. Supreme Court ruled that the use of deadly physical force to prevent the escape of a suspected felon violates the Fourth Amendment prohibition against unreasonable seizure if used against an apparently unarmed, non violent suspect. Deadly force may not be used against an unarmed, non violent property crime offender. The Court also stated that when an officer is justified in using deadly physical force he/she will, IF FEASIBLE, first give a verbal warning. (example:" POLICE OFFICER, HALT")
 - 2. Risk to innocent bystanders- officers should be aware of their field of fire, including the background, so as to not unnecessarily create a substantial risk of harm to innocent persons. Officers are prohibited from discharging their firearms, when based on the totality of the circumstances, doing so would constitute a greater risk to innocent human life than the subject's actions. (examples: discharging a firearm into a crowd, or shooting into a building or through a wall where the subject is not clearly identified.

II. GUIDELINES

- A. Officers may additionally use firearms:
 - 1. During Departmental training exercises when authorized to do so;
 - 2. To destroy an animal that represents a threat to public safety, or where the animal is so seriously injured that humanity requires its removal from further suffering.
- B. Officers shall not use a firearm to:
 - 1. To fire warning shots at any time;
 - 2. To fire at a moving vehicle, UNLESS the occupants of the vehicle are using deadly physical force against the Officer or another person, and it is absolutely necessary for the Officer to immediately defend himself or another person. Officers shall, as a rule, avoid tactics that could place them in a position where a vehicle could be used against them.

NOTE: Shooting at a fleeing vehicle or a vehicle that is leaving the scene traveling away from the Officer is prohibited.

- C. Officers are justified in removing their firearm from their holster when:
 - 1. There is justification to use a firearm against a person or animal;
 - 2. The Officer reasonably believes that a person or a situation poses or may pose an immediate threat of death or serious injury either to himself or others;
 - 3. It is being used for Departmental training purposes;
 - 4. The Officer is in the process of cleaning or maintaining the firearm.
 - 5. When it is determined that the justification for drawing/using their firearm no longer exists, officers shall, as soon as practicable, secure/holster their firearm.

III. DEPARTMENTAL AUTHORIZED FIREARMS & AMMUNITION

- A. While ON duty, whether in or out of uniform, Officers shall carry only firearms and ammunition that have been issued and approved by this Department. For reference see General Order (# 311) titled "Uniforms and Equipment."

- B. The Training Division is responsible for issuing all firearms and ammunition to Officers of this Department. The Training Division shall record all serial numbers and BPD engraved numbers off of each firearm issued to Officers.
- C. Authorized firearms include the Department issued shotguns, kept in the trunks of the assigned marked Patrol vehicles when not in use.
 - 1. Authorized firearms further include Less-Lethal Bean Bag shotguns which are painted orange, labeled for bean bag use only and equipped with six rounds of CTS Model Super-Sock Bean Bag Shells (shells are clear plastic and marked 2581 Bean Bag). The unloaded shotguns will be placed in the Patrol Captains vehicle and one Patrol Sergeants vehicle for deployment at the discretion of an on scene supervisor. Bean Bag shotguns will be used only by officers trained in their use.
 - a. Restrictions on use of bean bag round:
 - 1. Bean bag round not to be used within 20 feet of subject;
 - 2. Optimum range of bean bag round is 21 to 30 feet;
 - 3. Bean bag shotgun is not to be aimed at head, chest or spine;
 - 4. Target area for the bean bag round is the abdomen.
 - 2. Authorized firearms will include the AR-15 (223cal) rifle that will be carried in each F██████████ vehicles and supplied with ██████████ magazines loaded with ██████ rounds of 64 grain 223 caliber ammunition each.
 - a. Restrictions on Use of the AR-15 Rifle:
 - 1. The AR-15 rifle will generally only be deployed at the direction of a Supervisor. Circumstances may require a qualified officer to deploy the AR-15 prior to supervisor approval.
 - 2. The AR-15 rifle will only be authorized for use by Officers that have qualified with the weapon according to standards set forth by the training division.
- D. Authorized firearms include weapons specifically designated for use by the S.W.A.T. Team and other specialized units of the Department.
- E. Authorized weapons and equipment include those weapons and firearms stored in the Police Armory Room, under control of the Relief Officer in Charge.

IV. MAINTENANCE OF FIREARMS

- A. Each Officer will be responsible for retaining the Department issued firearm in his possession and will exercise all necessary precautions for its security, cleanliness and efficient operating condition.
- B. Officers are prohibited from altering any Departmental issued firearms without having received permission from the Officer in Charge of the Training Division.
- C. Loss or theft of a Departmental issued firearm will be reported immediately to the Officer's immediate Supervisor and to the Chief or Acting Chief of Police.

V. INSPECTION OF DEPARTMENT ISSUED FIREARMS

- A. The Officer in Charge of each Division and/or Unit within this Department will have overall responsibility for the inspection of weapons and firearms assigned to subordinates under his command.
- B. The Officer in Charge will conduct inspections of firearms issued to Supervising Officers under his command, periodically on a monthly basis.
- C. The Officer in Charge may conduct such inspection of any subordinate at any time he feels it necessary to do so. He will additionally delegate inspection duties of issued weapons and firearms as follows:
 - 1. At an unannounced time, within the first five days of each month, the Patrol Sergeants on each Relief shall inspect the firearms of Patrol Officers assigned to their Relief as designated by the Officer in Charge. The Patrol Sergeant shall document on his daily work sheet, the name of the Officer, the condition of the weapon and the serial number.
 - 2. At an unannounced time within the first five days of each month, the Lieutenant of Detectives shall inspect firearms issued to subordinates within the Detective Division. The Lieutenant of Detectives shall log on a monthly basis, the name of the Investigator, the condition of the weapon and the serial number.

VI. HANDLING OF FIREARMS

- A. Firearms will be handled in a safe and responsible manner at all times, strictly following the guidelines specified in this Order. Unauthorized, careless or reckless use of firearms will be cause for disciplinary action.

- B. Officers, while on duty, will not wear firearms and will properly secure the same when:
 - 1. Searching prisoners at the Main Desk;
 - 2. Entering the cellblock;
 - 3. Processing prisoners in the identification room or utilizing the Breathalyzer room;
 - 4. Interviewing a prisoner within an interrogation room;
 - 5. It is necessary to do so regarding the handling of a mental patient;
 - 6. When ordered to do so by a Supervisor.

VII. OFF DUTY FIREARMS

- A. An Officer may personally own a firearm listed on a pistol permit issued by a County of New York State, or
- B. An Officer may personally own a firearm under the legal exemption licensing requirement of Section 265.20-B of the NYS Penal Law.

NOTE: If an Officer possesses personally owned firearm(s) under the Penal Law legal exemption as described above, the Officer is responsible for filling out an "Acquisition or Disposition of Firearms by Police Officers Form" (NYSP PPB-1). This form shall be completely filled out and submitted to the Assistant Chief within ten days of the acquisition or disposition of any firearm in accordance with Section 400.12-C of the NYS Penal Law.

- C. If an Officer personally owns an off-duty firearm, the Officer is required to comply with all Federal and State Laws regarding its usage as well as Departmental policy set forth in this General Order.
- D. Officers shall not carry or use firearms or weapons off duty while impaired by alcohol, drugs, or any other medical condition that might interfere with judgment and/ or proficiency.

VIII. FIREARMS USED FOR OFF DUTY EMPLOYMENT

- A. If an Officer is employed OFF-DUTY in the capacity of a Police Officer (e.g., security guard, etc.) in or out of uniform, the Officer shall carry the Departmental approved firearm in which the officer has successfully qualified with and will use only departmental approved ammunition while so employed.

IX. TRAINING AND QUALIFICATION

- A. The Binghamton Police Department will schedule periodic training and qualification sessions for all Police Officers in regards to the usage of authorized Departmental issued firearms, weapons and ammunition. Training will, at a minimum, meet required New York State requirements for Police Officers.
 - B. Training will consist of three phases:
 - 1. PHASE I - shall include training regarding the constitutional, legal, moral and ethical aspects of firearms use.
 - 2. PHASE II - will be scoring and evaluation by the Firearms Instructor assigned to Training, to determine the Officer's proficiency in handling himself and the weapon in a tactical or job related situation(s).
 - 3. PHASE III - will be qualification in regards to shooting accuracy.
 - C. Officers will be trained and qualified with Departmental issued firearm as well as the Departmental issued shotgun. Qualifying marks will be on a pass/fail basis. Officers assigned to special duty assignments, such as Special Investigations or to the S.W.A.T. Team, will be expected to additionally qualify with any firearm assigned personally to them or to their Unit.
 - D. If an Officer is unable to qualify at the completion of all training and qualification exercises, the Officer will be temporarily assigned to Training until the Officer has been retrained and is able to successfully pass the qualification standards.
 - E. If an Officer is unable to qualify as has been indicated in the preceding section, the Training Unit Officer in Charge shall be responsible for scheduling and providing intensified training to that Officer, in an attempt to achieve qualification.
 - F. Any Officer, who has for whatever reason been off duty for an extended period of time and has missed Departmental firearms training exercises, must re-qualify with his Department issued firearm prior to resuming active duty status.
 - G. All firearms instructors from this department must submit to annual audiometric tests as per NYS PESH standards. These tests will be administered through UHS Occupational Health.
- X. POLICE INDOOR FIREARM RANGE
- A. The Police Indoor Firearm Range is under the supervision of the Training Unit. The Officer in Charge of Training shall be responsible for the development of Rules and Regulations regarding the use of the range.

- B. The Police Indoor Firearm Range is available for the use of Binghamton Police Officers with the permission of the Officer in Charge of Training who will schedule their shooting session. Prior notification of the officer's intention to utilize the range must be submitted to the Training Officer by BPD form 30 or a BPD IDC.
- C. **Firearms and ammunition** must be approved by the Training Division before being used at the range. **Absolutely no leaded ammunition will be permitted.**
- D. Eye protection, ear protection, and body armor must be worn at all times while an officer is firing his weapon. Observers (firearm instructors) within the immediate firing range must wear eye protection, ear protection and body armor. Observers in the outer observation room are not required to wear the aforementioned protective equipment.
- E. The doors between the firing range and the observation room must be closed when the firing of weapons is taking place.
- F. Personnel using the range will be responsible for their clean up and reporting of any maintenance problems to the Officer in Charge of Training.

XI. PROCEDURES UPON USE OF DEADLY PHYSICAL FORCE

A. RESPONSIBILITIES: OFFICER AT THE SCENE

1. Officers discharging a firearm, either intentionally or accidentally while on duty, except during authorized training exercises, or when it is necessary to destroy an animal shall first:
 - a. Determine the physical condition of any injured person and render first aid when appropriate;
 - b. Request the necessary emergency medical aid;
 - c. Notify the Main Desk Lieutenant and request a Supervisor respond to the scene;
 - d. Remain at the scene unless unable to do so due to injury or other circumstances making the continued presence of the Officer more hazardous;
 - e. Relate all information in regards to the incident to the responding Supervisor and/or Officer in Charge, assisting as directed in the subsequent investigation;
 - f. Protect his weapon for examination and submit said weapon to the Supervisor indicated by the Officer in Charge.

2. The Officer, after completing his duties in regards to the incident and subsequent investigation, will when relieved by the responding Supervisor or Officer in Charge, return to Headquarters where he will complete and submit a detailed incident report of the entire incident.

B. RESPONSIBILITIES/IMMEDIATE SUPERVISOR

1. Immediate Supervisors, upon being notified that an Officer under his command has intentionally or accidentally discharged a firearm for any reason other than for training or when it is necessary to destroy an animal, shall immediately respond to the scene of the incident and insure that the Officer or any injured person(s) receives appropriate medical attention if necessary.
2. The immediate Supervisor shall promptly notify the Officer in Charge of the Relief and take whatever steps are necessary to safeguard the scene, have potential witnesses interviewed, protect all evidence and initiate a preliminary investigation.
3. Immediate Supervisors will yield command of the investigation to the Officer in Charge and will further be required to assist him throughout the investigation, acting at his discretion.
4. After having been relieved by the Officer in Charge, the immediate Supervisor shall be required to make a detailed supplemental BPD report as well as an Inter-Departmental Correspondence Form to the Chief or Acting Chief of Police in regards to the investigation, documenting any pertinent observations he made, or any actions he undertook.

C. RESPONSIBILITIES: OFFICER IN CHARGE

1. The Officer in Charge of the Relief, upon having been notified that an Officer under his command has discharged a firearm in the course of duty, with the exception of destroying an animal when necessary to do so or for training purposes, shall immediately respond to the scene of the incident.
2. The Officer in Charge shall supervise the preliminary investigation and direct the Main Desk Lieutenant to make the appropriate notifications to the Chief or Acting Chief of Police, as well as to needed investigative or identification personnel.
3. The Officer in Charge will direct the involved Officer(s) if uninjured, to respond to Police Headquarters where the involved Officer(s) will remain until notified to do otherwise by the Officer in Charge.

4. The Officer in Charge will insure that the involved Officer(s) is afforded privacy from public inquiries as well as from Departmental personnel not involved with the incident.
5. The Officer in Charge will personally interview the Officer(s) involved in the incident.
6. The Officer in Charge, after having conducted the preliminary investigation, will promptly notify the Chief or Acting Chief of Police of the results. The Officer in Charge will conduct further investigation as directed by the Chief or Acting Chief of Police.
7. The Officer in Charge will secure the Officer's firearm (unloaded), holster, and ammunition in the same condition as they were following the last discharge, in the secured Police Armory Room where they will remain unless required for any internal or legal proceedings. Or in the case of accidental discharge until said firearm has been examined and found to be operating properly.
8. The Officer in Charge will review all Police documentation, depositions, and statements in regards to the incident. The Officer in Charge will personally document all pertinent information in regards to whatever action he took, as well as any other pertinent information required for review, via Departmental supplementary reports and an Inter-Departmental Correspondence Form to the Chief or Acting Chief of Police.
9. The Officer in Charge will be responsible to insure that any related evidence has been properly secured and documented.

D. CONFIDENTIAL TRAUMA COUNSELING

1. Confidential Trauma Counseling in the case of an Officer(s) using deadly physical force against another person or another person using deadly physical force against the Officer(s), will be provided upon request of the Officer, or as directed by the Chief of Police. An Officer involved in such a situation shall be required to attend at least one confidential trauma counseling session.
 - a. This may be satisfied by intervention of the Binghamton Police Critical Incident Stress Management Team. (see G.O. 646 sec IV.)
 - b. Duties of the CISM team in a deadly use of force situation include, but are not limited to:

1. Assess the need for a defusing, debriefing or a referral and respond accordingly.
2. Gather as much information as possible and determine the nature of the incident.
3. Arrange a time and location if a formal debriefing is indicated. Debriefings are optimally conducted within 24 to 72 hours of the incident. If large numbers of individuals are involved, debriefing begins with those most directly involved with the incident. Further, consideration should be taken to choose a location that is a neutral environment, free of distractions and a time chosen to be most convenient for as many responders as possible and the team members.
4. Team members should coordinate a time and location to meet prior to the debriefing to discuss the incident, any available resource information and the approach to be used during the debriefing.
5. Upon completion of the debriefings, the O.I.C. of the team will advise the Chief of Police as to the participation, success or lack thereof of their session(s), and may make recommendations for any further intervention or referrals on behalf of the officers.

2. Additional trauma counseling will be provided periodically or as deemed to be necessary by the Officer, the Chief of Police or by a professional counselor/psychologist.
3. In addition to deadly force situations, confidential counseling will be available at the Officer's request through the City's Employee Assistance Program (EAP).

E. DEPARTMENTAL REVIEW/USE OF FORCE & DEADLY FORCE

1. The Chief of Police will cause the following incidents involving Binghamton Police Officers to be reviewed and investigated by the Internal Affairs Division to determine if the use of force was in compliance with Departmental policy and procedures as well as in compliance with NYS and Federal Laws:
 - a. Any situation involving the discharge of a firearm whether on or off duty, with the exception of training purposes, when it is necessary to destroy an animal, or for lawful recreational purposes.
 - b. Any situation in which a citizen has been killed or injured by a Police Officer, whether on or off duty.

- c. Any situation involving the use of any degree of force by an Officer upon another person, when additional investigation is deemed necessary by the Chief of Police.
2. The Chief of Police may, in the case of an Officer involved in a shooting or use of force that results in serious physical injury or death, assign that Officer to Administrative Duty or duty other than active patrol, for the extent of the investigation. Such assignment does not imply guilt or innocence of the Officer involved.
3. The Internal Affairs Division will review the initial investigation and cause a subsequent investigation to be made into the matter. The Internal Affairs Division shall fully document all actions and procedures taken as well as any information acquired via its investigation.
4. The completed, fully documented investigation will be presented to the Chief of Police for his final review, appropriate referral when necessary, and final resolution of the investigation.