



GEDDES POLICE DEPARTMENT GENERAL ORDER

No. 217

Subject: Impact and Aerosol Weapons		
Issuing Authority: Chief of Police	Effective Date: 10/10/2020	Supercedes: 10/02/2019

- I. **PURPOSE:** The purpose of this order is to establish policies and procedures for the use of impact and aerosol weapons by sworn officers of the Town of Geddes Police Department.
- II. **POLICY:** It is the policy of the Town of Geddes Police Department that sworn officers shall carry and deploy only those impact/aerosol weapons issued by the department, and that the deploying of those weapons shall be within the limits established by Article 35 of the New York State Penal Law, the standard of objective reasonableness, established by the United States Supreme Court in *Graham v. Connor* and consistent with the training and policies of the department. The actively pointing or deploying of a chemical agent, including but not limited to, oleoresin capsicum, pepper spray or tear gas; actively pointing or deploying any impact weapon, including, but not limited to a baton or billy is considered a use of force and shall require a "Use of Force Report." [Revised: 10/10/2020]
- III. **DEFINITIONS:** [10/20/2020]
 - A. **IMPACT WEAPON** - A device used to apply force against a resisting or assaultive subject, or to effect a blocking or defensive technique. This shall include police batons and ASP Tactical Batons and Impact Projectiles.
 - B. **AEROSOL WEAPON** - Purified Oleoresin Capsicum aerosol spray and similar agents.
 - C. **IMPACT PROJECTILES** - A less lethal impact projectile, delivered from a 40mm launcher or 12-gauge pump action shotgun. These weapons are designed to introduce impact energy to a violent aggressor sufficient enough to cause the subject to comply at a safe range while avoiding otherwise dangerous officer/subject contact.
 - D. **OBJECTIVELY REASONABLE** - An objective standard used to judge an officer's actions. Under this standard, a particular application of force must be judged through the perspective of a reasonable officer facing the same set of circumstances, without the benefit of 20/20 hindsight, and be based on the totality of the facts that are known to that officer at the time that the force was used.
 - E. **DEADLY PHYSICAL FORCE** - Physical force which, under the circumstances in which it is used, is readily capable of producing death or other serious physical/bodily injury.
 - F. **PHYSICAL INJURY** - Impairment of physical condition or substantial pain
 - G. **SERIOUS PHYSICAL INJURY/SERIOUS BODILY INJURY** - Physical injury which creates a substantial risk of death, unconsciousness or which causes death or serious and protracted and obvious disfigurement, protracted impairment of health or protracted loss or impairment of a bodily member, organ or mental faculty.
 - H. **ACTIVELY POINTING** - The intentional targeting of a person with an Electronic Control Weapon (ECW), firearm, impact weapon, impact projectile or chemical agent.
 - I. **PHYSICAL FORCE** - A degree of physical contact directed against a person. Physical force includes, but is not limited to, striking, kicking, pushing, biting, pressure points, joint manipulation, joint locks, use of a choke hold or similar restraint, actively pointing a

firearm at another person or any force used to disable by means actively pointing or deploying a chemical agent, including but not limited to, oleoresin capsicum, pepper spray or tear gas; actively pointing or deploying any impact weapon, including, but not limited to a baton or billy or actively pointing or deploying an CEW and when such force is unlikely to result in serious physical injury or death.

- J. REASONABLE BELIEF** - Those facts and circumstances within the knowledge of the individual which would make a reasonable and prudent person tend to believe that the facts and circumstances are true.

IV. USE OF FORCE [Revised:10/10/2020]

- A.** 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.
- B.** Under the 4th Amendment, a police officer may use only 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 officer on the scene

V. DETERMINING THE OBJECTIVE REASONABLENESS OF FORCE:

- A.** When used, force should be only that which is objectively reasonable given the circumstances perceived by the officer at the time of the event.
- B.** Factors that may be used in determining the reasonableness of force include, but are not limited to:
1. The severity of the crime or circumstances.
 2. The level and immediacy of threat or resistance posed by the suspect.
 3. The potential for the injury to citizens, officers and suspects.
 4. The risk or attempt of the suspect to escape.
 5. The knowledge, training and experience of the officer.
 6. Officer/subject considerations such as age, size, relative strength, skill level, injury or exhaustion and the number of officers or subjects.
 7. Other environmental conditions or exigent circumstances.

VI. DUTY TO INTERVENE

- A.** 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.
- B.** Any officer who observes another officer use force that exceeds the degree of force as described should promptly report these observations to a supervisor. [Revised: 10/10/2020]

VII. USE OF DEADLY PHYSICAL FORCE [Revised:10/10/2020]

- A. Deadly physical force may be used by an officer to protect themselves or another person from what the officer reasonably believes is an imminent threat of serious physical injury or death.
- B. Deadly physical force may be used to stop a fleeing suspect where:
 - 1. The officer has probable cause to believe the suspect has committed a felony involving the infliction or threat of serious physical injury or death; and,
 - 2. The officer reasonably believes that the suspect poses an imminent threat of serious physical injury to the officer or to others.
 - 3. Where feasible, some warning should be given prior to the use of deadly physical force.
- C. Chokeholds and Obstruction of Breathing or Blood Circulation
 - 1. Any application of pressure to the throat, windpipe, neck, or blocking the mouth or nose of a person in a manner that may hinder breathing, reduce intake of air or obstruct blood circulation, is prohibited unless deadly physical force is authorized

VIII. PROHIBITED USE OF FORCE: [Revised:10/10/2020]

- A. Force shall not be used by an officer for the following reasons:
 - 1. To extract an item from the anus or vagina of a subject without a warrant, except where exigent circumstances are present;
 - 2. To coerce a confession from a subject in custody;
 - 3. 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
 - 4. Against persons who are handcuffed or restrained unless it is used to prevent injury, escape, or otherwise overcome active or passive resistance posed by the subject.

IX. PROCEDURE:

A. Authorized Impact/Aerosol Weapons

- 1. Sworn officers of the Town of Geddes Police Department shall carry and deploy only those impact/aerosol weapons that are authorized and issued by the police department.
- 2. Sworn officers will be provided with training in the proper use of any issued impact or aerosol weapon prior to being authorized to carry those weapons.
- 3. Officers are authorized to carry the following impact/aerosol weapons:
 - a. Issued Equipment
 - i. Police Baton.
 - ii. Oleoresin Capsicum aerosol spray.
 - b. Optional Equipment

- i. ASP Tactical Baton (Collapsible).
4. Officers may not carry any other impact or aerosol weapon other than listed in the Town of Geddes Police Department Uniform Standards Manual, unless specifically authorized by the Chief of Police. [Revised:10/10/2020]
5. Impact/aerosol weapons will be carried and/or utilized only as issued and authorized, and no changes, alterations, modifications or substitutions will be made to or for same.
6. The decision to use an impact or aerosol weapon must be made with consideration of the severity of resistance or threat, as well as the possible injuries that may be caused by its use. Impact/aerosol weapons may be used in those situations where the use of force is justified and necessary. Under certain circumstances the use of an impact weapon may constitute a use of deadly physical force (example: head or neck strikes). In such cases the impact weapon will only be used when the deadly physical force is justified by Article 35 of the New York State Penal Law to include the Tennessee v. Garner, 1985 decision.
7. Officers are responsible for providing maximum security for all impact/aerosol weapons while in their possession or under their control. Impact/aerosol weapons will not be left in police vehicles when officers are not on-duty, or in unsecured areas of Headquarters.
8. Impact/aerosol weapons will not be used for demonstration purposes unless specifically authorized by the Chief of Police.

B. POLICE BATON

1. Patrol Division officers must have their issued police baton available to them while on patrol. When an officer carries the police baton on his/her person, it will be carried holstered in the officer's baton ring unless its use is imminent.
2. Police batons will not be used to strike at the head, neck or groin, except in those extreme instances in which the use of deadly physical force is both justified and objectively reasonable and necessary.

C. ASP TACTICAL BATON

1. If a Patrol Division officer carries the optional ASP Tactical Baton, it will be worn on their duty belt while on duty, except when wearing the Dress Uniform. Unless the use of the ASP Baton is imminent, it will be carried holstered in the appropriate case/holder. All other officers may carry the ASP Tactical Baton on their person in an appropriate manner.
2. ASP Tactical Batons will not be used to strike at the head, neck or groin, except in those extreme instances in which the use of deadly physical force is both justified and objectively reasonable and necessary.

D. OLEORESIN CAPSICUM AEROSOL SPRAY

1. The use of Oleoresin Capsicum aerosol spray is an option granted to officers as an alternative in those situations where the potential for injury to an officer or a third person exists.

2. Patrol Division officers must carry their issued Oleoresin Capsicum aerosol spray on their duty belt while on duty, except when wearing the Dress Uniform. All other officers may carry the aerosol spray in an appropriate manner.
3. Officers are responsible for monitoring the condition of their issued aerosol spray canister and for requesting replacement when the canister is expended or damaged.
4. Supervisors will periodically inspect the canisters issued to their officers to insure compliance with this order.
5. Application of Oleoresin Capsicum Aerosol Spray:
 - a. In electing to use Oleoresin Capsicum spray, officers must understand that its effects are not uniformly predictable and that certain individuals may remain undeterred by its application. Intoxicated, drugged, demented or enraged persons may have reduced sensitivity to discomfort. Any such use should be accompanied by a realization that the officer may need to take further action to ensure his/her, or a third person's safety. Conversely, all officers should be aware of the potential, however limited, for injury arising from the use of this spray.
 - b. Officers should be aware of the increased potential for injury to the person upon whom the spray is used when the subject:
 - i. Is less than two feet away from the officer,
 - ii. Is in an enclosed area without ventilation,
 - iii. Lacks normal reflexes, such as the ability to blink, or is otherwise incapacitated.
 - c. The spray should be used at distances no less than two and no more than twelve feet from the subject. Using the spray at less than two feet may result in a lessened effect or increased potential for an injury. Beyond ten feet the effectiveness of the aerosol spray significantly decreases.
 - d. Wind conditions and other environmental factors, including the proximity of innocent persons, should be considered before applying the spray. Additionally, the use of the spray within a medical facility may adversely affect and even exacerbate existing medical condition(s), causing respiratory distress or even death.
 - e. The spray should be applied in controlled bursts, directed at the upper respiratory / facial area.
 - f. After the spray has been used and the subject is under control, it is the officer's responsibility to ensure that the proper first aid is administered and to seek, when necessary, medical attention. As soon as practical, but within thirty minutes, the exposed areas should be treated with a decontamination product or with water. If the spray has made contact with the eyes, they should be flushed with plenty of cool water. The water should be splashed, not rubbed on the affected eye(s). Should difficulty in breathing persist, the prisoner should be removed to fresh air, and emergency medical assistance requested. If

necessary, emergency medical service personnel should provide treatment and transport to a medical facility.

- g. When a defendant has been exposed to the spray and is taken to the Onondaga County Justice Center jail, the transporting officer will advise jail personnel of the exposure so that they may take the necessary precautions. Notification is to be made at the booking desk as the defendant is being initially interviewed to ensure that the notification is recorded on the jail videotape in addition to being noted in the officer's report.
- h. After using the spray, it will be the responsibility of the officer to ensure that there is a sufficient amount left in the canister to remain serviceable. If the canister has been expended the officer will inform his supervisor and request a replacement.
- i. Oleoresin Capsicum has a manufacturer recommended expiration date. Officers should inspect the canister for expiration and inspect the holster for damage or wear periodically. During that inspection officers should vigorously shake the canister to prevent the contents from settling.
- j. Oleoresin Capsicum aerosol spray is effective against many animals and may be employed by officers to deter an attacking animal.

E. MEDICAL ATTENTION

1. A police or peace officer or other law enforcement entity who has custody of a person must provide attention to the medical and mental health needs of a person in their custody and obtain assistance and treatment of such needs, which are reasonable and provided in good faith to include whenever physical force is employed and results in physical injury that a reasonable person would believe is likely to cause injury, complaint of pain from the suspect (except minor discomfort from handcuffing) or where an CEW was intentionally or accidentally deployed while actively pointing the officer should do the following:
2. Immediately evaluate the need for medical attention or treatment for the person upon whom the force was used. The officer shall arrange for such treatment by requesting emergency medical services when the person has sustained a visible injury, complains of injury or discomfort, requests medical attention or if pepper spray was deployed.
3. This includes appropriate and timely medical attention being provided to a party injured as a result of a use of force incident.
4. The immediate mental health needs of a person shall be based upon the reasonable cause to believe that a person, who appears to be mentally ill, is conducting themselves in a manner which is likely to result in a serious harm to themselves or others.
5. If the person refuses to be treated, they must sign the refusal statement on the emergency medical service's Pre-hospital Care Report form. If the person refuses to sign, the refusal must be witnessed on the form. The subject's acceptance or refusal of medical care shall also be documented in the officer's police report.

F. REPORTING PROCEDURES

1. Members involved in use of force incidents on or off duty as described below shall notify their Watch Supervisor, or Duty Chief in his absence as soon as practicable and shall complete a departmental use of force report. Note: If the member is off-duty and outside the Town of Geddes when the use of force occurred, he will also notify the police agency with jurisdiction for investigation of the incident.
 - a. Use of force that results in a physical injury.
 - b. Use of force incidents that a reasonable person would believe is likely to cause an injury.
 - c. Incidents that result in a complaint of pain from the suspect except complaints of minor discomfort from compliant handcuffing.
 - d. Incidents where a Conducted Energy Weapon (CEW) was intentionally discharged or accidentally discharged after being displayed.
 - e. Incidents where a firearm was discharged at a subject.
 - f. Officers should document any requests for necessary medical or mental health treatment as well as efforts of police to arrange for such treatment.
 - g. Attempt to locate and identify any witnesses, documenting their statements.
 - h. Document and photograph all injuries. A photograph showing an absence of injury may be as important as one that shows injury.
2. Whenever an officer employs an impact or aerosol weapon, the officer will complete a "Use of Force Report", except when used for authorized demonstration or training purposes approved by the Chief of Police.
3. In all cases where an impact or aerosol weapon has been used, a supervisor will be notified as soon as possible.

G. EVALUATING THE USE OF FORCE

1. The Internal Affairs Officer will review the incident to ensure that the use of force was necessary, reasonable and justified and will determine whether the use of force:
 - a. Complied with department policy and applicable laws.
 - b. Violated department policy and/or applicable laws.
2. The Internal Affairs Officer will report his findings, together with any recommendations, to the Chief of Police.

H. Training Requirements

1. Officers are initially trained with the use and function of pepper spray in the basic police academy. All officers issued the pepper spray will have retraining annually.
2. A failure to demonstrate proficiency after reasonable remedial training has been provided may serve as the basis of disciplinary action.

I. POSTING OF THE USE OF FORCE POLICY

1. This Use of Force policy shall be conspicuously posted on the department's public website in accordance with Executive Law Section 837-t (Currently 72 hours after amendments).

[Original Issue: 02/19/2001] [Revised: 03/20/2003] [Revised: 01/28/2013] [Revised: 04/29/2016]
[Revised: 04/01/2019][Revised: 10/02/2019] Revised: 10/10/2020]