

**Section: THREE
Chapter: TWO**

SUBJECT: Use of Deadly Physical Force
ISSUE DATE: 08-15-16
REFERENCE: NYS 20.1, 20.7, 21.1 21.2

I. PURPOSE

The decision to use Deadly Physical Force is a complex and difficult one. The primary consideration for the members of the Palmyra Police Department is the preservation of life. However, there are times when a police officer must decide to use Deadly Physical Force upon a subject in order to protect the officer's life or the life of a third person. The intent of this order is to provide guidelines for members of the Palmyra Police Department indicating under what circumstances the use of deadly physical force would be appropriate.

II. DEFINITIONS

- A. Deadly Physical Force - means any physical force, which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury. (New York State Penal Law Article 10, Section 11)
- B. Probable Cause - an apparent state of facts, sufficient in themselves to warrant a person of reasonable caution to believe that an offense has been or is being committed.

III. POLICY

- A. Members of the Palmyra Police Department may use Deadly Physical Force in accordance with Article 35 of the New York State Penal Law when such 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.

NOTE: The fact that a member is justified in using Deadly Physical Force **does not allow reckless conduct by the member.**

IV. PROCEDURES

- A. Reporting

When a member, whether on or off duty, uses deadly physical force he/she shall immediately notify the Chief of Police. In addition to any other reports relating to the incident the officer will complete a "SUBJECT MANAGEMENT RESISTANCE REPORT". The subject management resistance report will be forwarded to the Office of the Chief of Police without delay. Such report will be prepared by the conclusion of the tour

of duty on which the incident occurred, by the officer, or if he/she is incapacitated, by his/her immediate supervisor. If not on duty, this report will be prepared and completed immediately. The supervising officer of the officer involved shall review the report and ensure that all required details are included.

B. Supervisory Responsibility

The supervising officer, when notified, will respond to the scene of any incident involving the use of Deadly Physical Force by a member, on or off duty, in the Village of Palmyra. The supervisor will direct a thorough investigation of the circumstances surrounding the incident, accessing resources of other Departments if necessary. When the scene is located outside of the Village of Palmyra the supervisor will determine whether or not he/she will respond to the scene after considering:

1. Apparent surrounding circumstance
2. Injuries to police or non-police personnel
3. Geographical location of scene and the distance from the Village of Palmyra
4. In instances occurring outside the Village of Palmyra, the supervisor will defer to and cooperate fully with the law enforcement agency having jurisdiction
5. In all circumstances, the supervisor will:
 - a. Cause the immediate notification of the Chief of Police
 - b. Ensure that the member:
 - 1) Receives medical assistance, if needed
 - 2) Is afforded privacy from inquiries from public and Departmental personnel not involved in the actual investigation of the incident
 - 3) Has access to timely Crisis Counseling.

C. Whenever practicable, the instrument used to apply the Deadly Physical Force will be photographed (by a supervisor or evidence technician) and placed in the evidence locker until the termination of any internal or legal proceedings. If the instrument in question is the officer's duty weapon, the Officer in Charge will replace that weapon unless disciplinary action is pending.

D. In addition to any other detailed reports being completed relative to the incident, photographs will be taken (either by the supervisor or evidence technician) of any injuries or complaint of injuries to the injured party. A photograph showing the absence of injury may be as important as one showing the presence of injury. Any injuries to the officer should also be documented and photographed.

E. Assignment to Administrative Duty

When a member is involved in the use of Deadly Physical Force, the Chief of Police or his designee will assign that member to administrative duty. Administrative duty is not an indication that the Use of Deadly Physical Force should be considered proper or improper. The member will remain on administrative duty until the Chief of Police is satisfied the

final determination of the Use of Deadly Physical Force is that it was proper and that the officer is capable of returning to full duty status.

By order of:

David B. Smith
Chief of Police