



MANUAL ORDER

No. 401

Subject: Carrying of Firearms		Effective: 11/14/2022 Cancels: 03/08/2021
Issuing Authority: Chief of Police	NYS LEAP Standard: 20.5	Review Date: 08/21/2023

CARRYING OF FIREARMS

I. PURPOSE

- A. To define the policy of the Rome Police Department concerning the use of firearms and deadly physical force by its members.
- B. To provide clear guidelines for:
 - 1. When to shoot;
 - 2. Firearm equipment requirements;
 - 3. Firearms training.

II. LEGAL DISCLAIMER

This directive is for the Rome Police Department's use only and does not apply in any criminal or civil proceeding. The Department Policy should not be construed as a creation of a higher legal standard of safety or care in an evidentiary sense with respect to third-party claims. Violations of this directive will only form the basis for Departmental administrative sanctions in a recognized judicial setting.

III. DEFINITIONS

A. Deadly Physical Force

Deadly Physical 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. (REF.: New York State Penal Law, 10.00-11).

B. Serious Physical Injury

Serious Physical Injury is defined as a physical injury, which creates a substantial risk of death, or which causes death or serious and protracted disfigurement, protracted impairment of health, or protracted loss or impairment of the function of any bodily organ. (REF.: New York State Penal Law, 10.00-10).

C. Firearm

Firearm is defined as any weapon from which a projectile is forcibly ejected by an explosion.

IV. USE OF FIREARMS BY POLICE PERSONNEL

A. The value of human life is immeasurable in our society. Police Officers have been delegated the awesome responsibility to protect life and property, and apprehend criminal offenders. The apprehension of criminal offenders and protection of property must, at all times, be subservient to the protection of life. The Officer's responsibility for protecting life must include his/her own.

B. An Officer may use deadly force to protect himself/herself or others from what he/she reasonably believes to be an imminent use of deadly physical force

C. Members of the Rome Police Department may use deadly physical force in accordance with the New York State Penal Law, Section 35.30, Subdivision 1 (c) ONLY when:

1. *"The use of deadly physical force is necessary to defend the Police Officer or Peace Officer or another person from what the Officer reasonably believes to be the use or imminent use of deadly physical force..."*
2. Note: The fact that a Police Officer is justified in using deadly physical force DOES NOT ALLOW RECKLESS CONDUCT BY A POLICE OFFICER.

D. Warning Shots

A Police Officer is not justified in using his/her firearm to fire a warning shot; therefore, warning shots are prohibited.

E. Risk to Innocent Bystanders

Officers are prohibited from discharging firearms when it appears likely that an innocent person may be injured. The officer's training, common sense, and reasonableness shall dictate.

F. Shooting At or From a Moving Vehicle

Officers should not discharge a firearm from or at a moving vehicle, except as a measure of self-defense or defense of another when the suspect is using deadly physical force.

G. Deadly Physical Force to Destroy Animals

1. The killing of an animal is justified under the following conditions:
 - a. For self-defense;
 - b. To prevent substantial harm to the Officer or another;
 - c. When an animal is so badly injured that humanity requires its relief from further suffering. (Agriculture and Market Law Section 374).
2. If an animal needs to be dispatched due to being badly injured, the officer in such incident will get prior approval from an on-duty Command Officer, if such can be done with complete safety to the Officer and others. If prior approval cannot be obtained, a Command Officer will be notified following the incident.
3. Officers may use firearms against dogs within the limits of the Rome City Code and against those threatening wildlife within the limits of the Conservation Law, Penal Law, and Rome City Code. It is recognized that the need to dispatch a dog immediately may occur within 500' of a residence. The immediate need for action will not constitute a violation of Rome City Code.
4. Reporting: The appropriate report will be filed and a copy sent to the Chief of Police (i.e., MVA Report for deer struck, or Incident or Complaint Report for dangerous animals).
5. In the event that an animal is dispatched, a Discharge of a Weapon Report is to be completed.

H. Safe Handling of Firearms

1. Except for general maintenance, storage, or authorized training, Officers shall not draw or exhibit their firearms unless circumstances create a reasonable cause to believe that it may be necessary to lawfully use the weapon in conformance with other sections of this policy.
2. Officers are justified in removing firearms from holsters and/or gun mounts and aiming the firearm if:
 - a. There is justification to use a firearm against a person or an animal;
 - b. The officer reasonably believes that a person or a situation poses or may pose an immediate threat of death or serious physical injury either to himself/herself or another person;
 - c. Officers may carry weapons in a ready position while searching buildings or other areas where there is a reasonable expectation of finding an armed subject.

I. Procedure when an officer's firearm is discharged.

It is the responsibility of the involved officer, when his/her firearm has been discharged, including accidental discharges, to:

1. Determine the existing danger level.
2. Determine the physical condition of any injured person and render first aid when appropriate.
3. Request the necessary emergency medical aid.
4. Notify their supervisor of the specifics regarding the incident.
5. Remain at the scene (unless they themselves are injured) until the arrival of the appropriate investigators. However, if the circumstances are such that the continued presence of the officer(s) at the scene might cause a more hazardous situation to develop (such as a violent crowd), the officer in charge at the scene shall have the direction to instruct the officer(s) to respond to another, more appropriate location.
6. Protect his/her weapon for examination and submit said weapon to the person indicated by the officer in charge.

7. Prepare a detailed report of the incident on a Public Safety Statement. The investigating officer will complete the Investigation Report.
8. The involved officer shall not discuss the incident with anyone, including the accompanying officer. However, the involved officer may discuss the incident with the following authorized personnel:
 - a. Authorized investigative personnel;
 - b. Attorney's representing the involved officer;
 - c. Qualified mental health professional; or Union representatives.
9. Be available at all times for official interviews and statements regarding the case and shall be subject to recall to duty at any time.
10. Submit to blood and urine tests.
11. Prepare a Weapons Use Report, as is required when they remove his/her weapon from the holster in the line of duty. This report will be immediately forwarded to his/her Commanding Officer for review and then submitted to the Training Division and the Record's Office. The Record's Office will forward a copy to the Deputy Chief.

V. DEPARTMENTAL CONTROL OF WEAPONS

- A.** All on-duty Officers shall be armed with a Department issued firearm, unless otherwise approved by the Chief of Police (e.g., medical reasons).
- B.** A Department issued handgun intended for official use by any Police Officer must meet the following requirements:
 1. The firearm must be issued by the Firearms Training Officer or his/her designee.
 2. The firearm must be loaded only with issued or pre-approved ammunitions.
 3. The firearm must be registered with the Department by make, model, and serial number.

4. The Officer must qualify as directed.
5. “Trigger shoes” are prohibited, and any other modifications must be specifically approved in writing by a Firearm Instructor and the Chief of Police.
6. No Officer of this Department will attempt or allow to attempt any alteration or adjustment of any department owned firearm.
7. Any malfunction, broken part, or missing part will be reported to the Firearms Training Officer for repair, adjustment, or replacement.
8. Only issued holsters will be permitted for on-duty use unless authorized in writing by the Chief of Police.
9. Note: The Chief of Police may waive these requirements in unusual or extenuating circumstances (e.g., undercover operation).

C. Confiscation and Impounding of Firearms

1. All handguns, rifles, shotguns, etc. that are confiscated and/or impounded for any reason will be turned over to the Patrol Commander for safekeeping.
2. If the weapon is confiscated other than for safekeeping, a complaint report explaining such confiscation shall be made out giving all details.
3. Weapons and related equipment will be confiscated and impounded, pending investigation, as follows:
 - a. a discharge is directed at a person;
 - b. a person is injured or killed as a result of a discharge;
 - c. the discharge is accidental;
 - d. an unauthorized threat to use the weapon was given or implied;
 - e. during an officer related domestic disturbance investigation;
 - f. a report of carrying the weapon while in an intoxicated condition;
 - g. the firearm, ammunition, and related leather goods will be secured by the Patrol Commander or the investigating

detective.

- h. the officer who secures the firearm will document (written and/or photographs) the condition in which the firearm was found immediately following the incident, and any actions to make the firearm safe before securing it as evidence (i.e., unloading);
 - i. in the case of accidental discharge in which there are no injuries, deaths or property damage, the firearm may be returned to the officer after examination by the Departmental Armorer, and found to be functioning properly.
4. Confiscated weapons will only be returned to their owners under the following conditions:
 - a. Under the direction of a Judge upon his determination regarding the confiscation by the officer (i.e. domestic violence cases); or
 - b. Under the direction of the police officer who is investigating the case in which the weapon was confiscated (non-criminal in nature); or
 - c. In a criminal case, the return of a weapon will be determined by the prosecuting District Attorney.

VI. OFF-DUTY FIREARMS

- A.** Off-duty Officers shall be armed with their duty weapon or other weapon approved for use by the Department Firearms Officer, after observance of satisfactory qualification and knowledge of, when operating a Department vehicle.
- B.** An Officer who elects not to carry a handgun off-duty shall not be subject to disciplinary actions if an occasion should arise in which he/she could have taken police action if he/she were armed.
- C.** When carrying a Department weapon, whether on or off duty, it will be loaded with only Department issued or pre-approved ammunition.
- D.** Officers will use due care when in possession of any firearm in order to prevent accidental discharge, injury or death.

VII. PERSONALLY-OWNED FIREARMS

- A. Members of the Rome Police Department may purchase, own, possess, and carry only those restricted firearms that are:
 - 1. Issued by the Rome Police Department.
 - 2. Listed on a Pistol or Firearms Permit, duly issued by a County of New York State or the Government of the United States.
- B. Officers are authorized to purchase weapons as an exempt person; i.e., on the Officer's badge/police identification.
- C. Dual possession (i.e., ownership by more than one person) does not exempt a member from registration requirements.
- D. Police Officers must provide a "C" form (obtainable from the New York State Police) to anyone from whom they purchase or to whom they sell a handgun. The Oneida County Pistol Licensing Office must receive a completed "C" form to transfer a handgun from a licensee to or from a police officer. All weapons bought or sold by "C" form will be filed with the Chief of Police with Serial Number, Caliber, and Make and Model of weapon.
- E. Officers will use due care when in possession of any firearm in order to prevent accidental discharge, injury or death.

VIII. RIFLE CONTROL POLICY

A. Policy

It is the policy of the Rome Police Department to equip certain patrol vehicles with department-owned rifles. The rifles are to be secured in these vehicles by means of a locking rack or other device capable of securing the weapon within the vehicle.

B. Procedure

- 1. Each patrol officer will be trained by qualified department personnel in the safe and appropriate use of department rifles. Each officer will qualify with a department rifle prior to being issued any department rifle. Officers not qualified will not be issued, nor will they use, a department-owned rifle.
- 2. Patrol officers will be assigned a department-owned rifle at the dis-

cretion of the Patrol Supervisor of each particular shift. Only department-owned rifles are authorized to be issued or possessed by any member of the Rome Police Department while on duty.

3. Each patrol officer qualified to use a department-owned rifle will be assigned a key to the locking devices to the gun racks of patrol vehicles equipped with same.
4. At the beginning of his/her tour, the officer(s) assigned a rifle will inspect the rifle and issued ammunition to determine that they are clean and in proper condition. The officer will also determine that the ammunition is proper for the rifle assigned. Any defects in the rifle or ammunition will be reported immediately to the Patrol Supervisor.
5. Prior to securing the rifle in the vehicle, the officer will load the rifle with the proper ammunition in a manner consistent with approved training and secure the rifle in the vehicle. The rifle will remain locked in the vehicle unless it is to be used, in accordance with existing departmental policy on the use of firearms, or it is to be returned to the department weapons locker. It is important to note that a rifle is a very dangerous weapon if handled improperly and is to be taken out of its rack only in cases of extreme necessity and then only in cases where the use of such a weapon is appropriate. Rifles are not to be displayed in an effort to intimidate people under circumstances where their actual use against these people would not be appropriate or justifiable.
6. At the end of an officer's tour or if the vehicle is to be parked in the police lot for any length of time, the rifle will be removed by the officer to whom it is assigned, and it will be unloaded in a safe manner consistent with approved training, and it will be returned to the department weapons locker. No rifle is to be leaned against any wall or cabinet or left unattended at any time unless it is secured in the weapons locker, department armory room or firing range.
7. Whenever a department rifle is to be returned to the weapons locker, it is to be empty of ammunition and in a clean and dry condition with the safe on and the slide back. It is the responsibility of the officer to which it is assigned to ensure that this is complied with.
8. Any discharge of a department-owned rifle must be reported to the Patrol Commander as soon as circumstances allow, and a written report will be made as soon as possible, but in no case will it be later than the end of the next tour of duty following such discharge if acceptable to

the Commanding Officer in Charge.

9. The rifle rack keys are to be protected from access by persons not authorized to possess them. Any loss of any key will be immediately reported to the Patrol Commander. This will be followed by a written report.

IX. FIREARMS TRAINING

A. The Department Firearms Training Program will include instruction of:

1. Departmental Policy on use of deadly physical force;
2. The legal requirements for the use of deadly physical force;
3. Firearm safety; and
4. Firearm proficiency designed to test reaction time, judgment, and marksmanship.

B. The firearms proficiency training will reflect those circumstances and conditions that Police Officers are likely to confront in real-life deadly force situations.

C. Firearms Certification

1. All Officers shall be certified with a Department-issued weapon. "Certification" shall include training regarding the legal and ethical aspects of firearms use, safety in handling firearms, and proficiency in the use and manipulation of firearms. *(Amended 3-01-07)*
2. Firearms Certification shall be required at least twice a year. *(Amended 3-01-07)*
 - a. Should the officer fail to meet certification standards, he/she will be given an immediate second chance to do so. If a second failure occurs, the authority to carry the weapon shall be **IMMEDIATELY REVOKED AND THEIR WEAPON WILL BE SECURED** by the firearms instructor and written notification of such revocation shall be forwarded to the officer's Commanding Officer and the Chief of Police.
 - b. Should the officer miss the required firearms recertification for

any reason (sick, injured, 207-c, military leave, etc.), the authority to carry the weapon shall be **IMMEDIATELY REVOKED AND THEIR WEAPON WILL BE SECURED** by the firearms instructor and written notification of such revocation shall be forwarded to the officer's Commanding Officer and the Chief of Police.

- c. Firearms secured by the firearms instructor for failing to qualify or a missed qualification shall not be returned until the officer successfully recertifies with their department issued weapon. This recertification shall be scheduled as soon as possible by the firearms instructor. The outcome of this recertification shall be forwarded in writing to the Chief of Police.
 - d. Officers whose authority to carry their on-duty weapon has been revoked shall be reassigned to administrative duty at the direction & discretion of the Chief of Police. In no event will an officer be returned to full duty until they meet certification standards.
 - e. The officer must report to the Range for remedial firearms training and certification, as directed. Officers who fail to achieve certification after attending remedial firearms training may be placed on suspension. Overtime will not be authorized for such remedial training. The officer's work hours will be adjusted. Remedial training will consist of one 4-hour block and, if necessary, one 8-hour block. After each remedial session, remedial qualification will consist of the officer passing 2 out of 3 Department qualifications. *(Amended 3-01-07)*
 - f. The Chief of Police will initiate and investigation to determine whether the Officer is competent to continue as a member of the Department. (REF.: Article 75 Civil Service Law)
 - g. In the event of an unintentional discharge, the Officer involved may be required to undergo an immediate recertification training prior to returning to full duty subject to restrictions under Section 21.0 Subsection E-3.
 - h. Departmental firearms will not be returned to any officer after a successful recertification without the approval of the Chief of Police.
3. Recruit Officer Training
- a. The Training Officer will insure that the Recruit Officer

Training Program (Police Academy) includes the mandatory requirements set by the Office of Public Safety in firearms. Recruit Officers will be carefully tested and will qualify as described above prior to receiving a regular duty assignment.

- b. Recruit Officers will not carry any firearms until specifically notified to do so.
- c. No newly appointed officer, regardless of prior experience or academy certification, will be allowed to carry a Rome Police Department issued firearm on duty without first qualifying with the Rome Police Department Firearm's Division.

D. Firearms Certification Records

- 1. The Department Firearms Instructor shall maintain a permanent Certification Log for every Officer authorized to carry firearms. The Log shall consist of the following information:
 - a. Officer's name.
 - b. Certified on-duty weapon make, model, caliber, ammunition, date, results of shooting test, instructor's name, and curriculum.
 - c. Certified long gun - every officer will be certified in the use of the Department-issued long guns at least once a year.
 - d. If an officer cannot certify with a departmental weapon, a special report to the Chief of Police will be initiated and remedial training will be necessary and required. (See Section X Subsection C-2(a) above).