



MANUAL ORDER

No. 403

Subject: Reporting Requirements – Injury or Death		Effective: 11/14/2022 Cancels: 03/08/2021
Issuing Authority: Chief of Police	NYS LEAP Standard: 20.1	Review Date: 10/03/2023

Reporting and Investigating Use of Force

I. PURPOSE:

The purpose of this policy is to provide officers and their supervisor with guidelines for reporting and investigating use of force. In order to protect citizens and employees, the Rome Police Department is committed to documenting and investigating use of force incidents.

The authority to use force carries with it the need for accountability in order to safeguard the rights of the public and to preserve the integrity of the department. As such, it is the policy of the Rome Police Department that every officer report all incidents where force was used, as described herein, in a timely, complete, and accurate manner, as described by this policy. Any officer who uses force, is a witness to a use of force incident, or who authorizes conduct leading to a use of force incident shall not be allowed to conduct the review or investigation into the incident.

II. DEFINITIONS:

CRITICAL FIREARM DISCHARGE: When an officer discharges a firearm. Note range and training discharges, and when discharging at animals are not included under this section.

FORCE: Any physical strike or contact with an instrument of a person, any intentional attempted physical strike or instrumental contact that does not take effect or any significant physical contact that restricts the movement of a person. The term includes: aiming of a firearm, discharge of a firearm, use of chemical agents, use of impact weapons, use of an Electronic Control Device, taking a subject to the ground and any physical contact that includes control techniques. The term does not include escorting or handcuffing a person with minimal or no resistance.

HARM: Injury inflicted upon a person, whether visible or not.

HARD HAND CONTROL: Impact oriented techniques that include knee strikes, elbow strikes, punches and kicks. Control strikes are used to subdue a subject and include

strikes to pressure points such as the common peroneal nerve (side of the leg), radial nerve (top of the forearm), or brachial plexus (side of the neck).

1. “Green Target Areas” = minimal level of resultant trauma to include the shoulder, forearm, thigh, shin etc.
2. “Yellow Target Areas”= moderate to serious level of resultant trauma to include the collarbone, ribs, knees etc.
3. “Red Target Areas”= highest level of resultant trauma to include the head, back of the neck, throat, spine etc.

Note: Refer to Section 20.1 Necessary Force for full green ,yellow, and red target areas.

DEADLY FORCE: Any physical force that can reasonably be expect to cause death or serious physical injury.

Less than Lethal Force: Any use of force not intended to cause, nor likely to cause, death or serious bodily injury.

Reportable Use of Force: All force used other than handcuffing a compliant individual with the exception of drawing a firearm at a low ready position.

Serious bodily Injury: Injury that causes death or creates a substantial risk of death. Permanent harm to health, disfigurement, permanent loss of bodily functions by any organ, or results in inpatient treatment at a medical facility.

Note: minor treatment by medical professional on scene or at a hospital such as eye washing, cleansing or bandaging, evaluation with no injury discovered etc. will be evaluated on a case by case basis by a supervisor.

Serious Use of Force: Any action by an officer that involves: the use of deadly force or use of force in which the person suffers bodily injury or *requires hospital admission (see note above)* or a police canine bite.

Soft Hand Control: The use of physical force and skill in defensive tactics to control subjects that are reluctant to be taken into custody and offer some degree of physical resistance. This excludes the use of hard hand strikes.

Supervisor: A supervisor includes a Sergeant (or O.I.C.) and above who is assigned responsibility for supervising officers.

Weapon: Any instrument, article or substance, including a vehicle, which under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or other bodily injury.

III. PROCEDURE:

A. Force Levels

1. Level 1

- a.) A firearm is intentionally pointed at a person.
- b.) A weaponless defense technique is applied to a vulnerable area, excluding strikes (e.g. hair grab, shoulder grab, etc.).
- c.) An on-duty firearm discharge to dispatch an injured animal.
- d.) A weaponless defense technique control hold is applied:
 - i. Knee on top
 - ii. Hug arm bar
 - iii. Lateral head displacement

Note 1: *A simple grabbing of a person to help guide or maintain control without any resistance does not constitute a reportable use of force incident or event.*

Note 2: *Unresisted handcuffing is not considered a reportable use of force incident.*

2. Level 2

- a.) Chemical agent is applied to a person.
- b.) The use of an ECW involving any of the following circumstances:
 - i. When one or more probes impacts or penetrates the subjects clothing or skin.
 - ii. When a drive stun is conducted or attempted.
 - iii. When an ECW is fired at a person, but misses.
- c.) Any impact weapon, including specialty impact munitions, or any other instrument is used in an attempt to strike another person but no contact is made or:
- d.) The impact weapon is used for a non-striking purpose (e.g. prying limbs, moving or controlling a person).
- e.) A weaponless defense technique, other than control holds, but excluding strikes to the head, neck, throat, and spine. Examples include:
 - i. Hand/palm strikes;

- ii. Kicks
- iii. Leg sweeps
- iv. Takedowns
- f.) An on-duty firearm discharge at an animal, other than to dispatch an injured animal.
- g.) Use of impact weapons, including specialty impact munitions or any other object, to strike a subject and contact is made, regardless of injury.
- h.) A police canine bites the clothing or the skin of a subject, or otherwise injures a subject.
- i.) Any use of force which results in injuries to the subject requiring emergency medical treatment (beyond first aid) or hospital admittance.

Note: For the purpose of this order, an evaluation by a medical professional to assess a complaint of injury is not emergency medical treatment.

3. Level 3

- a.) Any use of force resulting in death.
- b.) Any critical firearm discharge regardless of injury.
- c.) Any force which creates a substantial risk of causing death.
- d.) Any force which causes serious bodily injuries as identified in section II of this policy.
- e.) Any intentional impact weapon strike to the head.
- f.) Carotid restraint or neck restraint is applied that does not result in the loss of consciousness.

B. RESPONSIBILITY FOR REPORTING

1. Officer shall, as soon as possible, notify their supervisor or Officer in Charge (OIC) of any reportable use of force.
2. Officer shall, as soon as practicable; following all reportable Level One and Level Two use of force incidents, complete a Use of Force Report Form.
3. In level One and Level Two the completed Use of Force Report Form shall be submitted to the shift supervisor prior to the officer completing his/her tour of duty. When completing the report, officers are also required to provide a written narrative statement of the event.
 - a.) Each officer who uses force shall submit a separate written Use of Force Report. The officer must articulate, in specific detail, the facts and circumstances surrounding the force used.
 - b.) Any officer who witnesses a reportable use of force shall advise a shift supervisor, or appropriate commanding officer and submit required supplemental reports.
 - c.) If an officer uses force on more than one subject during the same event, the officer shall complete separate Use of Force Report Forms.
 - d.) If an officer is unable to complete the report due to injury or illness, the officer will be granted time to do so within reason. If necessary, the officer's supervisor on duty for said use of force may be asked to complete it to the best extent possible.
 - e.) A reportable use of force shall be reviewed, and if necessary, investigated by a supervisor of a higher rank than the officer using force. The Department's Defense Tactics Instructor shall also review completed use of force reports.
4. All use of force reports shall specify the actions of the subject that necessitated the use of force, the reasons why the officers used force, as well as any suspect or officer complaints of injury, medical treatment received, or refusal of medical treatment.
5. The arresting officer shall notify transporting officers if force was used on the arrestee or if the arrestee has an injury or complains of pain.

6. Shift supervisor shall investigate and report any reportable use of force as directed in section (D) of this policy.
7. Any officer who engages in or witnesses a reportable use of force incident, but fails to notify a supervisor and or fails to complete a Use of Force form as outlined by this policy, shall be subject to disciplinary action.
8. A supervisor who uses force, authorizes the use of force, authorizes conduct leading to the use of force, or is a witness to the use of force shall not be allowed to conduct the investigation.

C. REFERRAL/TRANSPORT FOR MEDICAL ATTENTION

1. Arresting and transporting officers shall ask prisoners, against whom force was used, whether they are injured or ill.
2. A suspect shall be examined by a physician or qualified health care provider (this may include Rome Fire Department or AmCare Ambulance Personnel), prior to interrogation or prisoner processing for purposes of detention when suffering from, or complaining of injury or illness or when, among other instances, the individual:
 - a.) Is struck on the head or other body parts with an impact weapon or other hard object.
 - b.) Is restrained about the neck or throat.
 - c.) Is sprayed with a chemical agent.
 - d.) Is subject to an ECW application.
 - e.) Is struck with any non-lethal weapon projectile such as an ECW dart, bean bags, baton rounds etc.
 - f.) Is bitten by a police canine.
3. An injured prisoner shall not be admitted to, or held in, detention without being examined and released by a physician or qualified health care provider.
 - a.) Whenever there is doubt concerning the need for medical, it should be resolved through examination of the subject by a physician or qualified health care provider.

- b.) Refusal of treatment shall be documented and verified by the officer's and attending physician or qualified health care provider.

D. SUPERVISORY RESPONSIBILITIES

1. GENERAL

- a. The supervisor or OIC, after being notified of a level 2 or 3 use of force, shall immediately respond to the scene and conduct a preliminary investigation into the use of force. The supervisor or OIC, after being notified of a Level 3 use of force, will immediately notify the on-duty commanding officer, who shall notify the Deputy Chief of Police and the Detective Division Commander.
- b. While at the scene of a use of force incident the supervisor or OIC shall visibly inspect the subject for injury, interview the subject for complaints of pain, and ensure that the subject receives needed medical attention.
- c. While at the scene of a use of force incident the Supervisor, or Officer in Charge shall photograph all injuries and all areas where the officer reports striking the subject. Photographs of the subject shall be taken even when there are no visible signs of injury.

2. Use of Force Investigation – Level 2

- a.) When notified of a level 2 use of force the supervisor or OIC will respond to the scene on a priority basis and shall do the following:
 - 1. Document the scene of the incident.
 - 2. Interview any medical personnel concerning the injuries sustained and their consistency with the use of force reported.
 - 3. Collect or cause to be collected all evidence of use of force.
 - 4. Identify and interview any witnesses.
 - 5. Obtain, review, and sign the completed Use of Force Report.
 - 6. Forward a copy of the signed and completed Use of Force Report to the on duty Watch Commander.

7. Summarize his/her investigation and findings.

b.) The commanding officer and department's Defense Tactics Instructor shall review all Use of Force Reports and will forward them to the Deputy Chief of Police.

Refer to Section 21.0 Subdivision IV-2 (a-i)

3. Serious Use of Force

a.) In cases involving a serious use of force or Level 3 as defined by this policy, the supervisor (in the event that an OIC is being utilized, the watch commander will immediately respond from headquarters) shall:

1. Determine the existing level on-scene;
2. Ensure that those that are injured receive medical attention;
3. Assume control and maintain the integrity of the scene until properly relieved;
4. Obtain a brief overview of the incident using the Public Safety Statement (Form 1038 as attached to Section 21.0), relay pertinent public safety information immediately via radio to responding units as appropriate, and provide the completed Public Safety Form to an investigating detective on scene. This statement will not be recorded and should be conducted in a location away from any recording devices,
NOTE: Because the Public Safety Statement is a compelled, the involved officer should be directed to turn off their BWC prior to making the statement.
5. If the involved officer is equipped with BWC, obtain and secure the officer's BWC for the future review by the Detective's Division.
6. Ensure that the involved officer(s) make no statements to unauthorized personnel;
7. Assign an uninvolved officer to accompany the involved officer to the Rome Police Department as soon as practical. The accompanying officer shall remain with the involved officer but shall not discuss the incident with the involved officer;

8. Ensure that the following notifications have been made:
 - i. To an on-duty commanding officer;
 - ii. To the Deputy Chief
 - iii. To the Detective Division Commander
9. Once relieved from the scene, respond to the Rome Police Headquarters and take direction from the Detective Commander, if appropriate.

E. WATCH COMMANDERS RESPONSIBILITIES

1. Ensure that a Sergeant or the Officer In Charge responds to the scenes of any reportable use of force incident.

LEVEL 1 and 2:

2. Review Use of Force investigations submitted by the immediate supervisor and:
 - a.) Verify that all applicable Use of Force Report Forms and accompanying paperwork were submitted.
 - b.) Ensure that the Use of Force Report Forms and accompanying paperwork were reviewed and signed by the immediate supervisor.
 - c.) Verify that the use of force is reported accurately and is consistent in all submitted reports.
3. Once the investigation is complete the Watch Commander shall determine the disposition of each instance of force used:
 - a.) **Justified, Within Department Policy** – a use of force is determined to be justified and during the course of the incident the officers did not violate policy.
 - b.) **Justified, Policy Violation** – a use of force is determined to be justified, but during the course of the incident the officer violated policy.
 - c.) **Justified, Training Opportunity** – a use of force is determined to be justified, no violations occurred but the investigation revealed error that could be addressed through non disciplinary, training.

d.) **Not Justified, Disciplinary** – a use of force is determined to be not justified and during the course of the incident the officer violated policy.

4. The Watch Commander shall submit all findings and conclusions to the Deputy Chief of Police.

LEVEL 3:

5. This review will be conducted by the Office of Professional Standards (OPS).
Refer to Section 404 Subdivision IV-C (9).

F. RAID AND WARRANT SITUATIONS

1. Each officer who uses force will fill out a separate reportable use of force report form including pointing of firearms at subjects during raids, or execution of search and or arrest warrants.
 - a. Officers are advised that the reportable use of force report does not take the place or substitute for the completion of an Incident Report.
 - b. This section will stand on its own in so far as officers who witness reportable use of force events during operational raids will not automatically be required to submit a report since this will be covered in the operational report completed and submitted by the supervising officer. Should further investigation be required, witnessing officers will be directed to complete further reports at that time.