



## TOWN OF SENECA FALLS POLICE DEPARTMENT

### GENERAL ORDER



<b>GENERAL ORDER #:</b> 333	<b>RESCINDS:</b> NEW
<b>SUBJECT:</b> Impact and Aerosol Weapons	<b>NYS ACCREDITATION:</b> <b>20.1, 20.6, 32.4, 33.4</b>
<b>EFFECTIVE DATE:</b> 05/01/2020	
<b>BY ORDER OF:</b> Stuart W. Peenstra, Chief of Police	

- I. **PURPOSE:** The purpose of this order is to establish policies and procedures for the deployment of impact and aerosol weapons by sworn officers of the Town of Seneca Falls Police Department.
- II. **POLICY:** It is the policy of the Town of Seneca Falls 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; 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."
- III. **DEFINITIONS:**
  - A. **IMPACT WEAPON** - A device used to apply force against a resisting or assaultive subject, or to affect a blocking or defensive technique. This shall include police batons, ASP Tactical Batons and Impact Projectiles.
  - B. **AEROSOL WEAPON** - Purified pepper spray and similar agents.
  - C. **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.
  - D. **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.
  - E. **PHYSICAL INJURY** - Impairment of physical condition or substantial pain.
  - F. **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.
  - G. **ACTIVELY POINTING** - The intentional targeting of a person with an Electronic Control Device (CEW), firearm, impact weapon, impact projectile or chemical agent.

[Revised: 11/11/2019]

#### IV. PROCEDURE:

##### A. AUTHORIZED IMPACT/AEROSOL WEAPONS

1. Sworn members of the Town of Seneca Falls Police Department shall carry and deploy only those impact/aerosol weapons that are authorized and issued by the police department as listed in the Uniform Standards Manual.
2. Sworn members shall be provided with training in order to properly deploy any issued impact or aerosol weapon prior to being authorized to carry those weapons.
3. Sworn members will be issued and authorized to carry the following impact/aerosol weapons:
  - a. Police Baton.
  - b. Collapsible Baton.
  - c. Pepper spray/OC
4. Prior to being issued to sworn members for use in the performance of official duties the Lieutenant shall inspect all police batons, collapsible batons, pepper spray and handcuffs to ensure that they are free of defects and are serviceable.
5. All canisters of pepper spray shall be marked with a Spillman control number.
6. All spare canisters of pepper spray that are not issued shall be stored in the SFPD Room 126-A to be issued as replacements as necessary.
7. All police batons and collapsible batons not issued to sworn members shall be stored in SFPD Room 126-A to be issued as replacements as necessary .
8. Sworn members may not carry any other impact or aerosol weapon other than listed in this order, unless specifically authorized by the Chief of Police.
9. Impact/aerosol weapons shall be carried and/or utilized only as issued and authorized, and no changes, alterations, modifications or substitutions shall be made to or for same.
10. The decision to deploy 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 deployed in those situations where the use of force is justified, objectively reasonable and necessary. Under certain circumstances the deploying of an impact weapon may constitute a use of deadly physical force (example: head or neck strikes). In such cases the impact weapon shall only be deployed 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, and the Graham v. Conner, 1989 decision.

11. Sworn members are responsible for providing maximum security for all impact/aerosol weapons while in their possession or under their control. Impact/aerosol weapons shall not be left in unassigned police vehicles when officers are not on-duty or in unsecured areas of headquarters.
12. In the event that a sworn member determines that an impact/aerosol weapon has become unsafe the sworn member shall:
  - a. Remove the impact/aerosol weapon from service.
  - b. Turn the unsafe impact/aerosol weapon into their supervisor.
  - c. Complete an equipment request form requesting that a new impact/aerosol weapon be issued.
13. Impact/aerosol weapons shall not be used for demonstration purposes unless specifically authorized by the Chief of Police.

**B. POLICE BATON**

1. Uniformed sworn members must have their issued police baton available to them while on patrol. When an officer carries the police baton on his/her person, it shall be carried holstered in the officer's baton holder unless its deployment is imminent.
2. Police batons shall 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 justified, objectively reasonable and necessary.

**C. COLLAPSIBLE BATON**

1. Uniformed sworn members shall carry the issued collapsible baton on their duty belt while on duty, unless the deploying of the collapsible baton is imminent, it shall be carried holstered in the issued carrying case. All other sworn members may carry the collapsible baton on their person in an appropriate manner.
2. Collapsible batons shall not be deployed to strike at the head, neck or groin, except in those extreme instances in which the use of deadly physical force is justified, objectively reasonable and necessary.

**E. PEPPER SPRAY**

1. The deployment of pepper spray is an option granted to sworn members as an alternative in those situations where the potential for injury to an officer or a third person exists.
2. Uniformed officers shall carry the issued pepper spray on their duty belt while on duty. Officers assigned to a special detail in plainclothes or investigators may carry the aerosol spray in a safe manner.
3. Sworn members 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 shall periodically inspect the canisters issued to their officers to ensure compliance with this order.
5. Application of pepper spray:
  - a. In electing to deploy pepper spray, sworn members 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 sworn members should be aware of the potential; however, limited for injury arising from the use of this spray.
  - b. An area of special concern would be the deployment of pepper spray within a medical facility (e.g. hospital or emergency room). Deployment of pepper spray in these environments may adversely affect and even exacerbate existing medical conditions of non-involved patients, potentially causing respiratory distress.
  - c. Sworn members should be aware of the increased potential for injury to the person upon whom the spray is deployed 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.

- d. Optimal distance for deployment of pepper spray is two to twelve feet from the subject. Unless exigent circumstances exist, the deployment of pepper spray at less than two feet from the subject should be avoided to decrease the possibility of injury. At distances greater than twelve feet, the effectiveness of the pepper spray will be significantly decreased.
- e. Wind conditions and other environmental factors, including the proximity of innocent persons, should be considered before deploying the spray.
- f. The spray should be applied in controlled bursts, directed at the upper respiratory/ facial area.
- g. After the spray has been deployed and the subject is under control, it is the sworn member'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 contacted 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 breathing persist he should be removed to fresh air, and emergency medical assistance requested. If necessary, the emergency medical service personnel should provide treatment and transport to a medical facility.
- h. When a defendant has been exposed to the spray and is taken to the Seneca County Correction Facility, the transporting sworn member shall 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 video in addition to being noted in the officer's report.
- i. After deploying the spray, it shall be the responsibility of the sworn member to ensure that there is a sufficient amount left in the canister to remain serviceable. If the canister has been expended the officer shall inform his supervisor and request a replacement.
- j. Pepper spray has a manufacturer recommended expiration date. Sworn members should inspect the canister for expiration and inspect the holster for damage or wear periodically. During that inspection sworn members should vigorously shake the canister to prevent the contents from settling.
- k. Pepper spray is effective against many animals and may be deployed by sworn members to deter an attacking animal.

**F. MEDICAL ATTENTION**

1. Whenever an impact or aerosol weapon has been deployed, the sworn member shall immediately evaluate the need for medical attention for the person upon whom the force was used. The sworn member shall arrange for such attention by requesting emergency medical services when the person has sustained a visible injury, complains of injury or discomfort or requests medical attention. If the person refuses to be treated, he must sign the refusal statement on the emergency medical service's 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 sworn member's report.

**G. REPORTING PROCEDURES**

1. Whenever a sworn officer actively points or deploys a baton, actively points or deploys a chemical agent, including but not limited to, oleoresin capsicum, pepper spray, a "Subjects Resistance Report" shall be completed, except when used for authorized demonstration purposes per this order.
2. In all cases where an impact or aerosol weapon has been deployed, a supervisor shall be notified as soon as practically possible.

**H. EVALUATING THE USE OF FORCE**

1. The Lieutenant shall review the incident to ensure that the use of force was necessary, objectively reasonable and justified and shall determine whether the use of force was:
  - a. Within department policy and applicable laws.
  - b. Out of department policy and/or in violation of applicable laws.
2. The Lieutenant shall report his findings, together with any recommendations, to the Chief of Police.

**I. TRAINING**

1. Only sworn members who have completed the department's use of force training by a certified weapons or tactics instructor, shall deploy impact/aerosol weapons. Sworn members shall deploy only those weapons which are issued by the department and only after they have demonstrated proficiency.
2. Impact and aerosol weapons instructors shall be responsible for recording and submitting all original records of training to the training section.
3. Agency personnel who are unable to demonstrate proficiency and qualify with an authorized department impact/aerosol weapon must attend and successfully complete remedial training prior to being allowed to resume official duties.

4. When practical, the instructor shall immediately conduct remedial training in an effort to correct the deficiency.
5. If the deficiency cannot be corrected before the sworn members next tour of duty, the instructor shall:
  - a. Immediately notify the shift supervisor regarding the sworn member's duty status.
  - b. Reschedule additional remedial training as soon as practical.
  - c. Keep the Lieutenant apprised of the sworn member's duty status.
6. All remedial training shall be documented.
7. A failure to demonstrate proficiency after reasonable remedial training has been provided may serve as the basis of disciplinary action.

**J. 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). [Revised: 11/11/2019]