Summary of Chief Hawkins Responses to Questions Posed in CFLJ’s April 7, 2020 Letter

1) Do you believe structural racism affects the operations of the Albany Police Department? If not, on what do you base that belief? If so, what steps do you intend to take to address the impact of structural racism on APD operations?

Chief Hawkins responded that the APD’s systems are as progressive as any in the country, and that its practices are aligned with nationally recognized best practices. Though he did not specifically address structural racism, the Chief expressed his commitment to working with Albany stakeholders to promote equitable outcomes.

2) Will you commit to having State officials investigate all police shootings? If not, why not? If so, on what date will you make that announcement?

Chief Hawkins responded that State officials currently investigate police shootings that result in the deaths of unarmed people, and that if an Executive Order is issued directing State officials to investigate all police shootings he will ensure that the APD fully cooperates with such investigations. The Chief’s response was silent on whether he would request a State investigation of any police shooting that did not result in death, absent an Executive Order requiring such an investigation.

3) Will you release the Department’s racial profiling and use-of-force policies to the public? If not, why not? If so, on what date will you release the APD’s racial profiling and use-of-force policies to the public?

Chief Hawkins responded that the APD’s racial profiling policy (titled “Bias Based Profiling”) and use-of-force policies are available to the public. The Chief forwarded three documents that are posted here: the APD Bias Based Profiling Training Bulletin, the APD Bias Free Policing General Order, and the APD “Use of Force --- Less Lethal Weapons” General Order. A NOTE FROM CFLJ: NONE OF THE EXTENSIVE REDACTIONS IN THESE DOCUMENTS WERE MADE BY THE CENTER --- THEY ARE PRINTED HERE EXACTLY AS RECEIVED.

4) Will you include racial impact statements on all new or revised departmental policies? If not, why not?

Chief Hawkins responded that since the policies of the Albany Police Department have been examined and certified nationally through the Commission on Accreditation for Law Enforcement Agencies (CALEA) and statewide through the New York State Department of Criminal Justice Services (DCJS), the implementation and enforcement of police policies and procedures should not result in unwarranted racial disparities. The Chief stated that the APD does not have the staffing capacity or resources to conduct racial impact analyses.
5) Are you willing to send a letter to the Governor and legislators urging repeal of Civil Rights Law 50-A? If not, why not? If so, on what date do you plan to send that letter?

Chief Hawkins responded that he has not had an opportunity to fully examine the legislative intent, history, and impact of CRL 50-A. He stated that he respects the legislative and judicial processes that have shaped the laws that govern this country, and that he is committed to ensuring that the Albany Police Department operates in full compliance with those laws.

6) What are your plans to appropriately resource and strengthen the LEAD program? Will you provide an annual LEAD report, including annual data, to the public? If not, why not?

Chief Hawkins responded that he plans to keep in place the police sergeant and police officer assigned as liaisons for the LEAD program and have them work with the membership to produce annual reports.

7) Will you commit to producing an annual departmental data report to the public? If not, why not? If so, on what date can the public expect to see the first data report?

Chief Hawkins responded that The Albany Police Department annually produces a departmental data report that is available to the public, “Preparing For Our Future.” The Chief provided a link to this online report.

8) What are your plans for seeking a Civil Rights History curriculum for department-wide training? If you have no such plans --- why not?

Chief Hawkins responded that the current staffing levels in the police department’s Training Unit does not allow for the introduction of new training curricula, and that the department will assess additional training opportunities as staffing levels increase.

9) Are you willing to co-sponsor and personally participate in Albany’s “Recommitment to Community Policing” Symposium to be conducted by the Center for Law and Justice in the fall of 2020? If not, why not?

Chief Hawkins responded that he is willing to consider co-sponsoring and participating in the Symposium this fall.

Policy Documents received from Chief Hawkins below
Purpose: The purpose of this policy is to affirm this department’s commitment to unbiased policing and to reinforce procedures that serve to assure the public that member’s of this department are providing service and enforcing laws in a fair and equitable manner.

Policy: It is the policy of the Albany Police Department to preserve the peace and maintain order in our community by practicing bias-free policing and respecting the rights and dignity of all. Employees will not engage in bias based profiling in traffic contacts, field contacts, arrests, asset seizure, asset forfeiture efforts or any other official action.

Definitions: Bias Based Profiling – Bias based profiling means the selection of an individual(s) for enforcement action based solely on a trait common to a group. This includes, but is not limited to, race, ethnic background, gender, gender identity, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group.

Criminal Profiling – Criminal profiling means the legitimate practice based on articulable behaviors or characteristics that can be analyzed and evaluated. Officers must have individualized suspicion based on articulable behavior, facts and/or characteristics to stop or detain an individual.

I. Bias Based Profiling

A. Prohibition:

1. No person shall be subject to any stop, whether traffic or field contact, detention, enforcement action, search, asset seizure or forfeiture efforts, when such stop, detention, enforcement action, search or seizure is based solely on:

   a. The person’s race, ethnic background, gender, gender identity, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group, or upon the member’s perception of the same.
2. Officers must be able to articulate specific facts and circumstances that support the standards of reasonable suspicion and/or probable cause to justify police actions.
3. Traffic stops, field contacts, arrests, nonconsensual and consensual searches, and asset seizure and forfeiture efforts shall be conducted in accordance with the tenets set forth in the Constitution of the United States.

B. Corrective Measures:
1. It is the responsibility of supervisors to properly review the actions and reports of subordinates to ensure no officer is permitted to engage in bias profiling or other discriminatory practices.
2. If bias based profiling occurs, investigations and/or complaints shall be handled in accordance with current applicable department policies and procedures and related laws.

C. Training:
1. All affected personnel of this department shall receive initial training on bias based profiling and related topics upon being hired, such as appropriate practices and procedures, cultural diversity, communications skills, and legal aspects.
2. Any affected personnel shall receive annual training relating to biased issues, including legal aspects.

D. Administrative Review:
1. The Commander of the Office of Professional Standards (OPS) or his/her designee shall conduct a documented annual administrative review of department practices, including citizen concerns, to ensure bias profiling is not occurring and/or to identify and analyze cases where it may have occurred.
   a. This annual administrative review shall utilize data between the dates of April 1 and March 15 (CALEA year) of each successive calendar year.
   b. Sources for this review shall include citizen complaints, referrals from department personnel and any other communications received by the department related to this topic.
   c. Following this review, the Commander of OPS or his/her designee shall submit a written report to the Chief of Police detailing the results of the review.
   d. This written report shall indicate whether policy, training, or disciplinary issues should be addressed. Officer contacts during traffic stops, field contacts, and in asset seizure and forfeiture efforts shall also be addressed.
PURPOSE: The purpose of this Training Bulletin is to reinforce the department's policy that personnel of this department shall not to participate in bias based profiling. This Training Bulletin is also to ensure that all persons coming into contact with personnel from this department receive fair and equitable treatment.

POLICY: It is the policy of the Albany Police Department to only engage in those actions that are lawful and based on probable cause, reasonable suspicion, or some lawful articulable standard.

DEFINITIONS:

1. Bias Based Profiling: Bias based profiling means the selection of an individual(s) for enforcement action based solely on a trait common to a group. This includes, but is not limited to, race, ethnic background, gender, gender identity, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group.

2. Criminal Profiling: Criminal profiling means the legitimate practice based on articulable behaviors or characteristics that can be analyzed and evaluated. Officers must have individualized suspicion based on articulable behavior, facts and/or characteristics to stop or detain an individual.

PROCEDURES:

1. All departmental transactions will be based on legal and articulable standards. Bias based profiling in traffic contacts, field contacts, asset seizure and forfeiture, or any other activities performed by members of this department is prohibited.

   a. Any member who engages in the practice of bias based profiling will be subject to discipline, which may include termination from employment.

   b. All members of this department shall immediately report incidents or complaints of bias based profiling to their supervisor.

LEGAL CONSIDERATIONS:

1. In addition to state law, members should be mindful of federal law protecting citizens from bias
based profiling.

a. The 4th Amendment to the United States Constitution requires reasonable suspicion or probable cause, which must be individualized and focused on the person being stopped or detained.
b. The 14th Amendment requires equal application of the law and individualized suspicion cannot be based on race unless race was provided as a specific descriptor.

2. Existing case law (Whren v United States) created a powerful discretion on the part of officers to make pretext stops. However, it is what motivates the pretext stop that must be considered.

3. Members of this department should be mindful that a stop can be legal under the 4th Amendment and still be illegal under the 14th Amendment.

4. Differences between criminal profiling and bias based profiling:

   a. Criminal profiling is a legitimate practice based on psychological characteristics that can be analyzed and evaluated.
   b. Criminal profiling is based on articulable behaviors or characteristics.
   c. Racial/bias based profiling is the use of a race, ethnic background, gender, gender identity, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group as a sole predictor for the stop.

5. Members of this department may only consider factors such as race, ethnic background, gender, gender identity, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group when they are a reported descriptor, which links a specific person or persons to a particular unlawful incident.
USE OF FORCE - LESS LETHAL WEAPONS
GENERAL ORDER NO: 1.3.00

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<th>Issue Date: August 5, 2019</th>
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PURPOSE: The purpose of this policy is to establish policies and procedures governing the use of physical force by sworn officers of this department and to establish procedures for investigating and reporting the use of such force.

POLICY: It is the policy of the Albany Police Department that sworn officers of this department officers shall only employ the degree of physical force that is reasonable and necessary, based on the totality of the circumstances, to accomplish lawful objectives, as established by Article 35 of the New York State Penal Law and the policies and procedures set forth by this department.

DEFINITIONS: Reasonable Cause to Believe/Reasonable Belief – Reasonable belief means 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.

Physical Force – Physical force means force that is used upon, or directed toward the body of, another person that does not amount to deadly physical force.

Less Lethal Force – Less lethal force means response options that are not designed or used with the intention of causing (and have less potential for causing) death or serious bodily injury, including but not limited to: chemical agents, impact weapons, or Conducted Energy Weapons (CEW).

Physical Injury – Physical injury means the impairment of physical condition or substantial pain, as defined in Article 10 of the New York State Penal Law.

Serious Physical Injury – Serious physical injury means 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, as defined in Article 10 of the New York State Penal Law.

Deadly Physical Force – Deadly physical force means force which, under the
circumstances in which it is used, is readily capable of causing death or other serious physical injury, as defined in Article 10 of the New York State Penal Law.

**Less Lethal Weapons** – Less lethal weapons are primarily designed to temporarily disable or stop non-compliant persons without killing, thereby providing law enforcement personnel with an alternative to lethal force when appropriate. This department currently authorizes the following less lethal weapons: Conducted Energy Weapons (Taser X26 and X26P), Cocobolo/Composite Wood Baton, Expandable Baton, O.C. Spray, and less lethal weapons listed in the Emergency Services Team General Order.

**Conducted Energy Weapon (CEW)** – A Conducted Energy Weapon means a weapon designed primarily to discharge electrical charges into a subject that will cause involuntarily muscle contractions and override the subject’s voluntary motor responses. A CEW delivers approximately 50,000 volts but that is only to make the initial contact between the CEW probes and the skin. Once contact is made, the voltage drops to approximately 1,200 volts at about 19 pulses per second.

**Arcing** – Arcing means pulling the trigger to activate CEW without discharging the probes. This may be done as a warning to the subject or to test the CEW prior to deployment (also referred to as a spark test).

**Drive Stun** – A drive stun mode is possible whether or not the cartridge has been expended or removed from the CEW. (If the cartridge is not removed, the probes will enter the body.) This action requires pulling the trigger and placing the CEW in direct contact with the subject, causing the electric energy to enter the subject directly. Drive stun is frequently used as a non-incapacitating persuasive compliance technique. It may also be used to incapacitate the subject where at least one probe is attached to the subject’s body and the CEW contact will complete the circuit.

**Laser Painting** – Laser painting is the act of un-holstering and pointing a CEW at a subject and activating the CEWs laser to show that the weapon is aimed at the subject.

**Support Hand Side** – A support side hand is the opposite side of a person’s strong hand and firearm.

**Impact Weapon** – An impact weapon is a device used to apply force against a non-compliant or assaultive subject, or to affect a blocking or defensive technique. This shall include cocobolo/ composite wood batons and expandable batons.

**Capsicum** – Capsicum means a genus of plants, the ripe fruit of the capsicum minium (or frutescans), contains the active principal capsaicin.

**Capsaicin** – Capsaicin means a colorless, pungent crystalline compound that is derived from capsicum and is a strong irritant to skin and mucous membranes.

**Oleoresin** – Oleoresin means a naturally occurring mixture of oil and a resin
extract from various plants.

Orthoclorobenzal Malononitrile (CS) – CS is a gas causing tears, salivation, and painful breathing, \( \text{C}_6\text{H}_4\text{ClCH:C(CN)}_2 \).

Decontamination – Decontamination means the removal of hazardous substances (bacteria, chemicals, radioactive materials) from the person, clothing, equipment, tools, and/or site to the extent necessary to prevent the occurrence of adverse health and/or environmental effects.

Weapon of Opportunity – A weapon of opportunity consists of any object, other than a department approved less lethal or lethal weapon (e.g., flashlight, portable radio, etc.).

I. AUTHORIZED USE OF FORCE

A. Use of Reasonable Force:

1. While in the performance of official duties, officers shall only employ the degree of physical force that is reasonable and necessary, based on the totality of the circumstances, to accomplish lawful objectives, as established by Article 35 of the New York State Penal Law and the policies and procedures set forth by this department.

   a. Lawful objectives include, but are not limited to the following:

      i. Detentions;
      ii. Frisks;
      iii. Arrests;
      iv. Self defense;
      v. Defense of others;
      vi. Defense of property;
      vii. Preventing a person(s) from self-injury or protective custody commitments;
      viii. Preventing a person(s) from destroying evidence;
      ix. Stopping a riot; or
      x. Preventing prisoner escapes.

   b. Factors that determine reasonableness for the totality of circumstances include:

      i. The severity of the crime;
      ii. Whether the suspect is an immediate threat to the safety of the officer or others;
      iii. Actively resisting arrest; or
      iv. Attempting to evade by flight.

   c. Other factors that determine the necessity to use force include, but are not be limited to the following:

      i. The number of suspects versus the number officers
involved;
   ii. Pre-assault indicators (e.g., actions, statements, etc.);
   iii. Size, age, and physical condition of the officer and suspect;
   iv. Known or perceived physical abilities of the suspect;
   v. Previous violent or mental history;
   vi. Perception of the use of alcohol or drugs by the subject;
   vii. Perception of the suspect’s mental or psychiatric history based on specific actions;
   viii. The availability and proximity to weapons;
   ix. Environmental factors (e.g., night/day, snow/ice, terrain, etc);
   x. Injury to the officer or prolonged duration of the incident;
   xi. Officer on the ground or other unfavorable position; and
   xii. Characteristics of being armed (e.g., bulges, adjustment of clothing, “security touches”).

2. Less lethal weapons shall be carried and/or utilized only as issued and authorized, and shall be deployed in compliance with Article 35 of the New York State Penal Law.

   a. Under no circumstances shall changes, alterations, modifications, or substitutions be made without prior written consent from the Chief of Police or his/her designee.

3. Officers may only employ less lethal weapons within the guidelines of department training, policies, and procedures.

   a. Officers must be able to articulate a compelling need to use a weapon of opportunity, to inflict physical injury, serious physical injury, and/or death.

B. When safe and reasonable, officers shall attempt to use de-escalation tactics.

1. De-escalation tactics and techniques are actions used by officers, when safe and without compromising the mission of the Albany Police Department, which seek to achieve conflict resolution during an incident, and increase the likelihood of voluntary compliance.

2. Mitigating conflict gives officers time to utilize extra resources and increases time available to resolve the incident in a safe manner.

3. Officers shall balance de-escalation techniques against the facts of the incident facing them when deciding which tactical options are the most appropriate to bring the situation to a safe resolution.

II. AUTHORIZED USE OF DEADLY FORCE

A. While in the performance of official duties, an officer may use deadly force only when the officer reasonably believes that the action is in defense of human life, including the officer’s own life, or in defense of any person in imminent danger of serious physical injury, according to the following:

Page 4 - Use of Force - Less Lethal Weapons, G.O. No. 1.3.00
1. Officers may use deadly physical force, in accordance with Article 35 of the New York State Penal Law, when there is reasonable cause to believe that such force is necessary in order to:

   a. Prevent or terminate the imminent danger of serious physical injury and/or death against the officer or a third person;
   b. To affect the arrest of a person whom the officer has reasonable cause to believe:
      i. Has committed, or is attempting to commit, a felony offense involving the use or attempted use or threatened imminent use of physical force against the officer or a third person; or
      ii. Has committed, or is attempting to commit, a kidnapping, arson, escape in the first degree, or burglary in the first degree.
   c. To prevent the escape, or the attempted escape, of a person(s) in custody, or while in the course of resisting arrest, whom the officer has reasonable cause to believe has committed a felony offense, such person is armed with a firearm or other deadly weapon.

2. An officer's use of deadly physical force will be reviewed based upon the totality of the circumstances using an objective reasonableness standard. This directive does not require an officer to sustain an injury before applying authorized force.

3. No distinction shall be made relative to the age of the intended target of deadly physical force. Self-defense and imminent threat shall be the only procedural guidelines for employing deadly physical force.

III. ADMINISTRATION

A. Legal Authority to Carry/Use Weapons:

1. The legal authority for sworn officers of the Albany Police Department to carry and use weapons in the performance of their duties is defined in Section 2.20 of the New York State Criminal Procedure Law.

2. Sworn officers are authorized by the Chief of Police to carry and use department approved less lethal weapons and munitions in the performance of their official duties, in accordance with the following:

   a. Sworn personnel of this department are not authorized or permitted to carry or use a department approved less lethal weapon(s), in which the officer did not specifically receive training in while completing the Basic Course for Police Officers, until the officer successfully completes an initial training course in the proper use of such less lethal weapon.
      i. Certificates of completion shall be maintained by the Training Unit and a copy shall be included in the individual officer's personnel file within the Office of Professional
Standards.

b. Only department personnel demonstrating proficiency in the use of department authorized weapons shall be approved to carry such weapons.

3. Non-sworn personnel are not authorized to possess any type of less lethal weapon or ammunition in the performance of their official duties, including while in a vehicle, building, or any other facility that is owned/leased by the City of Albany.

B. Authorized Less Lethal Weapons and Use of Force:

1. In the performance of official duties, sworn officers of this department shall only carry and use department authorized less lethal weapons and ammunition unless specifically authorized by the Chief of Police.

   a. Sworn officers may exercise control over a subject through their visible presence or verbal commands.

   b. Sworn officers may use guiding techniques and department approved restraining devices to physically control the movements of a subject that exhibits no resistance.

      i. Department approved restraining devices consist of the following:

         a) Handcuffs;
         b) Zip-tie restraints; and
         c) Handcuffs and restraining belts.

      ii. Alternative restraints, such as shackles, are also an approved restraining device, which are available through the Central Booking supervisor and may only be utilized with prior approval.

   c. Sworn officers may use department approved open hand control tactics as a response option in the application of physical force.

      i. Soft open hand control tactics include, but are not limited to the following:

         a) Escort holds;
         b) Joint locks; and
         c) Pressure point control techniques that generally involve the application of pain compliance.

      ii. Hard open hand control techniques include, but are not limited to the following:

         a) Striking techniques; and
         b) Take down measures that consist of the forceful
direction of the subject to the ground.

1) All strikes, kicks, punches, etc. shall be targeted at a subject’s major muscle mass areas and muscle structures.

d. Sworn officers may use department approved less lethal weapons and ammunition as a response option in the application of physical force.

e. The Training Unit shall maintain a record of the types and specifications of all less lethal weapons approved for use.

ii. Department issued and/or authorized less lethal weapons and ammunition, which shall only be utilized in accordance with this policy and current department directives, include the following:

   a) Conducted Energy Weapon (CEW) - Taser X26 and X26P;
   b) Cocobolo Police Baton - Up to 26";
   c) Composite Wood Police Baton - Up to 26";
   d) ASP Expandable Baton - Up to 26";
   e) Peacekeeper Rapid Containment Baton - Up to 26";
   f) Cocobolo Riot Batons - 36";
   g) Oleoresin Capsicum (OC) 1.8 Ounce Aerosol Spray;
   h) Oleoresin Capsicum (OC) Sixteen (16) Ounce Crowd Control Spray;
   i) Orthochlorobenzal Maloncnitrile (CS); and
   j) Department Issued/Approved Less Lethal Weapons and Ammunition, as defined in the Emergency Services Team General Order.

ii. The following less lethal weapons are strictly prohibited:

   a) Slapjacks; and
   b) Blackjacks.

f. Authorized members assigned to the K-9 Unit may use a police K-9 as a response option in the application of physical force, as per current directives.

g. The department does not authorize any other less lethal weapons or ammunition to be carried while on-duty.

h. The department does not authorize any department approved less lethal weapons or ammunition to be carried while off-duty.

C. Review and Inspection:

1. Prior to being issued, or approved to carry, a less lethal weapon or ammunition in the performance of official duties, all less lethal weapons and ammunition intended for use by an officer of this department shall be
reviewed, inspected, and approved by a qualified weapons instructor to ensure that the weapon is safe, functional, and operational before use.

a. Training Unit personnel shall complete a Less Lethal Weapon/Riot Gear Assignment Report, documenting each less lethal weapon that has been inspected, authorized, and approved for use by a qualified weapons instructor.

i. A copy of the Less Lethal Weapon/Riot Gear Assignment Report shall be placed in the applicable officer's training file.

ii. If a less lethal weapon is issued to a station/unit a copy of the Less Lethal Weapon/Riot Gear Assignment Report shall be maintained in the applicable station/unit file maintained by the Training Unit.

iii. Each CEW issued shall also be entered in the department's master weapon index, which shall be maintained by the Training Unit.

2. Less lethal weapons that are found to be defective, expired, or otherwise unsafe (either during initial inspection or upon daily officer inspection) shall be removed from service and brought to the Training Center for repair or replacement, according to the following procedures:

a. The officer requesting the repair shall complete an Intra-Departmental Correspondence documenting the repair needed.

b. The officer's supervisor shall email a copy of the IDC to the Training Unit at

c. A member of the Training Unit will make arrangements for the less lethal weapon to be turned into the Training Unit for repair or replacement.

d. All repairs or replacements shall be completed by a qualified weapons instructor or licensed dealer/manufacturer. The repairs shall be documented on an IDC by a member of the Training Unit.

e. When the repairs are complete or the less lethal weapon is replaced, a member of the Training Unit will make arrangements to return the less lethal weapon to the appropriate user or unit/station.

D. Training:

1. Prior to being authorized to carry a less lethal weapon, sworn personnel of this department shall be issued copies and receive instruction on the following:

a. GO 1.3.00 – Use of Force - Less Lethal Weapons.

i. Instruction shall focus on the following topics:

a) Use of Reasonable Force;

b) Use of Deadly Force;

c) Use of Authorized Less Lethal Weapons;
d) Rendering Aid After Use of Weapons; and  
e) Pertinent Sections of Article 35 of the New York State  
Penal Law.

b. The Training Unit shall retain documented records of the issuance  
of such policies and the instruction pertinent to those policies via  
department training records and/or PowerDMS.

2. At least annually, all officers who are authorized to carry weapons shall  
receive in-service training on the department’s use of force policies.

   a. This training may be done in conjunction with weapons training or  
by means of on-line training through PowerDMS.

3. Only those officers, who have successfully completed a department  
approved CEW training course taught by a certified CEW instructor and  
who have successfully demonstrated proficiency in the use of a CEW,  
shall be authorized to carry and utilize a CEW. Proficiency training for  
CEWs shall include successfully loading, unloading, deploying, and  
discharging the prongs of the CEW.

   a. Officers shall complete an initial eight (8) hour block of in-service  
training in the proper use of the CEW, which may include the  
following topics:

   i. New York State Penal Law Article 35, use of force  
requirements;

   ii. Departmental policies and procedures relating to use of  
force;

   iii. Approved and accepted techniques and strategies for non-  
deadly use of force options (not limited to those involving a  
CEW);

   iv. Approved CEW target zones;

   v. Legal updates;

   vi. Justification for CEW deployment and usage;

   vii. De-escalation techniques;

   viii. Departmental reporting requirements;

   ix. CEW unit maintenance and safe storage;

   x. CEW unit inspection;

   xi. Medical treatment and decontamination protocols following  
CEW exposure;

   xii. Probe removal requirements; and

   xiii. Drive-stun techniques.

b. At least annually, agency personnel who are currently authorized to  
carry a CEW shall attend in-service training on the department’s  
use of force policies and shall successfully demonstrate proficiency  
with authorized CEWs.

c. A CEW may only be carried by on-duty personnel who have been  
certified in its use. If carried, the CEW shall be immediately  
accessible on the person and contained within the department
approved holster on the support hand side.

4. In-service training for other less lethal weapons and weaponless control techniques shall occur annually.
   a. All qualifications and proficiency training must be monitored by a certified weapons or tactics instructor.
   b. The Training Unit shall document and maintain records of all training and proficiency ratings.

5. Any officer who does not demonstrate proficiency with an authorized less lethal weapon or weaponless control techniques will be instructed to complete remedial training in the proper use of that weapon prior to resuming official duties.
   a. Officers who fail to demonstrate a satisfactory level of proficiency will not be permitted to carry that particular weapon in the performance of official duties until the officer successfully completes remedial training.
   b. Remedial training shall be documented on an Intra-Departmental Correspondence to the Chief of Police and maintained in the officer’s training file and personnel file.

6. Officers, who were provided training for any less lethal weapon from an outside agency, shall submit certificates of completion to the Training Unit. A certified weapons instructor, in conjunction with Training Unit supervisors, shall determine if the training meets the standards set forth in this policy.
   a. If the training meets or exceeds the standards set forth in this policy, the weapons instructor shall complete an IDC to the Chief of Police detailing their findings.
   b. A copy of the approved IDC and training certificate shall be placed in the officer’s training file and copies shall be sent to the Office of Professional Standards.
   c. The officer shall receive notification from the Training Unit that he/she is now authorized to carry such weapons, as well as a copy of the approved IDC.

7. Officers may only employ lethal and less-lethal weapons within guidelines of training and current department directives.

E. Security, Safety, and Storage:

1. All department weapons that are in the custody of the department shall be under the control of the Training Unit. The Training Unit shall maintain the department weapon inventory regarding the acquisition, distribution, maintenance, sale, and disposal of departmental weapons.
   a. Department weapons and ammunitions shall be safeguarded and stored in the 
b. Weapon acquisition, transfer, and disposal by and for the Albany Police Department shall be performed by the Training Unit with the expressed written consent of the Chief of Police.

c. All weapon acquisition, transfer, and disposal shall be performed in compliance with all federal, state, and local laws, as well as department policies and procedures.

d. Less lethal weapons shall be purchased from a licensed dealer or manufacturer, and in accordance with the City of Albany purchasing policies and procedures.

e. The department's weapons shall be inventoried on a continual basis.

2. Officers are responsible for the care, cleaning, and maximum security of departmental weapons issued to them.

   a. Officers shall provide maximum security for all less lethal weapons they possess and shall exercise the necessary control for its security to prevent its theft, loss, or misuse.

   b. Weapons shall not be left in unsecured areas of the department.

   c. Weapons shall not be left in an unsecured, in plain view in the passenger compartment of any vehicle, for any length of time, at any location when the officer is not in the vehicle. [Strikeout]

   d. Except during authorized training or for maintenance and inspection, officers shall only draw, exhibit, or point a less lethal weapon when they reasonably believe that it may be necessary to use the weapon in the performance of their duty.

   e. OC Spray and Batons are prohibited from entering the booking room or any cell block or cell, except for exigent circumstances.

   f. Officers shall never lend their weapon(s) to unauthorized persons.

IV. LESS LETHAL WEAPON OPERATING PROCEDURES

A. Conducted Energy Weapons (CEWs):

1. CEWs shall be carried and/or utilized only as authorized and in accordance with department policies and procedures.

   a. The Albany Police Department currently authorizes the Taser X26 and the Taser X26P.

   b. The Albany Police Department does not permit the use of personally owned CEWs while on-duty.

2. Pre-Deployment and Storage of CEWs:

   a. CEWs shall be assigned to designated units/stations and stored in

   b. After removing a CEW from its secure storage area, personnel shall complete the following:

      I. Turn the CEW to the "on" position;
ii. Verify that the battery life percentage of the Taser X26 is above 20%, or that the battery life percentage of the Taser X26P has a minimum of two (2) battery life bars;

   a) One (1) battery life bar on the Taser X26P indicates that the CEW is at 20% and the battery needs to be replaced.

iii. Spark test CEW for a full five (5) second cycle;
iv. If the CEW meets this requirement, turn the CEW to the “off” position;
v. Attach the cartridge to the front of the CEW;
vi. Holster the weapon; and
vii. Report the following information to the desk officer, which shall be documented in the unit/station personnel blotter:

   a) CEW serial number;
   b) Department holster utilized;
   c) The officer’s name who is utilizing the CEW; and
   d) The shift/detial and the duration it will be utilized.

c. It shall be the desk officer’s responsibility to account for all CEWs and CEW related equipment at the beginning and end of each tour of duty, which shall be documented in the unit/station blotter.
d. Personnel shall return all CEWs and CEW related equipment at the end of their shift or detail. CEWs and CEW related equipment shall not be stored in any locations other than the designated station/unit storage area.

3. Deployment:

a. The CEW is a defensive operation weapon and shall be used in accordance with Article 35 of the New York State Penal and Albany Police Department policies and procedures.

i. A fleeing subject shall not be the sole justification for using a CEW against a subject. Officers shall also consider, and be able to clearly articulate, the following factors:

   a) The severity of the offense;
   b) The subject’s threat level to others; and
   c) The risk of injury to the subject.

b. Prior to deploying a CEW, personnel shall consider the following:

   i. The level of force exhibited by the subject;
   ii. Proximity and/or access of the subject; and
   iii. Safety of involved individuals, to include:

   a) Hostages;
   b) Non-subject civilians;
c) Other personnel; and

d) Subject in question.

c. CEWs shall not be used under the following circumstances unless deadly physical force in accordance with Article 35 of the New York State Penal Law, and Albany Police Department policies and procedures is justifiable:

i. Where the subject is elevated on an object and has the potential to fall (e.g. building roof tops, trees, river banks, bridges, fences);

ii. Obviously pregnant or known to be pregnant woman;

iii. Apparent juveniles, unless personnel are justified in using deadly physical force;

iv. The elderly or visibly frail;

v. Handcuffed subjects(s); unless it is necessary to prevent the subject from causing harm to themselves, personnel, or others and all other lesser attempts of control are deemed ineffective;

vi. Subjects that are in physical control of a vehicle in motion (e.g., driver of a car, truck, motorcycle, ATV, bicycle, scooter);

vii. Where the subject has a known heart condition, or an apparent debilitating illness;

viii. Intentionally utilizing the CEW in the facial or head area of a subject;

a) CEWs intentionally utilized in the facial and head area is considered deadly physical force and shall only be used in those situations deemed reasonable and justified, as prescribed in Article 35 of the New York State Penal Law and the Albany Police Department policies and procedures.

ix. CEWs shall not be used in areas where flammable liquids and/or gases are present, due to the potential for ignition of said liquids and/or gases; and

x. CEWs shall not be deployed when a subject has been sprayed with an alcohol based chemical spray or alcohol based pepper spray.

a) The Albany Police Department utilizes a non-alcohol based pepper spray, therefore, it is safe to utilize when deployed in conjunction with department issued pepper spray.

d. Personnel should be aware that there is a higher risk to the subject when the CEW is utilized in the following circumstances:

i. Where the subject is in medical or mental crisis; and

ii. Persons obviously under the influence of drugs and/or alcohol.

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e. When safe and practical, personnel should give a verbal warning to the subject that a CEW will be used if they do not comply. This can also include laser painting and/or arching, as defined in this policy.

f. When possible, personnel shall not use a CEW unless there is another officer present to provide lethal cover.

g. The officer deploying the CEW shall inform all other present personnel that a CEW is being utilized.

h. It is the responsibility of the cover officer to properly assess the situation and appropriately provide lethal cover, as the circumstance dictates.

i. If compliance of the subject is achieved, it shall be the responsibility of the back-up officer(s) to take control of the subject (e.g., handcuffing).

   i. Personnel shall not intentionally use more than one (1) CEW against a subject at a time.

   ii. If positive contact with an individual subject is achieved, personnel shall not use a CEW on an individual subject more than [redacted] during a single incident (this includes both deployment of the probes and drive-stun).

d. Personnel should use a CEW for one (1) standard cycle and then evaluate the situation to determine if subsequent cycles are necessary.

j. Personnel should consider that exposure to the CEW whether due to multiple applications or continuous cycling, may increase the risk of death or serious injury.

k. Any subsequent applications should be independently justifiable, and the risks should be weighed against other force options.

   i. For maximum effectiveness, [redacted] unless utilizing the drive stun method.

m. Drive Stun Utilization:

   i. [redacted]

   ii. [redacted]

      a) The primary function of the drive stun mode, when not used to complete the circuit, is to gain subject compliance through the administration of pain.

      b) Using the CEW to achieve pain compliance may have

iii. The CEW probes shall be delivered to the subject target areas based on the following circumstances:
a) Availability;
   b) Clothing;
   c) Established safety priorities; and
   d) Level of force necessary.

iv. Personnel shall not intentionally target sensitive areas such as
the head, neck, upper center mass, and genitals.

n. The subject’s lower center mass should be the target area, unless
exigent circumstances dictate otherwise.

i. Personnel shall keep in mind that subjects affected by the
CEW may be unable to physically perform verbal commands
given by personnel (e.g., “put your hands on top of your
head”).

4. Post Deployment:

a. When a CEW is deployed on a subject, personnel shall, as soon as
safe and practical, request Emergency Medical Services for the
subject.

b. These procedures shall be followed for deployment of the probes
and for drive-stuns, and shall occur before transporting any subject
to Central Booking or the Detective Office.

i. Only Emergency Medical Services personnel shall remove
the probes from the subject. Personnel of this department
shall not remove the probes from any subject.

ii. If a CEW is deployed on any subject by personnel of this
department, that subject is assumed to be in custody and
cannot refuse medical attention.

iii. Emergency Medical Services personnel shall determine if a
subject should be treated at the scene or if they should be
transported to a hospital for medical attention, via an
ambulance.

c. Personnel need to be cognizant of how positional asphyxiation may
exacerbate the condition of any individual who has received a CEW
application.

i. Positional asphyxiation is a death that occurs when a subject’s
body position interferes with breathing, either when the chest
is restricted from expanding properly or when the position of
the subject’s head obstructs the airway.

ii. Positional asphyxiation has been mentioned as a possible
contributing factor in a number of cases in which subjects
died after one or more CEW applications.

iii. Personnel shall utilize a restraint technique that does not
impair a subject’s respiration following a CEW application.

5. Care and Maintenance:
a. CEW operators shall use due care with any CEW or CEW related equipment, and shall not subject them to unnecessary abuse or destruction.

b. Any CEW that is not function properly shall immediately be taken out of service and turned into the Training Unit for repair, in accordance with procedures outlined in this policy.

6. Public Information and Community Relations:

a. The Albany Police Department shall conduct neighborhood programs that focus on CEW awareness training. This shall include CEW awareness training during the Citizen Police Academy.

   i. The Albany Police Department shall attempt to include law enforcement partners such as local medical personnel, citizen review boards, medical examiners, mental health professionals, judges and the District Attorney’s Office in its CEW awareness programs.

b. The Albany Police Department Public Information Officer (PIO) shall receive extensive training on the CEW so that he/she can better inform the media and the public about the weapon. The Public Information Officer shall brief the media on the Albany Police Department's CEW policy, when applicable.

B. Batons:

1. Sworn officers of this department shall carry only those batons that are authorized by the Chief of Police and that the officer has successfully completed department approved training for in the proper use and deployment. The Albany Police Department currently authorizes the following batons to be used in official capacity:

   a. Cocobolo Police Baton - Up to 26";
   b. Composite Wood Police Baton - Up to 26";
   c. ASP Expandable Baton - Up to 26";
   d. Peacekeeper Rapid Containment Baton - Up to 26"; and
   e. Cocobolo Riot Batons - 36", which shall be stored in patrol supervisor’s vehicles and authorized/deployed at the direction of a supervisor.

   i. Retention end cap, window breaker cap, and/or a combo of them both are authorized accessories.

2. Officers shall demonstrate proficiency in the use of an authorized baton, prior to being authorized to carry said baton.

   a. Training shall be completed by a certified weapons instructor and documented, as outlined in this policy.

3. Proper Handling/Grip:

   a. [Redacted]
4. Deployment/Target Areas:

a. Accurately directed blows to the following areas are usually effective, with less chance of serious physical injury to the intended subject.

i.

ii.

iii.

iv.

b. By using the baton as an extension of the arm, the baton can be an effective parrying instrument.

c.

d. Officers must always attempt to avoid jabbing, striking, or pressing on a subject's head, neck, spine, sternum, or groin, as these areas have a higher chance of resulting in serious physical injuries or death.

e. Illustrated Depiction of Vital and Vulnerable Striking Areas:
C. CHEMICAL AGENTS

1. Officers shall demonstrate proficiency in the use of an authorized chemical agent, prior to be authorized to carry such chemical agent.

   a. Training shall be completed by a certified weapons instructor and documented, as outlined in this policy.

2. Authorized chemical agents shall include:

   a. Oleoresin Capsicum (OC); and
   b. Orthoclorobenzal Malononitrile (CS).

3. Oleoresin Capsicum:

   a. Oleoresin Capsicum (OC) is a natural inflammatory agent that contains the active ingredient capsaicin, which is extracted from pepper plants. As an inflammatory agent, aerosol OC Spray causes an almost immediate swelling of the eyes and breathing passages. Additionally, there is an intense burning sensation of the eyes, throat, and sprayed areas of the skin. When OC is inhaled, the respiratory tract becomes inflamed and breathing is restricted, limited to short and shallow breaths. Physical effects may include involuntary closing of the eyes, coughing, choking, lack of upper body strength and coordination and nausea. Psychological effects such as disorientation and fear may also occur.

   b. When properly used, OC Spray is usually quite effective on both humans and animals. OC Spray will incapacitate most subjects for a period of without permanent injury. Because Oleoresin Capsicum is a natural and biodegradable substance, decontamination procedures include proper ventilation, removing any contact lenses, and providing access to a water source.

   c. The sixteen (16) ounce crowd control spray of Oleoresin Capsicum (OC)
must be carried in the approved canister when not in use.

4. Circumstances for Use:

   a. OC spray shall be used at the officers discretion, under the following circumstances:

      i. When necessary to defend self/others; and
      ii. When lower levels of force are deemed ineffective/inappropriate to:

         a) Effect an arrest; and/or
         b) Prevent the commission of an offense/crime.

   b. Whenever possible, a verbal warning of OC deployment and a command to desist the undesirable behavior shall be given.

      i. If unheeded, OC spray may be utilized in an attempt to gain compliance from the subject.

   c. Environmental considerations:

      i. To avoid third party contamination, officers shall consider wind direction and other weather conditions prior to using OC spray.
      ii. Officers shall consider the adverse effects if deployed in confined or enclosed spaces.

   d. Health considerations:

      i. If possible, avoid chemical spray on the elderly or the visibly frail, apparent juveniles, obviously pregnant or known to be pregnant women, and persons with known respiratory conditions.

5. Use of Authorized OC Spray:

   a. OC spray is intended for use primarily in incidents where a subject is actively resisting a lawful arrest. OC spray should be used only after other methods of subduing violent persons have failed, and only as an alternative to more extreme uses of force.

   b. OC spray produces a potent “ballistic” stream that may incapacitate a subject. Once the decision has been made to deploy OC, the stream should be directed.

   c. When OC spray has been deployed on a subject, the following procedures shall be followed:

      i. The subject shall be provided the opportunity to wash the affected areas within twenty (20) minutes after the application of the spray, absent exigent circumstances.
      ii. Officers shall not use any creams, ointments, or bandages on affected areas.
iii. Officers shall not keep a sprayed subject in a face-down position for a period longer than necessary in order to avoid positional asphyxia.

iv. Officers shall summon Emergency Medical Services (EMS) and arrange to have the subject transported to a local medical facility for treatment, under the following circumstances:

   a) Subjects who complain of, or exhibit, continued effects after having the affected area flushed with water.
   b) Subjects who indicate that they have a pre-existing medical condition (e.g., asthma, emphysema, bronchitis, etc.) that may be aggravated by OC spray.
   c) If, at any point, after exposure the subject displays a reaction not consistent with the expected reaction to aerosol OC spray, medical attention is to be summoned immediately.

   d. Department issued OC spray may not be used in the following circumstances:

      i. To effect the arrest of a person that is only offering verbal cues or other forms of passive resistance;
      ii. To effect the arrest of a person that is only passively resisting (e.g., going limp, offering no physical resistance);
      iii. Handcuffed individuals;
      iv. Once a subject succumbs or becomes incapacitated;
      v. Civil demonstrations in which the subjects are passively resisting;
      vi. Crowded areas, except with supervisor approval absent exigent circumstances;
      vii. To threaten or elicit information from a person; or
      viii. As a means of punishment.

6. Department Issue and Re-Issue of OC Spray:

   a. Issue:

      i. Officers will be issued one (1) canister of department approved chemical spray upon completion of OC Training.

   b. Re-Issue:

      i. Officers must submit a request for a new canister of OC spray by completing an Intra-Departmental Correspondence (IDC) to the Chief of Police. The IDC must detail the reason(s) that the request is being made. Reasons for a re-issue include:

      a) Replacement of an exhausted canister;
      b) Replacement of a date-expired canister;
      c) Replacement of a non-functioning or damaged canister;
      d) Replacement of a lost/stolen canister;
      e) Replacement of a canister turned in as evidence; or
      f) Training.
7. Use of Authorized CS Gas:

   a. Barricaded Suspect(s) or Subject(s):
      
      i. ____________________________

      ii. Only the volume of chemical agents that is reasonable shall be used. The amount of chemical agent to be used shall be determined by the following:

      a) The seriousness of the offense;
      b) The threat to the community posed by the suspect(s)/subject(s);
      c) Location demographics: size, single level or multi-level, available windows or area for insertion of chemical agents, wind and weather;
      d) Type of chemical agent being used;
      e) The available positions and locations from which chemical agents can be deployed;
      f) The potential for injury to person(s) inside the location; and
      g) Other uninvolved subject(s) present inside the location.

   b. Unlawful Assembly/Crowd Dispersal:

      i. With the approval of the Incident Commander, the use of chemical agents in response to an unlawful assembly may be reasonable depending on the totality of the circumstance.

      a) Members of the Albany Police Department should consider when, where, and how chemical agents may be deployed, and consider potential collateral effects.

      ii. The minimum amount of chemical agent shall be used to obtain compliance.

      iii. An audible warning of their imminent use and a reasonable amount of time must be provided to disperse the crowd, on-scene media,
other observers, and Albany Police Department members that are present prior to the use of any chemical agents.

iv. If chemical agent use is contemplated in crowd situations, Emergency Medical Services must be on site prior to its use and shall make provisions for decontamination and medical screening for those persons affected by the chemical agent.

v. The use of chemical agents against passive resisters is prohibited absent exigent circumstances.

8. Decontamination:

a. Oleoresin Capsicum:

i. It is the user’s responsibility to make every effort to relieve the subject’s discomfort after being exposed to OC; by flushing the eyes and the contaminated areas with cool, clear water. Do Not Rub.

ii. In the absence of a water source, officers may contact Emergency Medical Services for assistance in these efforts.

iii. If the subject is wearing contact lenses at the time of exposure, they should be removed at the earliest opportunity. Soft contact lenses may hold the active ingredients within, resulting in an undesired continued effect.

b. CS Gas:

i. Decontamination of First Responder:

   a) Begin washing PPE of the first responder using soap and water solution and a soft brush. Always move in a downward motion (from head to toe). Make sure to get into all areas, especially folds in the clothing. Wash and rinse (using cold or warm water) until the contaminant is thoroughly removed.

   b) Remove PPE by rolling downward (from head to toe) and avoid pulling PPE off over the head. All PPE should be placed in labeled durable 6-mil (or greater) polyethylene bag.

ii. Decontamination of Patient/Subject:

   a) Remove the patient/victim from the contaminated area and into a decontamination corridor or safe zone.

   b) Request Emergency Medical Services to transport patient/subject to local medical hospital for further decontamination.

   c) While at hospital, the patient/subject should thoroughly wash and rinse (using cold or warm water) contaminated skin.

   d) Clothing items that are removed from the patient/subject should be placed in a 6-mil (or greater) polyethylene bag.

IV. RENDERING AID/MEDICAL TREATMENT

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A. When an incident of less lethal force results in serious physical injury, minor injury or complaint of injury, the officer at the scene shall immediately summons emergency medical services.

1. Should the injury appear to be life threatening in nature, and while awaiting the arrival of emergency medical service personnel, the officer(s) present shall initiate any and all life saving techniques for which they have received training.

2. An officer shall accompany the injured to the medical facility when:
   a. The person has suffered serious injuries, or when symptoms of serious injury becomes apparent;
   b. The injured person(s) are under arrest; or
   c. After evaluation by qualified emergency medical service personnel at the scene, there exists a reasonable risk of internal injuries that may not be manifesting visibly.

3. Once at the medical facility, the person will be examined, treated, and either admitted to the facility or released to the custody of the officer with a written medical release from the attending physician.

   a. If the person refuses treatment at the medical facility, the officer may request the refusal be noted in the physician’s records.

V. USE OF FORCE REPORTING REQUIREMENTS

A. An Albany Police Department Subject Resistance/Use of Force Report, shall be completed and whenever an officer:

   1. Takes an action that results in, or is alleged to have resulted in, injury or death of a person;
   2. Applies force through the use of a less lethal weapon, including display/deployment of a less lethal weapon; or
   3. Applies weaponless physical force at a level as defined in this policy.

B. The following information shall be documented on the Subject Resistance/Use of Force Report:

   1. The nature of the circumstances surrounding the use of force;
   2. The officers involved in the incident;
   3. The force displayed or used to subdue the subject;

   a. When utilizing force that involves the deployment of a CEW, either through use of multiple probes and/or multiple drive-stuns, personnel shall state the reasons for each additional use in the narrative.
   b. Deployment of a CEW, baton, or chemical agent by an officer to gain compliance, whether or not utilized, shall be considered a use of force incident and shall be documented as such.
4. Injuries, including the following:
   a. Complaint of an injury, a sustained injury, or death to the subject;
   b. Complaint of an injury or sustained injury to the officer; or
   c. Complaint of an injury or sustained injury to another party not involved in the incident.

5. The medical attention received, or the refusal thereof, along with the name of the attending physician.

C. Upon injury or complaint of injury to an officer as the result of deployment of force, officers shall be responsible for completing the following:

1. A Standardized Incident Report (SIR); and
2. All 207-C and C-3.

D. Upon completion of the SIR and/or the Subject Resistance/Use of Force Report, officers shall submit both documents to their immediate supervisor for review.

1. Supervisors shall be responsible for completing an administrative review all Subject Resistance/Use of Force Reports to determine whether policy, training, equipment, or disciplinary issues should be addressed.
2. If determined that any of the above should be addressed, supervisors shall submit an IDC to the Chief of Police documenting the reasons why and the circumstances of the incident.

E. Subsequent to the notification of an officer’s use or deployment of less lethal force, supervisors shall be responsible for the following:

1. If possible, respond to the incident scene and conduct an initial review of the circumstances surrounding the use of force, including unintentional activations of a CEW.
2. Should an officer or subject sustain an injury, supervisors shall determine if detectives shall respond to the scene of the incident for follow up investigation. Follow up investigations may include, but are not limited to the following:
   a. Crime scene processing;
   b. Interviewing witnesses;
   c. Taking statements; and
   d. Securing any video/audio recordings.
3. If an officer is unable to complete reports due to injuries, the supervisor shall prepare, or make arrangements for the completion of all proper documentation.
4. Upon receiving, and subsequently approving, the officer’s use of force report, supervisors shall complete an entry into the Blue Team software application, as per current directives.
   a. Approved hard copies shall be forwarded to the Office of Professional Standards.

F. Use of Force Annual Analysis:
1. The Commander of OPS shall conduct a documented annual analysis of the department’s use of force activities, policies, and practices. The analysis should identify:

   a. Date and time of incidents;
   b. Types of encounters resulting in use of force;
   c. Trends or patterns related to race, age and gender of subjects involved;
   d. Trends or patterns resulting in injury to any person including employees; and
   e. Impact findings on policies, practices, equipment, and training.

2. The results of this analysis shall be documented on an IDC to the Chief of Police.

   a. Censored text
   b. Censored text

G. Assault on Sworn Officer Review:

1. The Commander of OPS shall conduct a review of all assaults on sworn personnel with recommendations to enhance officer safety, revise policy, or address training issues.

2. The review may be included in the annual use of force analysis.

Eric Hawkins
Chief of Police
USE OF FORCE - LETHAL WEAPONS
GENERAL ORDER NO: 1.3.05

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<th>Effective Date: March 1998</th>
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<td>Revision Date: January 15, 2016</td>
<td>CALEA: 1.2.2, 4.1.1, 4.1.2, 4.1.3, 4.1.5, 4.2.1, 4.2.2, 4.2.3, 4.2.4 4.3.1, 4.3.2, 4.3.3, 4.3.4</td>
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<td>Volume 1: Organizational Structure</td>
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PURPOSE: The purpose of this policy is to establish policies and procedures governing the use of deadly physical force by sworn officers of this department and to establish procedures for investigating and reporting the use of such force.

POLICY: It is the policy of the Albany Police Department that an officer may use deadly physical force only when the officer reasonably believes that the action is in the defense of human life, including the officer's own life, or in defense of another person in imminent danger of serious physical injury.

DEFINITIONS:

Reasonable Cause to Believe/Reasonable Belief – Reasonable belief means 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.

Physical Force – Physical force means force that is used upon, or directed toward the body of, another person that does not amount to deadly physical force.

Physical Injury – Physical injury means the impairment of physical condition or substantial pain, as defined in Article 10 of the New York State Penal Law.

Serious Physical Injury – Serious physical injury means 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, as defined in Article 10 of the New York State Penal Law.

Deadly Physical Force – Deadly physical force means force which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury, as defined in Article 10 of the New York State Penal Law.

Firearm – A firearm means any pistol, revolver, shotgun, rifle, or assault weapon, as defined in Article 265 of the New York State Penal Law.
**Patrol Rifle** – A patrol rifle is an optional firearm that is meant to provide department members with increased safety by offering a firearm with greater range capabilities and an ability to defeat modern body armor. The patrol rifle is not a fully automatic weapon, and will fire in semi-automatic mode only.

**Impact Weapon** – An impact weapon is a device used to apply force against a non-compliant or assaultive subject, or to affect a blocking or defensive technique. This shall include police batons and expandable batons.

**Weapon Mounted Light** – A weapon mounted light is a tool that is attached to an individual officer's assigned weapon to assist them in a low or no light environment which will enhance the officer's ability to identify possible targets and/or safely perform their duties during a high risk situation.

I. AUTHORIZED USE OF FORCE

A. Use of Reasonable Force:

1. While in the performance of official duties, officers shall only employ the degree of physical force that is reasonable and necessary, based on the totality of the circumstances, to accomplish lawful objectives, as established by Article 35 of the New York State Penal Law and the policies and procedures set forth by this department.

   a. Lawful objectives include, but are not limited to the following:

      i. Detentions;
      ii. Frisks;
      iii. Arrests;
      iv. Self defense;
      v. Defense of others;
      vi. Defense of property;
      vii. Preventing a person(s) from self-injury or protective custody commitments;
      viii. Preventing a person(s) from destroying evidence;
      ix. Stopping a riot; or
      x. Preventing prisoner escapes.

   b. Factors that determine reasonableness for the totality of circumstances include:

      i. The severity of the crime;
      ii. Whether the suspect is an immediate threat to the safety of the officer or others;
      iii. Actively resisting arrest; or
      iv. Attempting to evade by flight.

   c. Other factors that determine the necessity to use force include, but are not be limited to the following:

      i. The number of suspects versus the number officers
involved;

ii. Pre-assault indicators (e.g., actions, statements, etc.);

iii. Size, age, and physical condition of the officer and suspect;

iv. Known or perceived physical abilities of the suspect;

v. Previous violent or mental history;

vi. Perception of the use of alcohol or drugs by the subject;

vii. Perception of the suspect’s mental or psychiatric history based on specific actions;

viii. The availability and proximity to weapons;

ix. Environmental factors (e.g., night/day, snow/ice, terrain, etc);

x. Injury to the officer or prolonged duration of the incident;

xi. Officer on the ground or other unfavorable position; and

xii. Characteristics of being armed (e.g., bulges, adjustment of clothing, “security touches”).

2. Lethal weapons shall be carried and/or utilized only as issued and authorized, and shall be deployed in compliance with Article 35 of the New York State Penal Law.

   a. Under no circumstances shall changes, alterations, modifications, or substitutions be made without prior written consent from the Chief of Police or his/her designee.

3. Officers may only employ lethal weapons within the guidelines of department training, policies, and procedures.

   a. Officers must be able to articulate a compelling need to use a weapon of opportunity, to inflict physical injury, serious physical injury, and/or death.

4. De-Escalation

   a. When safe and reasonable, officers shall attempt to use de-escalation tactics.

      i. De-escalation tactics and techniques are actions used by officers, when safe and without compromising the mission of the Albany Police Department, which seek to achieve conflict resolution during an incident, and increase the likelihood of voluntary compliance.

      ii. Mitigating conflict gives officers time to utilize extra resources and increases time available to resolve the incident in a safe manner.

   b. Officers shall balance de-escalation techniques against the facts of the incident facing them when deciding which tactical options are the most appropriate to bring the situation to a safe resolution.
II. AUTHORIZED USE OF DEADLY FORCE

A. While in the performance of official duties, an officer may use deadly force only when the officer reasonably believes that the action is in defense of human life, including the officer's own life, or in defense of any person in imminent danger of serious physical injury, according to the following:

1. Officers may use deadly physical force, in accordance with Article 35 of the New York State Penal Law, when there is reasonable cause to believe that such force is necessary in order to:

   a. Prevent or terminate the imminent danger of serious physical injury and/or death against the officer or a third person;
   
   b. To effect the arrest of a person whom the officer has reasonable cause to believe:

      i. Has committed, or is attempting to commit, a felony offense involving the use or attempted use or threatened imminent use of physical force against the officer or a third person; or

      ii. Has committed, or is attempting to commit, a kidnapping, arson, escape in the first degree, or burglary in the first degree.

   c. To prevent the escape, or the attempted escape, of a person(s) in custody, or while in the course of resisting arrest, whom the officer has reasonable cause to believe has committed a felony offense, such person is armed with a firearm or other deadly weapon.

2. An officer's use of deadly physical force will be reviewed based upon the totality of the circumstances using an objective reasonableness standard. This directive does not require an officer to sustain an injury before applying authorized force.

3. No distinction shall be made relative to the age of the intended target of deadly physical force. Self-defense and imminent threat shall be the only procedural guidelines for employing deadly physical force.

B. Officers are prohibited from discharging their firearm in the following instances:

1. When the use of deadly physical force may injure innocent persons whom he/she is not seeking to arrest or retain in custody.

2. To subdue a fleeing felon who presents no threat of imminent serious physical injury and/or death to the officer or another person present.

3. In defense of property.

C. General Guidelines:

1. Drawing/Displaying Firearms:

   a. The drawing or display of an officer's firearm represents escalation toward the use of deadly physical force, increasing the risk of accidental discharge or weapon loss, and may contribute to fear or
panic. Officers are justified in removing firearms from holsters and/or gun mounts according to the following:

i. The officer reasonably believes that the situation may pose an immediate threat of death or serious physical injury to themselves or another person; and/or

ii. There is justification to use deadly physical force against a person.

2. Warning Shots:

a. Police officers shall not fire warning shots and shall not discharge their firearms to summon assistance; except in emergency situations, where the life or safety of a police officer is endangered and no other reasonable means to summons assistance is available.

3. Moving Vehicles:

a. Officers shall not discharge a firearm at a motor vehicle and/or the occupants therein, unless as a last resort and only when the operator of the vehicle is directing the vehicle as deadly force against the officer or other innocent persons and the officer believes employing deadly force creates no substantial risk of injury to innocent persons.

i. Officers should be aware that a motor vehicle presents a formidable shield against most firearms and if the officer disables the vehicle or the operator of the vehicle; it should be expected that the vehicle may continue uncontrolled creating a hazard to officers and the public.

4. Animals:

a. With supervisor approval, officers are justified in using firearms to humanely dispatch animals provided the following criteria is met:

i. An animal is attacking or presenting an imminent danger of substantial harm to the officer or any person; or

ii. An animal is badly injured, diseased, threatening, or destructive (shotguns shall be considered humane in dispatching animals in these situations); and

iii. There is no threat of injuring any other party in the immediate vicinity or the surrounding area.

b. In all instances where an officer humanely dispatches an animal, the officer shall complete the following:

i. An Albany Police Department Subject Resistance/Use of Force Report,
ii. A Standardized Incident Report (SIR);
iii. Notify the owner of the animal, if applicable; and
iv. Notify Animal Control or Department of Environmental Conservation, when applicable, and request that the animal is removed, unless the animal is removed by the owner(s) or their representative.

5. Unintentional Discharge of a Firearm:

a. Whenever an officer unintentionally discharges a firearm, on or off duty, the officer shall immediately notify a supervisor.
b. The notification and reporting procedures for the unintentional discharge of a firearm shall be the same as reporting the use of deadly physical force, except a Subject Resistance/Use of Force report is not required.

III. ADMINISTRATION

A. Legal Authority to Carry/Use Weapons:

1. The legal authority for sworn officers of the Albany Police Department to carry and use weapons in the performance of their duties is defined in Section 2.20 of the New York State Criminal Procedure Law.
2. Sworn officers are authorized by the Chief of Police to carry and use department approved firearms and ammunition in the performance of their official duties, in accordance with the following:

a. Sworn personnel of this department are not authorized or permitted to carry or use any firearm or ammunition in the connection with the performance of their official duties unless such officer has satisfactorily completed the basic course of instruction in the use of deadly force and the use of firearms, of an approved Municipal Police Training Council (MPTC) Program, or a program that meets or exceeds this instruction; with the exception of authorized departmental firearms training.

 i. Certificates of completion shall be maintained by the Training Unit and a copy shall be included in the individual officer’s personnel file within the Office of Professional Standards.

b. Only department personnel demonstrating proficiency in the use of department authorized weapons shall be approved to carry such weapons.

3. Non-sworn personnel are not authorized to possess any type of firearm or ammunition in the performance of their official duties, including while in a vehicle, building, or any other facility that is owned/leased by the City of Albany.

a. This includes non-sworn personnel who have been issued a
license/permit to carry a firearm.

B. Department Issued Lethal Weapons/Ammunition While On-Duty:

1. In the performance of official duties, sworn officers of this department shall only carry and use department authorized lethal weapons and ammunition, unless specifically authorized by the Chief of Police. Department issued/authorized lethal weapons include the following:

   a. Sworn Personnel:
      i. 
      ii. 

   b. Patrol Rifle Operators:
      i. 
      ii. 

   c. Department Issued/Approved Lethal Weapons, as defined in the Emergency Services Team General Order 3.9.15.

2. While on duty, officers shall only carry and use department issued/approved ammunition, which includes the following:

   a. Sworn Personnel:
      i. 
      ii. 
      iii. 
      iv. 

   b. Patrol Rifle Operators:
      i. 
      ii. 
      iii. 

   c. Department Issued/Approved Ammunition, as defined in the Emergency Services Team General Order.

3. While engaged in field assignments, sworn personnel of this department shall carry their department approved/authorized firearm and ammunition, which shall include at least one

   a. Officers should frequently check and replace their ammunition, as needed; and
   b. The use of reloaded ammunition is strictly forbidden.
C. Department Issued Lethal Weapons/Ammunition While Off-Duty:

1. Officers are not required to, but may, carry their department issued/approved handgun and ammunition while off-duty.
2. Said firearm and ammunition shall be carried and utilized in accordance with this policy and current department directives.
3. No other department issued lethal weapon shall be carried by a member of this department while off-duty.

D. Personally Owned Lethal Weapons/Ammunition While On-Duty:

1. Handguns owned by officers of the Albany Police Department must be either placed on a valid New York State Firearms License and/or Firearms amendment(s); or registered with the department via a New York State Police “C” Form; which reports the acquisition or disposition of a firearm by a police/peace officer after 09/01/1980.

   a. Officers must submit a completed “C” Form to the Office of Professional Standards within ten (10) days of acquisition or disposition of a handgun, listing one handgun per “C” Form.
   
   b. The Office of Professional Standards shall place a copy of the “C” Form in the individual officer’s personnel file.

2. Officers/detectives assigned to plain clothes details/positions may seek approval from the Chief of Police to carry their personally owned, smaller, and more concealed handgun while on-duty in lieu of their department issued handgun. The following criteria must be met prior to the officer/detective being authorized to carry said handgun:

   a. The handgun must be the current issued caliber weapon of the Albany Police Department (underline);
   
   b. The handgun and holster must be approved by a certified department armorer; and
   
   c. The authority to carry and use said handgun while on-duty must be authorized and approved by the Chief of Police.

3. The following procedures shall be completed prior to an officer/detective carrying a personally owned handgun while on-duty:

   a. The requesting officers/detective shall complete an Intra-Departmental Correspondence (IDC) to the Chief of Police requesting permission to carry a personally owned handgun while on-duty.

      i. The IDC shall detail the weapon’s specifications and the type of holster that will be used.

      ii. A copy of the coinciding “C” Form or a copy of his/her valid NYS Firearms permit and/or corresponding Firearms Amendment shall be attached to the IDC.
b. Upon approval of the Chief of Police or his/her designee the following shall occur:

i. A copy of the approved IDC shall be forwarded to the Training Unit, as well as forwarded to the requesting officer.

ii. A Training Unit supervisor shall arrange for a certified department armorer to inspect the weapon and the weapon’s holster to ensure that they are safe, functional, and operational before use in an official capacity.

iii. If the weapon and holster are approved by the department armorer, a certified department firearms instructor shall administer a New York State DCJS Qualification Course of Fire, which the officer/detective must successfully pass in order to be authorized to carry said firearm.

iv. The certified department firearms instructor shall document the results of the qualification course, detailing the weapon type and specifications.

v. A copy of the approved IDC and qualification course shall be placed in the officer’s training file, and a copy shall be sent to OPS and placed in the officer’s personnel file.

c. All maintenance and damage to the firearm are the responsibility of the individual officer/detective.

d. Authorized ammunition, as defined in this policy, shall be provided by the Albany Police Department prior to the firearm be carried on-duty.

4. 

5. No other personally owned lethal weapon(s) shall be carried by a member of this department while on-duty.

E. Personally Owned Lethal Weapons/Ammunition While Off-Duty:

1. Officers who intend to carry a personally owned handgun while off-duty, for purposes other than recreation, must complete the following procedures prior to carrying such handgun:

a. Officers/detectives shall submit an Intra-Departmental Correspondence to the Chief of Police listing the weapon(s) type and specifications.

b. Upon OPS verification of a completed “C” Form and upon approval of the Chief of Police or his/her designee the following shall occur:

i. A copy of the approved IDC shall be forwarded to the Training Unit, as well as the requesting officer.

ii. A Training Unit supervisor shall arrange for a certified department armorer to inspect the weapon to ensure the weapon is safe, functional, and operational before use in an official capacity.

iii. If the weapon is approved by the department armorer, a certified department firearms instructor shall administer a
New York State DCJS Qualification Course of Fire, which the officer/detective must successfully pass in order to carry said firearm; that has the potential to be used in an official capacity. The type and specifications of the firearm as well as the results of the qualifications course will be documented.

iv. A certified firearms instructor will provide recommendations on which ammunition should be utilized for carrying said firearm off-duty.

v. A copy of the approved IDC and qualification course shall be placed in the officer's training file, and a copy shall be placed in the officer's personnel file.

c. Any officer who carries an off-duty handgun for purposes other than recreation must complete the department firearms training requirements, and qualify with such handgun annually.

d. All maintenance and damage to the firearm are the responsibility of the individual officer/detective.

e. Officers carrying or using handguns off-duty shall adhere to the same regulations pertaining to the use and display of firearms while on duty. The use of discretion and good judgment are required at all times.

6. The department does not authorize any other lethal weapon(s) that are not outlined this policy.

F. Training:

1. Prior to being authorized to carry a lethal weapon, sworn personnel of this department shall be issued copies and receive instruction on the following:

   a. GO 1.3.05 – Use of Force - Lethal Weapons.

   i. Instruction shall focus on the following topics:

      a) Use of Reasonable Force;
      b) Use of Deadly Force;
      c) Warning Shots;
      d) Use of Authorized Lethal Weapons;
      e) Rendering Aid After Use of Weapons; and
      f) Pertinent Sections of Article 35 of the New York State Penal Law.

   b. The Training Unit shall retain documented records of the issuance of such policies and the instruction pertinent to those policies via department training records and/or PowerDMS.

2. At least annually, all officers authorized to carry weapons shall receive in-service training on the department’s use of force policies and demonstrate proficiency with all approved lethal weapons that the officer is authorized to use.
a. All qualifications and proficiency training must be monitored by a certified firearms instructor.

b. The Training Unit shall document and maintain records of all training and proficiency ratings.

3. Any officer who does not demonstrate proficiency with an authorized lethal weapon will be instructed to complete remedial training in the proper use of that weapon prior to resuming official duties.

   a. Officers who fail to demonstrate a satisfactory level of proficiency will not be permitted to carry that particular weapon in the performance of official duties until the officer successfully completes remedial training.

   b. Remedial training shall be documented on an Intra-Departmental Correspondence to the Chief of Police and maintained in the officer’s training file and personnel file.

4. Only those officers who have successfully completed a department approved training course in the proper use and deployment of an approved patrol rifle shall be authorized and issued a patrol rifle to utilize during their tour of duty.

   a. Officers assigned a patrol rifle are required to qualify quarterly with their patrol rifle in order to maintain a degree of proficiency and marksmanship.

      i. Officers are required to demonstrate a minimum of 90% score on the qualification course and a 100% standard, whereas all rounds fired during the qualification course are accounted for on the target.

      ii. Training records shall be maintained by the Training Unit.

5. Officers may only employ lethal weapons within the guidelines of training and current department written directives.

   a. Officers must be able to articulate a compelling need to use a firearm or a weapon of opportunity, to inflict physical injury, serious physical injury and/or death.

G. Review and Inspection:

1. Prior to being issued, or approved to carry, a lethal weapon in the performance of official duties, all lethal weapons intended for use by an officer of this department shall be reviewed, inspected, and approved by a certified department armorer. The review and inspection shall be to ensure that the weapon is safe, functional, and operational before use.

   a. The Training Unit shall maintain a record of each lethal weapon inspected and authorized for use during the course of an officer’s official duties.

   b. Each department issued lethal weapon assignment shall be documented on an Albany Police Department Firearm Assignment
Report of this order, which shall be completed by a department certified armorer.

c. A copy of the Firearm Assignment Report shall be placed in the officer’s training file and an entry of each assigned firearm shall be entered in the department’s master weapon index, which shall be maintained by the Training Unit.

2. Lethal weapons that are found to be defective, expired, or otherwise unsafe (either during initial inspection or upon daily officer inspection) shall be removed from service and brought to the Training Unit for repair and/or replacement, according to the following procedures:

   a. For emergency repair or replacement, the employee’s supervisor shall contact the Lieutenant of the Training Unit.
   b. The officer requesting the repair shall complete an Intra-Departmental Correspondence documenting the repair needed.
   c. The officer’s supervisor shall email a copy of the IDC to the Training Unit at ...
   d. All repairs or replacements shall be completed and documented by a qualified weapons instructor or armorer.

H. Security, Safety, and Storage:

1. All department firearms and specialty weapons that are in the custody of the department shall be under the control of the Training Unit. The Training Unit shall maintain the department weapon inventory regarding the acquisition, distribution, maintenance, sale, and disposal of departmental firearms and specialty weapons.

   a. Department weapons and ammunitions shall be safeguarded and stored.
   b. All firearms and specialty weapons acquisition, transfer, and disposal by and for the Albany Police Department shall be performed by the Training Unit with the expressed written consent of the Chief of Police.
   c. All firearms and specialty weapons acquisition, transfer, and disposal shall be performed in compliance with all federal, state, and local laws, as well as department policies and procedures.
   d. Firearms shall be purchased from a licensed dealer or manufacturer, and in accordance with the City of Albany purchasing policies and procedures.
   e. The department’s weapons shall be inventoried on a continual basis.

2. Officers are responsible for the care, cleaning, and maximum security of departmental weapons issued to them.

   a. Officers shall provide maximum security for all lethal weapons they possess and shall exercise the necessary control for its security to prevent its theft, loss, or misuse.
   b. Firearms shall not be left in unsecured areas of the department.
   c. Firearms shall not be left in an unsecured portion of any motor
vehicle.

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ii. 

d. Except during authorized training or for maintenance and inspection, officers shall only draw, exhibit, or point their firearm when they reasonably believe that it may be necessary to use the weapon in the performance of their duty.
e. Firearms are prohibited from entering the booking room or any cell block or cell, except for exigent circumstances or when deadly physical force is necessary.
f. Officers shall never lend their firearm to unauthorized persons.
g. When stored or not in use, firearms should be unloaded and locked in a secure compartment or container; magazines removed.
h. 

3. All weapons, department owned/issued and personally owned, shall be stored in compliance with the New York State Penal Law.

I. Weapon Mounted Lights:

1. A weapon mounted light is a tool that is attached to an individual officer’s assigned weapon to assist them in a low or no light environment and in situations where the officer is justified to use or display their firearm.

2. A weapon mounted light is NOT intended to replace the officer’s handheld flashlight.

3. Mounting a light on a weapon is NOT authorized if the light mount must be removed prior to holstering.

4. For officer safety reasons, handguns with a light attachment must be carried in an approved Albany Police Department hard framed holster, molded for a specific weapon system.

   a. The holster must be designed to carry the weapon with the light mount still attached to the weapon.

   b. Holsters made solely of nylon material are not authorized. These types of holsters tend to collapse once the weapon is removed making it difficult to re-holster the weapon.

5. Weapon lights and holsters are considered optional equipment and must be purchased and maintained by the individual officer unless they are assigned to a specialized unit and approved by the Chief of Police.

6. Only sworn personnel who have successfully completed an Albany Police
Department approved training course in the proper use and deployment of weapon mounted lights shall be authorized to utilize a weapon light.

7. Under no circumstances shall changes, alterations, modifications, or substitutions of any authorized and issued firearms or ammunition be made without prior written consent from the Chief of Police.

J. Department Authorized/Issued Shotgun:

1. Supervisors are responsible for the deployment and oversight of department shotguns assigned to their unit/station.
   
   a. Officers shall be assigned a shotgun during regular patrol duties.
   b. Officers should only deploy this weapon when a situation exists dictating the use of a shotgun over the use of a handgun.

2. Officers utilizing a shotgun shall complete the following safety check at the beginning and end of each tour of duty:
   
   a. Before touching the shotgun, visually ensure the safety is engaged and the action is open.
   b. While inspecting shotgun always point muzzle in a safe direction.
   c. 
      i. Visually check the chamber and magazine by looking through the combat loading/ejection port and the magazine loading port. Live or expended rounds should not be present.
      ii. After visually checking the weapon at eye level, bring shotgun to high port position (muzzle skyward) and inspect ports and barrel for obstructions.
      iii. Twist the magazine cap to ensure tightness.
   d. At the start of each tour of duty, officers taking a department shotgun are responsible for securing approved ammunition.
   e. The shotgun shall not be brandished or removed from the vehicle other than in the performance of authorized official duties.

K. Department Issued/Authorized Patrol Rifle:

1. A department authorized patrol rifle and shall be issued to certified patrol rifle operators for deployment during the officer's shift/assignment. The patrol rifle, along with the magazines, shall be stored
2. When utilized, the patrol rifle shall be removed from the

a. 

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b. At the end of the shift, the assigned officer shall return the patrol rifle.

3. When the officer has pre-existing knowledge that an impending call involves a substantial risk of death or serious bodily injury, access to the patrol rifle would be deemed prudent and justifiable and whenever practical, the patrol rifle should be deployed at the direction of the supervisor.

L. Maintenance:

1. Firearms shall be clean, lubricated, and periodically inspected for malfunctions.
   a. Firearms should be cleaned according to the following:
      i. At the end of each firing; and
      ii. Periodically between firing.

b. In the event a department weapon is dropped, malfunctions, or it is suspected to have a malfunction, the officer's supervisor shall be notified immediately.
   c. The supervisor shall notify the Lieutenant of the Training Unit who will arrange to repair or replace the weapon.

2. A department issued or approved firearm shall not be modified in any way, unless approved in writing by the Chief of Police. Once approved, modifications shall only be made by a department certified armorer.
3. Each patrol commander shall select a certified firearms instructor from
each station who will be responsible for the monthly inspection of shotguns. The person inspecting the shotguns will complete the Monthly Shotgun Inspection Checklist.

a. These checklists will be stored in a binder that will be kept with the shotguns. This does not relieve individual officers/detectives from their responsibilities to inspect the shotguns that they take out on patrol.

4. In the event of a theft or loss of any officer’s firearm, whether department issued or personal property, the officer’s commanding officer shall be notified immediately through the proper chain of command. In addition, the officer shall immediately notify the agency within which the theft or loss occurred.

M. Duty Gear:

1. Uniformed Officers:

a. When in uniform, officers are required to wear their department issued black leather or nylon gear, or substitute gear that is pre-approved in writing by a department certified armorer and the Chief of Police.

b. When in uniform, the belt should be worn in line with the seam of the trousers.

i. The use of cross-drawn holsters by uniformed officers of this department is prohibited.

IV. INCIDENTS INVOLVING THE USE OF DEADLY PHYSICAL FORCE

A. Subsequent to the use or deployment of lethal force by an officer the following shall be completed:

1. Supervisor Notification:

a. Officers shall notify their immediate supervisor and the supervisor shall respond to the scene.

b. If the officer is outside the City of Albany when the use of deadly force occurred, the officer shall also notify the agency with jurisdiction for investigation of the incident.

2. Secure the Incident Scene:

a. Determine the existing danger level;

b. Immediately determine the physical condition of any injured person and summons emergency medical services when appropriate and safe to do so.

i. Should the injury appear to be life threatening in nature, and while awaiting the arrival of emergency medical service
personnel, the officer(s) present shall initiate any and all life saving techniques for which they have received training.

c. Officers shall remain at the scene (unless injured or unsafe to) until the arrival of the appropriate command officers. However, if the circumstances are such that the officer’s continued presence at the scene might cause a more hazardous situation to develop (violent crowd), the ranking commanding officer at the scene shall have the discretion to direct the officer to respond to another, more appropriate location;

d. The involved officer will protect their weapon for examination. As part of the preliminary investigation, the involved officer will submit their firearm to a Supervisor. The firearm will then be immediately secured for proper chain of custody handling pursuant with current investigative and departmental directives.

i. 

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e. Officers shall protect all physical evidence and should be prepared to assist the on-scene supervisor with the preliminary investigation. This duty will be according to the physical and emotional capability of the officer.

f. As soon as it becomes practical,

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i. If an officer sustains serious physical injury or death, personnel shall follow current written directives in GO 2.3.25 – Line of Duty Death or Serious Injury.

g. Any employee, whose action(s) or use of force in an official capacity results in death or serious physical injury, shall be removed from line-duty assignment, pending an administrative review.

3. Use of Force Reporting Requirements:

a. Officers shall document the details of the incident, which shall include the following:

i. An Albany Police Department Subject Resistance/Use of Force Report, in which officers shall document the following:

a) Any discharge from a firearm, for other than training, recreational, investigative, or safety testing purposes at an authorized facility;
b) Takes an action that results in, or is alleged to have resulted in, injury or death of another person;
c) Applies force through the use of a lethal or less lethal weapon, as per current directives; and
d) Weaponless physical force, as per current directives; and
e) Medical actions taken to minimize the severity posed by obvious injuries or other non-visible trauma.

ii. Complete an Intra-Departmental Correspondence documenting actions taken by the officer(s).

iii. Complete a Standardized Incident Report documenting the following:

   a) Injuries or complaints of an injury to an officer as a result of deployment of force;
   b) Injury or complaints of an injury to the subject as a result of the deployment of force;
   c) The type of deadly weapon displayed and/or used;
   d) If the weapon displayed is a firearm, officers shall document:

      1) The make, model, serial number, and caliber of the firearm displayed and/or used;
      2) The type of ammunition used; and
      3) The number of rounds discharged.

   e) Notation of any weapon or ammunition malfunction, if applicable; and
   f) Number of bystanders present, if any, and their proximity to the discharge; and
   g) Arrest(s) made in conjunction with the use of force.

b. If an officer is unable to complete reports due to injuries, the supervisor shall prepare, or make arrangements for the completion of all proper documentation.

c. Upon completion of all paperwork, officers shall submit the completed paperwork to a direct supervisor for approval.

B. Supervisor Responsibilities:

1. Respond immediately to the scene and assume control. Once at the scene, supervisors shall:

   a. Determine the existing danger level;
   b. Ensure that the injured are receiving medical attention; and
   c. Maintain the integrity of the scene until properly relieved.

2. Conduct a preliminary field investigation;

3. Complete the following notifications:

   a. Criminal Investigations Unit Supervisor/Detective;
b. Forensic Investigations Unit Supervisor/Detective; and
c. Commanding Supervisor.

4. Ensure that statements and reports are completed by all officers present at the scene as to their actions and observations. These shall be completed after the officers are relieved from the scene:

   a. If the officer is incapacitated, a supervisor shall also prepare the use of force report based upon the supervisor's investigation of the incident.

5. Prepare a detailed Investigation Report as to observations, actions taken, and participation in the investigation;

6. Complete an administrative review all use of force reports of the incident; and

7. Complete a Blue Team entry, as per current directives.

C. Command Responsibilities:

   1. Render command assistance and coordinate all activities at the scene;
   2. Complete the following notifications:
      a. Chief of Police;
      b. Deputy Chief; and
      c. The Office of Professional Standards.
   3. Brief the Chief of Police and Deputy Chief when they arrive on the scene and coordinate all activities with them;
   4. Ensure that the involved officer makes no statements to unauthorized personnel; and
   5. Review all written reports of the incident.

D. Criminal Investigations Unit Responsibilities:

   1. Criminal Investigations Unit Supervisor shall be responsible for the following:
      a. Respond to the scene;
      b. Coordinate with the Chief of Police and Deputy Chief;
      c. Assume command of the criminal investigation;
      d. Assign appropriate personnel to conduct the criminal investigation;
      e. Assign personnel to conduct interviews and take statements;
      f. Review all written reports of the incident;
      g. Establish and maintain a liaison with the District Attorney regarding the criminal aspect of the investigation;
      h. Present the case to the District Attorney for review; and
      i. Inform the Chief of Police of the status of the investigation.

   2. Criminal Investigations Unit detectives shall be responsible for the following:
      a. Conduct a criminal investigation, in accordance with direction from the supervisor.
E. Forensic Investigations Unit Responsibilities:

1. Forensics Investigations Unit Lieutenant shall be responsible for the following:
   a. Assign detectives to respond to the incident scene for the purposes of conducting a forensic investigation and evidence collection.

2. Assigned detective(s) shall be responsible for the following:
   a. Respond to the scene and/or hospital immediately and conduct a thorough investigation; and
   b. Properly collect, inventory, and process all evidence, in accordance with current directives.

F. Office of Professional Standards Responsibilities:

1. The Office of Professional Standards Commander shall be responsible for the following:
   a. Assign appropriate personnel to conduct the investigation;
   b. Coordinate with the Chief of Police for the purpose of providing the status and/or results of the investigation; and
   c. Conduct an administrative investigation to include:
      i. Interviews and statements, as necessary;
      ii. Review all written reports of the incident; and
      iii. Establish and maintain a liaison with the District Attorney’s Office regarding the administrative aspect of the investigation.

2. Detectives assigned to conduct the internal investigation shall:
   a. Conduct all necessary interviews and statements;
   b. Provide a detailed report of findings and conclusions to the Commander of the Office of Professional Standards.

G. Responsibilities of the Chief of Police, Deputy Chief or in their absence, the highest ranking on-duty supervisor shall be responsible for the following:

1. Assume overall command of the entire investigation, delegating appropriate assignments to Unit/Station Commanders;
2. Be responsible for authorizing the release of media information to the Public Information Officer;
3. Make notifications to the Mayor and Corporation Counsel;
4. At discretion, place the involved officer(s) on administrative leave or duty without loss of pay or benefits, when it is deemed to be in the best interest of the department and/or the officer;
5. At the conclusion of both the criminal and administrative investigation, he/she shall make the final determination of action to be taken and arrange for the involved officer to undergo a debriefing with the department psychologist as soon as possible; and
6. Review policies, training, equipment, etc., with Unit/Station Commanders for possible amendments and/or additions.

H. In the event that an employee(s) becomes involved in an incident which results in the death or serious physical injury of another person, procedures outlined in current directives shall be followed.

V. **ANNUAL ANALYSIS**

A. The Office of Professional Standards shall be responsible for conducting a documented annual analysis of the department’s use of force activities, policies and practices. The analysis should identify:

1. Date and time of incidents;
2. Types of encounters resulting in use of force;
3. Trends and patterns related to race, age and gender of subject involved;
4. Trends or patterns resulting in injury to any person including employees; and
5. Impact findings on policies, practices, equipment and training.

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D. The results of this analysis shall be documented on an IDC to the Chief of Police.

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Eric Hawkins
Chief of Police