

GATES POLICE DEPARTMENT

General Order

GENERAL ORDER: 335-20
EFFECTIVE.....: September 14, 2020
RESCINDS.....: 335-13
RELATES TO STANDARDS...: 20.1, 20.3
SUBJECT: USE OF FORCE AND SUBJECT RESISTANCE REPORTS

PURPOSE: This policy will give a general outline as to when Gates Police officers are authorized to use reasonable and legitimate force as dictated by Federal constitutional, State statutory standards and department policies, in the performance of their duties and how to document use of force.

I. DEFINITIONS

- A. Objectively Reasonable – An objective standard used to judge an officer's actions. Under this standard, a particular application of force must be judged through the perspective of a reasonable officer facing the same set of circumstances, without the benefit of 20/20 hindsight, and be based on the totality of the facts that are known to that officer at the time that the force was used.
- B. Use of Force – Force which is authorized to be used when reasonably believed to be necessary to effect a lawful arrest or detention, prevent the escape of a person from custody, or in defense of one's self or another.

II. POLICY

- A. In the performance of their duties, employees may use only that level of physical force which is reasonable and within the limits established by Article 35 of the New York State Penal Law (NYSPL), and consistent with the training and policies of the Gates Police Department. The appropriateness of force used is dependent on the Objective Reasonableness Standard as established by the United States Supreme Court in *Graham V. Connor*. (The use of deadly physical force shall be covered by General Order #340). The amount of force that is used by the officers

shall be the amount of force that is objectively reasonable under the circumstances for the officer involved to effect an arrest, prevent an escape, or in defense of themselves or others.

It is the responsibility of every officer to understand the requirements of NYSPL Article 35, Gates Police Department Policy and approved training, to guide his/her actions.

- B. When used, force should be only that which is objectively reasonable given the circumstances perceived by the officer at the time of the event.

Factors that may be used in determining the reasonableness of force include, but are not limited to:

1. The severity of the crime or circumstance;
2. The level and immediacy of threat or resistance posed by the suspect;
3. The potential for injury to citizens, officers, and suspects;
4. The risk or attempt of the suspect to escape;
5. The knowledge, training, and experience of the officer
6. Officer/subject considerations such as age, size, relative strength, skill level, injury or exhaustion, and the number of officers or subjects;
7. Other environmental conditions or exigent circumstances.

- C. Only equipment issued and approved by the Gates Police Department, shall be carried on duty and used to apply force or control. However, in emergency situations an officer may use any resources at his/her disposal. The use of an active countermeasure, pressure point control, the expandable baton, pepper spray or Conductive Electrical Weapon (TASER), will require a Subject Resistance Report and a Crime or Incident Report.

- D. Use of handcuffs or restraining devices is mandatory on all prisoners unless in the officer's judgment unusual circumstances exist which make the use of handcuffs or restraining devices impossible or unnecessary (e.g., prisoner is very elderly, handicapped, etc.). Merely placing handcuffs on a prisoner will not require a Subject Resistance Report; however, if the handcuffs become an appliance to exert pressure necessary to further control

a prisoner, or where the suspect physically resists the application of handcuffs, a Subject Resistance Report and the Crime or Incident Report must be completed.

- E. The provisions of this general order will also govern the use force when dealing with a person being held within the temporary holding cells at the Gates Police Department.

III. PROCEDURE

- A. Any employee encountering resistance pursuant to his/her duties or any off-duty member encountering resistance pursuant to his/her duty as a Police Officer shall:
 - 1. Immediately notify the on-duty Watch Commander of the incident:
 - a. If a Watch Commander is not available, he/she should notify any other on-duty Command Officer or on call Lieutenant.
 - b. In the case of off-duty incidents, the employee shall, as soon as possible, notify the on-duty Watch Commander. If a Watch Commander is not available, he/she shall notify any on-duty Command Officer or on call lieutenant.
 - c. In cases of a non-arrest or an unarrest incident where countermeasures have been used, the employee will be required to complete a Subject Resistance Report and the Crime or Incident Report.
 - 2. After any use of force officers must, immediately evaluate the need for medical attention or treatment for the subject and arrange for such treatment when:
 - a. That subject has a visible injury requiring medical attention, or injury or discomfort, or requests medical attention. If the subject refuses medical treatment he or she must be checked by ambulance or emergency room personnel where the refusal will be witnessed by ambulance or emergency room personnel.
 - 3. Report, or cause to be reported, all facts relative to the incident on a Subject Resistance Report, whether or not an arrest was made.
 - 4. Attempt to locate and identify any witnesses and obtaining their sworn statements.

5. If more than one employee is involved in a resistance report, one employee shall complete the Subject Resistance Report outlining only their involvement in the incident. All other employees using countermeasures shall complete an Addendum Report outlining their involvement or use of countermeasures.
 6. Additional subjects must be documented on separate Resistance Reports.
- B. Command Officers shall:
1. Respond to the scene of the incident as soon as possible.
 2. Insure that employees receive any necessary assistance, including medical treatment. They shall also insure that any injuries to employees are properly documented on an Injured Officers Report.
 3. Insure that medical treatment for the subject is evaluated per Section II.A.2.
 4. Determine if a technician should respond to the scene and the level of the technician's services to be utilized (including photos, measurements, and diagrams). If an injury or complaint of pain exists, supervisors are encouraged to obtain photographs (which non-custodial persons have the right to refuse). In minor incidents, the unit camera (in 845) may be used (photographs to be turned in immediately). Any video captured on body worn cameras must be downloaded and labeled appropriately, as soon as practical.
- Note: A photograph showing lack of injury may be as important as one which shows injury.
5. Insure that a proper investigation is conducted and all reports are prepared and submitted. In the event that an employee is unable to complete reports due to injuries, the Commanding Officer will prepare or cause them to be prepared with his own reports or comments.

IV. DUTY TO INTERVENE

- A. Any officer present and observing another officer using force that he/she reasonably believes to be clearly beyond that which is objectively reasonable under the circumstances shall intercede to prevent the use of unreasonable force, if and when the officer has a realistic opportunity to prevent harm.

- B. An officer who observes another officer use force that exceeds the degree of force as described in subdivision A of this section should promptly report these observations to a supervisor.

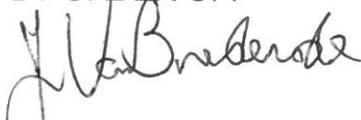
V. TRAINING

A. All officers should receive training and demonstrate their understanding on the proper application of force.

B. Training topics will include use of force, conflict prevention, conflict resolution and negotiation, and de-escalation techniques and strategies, including, but not limited to, interacting with persons presenting in an agitated condition as well as duty to intervene and prohibited conduct.²⁰

C. This policy is not intended to be a substitute for proper training in the use of force. Comprehensive training is the key to the real-world application of the concepts discussed within this policy.

BY ORDER OF:



James VanBrederode
Chief of Police

Attachment