

Town of DeWitt Response Plan to NYS Executive Order 203; the  
New York State Police Reform and Reinvention Collaborative



On June 12, 2020 Governor Andrew Cuomo signed NYS Executive Order 203, requiring each local government in the State of New York to adopt a policing reform plan by April 01, 2021. In response and in order to comply with that executive order, the following steps have been taken in the Town of DeWitt.

On July 6<sup>th</sup>, Chief of Police, Chase Bilodeau and Town Supervisor Edward Michalenko met to discuss NYS Executive Order 203. During that meeting, it was determined that the Town of DeWitt Police Commission which is made up of 3 elected town board officials and 11 citizens from the Town of DeWitt that represent a broad cross section of the community should be the group that will have the task of completing the requirements that are presented in the executive order. In addition, the DeWitt Police will participate as part of their membership with the Onondaga County Chapter of Chiefs of Police in a county wide group that will consist of the Onondaga County District Attorney, the Onondaga County Sheriff, the City of Syracuse Police Chief, Chief Michael Crowell from the Manlius Police to represent town and village police agencies in Onondaga County and other community stakeholders. This group will develop and adopt a plan for innovations and improvements that can be implemented county wide.

On July 13<sup>th</sup>, a resolution was adopted by the DeWitt Town Board (Attached) and formalized the decision by a town board vote to convene the police commission to act as the stakeholders for the DeWitt Community in accordance with NYS executive order 203. The town board also announced the first public hearing session to be held on September 24, 2020.

The police commission members who were chosen as the community stakeholders are as follows;

Kerin Rigney - Kerin Rigney has been a DeWitt Town Councilor for over 6 years, Chair of the DeWitt Police Commission for 3 years, Chair of the Comprehensive Planning Committee, former liaison to the DeWitt Advisory Conservation Commission, Secretary for the Local Development Commission and a member of the DeWitt Rotary. Kerin has a BA from the University of Delaware in French and Education and has worked as a foreign language teacher for over 25 years including 16 years as a teacher of Business English for multinational companies and laboratories.

Karen Docter – Karen J. Docter, M.A., M.S., ESQ. concentrates on representation of children in support, paternity, custody, visitation and divorce proceedings, as well as juvenile delinquency and persons in need of supervision matters, abuse and neglect proceedings and family offense proceedings. She also practices mediation and collaborative law to provide alternatives to traditional court proceedings for families, and is a Court Evaluator and Guardian ad Litem for persons under disability. She is a frequent speaker on family law issues for the New York State Supreme Court, Appellate Division, Fourth Department's Attorney for the Child Program; the Onondaga County Bar Association; the New York State Bar Association; the National Business Institute; the Association of Family and Conciliation Courts; and at Syracuse University College of Law, where she has also judged numerous law student competitions. Ms. Docter is a stakeholder in her role as Attorney for the Child, Onondaga County, for the statewide Child Welfare Court Improvement Project. She serves on several committees within the

project on the local level and is also co-chair of the Onondaga County Bar Association's Family Law Committee. In January, 2015, Ms. Docter was appointed to the Town of DeWitt Board, elected to a four (4) year term in November, 2015 and re-elected in November, 2019. She serves as liaison to the Recreation Commission, the Seniors and Disabilities Advisory Committee, the New York Municipal Insurance Reciprocal (NYMIR), the Firefighters and Emergency Services Advisory Board and is a Town of DeWitt Police Commissioner. She has been DeWitt's delegate to the New York State Association of Towns since 2017. Ms. Docter earned her Bachelor of Science in Human Development and Family Studies from Cornell University. Master of Arts in Child Development from Syracuse University's College of Human Development; Master of Science in Education from Syracuse University's School of Education and Juris Doctor from Syracuse University College of Law. She holds a New York State License to Teach Law and has taught at SUNY Empire State College, (Syracuse) University College's paralegal program and the National Academy for Paralegal Studies.

Sam Young - Sam Young is a DeWitt Town Councilor, who was first elected in 2015, and re-elected in 2019. Previously he served the Jamesville-DeWitt School District as a member of the Board of Education for twelve years, including a term as President. He has also been a member of the Town of DeWitt Zoning Board of Appeals. Professionally, Sam is an attorney, and works as the Director of Advocacy at Legal Services of Central New York, where he supports the legal work of a team of 40 attorneys providing free civil legal services to indigent people throughout a thirteen county region of upstate New York. He is a graduate of the University of Pennsylvania Law School and Brandeis University.

Anthony Albanese - Anthony Albanese, is a lifelong resident of the Town of Dewitt and a 30 year member of the East Syracuse Fire Dept. Mr. Albanese spent 4 years on the village of East Syracuse board, before becoming the Mayor for the Village of East Syracuse for two years. He then spent 4 years on the Town of Dewitt town board and has been a member of the Town of DeWitt police commission for past ten years. Mr. Albanese owns two Restaurants in the local community.

Bernard Alex - Rev. Dr. H. Bernard Alex, is Bishop/Senior Pastor of Victory Temple Fellowship Church, Syracuse NY. A resident of the Town of Dewitt for more than 20 years, he is committed to social action, diversity and removal of barriers that hinder authentic change and conversation so that people are empowered and communities are safe for all people.

Shawnteica "Shawn" Carter - Shawnteica Carter was born and raised in Syracuse, NY. She graduated from Henninger High School in 2000 and subsequently attended LeMoyne College and Onondaga Community College. Her initial focus was teaching elementary school, however her interests shifted to healthcare as she began her career. She knew at her core that she wanted to help people and this notion manifested while she worked to improve the quality of life for Alzheimer's patients at Menorah Park of CNY. It was there, where she cut her teeth as union representative, quickly moved from rank and file member to social and labor activist. Within a short time, her desire to help expanded from resident to co-worker and beyond. In 2014, she was invited to work on a fulltime basis for her union 1199 SEIU United Healthcare Worker East. It is here where she believes her purpose can be fulfilled. She has surrounded herself with people that feel the same as she does. Her purpose is to resolve adversities that

hinder progress and support those that are disregarded socially & economically. This is why she chose to be a part of the DeWitt Police Commission.

John Duncan - John Duncan served as the Executive Assistant U.S. Attorney for the Northern District of New York until his retirement in 2015. He is a graduate of the University of Buffalo and served in the United States Army at the White House before attending law school. He graduated from the Syracuse College of Law in 1975. Mr. Duncan began his career as a prosecutor in the Onondaga County District Attorney's office. Over a ten year period he gained considerable trial experience and became a Chief Assistant District Attorney and chief homicide prosecutor. He joined the U.S. Attorney's Office in 1988 where he investigated and conducted trials involving a wide range of federal criminal offenses including drug and RICO conspiracies, violent crimes, white collar and government fraud. In 2017, Mr. Duncan was the recipient of the Hon. James R. Duane Award, given by the Federal Court Bar Association to a distinguished member of the Bar who has carried on Judge Duane's legacy of commitment to the practice of law, unswerving integrity, and tireless efforts on behalf of the people of New York. He has been a member of the Town of Dewitt Police Commission since 1990.

Laura Fiorenza - Laura Fiorenza is the Quality Enhancement Director for the Onondaga County Assigned Counsel Program working with over one hundred criminal and family defense attorneys in Central New York in addition to numerous non-profits and defense and prosecution organizations. She has 23 years of trial attorney experience as a criminal prosecutor in addition to appeals work, research of and writing legislation as it relates to criminal law & procedure and training in criminal law and courtroom practice. She enjoys using her trial skills, and knowledge of criminal law and civil rights to contribute to training new attorneys and other related public servants. She graduated from the University at Buffalo with a BA in Communications and Public Relations and from Syracuse University College of Law with a JD. She also has an AAS in Media Marketing and Advertising from Mohawk Valley Community college.

Paul Gottfried - Paul F. Gottfried is a retired law enforcement officer with 23 years of experience as a patrolman, investigator, and sergeant. During his law enforcement career Paul was a DCJS Instructor/Instructor Evaluator, FTO, Firearms Instructor, FBI Trained Hostage Crisis Negotiator, NYS Accreditation Manager, DCJS D.A.R.E. Instructor (Instructor Trainer & DARE Parent Instructor) as well as President of the NYS D.A.R.E. Officers Association among numerous other trainings and certifications. Paul holds a Bachelor's of Science in Criminal Justice from SUNY Buffalo and a Master's in Public Administration from Marist College. Currently Paul is the Director of Security for Southern Glazer's Wine & Spirits / Upstate Division which is the nation's largest privately owned wine and spirits distributor in America.

Rohin Mehta - Dr. Rohin Mehta has been a member of DeWitt police commission since 2016. He was born in England and moved to the United States with his family when he was still a child. Dr. Mehta grew up in Westfield, New Jersey. He attended Franklin and Marshall College in Lancaster, PA where he received a bachelor degree in neuroscience followed by his medical degree from Saba University School of Medicine. Dr. Mehta has moved to Syracuse in 2012 to complete his medical training at Upstate

Medical University and eventually decided to stay in the area settling down with his wife and two children in the town of DeWitt. Today Dr. Mehta is a laboratory director at Upstate Community Hospital where he works, teaches and runs a pro bono breast cancer counseling sessions for his patients. Dr. Mehta and his wife deeply care about their community and take great interest in Dewitt Police commission affairs.

David Newman - David Newman is a career member of the Town of DeWitt Police Department having retired after 21 years of service in 2011. He has been a long time resident of the town of DeWitt and currently serves on the Town of DeWitt Police Commission.

Armond Scipione – Armond Scipione is a lifelong resident of the Town of Dewitt, Commissioner Armond Scipione recently retired after a 40 year career in the criminal justice system. After serving 4 years in the U.S. Air Force, as a Law Enforcement Specialist, he began his civilian law enforcement career as a patrolman with the Town of Dewitt Police Department. After serving 5 years with the department he was subsequently hired as an Investigator for the Onondaga County District Attorney's Office where he primarily worked on homicide cases for a 15 year period, retiring at the rank of Sr. Investigator. Commissioner Scipione ended his career after serving as the Law Enforcement Coordination Manager for the U.S. Attorney's Office for the Northern District of New York for a 16 year period. In this position with the Department of Justice he served as a federal liaison not only to state, local and tribal law enforcement but the communities they serve, encompassing a 32 county area. Also, in mid-career, Mr. Scipione once again served his country by enlisting in the New York Air National Guard as a Security Forces member, deploying overseas on a number of occasions to include a tour of duty to the Middle East in support of Operation Desert Watch.

Robert Tackman - Mayor Robert T. Tackman was born and raised in the Central New York area. At age 29 Mayor Tackman was elected as Mayor to a four-year term in 2013 and reelected in 2017. Mayor Tackman has been a resident of the Village of East Syracuse for thirteen years with his wife Cori and now is raising their children in the Village as well. Currently Mayor Tackman is also employed by a private lending firm as their Project Manager. In addition to his work he also serves as Treasurer on the PEACE Inc. Board of Directors. He is also the Vice President of the CNY Mayor's Association, Co-Chair of the Finance Policy Committee with the New York Conference of Mayors and a proud Eagle Scout.

## **Policy Review**

As part of the response plan, the Town of DeWitt Police Commission reviewed the following Town of DeWitt Policies or Manual Orders; Manual Order 221 – Use of Physical Force, Manual Order 222 – Use of Deadly Physical Force, Manual Order 209 – Taser Handling and Deployment, Manual Order 445 – Pursuit Operations, Manual Order 206 – Personnel Complaints and Internal Affairs, Manual Order 457 – Mental Illness Incidents. The most recent versions of these policies to include any changes suggested by the panel are attached to this document. It should also be noted that as a part of the Town of DeWitt's continuing accreditation with both New York State and CALEA the department is required to review each of its written directives at least once during every five year accreditation cycle. The department has and will continue to meet this standard.

## **Body Worn Cameras**

Prior to the issuing of Executive Order 203, the Town of DeWitt began the process for acquiring and implementing a body worn camera procedure. The response plan has only served to re-affirm the commitment of the Town of DeWitt Police to this practice. The Town of DeWitt has purchased and received a sufficient supply of cameras to deploy a body worn camera with every officer who is working in a patrol function on a daily basis in the Town of DeWitt. Manual Order 436 – Body Worn Cameras was developed in conjunction with the Town of DeWitt PBA and was reviewed by the police commission and approved by both the commission and Town Board. A copy of the Order is attached to this document. The Town of DeWitt is committed to allocating appropriate funds to ensure that the police department is able to budget for an appropriate replacement plan to ensure that there continues to be a sufficient supply of cameras and other hardware/software to keep each patrol officer outfitted with a camera while on duty.

## **Training**

The Town of DeWitt has been and continues to be committed to providing its officers with current, relevant and professional training on all topics regarding policing. As part of this review process, the police commission has designated two specific trainings which will be an area of focus going forward. Crisis Intervention Training and Implicit Bias Training. Crisis Intervention is a local initiative designed to enhance the way law enforcement and the community respond to people experiencing a mental health crisis. It is built on strong partnerships between law enforcement, mental health provider agencies, advocacy groups and individuals and families affected by mental illness. Crisis Intervention training is 40 hours of specialized instruction for law enforcement on how to effectively manage encounters with people experiencing behavioral health crisis due to mental illness, co-occurring substance use disorders and developmental disabilities. Topics included in this training are; Signs and symptoms of mental illness, How to assess a mental health crisis, Decreased need for use of force; increased officer safety, Safety and de-escalation of a mental health crisis, Legal issues and confidentiality as well as other topics. Currently the Town of DeWitt Police has 12 officers who have completed this training and is aiming to have every officer complete the training within the next three years. Implicit bias is a bias that results from the tendency to process information based on unconscious associations and feelings. Implicit biases are complex in scope and are possessed by all human beings. Although officers are presented with a bias based policing block of instruction in the basic police academy, the Town of DeWitt is committed to providing further training on the topic in an effort to ensure that maladaptive biases are not being used to negatively affect any individuals whom are encountered by the police. The DeWitt Police will send every sworn member of its staff to an on-line course presented by Calibre Press and taught by Lt. Jim Glennon. It will also make this training mandatory for every new police officer hired going forward. In addition to the online training, the DeWitt Police will work to accomplish the goal of bringing an in-person instructor with expertise in this topic, to teach an in person block of instruction to every member of its staff and then establish a timeline to repeat this training in person training to ensure that the members of the police force are sufficiently trained in this topic and have been given the appropriate skills to both improve verbal and nonverbal communication and overcome maladaptive bias.

## **Annual Reviews**

As part of the department's ongoing accreditation, there are a number reviews on specific topics which are completed annually. The purpose of these reviews are to compile all incidents regarding specific topics and analyze any trends, patterns or issues that indicate needs for changes in policy or training. Some of these include a review of all vehicle pursuits, a review of all use of force incidents, and a bias based policing review. Going forward, each of these annual reviews will be presented to the members of the police commission at the next regularly scheduled meeting occurring after the completion of the review. In addition, as part of the bias based policing review that was completed in February of 2020, the department recognized, that it was not collecting sufficient data to properly assess/track citizen contacts that the department has. It was recommended at that time, to establish a system for tracking self-generated stops of vehicles and people. This system was developed and implemented in June of 2020. This will allow the department to more accurately assess and track citizen interactions with law enforcement and will allow the department to conduct a more thorough and accurate review to ensure that there are no biased practices in place either at a departmental or individual level.

## **School Resource Officer**

The Town of DeWitt currently has one school resource officer position, assigned to the Jamesville-DeWitt High School. The DeWitt Police remain committed to providing the level and type of service that the community desires. There is a MOU in place between the Town of DeWitt and the Jamesville-DeWitt School District, which clearly outlines the SRO's responsibilities and removes the SRO from any school discipline process or action. The department will continue to work with the school district and make any modifications to the position that are deemed necessary.

Motion made by Councilor Young,  
Seconded by Councilor Rigney

DEWITT TOWN BOARD  
RESOLUTION IMPLEMENTING EXECUTIVE ORDER 203

WHEREAS, on June 12<sup>th</sup>, 2020, Governor Andrew Cuomo signed Executive Order 203, creating the New York State Police Reform and Reinvention Collaborative; and

WHEREAS, Executive Order 203 requires all local governments with a police agency to perform a comprehensive review of current police operations, including police policies and practices, for the purpose of addressing and assessing community needs, promoting community engagement, fostering trust and fairness between our police and community, and addressing any racial bias which may exist; and

WHEREAS, the Town of DeWitt maintains a Police Department consisting of 44 sworn officers plus civilian employees, ably led by Police Chief Chase Bilodeau and Captain Chris Fuller, along with a complement of lieutenants and sergeants; and

WHEREAS, we are justifiably proud of the DeWitt Police Department, and its record of national accreditation, strong community relations, service, community policing, and modern and progressive policies and practices; and

WHEREAS, for many years the DeWitt Town Council has maintained a diverse citizen police commission consisting of elected Town Councilors, former federal and state judges, members of the clergy; prosecuting and defense attorneys, and civilians representing a broad cross-section of the community, in order to better guide and provide direct oversight, increased scrutiny, transparency, advance recommendations, and provide greater accountability and transparency to the public; and

WHEREAS, we know that we cannot be satisfied with our history of success in community law enforcement, and, to avoid complacency and replicating any past mistakes, we must constantly strive to assess our strengths and weaknesses, and to improve accountability and trust between our police department and the community it serves; and

WHEREAS, as public servants and representatives of the Town of DeWitt, the DeWitt Town Council has an obligation and responsibility to protect both the public safety of the town and the civil rights, civil liberties, and dignity of all of its residents and visitors;

NOW, therefore, be it

RESOLVED, that the DeWitt Town Council hereby commits to undertaking a nine month process of review and assessment of its police department and police operations, which will include engaging with community stakeholders, holding public forums in the Town to obtain input from community members and others; reviewing our current policies and practices, and assessing the extent to which they adequately meet the current needs of the Town, the Police Department, and the community we serve; and be it further

RESOLVED, the Town Council hereby appoints the Police Commission to conduct the review and assessment of the DeWitt Police Department, to collect and consider public comments and input, and to consider, among other things, current use of force policies and records of use of force and deadly force, de-escalation and crisis intervention training, the process for review of citizen complaints, implicit bias awareness, development and implementation of a body-worn camera policy, community-based outreach and policing, diversity recruitment, hiring and retention; assessing and reducing any racial disparities in policing; and the overall promotion of improved police-community relationships, based on trust, fairness, accountability and transparency; and be it further

RESOLVED, that after considering the aforementioned elements, the Police Commission should develop a recommended plan, including any proposed modifications, innovations and modernizations to our police practices, policies and procedures, which will be tailored to the specific needs of our community; and it is further

RESOLVED, that the recommended plan shall be made available for public input and comment by DeWitt residents, after which it will be submitted back to the Town Council for its consideration and adoption no later than April 1, 2021.

Passed this 13th day of July, 2020, by a vote of 7 ayes.



# MANUAL ORDER

No. 221

<b>Subject:</b> Use of Physical Force		
<b>Issuing Authority:</b> Chief of Police	<b>Effective Date:</b> 09/10/2020	<b>Supercedes:</b>

- I. PURPOSE:** The purpose of this policy is to establish procedures for the use, reporting, documentation and evaluation of physical force by officers.
- II. POLICY:** It is the policy of the Town of DeWitt Police Department that officers use reasonable force when force is used to accomplish lawful objectives consistent with Article 35 of the New York State Penal Law. Under certain circumstances, deadly force is justified to protect life, but is never justified to merely protect property. Additionally, in accordance with New York State Executive Law section 840, sub division 4(4)(d)(3 and 4), all current use of force policies will be conspicuously posted on the Department's public web site.

### III. DEFINITIONS:

- A. Physical Force - The degree of physical contact necessary and reasonable to restrain, subdue or control a resistant individual that includes, but is not limited to, striking, kicking, pushing, or disabling by means of an aerosol subject restraint, capable of causing discomfort or pain, or use of the Taser by discharging the probes or by drive stunning when such contact is unlikely to result in serious physical injury as defined in MO 222, section III, sub-division B.
- B. Deadly Physical Force - Physical force which, under the circumstances in which it is used, is readily capable of causing death or serious personal injury. Procedures more specific to the use of deadly physical force are located within MO 222-Deadly Physical Force.
- C. Less-Lethal Force - That force when used is less lethal than deadly physical force and not likely to cause serious physical injury or death.
- D. Physical Injury - Impairment of physical condition or substantial pain.
- E. Objective Reasonableness - 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 the force was used.
- F. Chokehold - Any techniques that use mechanical or physical force to restrain, incapacitate or disable a person by applying force or pressure to an individual's throat, neck, mouth or nose in a manner that creates a substantial risk of restricting breathing (intake of oxygen) or circulation of blood to and from the brain.
- G. Vascular Neck Restraint - Any use of force application intended to gain control of a subject by restricting blood flow to the brain for the purpose of incapacitation.
- H. Public Safety Associate - May include, but is not limited to, members of task forces with which an agency works, members from other agencies with shared or concurrent jurisdictions, or representatives from support organizations within the broader criminal justice system.

#### **IV. PROCEDURE:**

##### **A. Use of Physical Force**

1. Officers may use the level of physical force 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, within the limits established by Article 35 of the New York State Penal Law and consistent with the training and policies of the Department.
2. Under the 4<sup>th</sup> amendment, a police officer may use only such force as is objectively reasonable under the circumstances. The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene.
3. When it is used, force should be only that which is objectively reasonable given the circumstances perceived by the officer at the time of the incident.
4. Factors that may be used in determining the reasonableness of force include, but are not limited to:
  - a. The severity of the crime or circumstances.
  - b. The level of immediacy of threat or resistance posed by the suspect.
  - c. The potential for injury to citizens, officers or suspects.
  - d. The risk or attempt of the suspect to escape.
  - e. The knowledge, training and experience of the officer.
  - f. Officer or subject considerations such as age, size, relative strength, skill level, injury or exhaustion, and the number of officers or subjects present.
  - g. Other environmental conditions or exigent circumstances.
5. Officers should attempt verbal de-escalation in situations where physical force may be required, but are not obligated to do so if a delay in their actions will result in injury to themselves or another, escape, escalation or continued non-compliance.
  - a. De-escalation techniques may include the use of command presence, advisements, verbal commands or warnings, verbal persuasion, or tactical repositioning.
6. Officers may use physical (less lethal force) when they reasonably believe it is necessary to:
  - a. Overcome resistance directed at the officer or others.
  - b. Protect the officer, or a third party, from unlawful force.
  - c. Effect other lawful objectives and/or duties; such as to make an arrest.
7. Permissible methods of employing less-lethal force are:

- a. Physical restraint, body strikes, kicks, leverage, pressure point control or other pain compliance methods.
- b. Aerosol subject restraint.
- c. Baton strikes that target areas of the body. The head and neck area should not be targeted, and avoided whenever possible.
- d. Taser deployment by discharge of probes or by “drive stunning” as outlined in M.O. 209-TASER Handling and Deployment.
- e. Use of a firearm (deadly physical force procedures apply as outlined in MO 222-Use of Deadly Physical Force).
- f. Only issued or approved equipment and weapons will be carried on duty and used when encountering resistance, however, in emergency situations or when deadly physical force is permitted officers may use any resources available in response to such resistance.
- g. Except in-use of deadly physical force situations-officers shall not use any weapon in a manner in which, in the officer's reasonable belief, will cause death or serious physical injury.

## **V. PROHIBITED USES OF FORCE**

### **A. Force will not be used by an officer to:**

1. Extract an item from the anus or vagina of a person. Except in exigent circumstances, a search warrant must be obtained and executed by a medical professional as outlined in MO 430-Prisoner Security Procedures.
2. Coerce a confession from a person who is in custody.
3. Obtain blood, saliva, urine or other body fluids or cells, from a person for the purpose of scientific testing in lieu of a court order when required.
4. Against persons who are handcuffed or restrained unless it is used to prevent injury, escape or otherwise overcome active or passive resistance posed by the person.
5. Officers will not use excessive force and force will not be used to torture or punish a subject.
6. Chokeholds against any person are considered a use of deadly physical force and are prohibited unless the officer reasonably believes that such force is reasonable to defend the life of him/herself or another person in imminent danger of death or serious physical injury.
7. The use of vascular neck restraints is prohibited.

## **VI. DUTY TO INTERVENE**

- A. Any employee who observes another agency employee or public safety associate using force that they believe to be clearly beyond that which is reasonable under the circumstances, will intercede to prevent the use of unreasonable force.

- B. An employee who observes or becomes aware of such use of unreasonable force or violation of Department policy, state/provincial, federal law, or local ordinance will promptly notify a supervisor.
- C. The supervisor will initiate an internal affairs investigation utilizing the procedures set forth in Manual Order 206-Personnel Complaints and Internal Affairs.

## **VII. INJURIES RESULTING FROM USE OF PHYSICAL FORCE**

- A. Emergency Medical Services (EMS) will be requested to respond to the scene as quickly as reasonably possible to ensure delivery of appropriate medical treatment when:
  - 1. Requested by the subject(s) involved.
  - 2. The extent of an injury is unknown or not visible.
  - 3. The nature or extent of the injury requires medical treatment.
- B. Officers should request that EMS respond if in doubt about the existence or extent of an injury to a person.
- C. Officers will request medical treatment for any person(s) that have been exposed to an aerosol restraint device, baton strike or Taser deployment.
- D. Supervisors responsibilities include:
  - 1. Ensuring that officers and/or suspects receive any needed medical treatment.
  - 2. Ensuring that injuries to employees and/or suspects are properly documented in an Incident Report.
  - 3. Determining if an Evidence Technician is needed to process the scene.
  - 4. Taking photographs of all suspects involved in an incident where force has been used. Photographs are applicable if there is no apparent or visible injury, visible injury or complaint of pain.

## **VIII. REPORTING USES OF PHYSICAL FORCE**

- A. Any on or off duty officer utilizing force pursuant to his/her duties shall notify a shift supervisor as soon as practicable.
- B. After any incident occurs where an officer is required to use force, the primary officer shall complete an Incident report.
- C. Each officer using force, including the primary officer, must complete a separate Use of Force report (form 9.15A).
- D. Placing handcuffs on a prisoner will not require a Use of Force report. However, if the handcuffs-are then used to exert pressure necessary to further control a suspect or they are physically resisting the application of handcuffs, a Use of Force report will be completed.

- E. Any use of physical force or deadly physical force by an officer will require a Use of Force report. Examples of the types of force used that require completion of a Use of Force report include, but are not limited to:
  - 1. Striking with hand, object or weapon.
  - 2. Kicking
  - 3. Use of an aerosol subject restraint.
  - 4. Use of a Taser (probe deployment or drive stun or active pointing).
  - 5. Discharge of a firearm or active pointing.
  - 6. Leverage techniques or joint manipulation.
  - 7. Pressure points or other pain compliance methods.
- F. If a non-sworn employee of the Department takes an action that results in, or is alleged to have resulted in injury or death of another person while working, he/she will immediately notify a supervisor.
  - 1. The supervisor will direct an officer to obtain a written statement from the involved employee and complete an incident report.
- G. In accordance with New York State Executive Law section 837-T and the Codes, Rules and Regulations of the State of New York, section 9 CRR-NY6058.4, the Department will report all uses of force that meet the requirements of these laws to the New York State Department of Criminal Justice Services.

## **IX. INVESTIGATING USE OF FORCE INCIDENTS**

- A. Whenever possible, a supervisor should respond to the scene of any incident where physical force has been used.
- B. Attempts should be made to locate, identify and interview any witnesses.
- C. Supervisors should attempt to interview suspects regarding the use of force deployed during their arrest.
- D. The supervisor will ensure that a thorough investigation is conducted and all reports, including a Use of Force report (9.15A) are prepared and submitted.
  - 1. Copies of all injury and Use of Force reports will be submitted to the Chief of Police for final review.
  - 2. If an officer is unable to complete reports due to injuries, that officer's supervisor will prepare or cause them to be prepared and will submit them along with his/her own report.
  - 3. If required the supervisor will make appropriate notifications in accordance with Department policy.

4. Supervisors will complete a Supervisor Supplemental report (form 9.15 B) on use of force incidents.
- E. The supervisor assigned to an incident where force has been used will complete a separate Supervisor Supplemental report (form 9.15 B) for each involved officer.

## **X. USE OF FORCE REVIEW**

- A. Copies of all Use of Force reports will be forwarded to the Chief of Police, firearms training officers, and Defensive Tactics instructors for review and to determine if the need exists for additional or modified training.
  1. Additionally, an evaluation will be made regarding the effectiveness of equipment and if any repair, replacement or its' dis-continued use is necessary.
- B. Any complaints or reports of excessive use of force will be subject to review and handled in accordance with the Departments' professional standards procedures as set forth in Manual Order 206-Internal Affairs Complaint Procedure.
  1. When a defendant, with pending criminal charges, alleges that there was excessive use of force, in order to maintain the integrity of the pending criminal case, the use of force review process and professional standards procedures, an internal review of the case facts will be conducted.
- C. The Chief of Police will:
  1. Review all Use of Force reports.
  2. Examine the facts to determine if department policies and procedures were followed and determine if further investigation is necessary.
  3. Assign appropriate personnel if additional investigation is required.
- D. Use of Force reports may be subject to further review by the Town Police Commission, Town Board, and District Attorney.
- E. Reports will be maintained in accordance with Department policy.
- F. ~~4-A~~ A documented analysis of the Department's use of force activities, policies and practices will be conducted annually. The analysis shall identify:
  - a. The date and time of incidents
  - b. The types of encounters resulting in the use of force
  - c. Trends or patterns related to race, age and gender of involved subjects
  - d. Trends or patterns resulting in injury to any person including employees and
  - e. The impact of findings on policies, practices, equipment and training.

**XI. TRAINING**

- A. Officers will receive a review of use of force as part of the Department’s In-Service training program.
- B. In addition to a review of the application of force, training topics may include:
  - 1. Conflict prevention, resolution and negotiation.
  - 2. De-escalation techniques and strategies including handling persons who are in an agitated state.
  - 3. Duty to intervene
  - 4. Prohibited conduct.

Original: 01/30/1997	Revised: 10/30/2015	Revised: 05/22/2017	Revised: 06/24/2020
Revised: 04/30/2004	Revised: 09/13/2016 (new, separate policy)	Revised: 06/26/2019	Revised:
Revised: 10/15/2010	Revised: 10/03/2016	Revised: 01/22/2020	
Revised: 09/01/2014	Revised: 04/06/2017	Revised: 02/05/2020	



# MANUAL ORDER

No. 222

<b>Subject:</b> Use of Deadly Physical Force		
<b>Issuing Authority:</b> Chief of Police	<b>Effective Date:</b> 06/24/2020	<b>Supercedes:</b>

**I. PURPOSE:** The purpose of this policy is to establish policies and procedures for the use of deadly physical force by sworn officers of the Town of DeWitt Police Department and to establish procedures for reporting and evaluating the use of such force.

**II. POLICY:** Officers of the Town of DeWitt Police Department may use deadly physical force only when the officer reasonably believes that such force is necessary to defend the life of him/herself or another person in imminent danger of death or serious physical injury. Use of deadly physical force must fall within the provisions of Article 35 of the New York State Penal Law. It is the responsibility of every officer to be aware of the requirements of Article 35 and to guide his/her actions based upon that law, Department policy and training. The intentional discharge of a firearm will always be considered to be the use of deadly physical force. However, deadly physical force can be expanded to include the use of other weapons and force if the intent is to cause serious physical injury. This shall include, but is not limited to, impact weapons such as batons, flashlights, motor vehicles, and bare hands.

### III. DEFINITIONS:

- A. Deadly Physical Force – Physical force which, under the circumstances in which it is used, is readily capable of causing death or serious personal injury.
- B. Serious Physical Injury – 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.
- C. Reasonable Belief - 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.
- D. Force Science Training: Training in the area of human performance and behavior during high-stress and deadly force encounters that assists in enhancing the accuracy of the investigative process.

### IV. PROCEDURE:

- A. Use of Deadly Physical Force
  - 1. The indiscriminate and careless use of firearms is strictly prohibited.

2. Only issued or approved equipment and weapons will be carried on duty and used when encountering resistance, however, in emergency situations or when deadly physical force is permitted officers may use any resources available in response to such resistance.
  - a. The use of an active countermeasure, baton, aerosol subject restraint (ASR), Taser, firearm or other weapon or device will require a Use of Force report (form 9.15A).
3. An officer may use deadly force:
  - a. 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.
  - b. To stop a fleeing suspect when:
    - 1) The officer has probable cause to believe the suspect has committed a felony involving the infliction or threat of serious physical injury or death; and,
    - 2) The officer reasonably believes that the suspect poses an imminent threat of serious physical injury to him/herself or others.
    - 3) When feasible, some warning should be given prior to the use of deadly physical force.
4. Because of the grave consequences that can occur when a police officer uses deadly physical force, the following additional restrictions utilizing such force will be adhered to:
  - a. Shooting from, or at a moving vehicle is prohibited unless the occupant of that vehicle is using deadly force against the officer, or another, by means other than the vehicle itself, unless in the discretion of the officer, it is imperative to do so to save the life of the officer or another. It is extremely difficult to stop a moving vehicle with gunfire. Striking the operator may cause a situation where the uncontrolled moving vehicle creates a secondary hazard.
  - b. Warning shots are prohibited.
  - c. Shooting at alleged felons for the sole purpose of apprehending them is prohibited.
  - d. Shooting during barricade type situations is restricted to those incidents when the intended target is clearly visible to the officer.
  - e. Shooting at a subject who is holding a person hostage is prohibited if firing can endanger the hostage or any other innocent people.
  - f. Firing at a subject in a crowd or in a public location, where a high degree of risk to innocent people exists, is not recommended. This may only be done if, in the officers' judgement, failing to use deadly physical force creates a greater risk to such people.

- 1) Extreme care must be taken to avoid creating “crossfire” situations or putting other people at risk when they are within the area where active fire may occur. These situations may develop quickly when a suspect is moving.

**B. Officer Involved Incidents**

1. Whenever deadly physical force is used by an officer and it results in death, physical injury or; serious physical injury or death of a subject occurs while in an officer’s custody, he/she will adhere to the following procedures:
  - a. If the use of force results in injury of any kind to the officer or another person, the officer will immediately attempt to determine the condition of the injured party, and seek or render first-aid if appropriate and safe to do so.
  - b. Notify the 911 Center of the incident and location.
  - c. Notify the on duty supervisor immediately.
    - 1) Notification to an on duty supervisor will occur whether the officer is on or off duty and;
    - 2) Whether the firearm was Department issued, authorized or personally owned.
  - d. Secure the incident scene, protect all physical evidence including their weapon, and identify all potential witnesses.
  - e. If the incident occurs while the officer is on duty, he/she will remain at the scene (unless injured) until the arrival of a supervisor and appropriate personnel; and provide a preliminary account of what occurred, which will be documented on a Public Safety Statement (form 9.38).
    - 1) If the continued presence of the involved officer at the scene causes a hazardous situation (violent crowd), the supervisor or ranking officer may instruct the officer to move to a more appropriate location.
  - f. If the incident involves the discharge of a firearm, the officer will protect it for forensic examination purposes and submit it to the appropriate investigator upon request.
    - 1) Unless circumstances are such that it is impractical to do so, the involved officer’s weapon will be secured and replaced with another issued weapon, at the police department.
2. Assisting officers responding to the scene will be responsible for:
  - a. Ensuring that there are no further safety threats.
  - b. Securing and separate suspects.
  - c. Relaying critical information to the dispatcher.

- d. Requesting emergency medical services and providing first aid as needed
  - e. Securing the scene.
  - f. Locating witnesses.
  - g. Prepare reports as required
3. The on duty supervisor will respond immediately and:
- a. Secure the scene and ensure proper medical attention is given to any injured parties.
  - b. Start a preliminary investigation
  - c. Take a Public Safety Statement (form 9.38) from the involved officer.
  - d. Assign an uninvolved officer to accompany the involved officer until relieved by a supervisor.
  - e. Notify the Duty Chief
  - f. Contact the District Attorney's Office immediately or as soon as practicable.
  - g. Direct personnel, and call in additional personnel as needed, to assist in the investigation, conduct interviews and provide scene security.
  - h. Notify the Criminal Investigations Commander who be assigned as the lead investigator.
    - 1) In the absence of the Criminal Investigations Commander, the Duty Chief will assume responsibility for the investigation.
    - 2) Lead investigators must be trained, certified or have experience in Force Science.
4. The lead investigator will be responsible for:
- a. Immediately conducting an investigation of the incident. He/she may request that additional personnel assist with interviewing witnesses, obtaining statements or conducting other tasks related to the investigation.
  - b. Ensuring that all statements are accurate and complete.
  - c. Submitting a detailed report of the incident including all statements, reports and any discovered evidence to his/her immediate supervisor.
  - d. Officers involved in the use of deadly physical force will be allowed to confer with union representatives and attorneys prior to providing sworn statements.
    - 1) Officers will have the option of waiting up to 48 hours after the occurrence of the incident to provide sworn statements

- 2) Officers will be provided their appropriate rights notification; Miranda warnings for criminal court related interviews and Garrity Warnings for any subsequent administrative interviews prior to questioning.
  - 3) The involved officer will prepare the required reports pertaining to the incident and cooperate with investigative personnel during the investigation.
  - 4) The involved officer should not discuss the case with anyone except supervisory and internal investigations personnel, the officer's privately retained attorney, and/or union representative, immediate family, clergy or individuals with whom the prosecutor or Chief of Police has granted such authority.
5. The Criminal Investigations Division Commander will be responsible for:
- a. Coordinating the investigation with the District Attorney's Office.
  - b. Providing status updates on the investigation to the Chief of Police.
  - c. Reviewing all reports submitted by the lead investigator, along with all other statements, reports, and evidence regarding the incident. He/she will direct that further investigation be conducted if needed and assign the necessary personnel.
  - d. Preparing a written report containing the facts and findings of the completed investigation and submit it to the Chief of Police.
6. The Chief of Police has final authority over the investigation and is responsible for the following:
- a. Upon receipt, review all reports, evidence, and statements and request additional investigation if needed.
  - b. Communicate with the Road Patrol Commander, Criminal Investigation Division Commander, District Attorney's Office, Chairperson of the Police Commission and the Town Supervisor to ensure that a complete and thorough investigation has been conducted, and that all the needs of the involved officer(s) have been met.
  - c. Approve all releases of information regarding the incident.
    - 1) The name of involved officers will not be released for at least seventy-two hours after the incident.
7. If the incident occurs while the officer is off duty, he/she will remain at the scene (unless injured) until the arrival of law enforcement personnel having jurisdiction over the area of occurrence. The involved officer will provide a preliminary account (Public Safety Statement) of what occurred to arriving law enforcement personnel. If the continued presence of the involved officer at the scene causes a hazardous situation (violent crowd) the officer may find a safe location within reasonable proximity to the scene as long as they apprise the local law enforcement agency of their location.

- a. The involved officer, upon their ability to do so, will immediately notify this Department's on-duty supervisor or Duty Chief of the incident.

**V. REPORTING PROCEDURES FOR USE OF DEADLY PHYSICAL FORCE**

- A. When an officer uses deadly physical force while on or off duty, he/she shall immediately notify a shift supervisor of the incident.
  - 1. The officer will complete all necessary reports including a Use of Force report (form 9.15A) within 48 hours of the incident.
- B. If an officer is unable to complete reports due to injuries, the shift supervisor will prepare or cause them to be prepared.
  - 1. The shift supervisor will complete all required supervisor reports and submit them to his/her commanding officer, along with the involved officers' reports.

**VI. ADMINISTRATIVE LEAVE/DUTY**

- A. Any officer that has been directly involved in a deadly physical force incident that results in death or serious physical injury he/she will be removed from operational assignments and placed on temporary administrative leave or administrative duty after completing his/her preliminary report of the incident.
  - 1. The report will be submitted to the Chief of Police for administrative review.
- B. Administrative Leave will not be referred to or interpreted as a suspension.
  - 1. Officers on administrative leave will continue to receive pay and benefits, pending results of the incident investigation.
  - 2. Administrative leave time will not be charged against any of the officer's other time accrued and shall not be interpreted to imply or indicate that the officer acted improperly.
  - 3. While on administrative leave, the officer will remain available for official department interviews and statements regarding the incident and will be subject to recall to duty at any time.
- C. Administrative duty will entail work other than patrol duties and/or investigations that would require personal contact with suspects.

**VII. EMPLOYEE ASSISTANCE FOR INVOLVED OFFICERS**

- A. Whenever deadly physical force is used which results in death or physical injury, the involved officer(s) will be entitled to psychological assistance through the Employee Assistance Program (EAP).
- B. Other types of assistance to help deal with moral, ethical and/or psychological after effects of the incident may be set up by the Department and at the direction of the Chief of Police.

1. These services shall not be related to any department investigation of the incident and nothing discussed during such sessions will be divulged to the Department. Consultation sessions will remain protected by patient confidentiality.

### **VIII. UNINTENTIONAL AND ACCIDENTAL DISCHARGE OF A FIREARM**

- A. If an unintentional or accidental discharge of a firearm occurs, on or off duty, not including during training or for lawful, recreational purposes, the officer will immediately, or as soon as possible, notify an on duty supervisor.
- B. The involved officer will complete a memorandum regarding the circumstances of the incident and submit it to the Chief of Police.
- C. The Chief of Police will review the memorandum and take appropriate action if needed.
- D. Whenever there is an accidental discharge of a firearm while on duty that does not involve an injury, the on duty supervisor will cause an investigation to be conducted.
  1. The Duty Chief will be notified as soon as possible.
  2. Completed investigation reports will be forwarded to the Chief of Police for review and further action, if needed.

### **IX. DESTRUCTION OF ANIMALS**

- A. Officers discharging a firearm at an animal will first ensure that doing so will not endanger any persons or property.
- B. When all reasonable, alternative methods of apprehending an animal have failed, or are not feasible, an officer may discharge his/her firearm to destroy the animal under any of the following circumstances:
  1. The animal poses an imminent threat of serious injury to the officer or another.
  2. An animal is severely injured or ill and must be destroyed for humane reasons, or is suspected to be rabid or is attacking people or other animals.
  3. A domestic animal is severely injured and the consent of the owner has been obtained, in writing, if possible.
  4. A domestic animal is severely injured and must be destroyed for humane reasons, and the owner is unknown or cannot be contacted within a reasonable amount of time.
  5. A court has ordered the officer to destroy an animal.
- C. When an officer discharges his/her weapon to destroy an animal, they will make written notification to the Chief of Police.

MO No. 222 – Use of Deadly Physical Force

Original: 01/30/1997	Revised: 10/30/2015	Revised: 06/26/2019	
Revised: 04/30/2004	Revised: 09/13/2016	Revised: 01/23/2020	
Revised: 10/15/2010	Revised: 05/22/2017	Revised: 06/24/2020	
Revised: 09/01/2014	Revised: 03/21/2018		



# MANUAL ORDER

No. 209

**Subject:**

Taser Handling and Deployment-

**Issuing Authority:**

Chief of Police

**Effective Date:**

09/10/2020

**Supercedes:**

- I. PURPOSE:** The purpose of this policy is to set forth guidelines for the use and deployment of the Town of DeWitt Police Departments' X26 Tasers, also referred to in this policy as X26.
- II. POLICY:** It is the policy of the Town of Dewitt Police Department to deploy and utilize the TASER X26, which is an electronic control device as an additional police tool and is not intended to replace firearms or self-defense techniques. These weapons shall be used within the limitations established by Article 35 of the New York State Penal Law. The X26 may be used to control dangerous or violent individuals when deadly physical force does not appear to be justified and/or necessary, when attempts to subdue an individual using conventional tactics have been or will likely be ineffective; or when there is a reasonable expectation that it will be unsafe for officers to be within a range close enough for physical contact with an individual.
- III. X26 OVERVIEW:** The X26 has a data port that stores complete and accurate information, such as the date and time each time the Taser is activated. This weapon, when used pursuant to training, is not considered to be a use of deadly force or constitute the infliction of great bodily harm. The X26 falls under the category of intermediate force technology.

The X26 fires two probes from a replaceable cartridge. These probes are connected to the weapon by high voltage insulated wire. When the probes make contact with the target, the X26 transmits electrical pulses through the wires and into the target. The probes will penetrate up to a maximum of two inches of clothing. The pulses send 26-watt electrical signals which temporarily overrides the motor and sensory nervous system of an individual. This electrical impulse can cause an uncontrollable contraction of skeletal muscle tissue which causes temporary physical debilitation. This can occur regardless of pain tolerance or mental focus. Officers are reminded that no technology is guaranteed to stop a violent and determined attacker.

#### IV. PROCEDURE:

- A. The X26 shall be issued to and used only by officers who have completed the DeWitt Police Department's Taser training program.
- B. Only properly functioning and charged X26's shall be carried on duty.
- C. Each discharge, including unintended discharges of an X26 requires notification to a shift supervisor. Such discharges shall be investigated and documented in a CNYLEADS Incident report and a Use of Force report.
  1. Discharge of an X26 during an approved training session will not require completion of a report or supervisor notification unless an injury occurs.
  2. The X26 will not be demonstrated at any time unless it is done during an approved training session or to test the functionality of the unit. Testing should be conducted in a safe area.
  3. The X26 will not be displayed or used in an unnecessary or unprofessional manner.

- D. The X26 is programmed to deliver a 5-second electrical current when the trigger is released immediately after pulling it.
  - 1. It will continuously discharge an electrical current if the trigger is held down while the unit is in the firing mode.
  - 2. The discharge can be stopped at any time by manually turning the safety to off.
  - 3. It is recommended that during field deployment and use against an offender, the full 5-second cycle (or longer if required) be delivered to gain maximum effectiveness and compliance of the offender(s).
  - 4. The X26 is laser sighted. The top probe will follow the alignment of the front and rear sights and/or the laser aiming sight. The bottom probe will travel at an 8-degree downward angle below the aim point/laser sighted area.
    - a. The bottom probe will drop approximately 1 foot for every 7 feet it travels from the weapon to target.

#### **V. X26 EQUIPPED OFFICERS**

- A. Each officer will be assigned a specific X26 from the Taser inventory and two individual cartridges.
  - 1. When an officer's assigned X26 is available, he/she will check out and carry that assigned Taser while on duty.
- B. The X26 will be carried fully loaded, in a specifically designed holster (cross-draw configuration) opposite the officer's duty handgun.
- C. When not in use the X26 will be properly secured and will only be removed from the holster when it is being checked, discharged or taken out of service.
- D. The X26 is not to be subjected to prolonged heat or cold.
- E. The X26 will be tested at the beginning of each shift without a cartridge locked in place. Officers will check to ensure that the digital power magazine is charged. A blinking or solid LED light indicates the X26 has been turned on.
  - 1. If the LED indicates less than 20% power, that X26 will be taken out of service and turned into a Taser Instructor along with a completed memorandum listing the problem.

#### **VI. DEPLOYMENT**

- A. When deploying the X26:
  - 1. The officer will not aim it at the eyes, face or neck of the offender.
  - 2. When possible, the officer should aim at the center of mass of the offender from the rear.
    - a. The preferred target area for frontal discharges is the lower torso area, defined as lower center of mass.

3. In ideal circumstances, a span of the probes that exceeds 6 inches or more and then makes contact in more than one hemisphere of the body will produce best results for incapacitating the offender and will lessen the chance of ineffective contact.
4. The officer must keep his/her hands away from the front of the weapon (discharge area) at all times unless the safety is in the “on” position and the weapon is deactivated.
5. Replace the cartridges by the expiration date.
  - a. All expired cartridges will be turned into an X26 Taser Instructor for use during training exercises or for disposal.
- B. When possible (Tenn. v. Garner), use verbal commands and point the laser sight at the offender prior to firing.
- C. If possible, before discharging the X26, the officer should notify other officers on the scene that its use is imminent. This should be done by using the code word “TASER”.
- D. Have back-up present to assist in arresting the suspect.
- E. Use cover and distance to ensure officer safety.
- F. Do not fire the X26 near flammable liquids or fumes. The X26 can ignite gas and other flammables. Some self-defense sprays are flammable and should not be used in conjunction with the X26.
- G. Avoid use near roofs, on the edge of buildings and any other location where the offender would be at risk of serious physical injury or death from falling.
- H. Avoid use on an offender where water could create a risk of drowning.
- I. The shift supervisor will make every effort to respond to scenes where the X26 has been or is expected to be deployed.
- J. The Duty Chief shall be notified as soon as practical any time the X26 is used on a person.

## **VII. SUBMISSION OF PROBES AS EVIDENCE**

- A. The air cartridge and probes from a Taser deployment will be retained as evidence and are to be treated as “sharps”; therefore officers must follow all universal precautions when dealing with any spent cartridge and probes.
  1. The spent cartridge and probes will be secured in an appropriate container, sealed, labeled and turned in as evidence utilizing the procedures set forth in Manual Order # 205-Property and Evidence Management, section VIII, sub-division D titled “Sharps”.
- B. When possible, after an X26 deployment, photographs will be taken of the suspect.
  1. Photos taken should include the sites where the probes struck the suspect.
  2. Photos can be used to document injury or the lack of injury.

## VIII. PROCEDURES & MEDICAL TREATMENT–POST DEPLOYMENT

- A. After deploying an X26 on a suspect the following procedures will be utilized:
1. Handcuff the suspect
  2. Remove the probes using the following procedure:
    - a. Officers are required to wear medical latex gloves.
    - b. Remove the cartridge from the X26 prior to removing the probes from the suspect.
    - c. Probes are to be removed using a one-handed technique. Officers should use their second hand to control the subject, keeping that hand at a safe distance from the probe impact site. This distance must be far enough away from the impact site to avoid any possible injury of the secondary hand while the probe is being removed.
      - 1) Using a brisk pull, the officer will pull the probe out of the suspect.
    - d. With the Taser cartridge on the ground near the suspect, place the probes back into the spent cartridge ports, sharp side first.
      - 1) Remove the latex gloves and wrap them around the spent cartridge and probes to prevent the probes from falling out.
    - e. While practicing universal precautions, wipe the puncture site with a sterile alcohol swab and apply an adhesive bandage to it.
  3. If the probes are embedded in soft tissue such as the neck, face, or groin, the suspect will be treated at a hospital by medical personnel. Note: the probes are #8 straightened fish hooks that only penetrate a maximum of ¼ inch.
- B. When an X26 is used on a person, an officer at the scene will request the response of Emergency Medical Services (EMS) personnel. This will protect the suspect if an injury did occur; it helps protect the officers and the Department against potential civil or criminal claims, of alleged injuries caused by a Taser or failure to render medical assistance after receiving a strike from a Taser.
1. The individual will be evaluated by responding medical personnel and they will determine if he/she requires transport to a hospital for further medical treatment or evaluation.
    - a. Officers must be aware that injury can occur to a suspect if he/she falls from a standing position as a result of a Taser deployment. If this occurs, the officer who deployed the Taser or a supervisor on the scene will request that EMS personnel conduct a thorough physical examination with emphasis on secondary injuries.
    - b. If the suspect shows any such injuries or complains of an injury or pain, the officer or supervisor will request that the suspect be transported to a hospital for further evaluation or treatment.
  2. If the subject refuses medical treatment it will be documented in the officers incident report, and on the EMS medical treatment release form.

- C. Suspects should not be incarcerated until:
  - 1. A medical evaluation is completed.
  - 2. Any necessary treatment is given.
  - 3. Medical clearance has been obtained or;
  - 4. The suspect refuses all medical treatment.
- D. Incarcerated suspects who have received a Taser deployment should be monitored by trained personnel.
  - 1. Transporting officers will advise booking personnel that the suspect received a Taser deployment .

**IX. RESPONSE TO RESISTANCE ISSUES**

- A. The X26 ordinarily should not be deployed at distances beyond 18 feet. Other deployment considerations include:
  - 1. Imminent threats to officers or others
  - 2. An offender who is actively resisting arrest
  - 3. Use of a weapon
  - 4. Severity of the crime
  - 5. Attempting to evade arrest by flight
- B. The X26 should not be used as a tool of coercion or punishment.
  - 1. Excessive use of a Taser in subduing a suspect is forbidden.
- C. Officer vs. offender factors that may be considered when determining a use of force response are:
  - 1. Age
  - 2. Sex
  - 3. Pregnancy (avoid use if visibly pregnant)
  - 4. Skill level (fighting ability)
  - 5. Multiple suspects/officers
  - 6. Relative strength
- D. Special Circumstances to be considered in use of a Taser include:

1. Proximity of a weapon
2. Injury or exhaustion of the officer
3. Officer on the ground
4. Distance between officer and suspect
5. Special knowledge
6. Availability of other options

**X. X26 TASER INSTRUCTOR RESPONSIBILITIES**

- A. A certified X26 Instructor with dual certification as a Defensive Tactics Instructor will conduct basic user certification training of the X26 for all sworn department personnel.
- B. Taser instructors are responsible for:
  1. Receiving, inspecting, and ensuring the proper maintenance and replacement of X26 Tasers assigned to Department personnel.
  2. Establishing and maintaining a system to record the issuance of Tasers and air cartridges which will include serial numbers.
  3. Maintaining an adequate supply of replacement batteries and air cartridges.
  4. Obtaining service and/or replacement of defective or damaged Tasers, Taser components or cartridges.
  5. Providing annual re-training to certified users.
  6. Retaining copies of all Use of Force reports for training review and inclusion in the annual Use of Force analysis.
  7. Downloading all data from an X26 after a discharge and forwarding all reports to the Training Coordinator.
  8. The maintenance of training updates received from Air TASER International.

**XI. TRAINING COORDINATOR RESPONSIBILITIES**

- A. All training shall be coordinated through the Training Coordinator or his/her designee.
- B. The Training Coordinator or his/her designee will:
  1. Maintain a record of each officers assigned X26's serial number, as well as the serial number of the two individual cartridges issued to each officer.
  2. Review each use of an X26 by officers.
  3. Oversee the X26 training program.

MO No. 209 – Taser Handling & Deployment

Original: 06/30/2007	Revised:		
Revised: 04/01/2013			
Revised: 07/10/2014			
Revised: 10/24/2016			



# MANUAL ORDER

No. 445

<b>Subject:</b> Pursuit Operations		
<b>Issuing Authority:</b> Chief of Police	<b>Effective Date:</b> 09/10/2020	<b>Supercedes:</b>

**I. PURPOSE:** The purpose of this policy is to establish guidelines for conducting vehicle pursuits and determining when and when not to initiate a pursuit.

**II. POLICY:** It is the policy of the Town of Dewitt Police Department to teach officers that vehicular pursuit of fleeing suspects can present a danger to the public, officers and suspects and regulate through Department policy, when a vehicle pursuit may be initiated, how it will be conducted and when it will be terminated.

### III. DEFINITIONS:

- A. Vehicular Pursuit: An active attempt by an officer in an authorized emergency vehicle to apprehend a fleeing suspect who is actively attempting to elude the police.
  - 1. Active Pursuit: An individual who is actively attempting to elude the police (ie. speed acceleration, disobeying traffic control devices/signs).
  - 2. Failure to Comply: An individual who is not complying with an emergency vehicle (ie. an officer attempting to stop such vehicle), but is not attempting to elude the police.
- B. Authorized Emergency Vehicle: A Department vehicle equipped with operable emergency equipment as designated by section 1104 of the New York State Vehicle & Traffic Law.
- C. Primary Unit: A police unit which initiates a pursuit or any unit which assumes control of a pursuit.
- D. Secondary Unit: Any police vehicle which becomes involved as a backup to the primary unit and follows the primary unit at a safe distance.
- E. Roadblocks: Barricades or other obstructions placed across a roadway to stop or prevent the escape of a violator.
- F. Termination: The ending of a pursuit, to include no following, paralleling or caravanning of the suspect vehicle.
- G. Forcible Stopping: The use of a moving patrol vehicle to make contact with a suspect vehicle in an attempt to stop that vehicle and/or prevent it from moving.

### IV. PROCEDURE:

- A. Initiating an Active Pursuit
  - 1. An officer shall not engage in an active pursuit, unless he/she has reason to believe that:
    - a. The driver and/or occupant(s) has committed, is about to commit, or is committing a felony.

- b. The nature of driving exhibited by the fleeing vehicle (not as the result of the pursuit itself), if allowed to continue, would represent a serious threat to the safety of persons along the vehicle's path.
2. Before initiating an active pursuit, supervisors and officers will take into consideration:
    - a. The risks to the public and themselves that a pursuit may create.
    - b. The nature of the offense committed.
    - c. The danger to the public if the subject is not apprehended.
    - d. Road, weather, and environmental conditions.
    - e. Population density, vehicular and pedestrian traffic.
    - f. The relative performance capabilities of the pursuit vehicle and the vehicle being pursued.
    - g. Felony or other dangerous behavior exhibited by the driver.
    - h. The presence of other persons in the police vehicle.
  3. Only Department vehicles with authorized emergency equipment are permitted to initiate/engage or participate in a pursuit.
  4. Unmarked vehicles are only allowed to initiate or participate in a vehicle pursuit when the officer has reasonable cause to believe that the suspect poses a significant threat of death or serious physical injury to others; and should only do so if the situation reaches a level where not pursuing would outweigh the danger of pursuing the vehicle.
    - a. The unmarked unit shall discontinue in the pursuit as soon as practical after marked patrol units arrive to assist.

B. Pursuit Operations

1. Officers and any passengers will utilize their seatbelts.
2. When they reasonably believe that it does not endanger life or property, officers may:
  - a. Exceed the maximum posted speed limits.
  - b. Disregard regulations governing direction of vehicular movement or turning in specified directions.
3. When engaging in a pursuit the officer will:
  - a. Activate the appropriate emergency equipment on the patrol vehicle.
  - b. Immediately notify the 911 Center of the:
    - 1) Location
    - 2) Direction of travel.

- 3) General speed of the pursuit (i.e. low /high).
  - 4) Description of the suspect vehicle.
  - 5) Number of occupants.
  - 6) Initial reason for the stop.
4. The officer will keep the dispatcher updated on the progress of the pursuit and will not drive with reckless disregard for the safety of themselves or others.
  5. The 911 Center will notify any available supervisor of the pursuit, clear the radio channel of non-emergency traffic, and relay necessary information to other officers and jurisdictions.
  6. Unless circumstances dictate otherwise, a pursuit will consist of as few police vehicles as needed to maintain safety which will be at the discretion of a Command Officer, Sergeant or Senior Ranking Officer. All other personnel will stay clear of the pursuit, unless instructed to participate by a Sergeant or Command Officer.
  7. Before any pursuit is continued beyond Town limits, the pursuing officer(s) will attempt to obtain permission from a Sergeant or Command Officer.
  8. The primary pursuit unit will become secondary when assisted by air surveillance or when another unit has been assigned primary responsibility.

C. Supervisory Responsibilities

1. At any time, a Sergeant or Command Officer may order the termination of a pursuit.
2. To remain objective for the purpose of evaluating a pursuit, when possible, it is recommended that a Sergeant or Command Officer not be a direct participant in the pursuit.
3. It is the supervisor's responsibility to assess the circumstances and conditions of a pursuit based on available information and consider the risks of allowing it to continue.
4. When possible, a Sergeant or Command Officer will respond to the location where a vehicle has been stopped following the conclusion a pursuit.
5. Notify the Duty Chief of any pursuit or failure to comply as soon as practical after the incident is under control.

D. 911 Center Responsibilities

1. The Onondaga County 911 Center will be responsible for:
  - a. Receiving and recording information regarding the pursuit.
  - b. Coordinating radio communications, clearing radio channels and cross patching channels when necessary.
  - c. Dispatching and coordinating assisting units.
  - d. Notifying a duty Sergeant.

- e. Notifying other agencies of the pursuit, when necessary.

E. Pursuit Tactics

1. Officers will not normally follow the pursuit on parallel streets unless authorized by a supervisor and when it is possible to conduct such an operation without unreasonable risk to other vehicular or pedestrian traffic.
2. The operator of the secondary pursuit vehicle should maintain a safe distance from the lead vehicle and will be responsible for advising the 911 Center of the pursuit's location including cross streets. This will allow the primary officer to concentrate on the suspect vehicle.
  - a. Exceptions may exist such as the officer in the secondary vehicle is not geographically familiar with the area.
  - b. The secondary officer's additional duties are to provide support to the primary officer.
3. If there is a need to establish a roadblock, the procedures set forth in section IV-H of this order will be utilized.
4. Tactics involving the use of forcible stopping techniques shall be governed by the use of deadly physical force as set forth in MO 222-Use of Deadly Physical Force.
5. Once the suspect vehicle is stopped, officers will utilize appropriate officer safety tactics and will be aware of the necessity to utilize only reasonable and necessary force to take suspects into custody.
  - a. When possible, the primary officer should allow the secondary officer and any additional personnel to take the suspect into custody.

F. Terminating a Pursuit

1. The primary pursuit officer will continually re-evaluate the need to continue a pursuit and will terminate it whenever he/she reasonably believes the risks associated with continuing outweigh the benefit of making an immediate apprehension.

G. Inter-Jurisdictional Pursuits

1. If an outside agency has a pursuit that occurs within the Dewitt Police Department's jurisdiction or a neighboring jurisdiction, before a Dewitt officer can assist, he/she must:
  - a. Know the reason for the pursuit (eg. vehicle and traffic violations, fleeing felony suspects, suspects committed a misdemeanor or lesser offense etc.).
  - b. Know if the pursuit would be authorized under Department policy if it were initiated by a Dewitt officer.
  - c. Obtain authorization from a Sergeant or Command Officer before assisting in the pursuit.
2. When a pursuit enters the Dewitt Police Department's jurisdiction, the actions of DeWitt officers will be governed by Department policies and New York State law.

## H. Roadblocks

1. A roadblock is generally used as a surveillance technique utilized by police to capture a subject who has recently fled the scene of a serious crime, or to stop a vehicle actually being pursued by a police vehicle.
  - a. Roadblocks should not be actual physical blocking of roads unless complete safety to officers and the public can be assured. Conducting a roadblock in this manner can constitute a use of deadly physical force and create an unreasonable risk to officers.
  - b. Conducting a roadblock by physically blocking the road is prohibited unless the use of deadly physical force is authorized by law and it is used as a last resort.
  - c. No type of roadblock will be established without prior approval from a supervisor or command officer.
2. For a roadblock to be effective, it must be deployed quickly.
3. Pre-planning for roadblocks should include careful terrain review to ensure that the most practicable points are used for each roadblock, leaving minimum escape routes.
  - a. Officers must be positioned at key locations along probable escape routes.
4. If a roadblock must extend beyond the Department's service area a means to rapidly request the assistance of other police agencies should be planned.
5. When pre-planning for roadblocks, consider including a means of giving notice to cooperative individuals living or working along pertinent roadways. Such individuals should be instructed to report sightings of possible suspect(s) to the police and take no further action.
6. The following factors should be considered when determining if a roadblock is necessary:
  - a. The time elapsed between the crime and its discovery.
  - b. If the crime is serious enough to warrant the expenditure of man-hours and cost involved in maintaining roadblocks and the consequent reduction of other police activity.
  - c. The amount of descriptive information available about the suspect(s) and/or the vehicle(s).
7. If a roadblock will be conducted, a supervisor will designate an officer to:
  - a. Verify the authenticity of the complaint.
  - b. Get as much information as possible, as soon as possible.
  - c. Obtain a description of the:
    - 1) Person(s) involved.
    - 2) Vehicle(s)
    - 3) Weapon(s) if any are involved.
  - d. Obtain the direction of travel from the scene.
8. Immediately notify the 911 Center to transmit all available information to units in the area.

9. The supervisor will:
  - a. Notify the Duty Chief or command personnel.
  - b. If appropriate, notify other police agencies.
  - c. Assign officers to establish roadblocks at specific locations.
  - d. Maintain communications with assigned officers.
10. A roadblock should have a minimum of two officers, one to approach vehicles, the other to provide cover for the approaching officer.
11. Roadblocks should not be established within sight of an intersecting road, unless it is set up at that intersection.
12. A highway/roadway location should be selected that will allow motorists sufficient time to stop.
13. Unless there is a need to use deadly physical force, patrol vehicles should be parked off the roadway.
14. Officers should position themselves so they are not in a possible line of fire.
15. At night, use all appropriate lighting to illuminate the area.
16. Officers should not stand directly in the path of traffic.
17. Visually inspect all stopped vehicles.
18. If practical, officers should keep a written log at the roadblock site. Information to be recorded include the:
  - a. Date
  - b. Time the roadblock is established.
  - c. Roadblock location.
  - d. Reason for the roadblock.
  - e. Names of persons and vehicles checked.
  - f. The time the roadblock was concluded.
19. Officers conducting the roadblock should:
  - a. Keep the supervisor informed of all pertinent developments.
  - b. Not hesitate to give information to the public of the reason for the roadblock. Personal or vehicle information should be given because the public may provide valuable information that will assist in locating wanted persons.
  - c. Not permit persons or vehicles to congregate at or near the roadblock site.
  - d. Refer members of the media to the Department's Public Information Officer for details on the incident.
  - e. If a vehicle attempts to avoid a roadblock, if possible note the:

- 1) License plate.
  - 2) Vehicle description.
  - 3) Number of occupants and their description.
  - 4) Direction of travel.
- f. Immediately advise the supervisor and the 911 Center.
- 1) The supervisor will determine if an officer will pursue the vehicle.
- I. After-Action Reporting and Incident Review
1. When an officer engages in an active pursuit or failure to comply, he/she will:
    - a. Complete an Incident report.
    - b. Complete a Memorandum outlining the circumstances of the pursuit.
    - c. The Memorandum and a copy of the Incident report will be submitted to the Patrol Commander.
  2. The Patrol Commander or a supervisory EVOC instructor will conduct a written administrative review of all reports to determine if Department policy has been followed and to identify any training deficiencies.
    - a. The supervisory EVOC instructor will forward his/her review, along with all reports to the Patrol Commander.
    - b. The Patrol Commander will forward his/her review, along with all reports through the chain of command to the Chief of Police.
  3. The Chief of Police or his/her designee will review the pursuit to determine if:
    - a. The pursuit was necessary and Department policy was followed.
    - b. There is a need for any changes to Department policy or training.
  4. Command staff will continually analyze police vehicle pursuits to determine if any changes to Department procedures are needed.
  5. Whenever a roadblock is conducted, an Incident report will be completed.
  6. A command staff member shall conduct an annual documented review of the Department's pursuit policy and reporting procedures; and a documented annual analysis of all pursuit reports and roadblocks for the previous twelve months for the purpose of identifying:
    - a. Trends
    - b. Changes in law and court decisions.
    - c. Training needs.
    - d. The need for policy change.

J. Training

1. All sworn personnel will be given initial training in the Department’s pursuit policy, pursuit tactics and driving, safe driving tactics and use of roadblocks.
2. After initial training, a documented, annual review of the Department’s pursuit policy will be conducted for all sworn personnel.

Original: 01/30/1997	Revised: 04/11/2017	Revised:	
Revised: 02/25/2003	Revised: 08/21/2017		
Revised: 01/15/2013	Revised: 08/27/2019		
Revised: 09/12/2014	Revised: 03/04/2020		



# MANUAL ORDER

No. 206

**Subject:**

Personnel Complaints and Internal Affairs

**Issuing Authority:**

Chief Of Police

**Effective Date:**

04/16/2020

**Supersedes:**

**I. PURPOSE:** The purpose of this policy is to provide guidelines and procedures for the receipt, recording, investigation and disposition of complaints made against police department policies, procedures, rules or personnel.

**II. POLICY:** It is the policy of the Town of DeWitt Police Department to courteously receive and fairly investigate all complaints made against the agency, its activities and practices, and its personnel. The goal of this policy is to correct deficiencies in procedures, detect and deter misconduct, instill confidence in citizens regarding the integrity of the Department and its personnel, and to seek redress for false accusations made against the agency and its employees.

**III. DEFINITIONS:**

- A. Supervisor: Includes the rank of Sergeant or higher.
- B. Complaint: An allegation of improper or an unlawful act or omission which relates to the business of the Department or to the conduct of any sworn officer or civilian employee of it.
- C. External Complaint: A complaint that originates from outside the Department.
- D. Internal Complaint: A complaint that originates from within the Department. These may be initiated by other employees or supervisors.
- E. Improper Act or Omission: Abuse of authority, discourteous or abusive behavior or substantial deviation from acceptable conduct or performance.
- F. Unlawful Act or Omission: Conduct that would be criminal on its face or unnecessary and/or considered excessive use of force. This includes non-criminal conduct, that is a deviation from acceptable behavior.
- G. Employee: Any person employed by the Department whether sworn, non-sworn, part time or full time.
- H. Complainant: A person who files a complaint about the conduct of any Department employee or the agency's policies, procedures or actions.
- I. Misconduct: Any conduct by an employee of the Department that violates agency policy or the law.
- J. Serious Misconduct: Any alleged action that would constitute a Class I violation as outlined in complaint categories section of this policy and requires an internal affairs investigation.
- K. Counseling: Information relayed to an employee by a ranking officer where the ranking officer points out the employee's strengths, weaknesses, training needs or offers him/her the opportunity to improve performance.

L. Discipline: A written reprimand, suspension, demotion or dismissal.

**IV. PROCEDURES:**

A. Complaint Categories

1. The following table lists complaint categories used by the Department, a description of each category, examples of complaints for each category and what personnel are normally responsible for handling them.

<b>Category</b>	<b>Description</b>	<b>Examples</b>	<b>Generally handled by</b>
Class 1	Allegations that have the potential to damage the reputation of the Department or its personnel, and generally include, but are not limited to allegations of serious misconduct, serious violations of standards or violations of law.	<ul style="list-style-type: none"> <li>- Excessive Force</li> <li>- False Arrest</li> <li>-Unlawful Search and seizure</li> <li>- Violation of Civil Rights</li> <li>- Bias Based Profiling</li> <li>- Corruption</li> <li>- Dishonesty and Untruthfulness</li> <li>- Gross Insubordination</li> <li>-Sexual Harassment</li> <li>- Workplace Violence</li> <li>- Violation of criminal statutes</li> <li>- Intent to file civil action</li> </ul>	Chief of Police  Criminal Investigations  Commander and/or  Outside Agency
Class 2	Allegations that generally include but not limited to allegations of a non-serious nature and violations of standards of conduct and other written directives of a non-serious nature.	<ul style="list-style-type: none"> <li>- Violations of policies, procedures or rules, other than those which constitute a class 1 allegation.</li> <li>- Violations of personnel rules</li> </ul>	Chief of Police  Criminal Investigations Commander and/or  Patrol Division Commander or his/her designee
Class 3	Minor Complaints by a citizen desiring to make an informal complaint against an employee, generally involving their conduct or behavior.	When a citizen complains about the behavior of an employee such as rudeness or demeanor.	First line supervisor
Class 4	Minor complaints by a citizen who is questioning or complaining about a policy, procedure, or tactic used by the department or an employee.	When a citizen questions or complains about the procedures or tactics, such as on-scene command presence, or why handcuffs were used when detaining a subject.	First line supervisor  Informal and documented for informational or training purposes.

B. If a complaint about the agency or agency personnel is received by any member of the Department, a supervisor will notify the CID Commander.

1. The CID Commander will determine if the nature of the complaint requires immediate notification to the Chief of Police. Complaints requiring notification can include but may not be limited to:

- a. An officer who persists with inappropriate conduct.
  - b. When multiple complaints are received.
  - c. When the act or actions may result in disciplinary action.
2. The CID Commander will maintain a log of all complaints received against the Department or its' personnel.
- C. The Chief of Police, or in his/her absence the Duty Chief, shall be notified immediately if an employee of the Department is:
1. Arrested or charged with a criminal offense.
  2. Accused or questioned regarding conduct that would constitute a crime.
  3. Temporarily relieved of duty.
  4. Involved in an action resulting in physical injury or death to another person.
  5. Accused of serious misconduct.
  6. Accused of using excessive force, violating a person's civil rights, or sexual harassment.

## **V. RECEIVING AND PROCESSING COMPLAINTS**

- A. Any employee below the rank of sergeant who is made aware of an agency or personnel complaint, will notify a supervisor, Commanding Officer or the Duty Chief.
- B. Supervisors and command personnel are authorized to receive complaints from citizens or employees of the Department.
1. Complaints about a sergeant or above will be received by a higher ranking officer than the individual who the complaint is being made against.
  2. Any supervisor who is the subject of a complaint or who authorized the conduct that led to the complaint, is prohibited from investigating the incident.
- C. A supervisor or command officer who receives a complaint directly or has been instructed to receive a complaint will:
1. Receive the complaint courteously without attempting to dissuade any person from lodging their complaint.
    - a. Complaints will be received regardless of their source (in-person, telephone, letter, email, anonymous, second party, etc.).
    - b. All complaints both, internally or externally generated, will be documented at minimum, on a Commendation/Complaint form (9.49C).

2. Supervisors receiving class 3 and 4 complaints may immediately initiate and conduct a preliminary investigation and document it or refer it to a division commander for reassignment. Documentation will include information about:
  - a. Interviewing the complainant.
  - b. When appropriate, obtaining a sworn affidavit, including details about the complaint.
  - c. Locating and interviewing available witnesses.
  - d. Identification of all Department employees involved.
  - e. Collection of any evidence pertinent to the complaint.
  - f. Photographs of the scene and the complainant, if appropriate.
  - g. Securing appropriate medical examinations or treatment and obtaining an authorization for release of medical records, when appropriate.
  - h. Neighborhood canvas.
  - i. Collection of relevant information such as reports relating to the incident prior history of the complainant, etc.
3. If the complainant will not cooperate with the investigation or is unavailable, the supervisor or command officer will document his/her attempt to complete the investigation on the Commendation/Complaint form (9.49C).
4. Complaints made by intoxicated complainants should be received at the time they are made to a supervisor or command officer.
  - a. The complainant should be re-interviewed at a later time (i.e. when he/she is sober) and any discrepancies should be noted in the investigation report.
5. Arrangements will be made to provide a complainant with a copy of the Commendation/Complaint form (9.49C) and their statement upon request.
  - a. No other documents will be released without prior approval of the Chief of Police.

## **VI. INTERNAL AFFAIRS INVESTIGATIONS**

- A. All class 1 and 2 complaints will be conducted by or at the direction of a command staff member. The member who is assigned to conduct an investigation, will be granted the power and authority to report directly to the Chief of Police.
- B. As part of the investigative process, all involved employees will be interviewed at a time that is appropriate and in accordance with current collective bargaining agreements and NYS Civil Service Law.
  1. Employees may have a union representative present during such interviews.

- C. When an employee is notified that they have become the subject of an internal affairs investigation, they will be issued a written statement of the allegations, their rights as an employee and their responsibilities relative to the investigation.
- D. All complaint investigations are strictly confidential. Information about the complaint will not be discussed by or with anyone not involved in the investigation.
- E. The Chief of Police will maintain a close liaison with the D.A.'s Office for investigations alleging criminal conduct.
  - 1. Where liability is an issue, the Chief of Police shall maintain contact with the Town Attorney.
- F. Depending on the circumstances of the incident being investigated, an employee may be directed to undergo applicable examinations such as:
  - 1. Breath, blood or urine if alcohol or drug use is suspected as a factor related to the allegations in the complaint.
  - 2. Psychological
  - 3. Medical
  - 4. Any other exam not prohibited by law.
- G. After an investigation is completed, all documents and memorandums will be submitted to the CID Commander.
- H. At the conclusion of internal affairs level investigations, the CID Commander will submit a completed Commendation/Complaint form (9.49C) with all supporting documents, statements, evidence and recommendations to the Chief of Police for final review and approval.
  - 1. Paper work will include:
    - a. An outline of the alleged conduct.
    - b. The findings relative to the alleged actions.
    - c. Specific violations supported by evidence.
    - d. Ancillary issues developed during the investigation.
    - e. A conclusion (form 9.49C) with a recommended finding for each allegation as follows:
      - 1) SUSTAINED - Allegation(s) are substantiated.
      - 2) UNFOUNDED - Allegation(s) are false or not factual.
      - 3) EXONERATED - Incident occurred but the employee acted lawfully and within department policy.
      - 4) NOT SUSTAINED - Allegation(s) are not substantiated. No sufficient evidence was revealed to substantiate or disprove the allegation.

5) MISCONDUCT NOT BASED ON COMPLAINT - Substantiated misconduct which was other than the allegation(s) identified in the original complaint.

2. The Chief of police will review all paperwork and make a final determination on the disciplinary action to be taken.

## **VII. DISCIPLINARY ACTIONS**

- A. Disciplinary actions shall be proportionate to the type of conduct committed (as determined by the completion of an investigation) that lead to the filing of a complaint.
- B. Types of discipline used by the Department are set forth in MO 314-Disciplinary System and may include:
  1. Written reprimand.
  2. Suspension
  3. Demotion
  4. Dismissal
  5. Criminal prosecution
- C. Non-punitive actions such as counseling and remedial training may be utilized when the facts and circumstances support the appropriateness of their use as a corrective action.

## **VIII. INVESTIGATION TIME LIMITS**

- A. Investigations will be completed in a maximum of thirty (30) days from their time of inception.
- B. If an investigation requires an extended period of time to complete a thirty (30) day extension will be granted by the Chief of Police.
- C. If more time is needed after the extension, another thirty 30 day extension may be granted by the Chief of Police.
- D. The Chief of Police or his/her designee will periodically inform the complainant that their complaint is still under investigation and when completed, notify him/her of the results.
  1. No information concerning the progress, guilt or innocence of the officer will be communicated to the complainant.
- E. When allegations contained in a complaint are determined to be false and evidence exists of intentional misrepresentation or filing of false statements, the Chief of Police or his/her designee may make a recommendation to pursue criminal action against the complainant.

## **IX. DOCUMENTATION RETENTION AND SECURITY**

- A. All Commendation/Complaint forms (9.49C) and related case reports, including reports and case information forwarded to the Chief of Police by Commanding Officer, will be placed in a secured internal affairs folder.

1. No employee of the Department, REGARDLESS OF RANK OR ASSIGNMENT, is permitted to review any disciplinary file without the approval of the Chief of Police.
- B. Personnel records will be kept in accordance with legal requirements.
1. Professional Standards Reports and related case reports located in a personnel file will be retained until they are purged by the Chief of Police or his/her designee.
    - a. Purging of files shall be in accordance with retention periods set forth in the New York State Records Retention and Disposition Schedule MU-1.

**X. ANNUAL SUMMARY**

- A. The Chief of Police or his/her designee shall prepare, and make available to the public, Police Commission and Department members, an annual summary of citizen complaints and internal investigations.
- B. At the conclusion of each calendar year, the Chief of Police shall prepare a statistical report which identifies:
  1. The number of investigations conducted.
  2. Adjudication of cases investigated.
  3. Disciplinary actions taken.

Original: 04/15/1997	Revised: 05/19/2015	Revised: 04/16/2020		
Revised: 01/31/2003	Revised: 10/28/2015	Revised:		
Revised: 02/01/2008	Revised: 11/15/2016			
Revised: 03/17/2014	Revised: 02/28/2018			

Motion made by Councilor Docter,

Seconded by Councilor Rigney

DEWITT TOWN POLICE COMMISSION

RESOLUTION REGARDING INTERNAL AFFAIRS COMPLAINTS

Be it resolved that the DeWitt Police Commission shall require the Chief of Police and Public Safety for the Town of DeWitt to inform the Commission of all reported personnel complaints or incidents that result in an internal affairs investigation. The Chief shall further inform the Commission of the findings of all such investigations and shall report to the Commission any action that has or will be taken by the Department in response to a determination that allegations underlying the investigation are "Founded".

Passed this 10th day of September, 2020, by a vote of 9 ayes.



# MANUAL ORDER

No. 457

<b>Subject:</b> Mental Illness Incidents		
<b>Issuing Authority:</b> Chief of Police	<b>Effective Date:</b> 03/04/2020	<b>Supercedes:</b>

- I. PURPOSE:** The purpose of this policy is to establish guidelines for handling persons suspected of suffering from mental illnesses.
- II. POLICY:** It is the policy of the Town of Dewitt Police Department to respond to calls for service involving persons who are exhibiting signs of mental illness, investigate and evaluate such behavior. When necessary or required, and in accordance with section 9.41 of the New York State Mental Hygiene Law, officers shall take appropriate action to ensure that individuals suffering from a mental illness receive appropriate services or are transported to an approved facility where they may be receive such services.
- Personnel shall share information surrounding the individual's conduct and/or arrest with hospital personnel involved in the evaluation of the person, a law enforcement officer taking custody of the person, or presiding judge when making an arrest or delivering custody of the person to another officer, holding facility, or mental health facility.

### III. DEFINITIONS:

- A. Mental Illness- Problems with emotions, thoughts and/or perception that can impact a person's ability to relate to others and/or function on a daily basis. Mental illness may occur in anyone. Symptoms may vary in duration, frequency and intensity.
- B. Voluntary Referral-Any person requesting admission, care, and treatment for themselves and who does not meet the minimum requirements for section 9.41 of the New York State Mental Hygiene Law.
- C. Involuntary Referral / 9.41 Mental Hygiene Law- Any person who appears to be mentally ill and is conducting him/herself in a manner which is likely to result in harm to themselves or others shall be considered a 9.41 MHL detention and may not be a voluntary referral.

### IV. PROCEDURE:

- A. Officers will use their best judgment based on training, experience, and discretion when dealing with persons suspected of suffering from mental illness.
- B. Symptoms of Mental Illness
1. There are three types of indicators that a person may be suffering from a mental illness.
    - a. Verbal, which may include:
      - 1) Illogical thoughts, such as:
        - a) Expressing a combination of unrelated or abstract topics.
        - b) Expressing thoughts of greatness (e.g., person believes that he/she is God).
        - c) Expressing ideas of being harassed or threatening (e.g., CIA monitoring thoughts through a television set);
        - d) Preoccupation with death, germs, guilt, etc.

- 2) Unusual speech patterns, such as:
  - a) Nonsense type speech or chatter.
  - b) Word repetition or rhyming words or phrases.
  - c) Pressured speech (i.e., expressing urgency in manner of speaking).
  - d) Extremely slow speech.
- 3) Verbal hostility or excitement, such as:
  - a) Talking excitedly or loudly.
  - b) Argumentative, belligerent, unreasonably hostile.
  - c) Threatening to harm self or others.
- b. Behavioral indicators, which may include:
  - 1) Physical appearance, such as:
    - a) Inappropriate clothing for the environment (e.g., shorts in winter heavy coat in summer).
    - b) Bizarre clothing or makeup, taking into account current trends.
  - 2) Body movements, such as:
    - a) Strange postures or mannerisms.
    - b) Lethargic, sluggish movements.
    - c) Repetitious or ritualistic movements.
    - d) Seeing or hearing things that are not able to be confirmed.
    - e) Confusion about or unawareness of surroundings.
    - f) Lack of emotional response.
    - g) Causing injury to self.
    - h) Nonverbal expressions of sadness or grief.
    - i) Inappropriate emotional reactions, such as:
      - (1) Overreacting to situations in an overly angry or frightening way.
      - (2) Reacting with the opposite of expected emotion (e.g., laughing at an automobile accident).
  - 3) Environmental indicators that are inappropriate for the surroundings, such as:
    - a) Decorations (e.g., strange trimmings, inappropriate use of household items such as aluminum foil covering windows).
    - b) Waste matter/trash, such as:
      - (1) Hoarding tendencies (i.e., an accumulation of trash such as holding string, newspapers, paper bags, clutter, etc.).

(2) Presence of feces or urine on the floor or walls.

c) Childish objects.

C. Interacting with Mentally Ill Persons and Accessing Mental Health Resources:

1. A mentally ill person who is in a crisis situation is generally afraid. When interacting with a mentally ill person officers should:
  - a. Continually assess the situation for danger;
  - b. Maintain adequate space between him/herself and the subject.
  - c. Remain calm
  - d. Give firm, clear directions and if possible, only one officer should talk to the subject;
  - e. Respond to apparent feelings, rather than the content;
  - f. Respond to any delusions or hallucinations by talking about the person's feelings rather than what he/she is saying; and/or
  - g. Be helpful or offer assistance to make the person feel safer, calmer, etc.
2. When interacting with a mentally ill person officers should not:
  - a. Support the behavior related to the person's mental illness (e.g., agreeing or disagreeing with delusions or hallucinations).
  - b. Stare at the person as this may be interpreted as a threat.
  - c. Confuse him/her.
  - d. Give the person multiple choices as this may be confusing.
  - e. Whisper, laugh, or joke about the situation. This may increase the person's anxiety and the potential for violent behavior.
  - f. Attempt to deceive the person. This may increase fear or suspicion.
  - g. Attempt to comfort by touching them. This may be helpful for some people who are upset but for a mentally ill person it may cause more fear and or could lead to violent behavior.
3. When interviewing or interrogating a person who may be mentally ill, officers should keep in mind that:
  - a. A person more than nine years of age may testify under oath unless the court deems that such person cannot, as a result of mental disease or defect or cannot understand the nature of an oath. The person may be permitted to give un-sworn testimony if the court deems that the individual possesses sufficient intelligence and capacity to do so.
    - 1) When interviewing, interrogating or taking a statement from a person who may be suffering from a mental illness, officers should attempt to establish and document that the person understands the nature of an oath, the difference between the truth and a lie, the necessity of telling the truth, and the fact that a person who gives false testimony may be punished.
  - b. Alternatives to arrest may be considered, in appropriate situations, when dealing with mentally ill persons.

- c. Evidence of mental illness may be used by a defendant as a defense during legal proceedings for lack of criminal responsibility by reason of mental disease or defect.

D. Voluntary Referrals

1. Officers responding to calls for service involving mental health issues shall provide appropriate assistance to individuals, families, or other persons seeking voluntary services under the Mental Hygiene Law to the extent possible. This assistance may include, but is not limited to:
  - a. Engaging in dialogue of encouraging them to seek treatment.
  - b. Transporting or arranging transportation to the Comprehensive Psychiatric Emergency Program (CPEP), or if unavailable, a hospital emergency department.
  - c. Officers may request the use of the mobile CPEP Evaluation Team of the individual if needed.
2. Voluntary referrals that are transported by police vehicle will be searched prior to transport.
  - a. The use of restraints on a voluntary referral will be based on the officer's assessment of the individual.

E. Mental Hygiene Law Arrests

1. Section 9.41 of the New York State Mental Hygiene Law (MHL) allows a police officer to take into custody for evaluation, any person who appears to be mentally ill and is conducting him/herself in a manner which is likely to result in harm to themselves or others. Such actions include but are not limited to:
  - a. Displaying a substantial risk of physical harm to themselves or others through verbal threats.
  - b. Attempts to commit suicide or cause physical harm to themselves or others.
2. Persons taken into custody under section 9.41 of the MHL will be searched, handcuffed, and transported in accordance with procedures set forth in Manual Order #430-Prisoner Security Procedures.
  - a. If the individual has severe physical disabilities, officers will and determine the best method of transportation.
  - b. Individuals who are combative or have severe physical disabilities may be transported by ambulance if there are medical concerns or medical treatment is needed.
  - c. Ambulances are not authorized to transport to CPEP therefore, if an ambulance is used the individual will be transported to a hospital.
    - 1) Officers will follow the ambulance in order to ensure the safety of emergency medical personnel and to maintain custody of the individual until he/she is turned over to the custody of hospital security.
3. The Comprehensive Psychiatric Emergency Program [CPEP] at St. Joseph's Hospital, 301 Prospect Avenue, Syracuse, is the designated intake facility for all persons taken into custody pursuant to Section 9.41 of the MHL and/or voluntary referrals within Onondaga County.
  - a. If a person who is taken into custody under the MHL is combative, officers should request that the 911 Center's data channel notify CPEP prior to transporting such person to their facility.

- b. If CPEP is in diversion officers may be re-directed to a hospital emergency room.
- c. A parent or legal guardian must respond to CPEP or the alternate emergency room to authorize the treatment of any person less than eighteen years of age.
- d. Upon arrival at CPEP, officers shall provide all pertinent information about the individual with medical personnel.
- e. Maintaining custody of the individual is the responsibility of the officer and he/she will not be left alone. The officer will stay with the individual until relieved by hospital security personnel.
  - 1) Officers are not required to remain at CPEP or an emergency room once he/she is relieved.
  - 2) The name of CPEP or emergency room security personnel taking custody of the subject and the time should be listed in the narrative portion of the officer's incident report.
- 4. Officers taking a person into non-voluntary custody, pursuant to the Mental Hygiene Law will complete an incident report documenting the circumstances surrounding the incident
  - a. If an incident is resolved with a voluntary referral, the officer may complete an incident report detailing the circumstances of the incident if applicable.
- 5. If a person being held under the Mental Hygiene Law escapes police custody before being turned over to CPEP or emergency room security personnel, officers will follow procedures listed in MO 430-Prisoner Security Procedures under the Prisoner Escape section.
- 6. If a person who appears to be mentally ill is charged criminally, the officer will make the arrest and notify his/her supervisor (or the Duty Chief if a supervisor is not available).
  - a. If the charge is a misdemeanor, violation or infraction and it does not pose a threat to another person, an appearance ticket may be issued and the arrestee may be transported to and turned over to CPEP. CPEP personnel must be advised that criminal charges are pending.
  - b. If a felony offense or a crime is charged against a person he/she will be arrested and arraigned.
    - 1) The officer will provide all information about the incident to the judge at arraignment and request that he/she order a mental health examination.
    - 2) Upon lodging the individual at the Justice Center, the transporting officer will provide information about the incident/charges to the booking deputy and advise him/her of any court order for a mental examination.
    - 3) Officers will seek immediate medical attention prior to the arraignment for subjects who are exhibiting symptoms of a medical emergency.
- 7. If use of force is necessary when taking a mentally ill person into custody, a Use of Force report will be completed in accordance with Department procedures.

#### F. Training

- 1. Newly hired officers will receive documented training on handling persons suspected of suffering from mental illness.
  - a. Recognition and interaction training as prescribed by the New York State Division of Criminal Justice Services (DCJS) is provided as a component of the Basic Academy.

- b. Training in Department procedures as set forth in this directive is included in the Field Training Program.

- 2. Officers will receive documented refresher training annually.

Original: 11/30/1997	Revised: 05/15/2019		
Revised: 01/31/2003	Revised: 03/04/2020		
Revised: 12/15/2003			
Revised: 08/26/2014			



# MANUAL ORDER

No. 436

<b>Subject:</b> Body Worn Cameras		
<b>Issuing Authority:</b> Chief of Police	<b>Effective Date:</b> 08/24/2020	<b>Supersedes:</b> N/A

**I. PURPOSE:** The purpose of this policy is to set forth procedures for the use of body-worn cameras.

**II. POLICY:** It is the policy of the Town of DeWitt Police Department to utilize body worn cameras to document enforcement related activities of its' officers. Body worn cameras will also assist in gathering evidence, promoting transparency and providing an objective record of an incident. This policy does not govern the use of surreptitious recording devices used in undercover operations.

### III. DEFINITIONS:

- A. Body Worn Camera (BWC): A video and audio recording device worn by officers to document law enforcement related activities.
- B. Agency Administrator: A member of the Department designated by the Chief of Police who has full access to, and user rights within the data storage system. The Agency Administrator can assign and track equipment, control passwords, oversee needed repairs, delete non-evidentiary recordings, conduct audits and quality control reviews.
- C. Enforcement Related Activity: Incidents during an officer's official duties that include, but are not limited to:
  - 1. Calls for service.
  - 2. Traffic Stops.
  - 3. Search Warrants.
  - 4. Arrests
  - 5. Investigatory activities.
  - 6. Confrontational/adversarial citizen contacts.
  - 7. At an officer's discretion, if they feel the situation could result in an issue where recording would be beneficial.

### IV. PROCEDURE:

- A. The Department has adopted the use of the BWC to accomplish several objectives. The primary objectives are as follows:

1. BWCs allow for accurate documentation of police-public contacts, arrests, and critical incidents. They also serve to enhance the accuracy of officer reports and testimony in court.
2. Audio and video recordings enhance the Departments' ability to review probable cause for arrest, officer and suspect interaction, evidence for investigative and prosecutorial purposes and to provide additional information for officer evaluation and training.
3. The BWC may also be useful in documenting crime and accident scenes or other events that include the confiscation and documentation of evidence or contraband.

## **V. PROCEDURES FOR BWC USE**

- A. BWC equipment is assigned primarily to uniformed personnel or as authorized by the Chief of Police or his/her designee.
- B. Officers who are assigned BWC equipment must use the equipment unless otherwise authorized by supervisory personnel.
  1. The BWC shall be worn in a manner that maximizes the camera's ability to capture video footage of the officer's activities.
- C. Officers will use only Department issued BWCs. BWC equipment and all data, images, video, and metadata captured, recorded, or otherwise produced by the equipment is the sole property of the Town of Dewitt Police Department.
  1. Accessing, copying, or releasing files for non-law enforcement purposes is strictly prohibited.
- D. BWC equipment is the responsibility of individual officers and will be used with reasonable care to ensure proper functioning.
  1. Officers will inspect and test their BWC prior to each shift and verify that it is functioning properly.
    - a. If during an inspection, prior to shift, a BWC is not functioning properly, the officer will notify a supervisor.
  2. Equipment malfunctions or BWC loss that occurs during an officer's duty shift will be brought to the attention of a supervisor as soon as possible.
    - a. If loss of a BWC occurs, it will be documented in an Incident report.
    - b. If a malfunction occurs during an incident, it will be documented in an Incident or Supplemental report.
    - c. If a malfunction occurs while the officer is not assigned to a call, it will be documented on a Memorandum and directed to the officer's supervisor.
  3. Officers will not edit, alter, erase, duplicate, copy, share, or otherwise distribute in any manner, BWC recordings without prior written authorization and approval from the Chief of Police or his/her designee.

4. Requests for deletion of portions of the recordings (e.g. in the event of a personal recording) must be submitted in writing and approved by the Chief of Police or his/her designee in accordance with state record retention laws.
  - a. All requests and final decisions shall be kept on file.
- E. When a BWC is used during a call for service and an Incident report is completed, the officer will document the BWC use in the report.
  1. If multiple officers respond to an incident all officers will record the incident. The primary officer will be responsible for documenting in his/her report that the incident was recorded.
  2. If the incident requires reports from other responding officers, those officers will note in their supplemental report that their BWC recorded the incident.
  3. If the incident results in an arrest where the recordings could be used as evidence, the footage will be burned to a CD or DVD and turned in as evidence utilizing the procedures set forth in MO 205-Property and Evidence Management.
- F. BWC recordings are not a replacement for reports.
- G. When working in an off duty capacity, officers are not required to wear BWC's but they may request to do so if desired.
- H. Officers are encouraged to inform their supervisor of any recordings that may be of value for training purposes.

## **VI. RECORDING**

- A. BWC's have been set to complete thirty seconds of buffering (capture of video with no audio) before the camera activates and begins capturing full video with audio.
- B. Officers shall activate the BWC to record all contacts with citizens in the performance of official duties.
- C. Situations where BWC's may not be activated are:
  1. When there is an immediate threat to the officer's safety making BWC activation an impractical step delaying an officer safety action.
  2. When activating the BWC could delay an officer's response to the safety needs of a citizen during a critical incident.
  3. When during activation the BWC malfunctions.
- D. Officers are not legally obligated to inform an individual(s) that they are being recording with a BWC, but may choose to inform the individuals for their awareness. This may also help officers gain compliance, or encourage improved behavior and/or demeanor from subjects if they know they are being recorded.

1. If an individual asks an officer if he/she is being recorded by a BWC, the officer should advise the individual of the recording unless the employee encounters physical resistance, flight, or other factors rendering such notice unsafe or impractical.
- E. If an officer fails to activate the BWC, fails to record an entire citizen contact, or interrupts the recording, he/she will document why a recording was not made, was interrupted, or was terminated.
- F. Civilians will not be allowed to review recordings at a scene, unless exigent circumstances exist and in the furtherance of an investigation, it is safe to do so.

## **VII. DISCRETIONARY RECORDING**

- A. Officers will have the discretion to continue, discontinue recording or mute audio in situations where legitimate law enforcement interest outweighs the continuation of recording. Situations include, but are not limited to:
  1. Conversations with confidential informants or undercover officers that may put the subject in danger.
  2. Conversations with other law enforcement personnel concerning tactical, investigative or administrative strategies or options on a specific case.
  3. A potential witness requests to speak to an officer confidentially or desires anonymity.
  4. A victim or witness requests that he or she not be recorded as a condition of cooperation and the interests of justice require such cooperation.
  5. When a suspect states that they will not speak about their participation in an offense while being recorded.
  6. Despite a citizen's request to stop a BWC recording due to privacy concerns, an officer may deny the request if there are specific and articulable facts that warrant the continuous recording.
  7. In order to respect the dignity of others, officers will try to avoid recording persons who are nude or when sensitive human areas are exposed unless there is a legitimate law enforcement reason to continue recording.
- B. Whenever a recording is stopped the officer shall document in writing and when practical, state verbally on camera the reason for deactivation.

## **VIII. DEACTIVATION OF RECORDING**

- A. The BWC shall remain activated until the event is completed in order to ensure the integrity of the recording unless otherwise specified in this policy. If an incident involves:
  1. The towing of a vehicle, the camera will not be deactivated until the inventory search has been completed.

2. The transport of an arrested person, BWC's will not be deactivated until such person is secured in the Booking Room or an interview room.
- B. If a BWC has been activated and during the course of an enforcement related activity the legitimate law enforcement interest for recording no longer outweighs the individual's reasonable expectation of privacy, the officer shall document either in writing or verbally on camera the reason for deactivation.
- C. When explosive devices are present, radio waves or the BWC could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

**IX. PROHIBITED RECORDINGS**

- A. Recording devices will not be utilized:
  1. To record non-work related personal activities and will not be activated inside the Department's headquarters building or sub-station where a reasonable expectation of privacy exists, such as in locker rooms or restrooms.
  2. To record conversations of, or with fellow employees without their knowledge during routine, non-enforcement related activities.
  3. When conducting strip searches.

**X. RECORDING STATEMENTS**

- A. Whenever a BWC captures a video statement from a suspect, it will be documented in all required reports and a CPL 710.30 form, when necessary.
- B. If an approved interview room, equipped with audio/visual recording is utilized, the BWC will be turned off.
- C. A video recorded statement will not take the place of a written statement whenever one can be obtained.

**XI. REVIEWING RECORDINGS**

- A. Officers will be permitted to review BWC recordings of an incident in which they were involved for purposes of:
  1. Conducting a criminal investigation.
  2. Prior to making a statement, writing a report, being interviewed or testifying in the presence of their attorney and/or union representative.
  3. Assisting in the officer's professional development.
- B. Whenever deadly physical force is used by an officer or a death or serious injury occurs to a subject while in an officer's custody the BWC device will be collected by the lead investigator with the assistance of an evidence technician. The lead investigator will be responsible for the recovery and storage of all video evidence recorded by the device.

- C. Supervisors may review BWC recordings when:
  - 1. Incidents involve the arrest of an individual.
  - 2. Investigating use of force.
  - 3. Such recordings would be valuable as a training tool.
  - 4. Investigating meritorious conduct or specific reports of misconduct.
    - a. Recordings may not be randomly reviewed for the sole purpose of discipline.
- D. With approval from the Chief of Police or his/her designee, prosecutors from the District Attorney's Office may review BWC footage as it pertains to their investigations.

## **XII. RELEASE OF RECORDINGS**

- A. Requests for copies of BWC footage pertaining to criminal investigations made from other law enforcement agencies will require prior approval from the Chief of Police.
- B. Any request from an outside entity for footage that pertains to a criminal case will require prior approval from the Chief of Police.
- C. Requests for BWC footage from non-law enforcement agencies must be made through a Freedom of Information Act (FOIL) request. Involved officers will be notified at least 24 hours prior to the release of such recordings in writing.
- D. If a FOIL request is received and due to the material on the recording, redaction is required, a copy of the original recording will be made.
  - 1. Redacting will occur to the copy only. The original recording will not be modified or altered in any way.
  - 2. Redactions will only be performed by a Department member designated by the Chief of Police or his/her designee.

## **XIII. STORAGE AND RETENTION**

- A. All files will be securely uploaded no later than the end of each shift and any time the storage capacity is nearing its limit.
- B. Video footage will be stored on a server specifically designated for body worn camera data.
- C. The Department's retention schedule shall be in compliance with the minimum standards required by the New York State Archives. This will include the minimum retention dates as follows (NYS Archives local government retention and disposition schedule; CO-2, MU-1, require law enforcement data captured from a mobile recording device be retained for a minimum of six (6) months regardless of whether or not the data is evidentiary or not.
  - 1. Evidentiary data shall be retained for a minimum of 6 months.

- a. If a determination is made that video recording have evidentiary value in an on-going investigation, court proceeding or appeals process, it shall be retained through the pendency of the case.
  - b. The established retention schedule can be extended beyond the 6 month minimum as necessary.
2. Non-evidentiary recordings shall be retained for a minimum of 6 months.
- D. Any BWC data determined to have a value in long term investigative, administrative or civil proceedings should be appraised for archiving in accordance with applicable statutory timeframes.
- E. If no extension of video data retention is required, the recordings may be destroyed with prior approval from the BWC Administrator and in accordance with the Department's retention procedure.
- F. Files that are associated with a use of force and/or a civilian complaint will be burned to a DVD. Additionally, the video will be archived on the server designated for BWC files.
- G. If a recording is deemed to be a useful as a training tool, then it may be kept for as long as practicable.
- H. If video footage is needed for evidentiary purposes, it will be burned to a CD or DVD and submitted to the Evidence/Property room utilizing the procedures set forth in the MO 205-Property and Evidence Management.
1. The CD or DVD that is submitted to the Evidence/Property room will be considered the "original."
- I. The following categories will be used to classify data based upon the type of event or incident that was captured in BWC recordings. Classifications are as follows:
1. Traffic (not including DWI's).
  2. Driving While Intoxicated.
  3. Special victims (domestic disputes, sexual assaults, child victims etc.).
  4. Narcotics
  5. General felonies (assaults, burglaries, weapons, criminal mischief, grand larceny etc.).
  6. General misdemeanors.
  7. Homicide
  8. Emotionally disturbed persons.
  9. Internal affairs.
  10. Officer injuries.

11. Use of force.
12. Other categories as determined by the Department or the District Attorney's Office.

#### **IX. SUPERVISOR RESPONSIBILITIES**

- A. Supervisory personnel shall ensure that officers equipped with BWC devices utilize them in accordance with Department policy and procedures.
- B. Supervisors will review all documentation from officers assigned to their shift who fail to record an incident.
- C. Supervisors will notify the BWC Administrator when a BWC is in need of repair.

#### **XV. ADMINISTRATOR DUTIES**

- A. A BWC Administrator will be designated by the Chief of Police.
- B. The BWC Administrator responsibilities include, but are not limited to:
  1. Ensuring proper procedures are followed in the downloading, review, release, and retention of BWC data.
  2. Conducting periodic reviews of retained video data to ensure it has not been tampered with.
  3. Coordinating with the Information Technology administrator regarding system issues.
  4. Coordinating maintenance and repairs.
  5. Conducting an annual review of BWC policies and procedures and making recommendations for any necessary changes.
  6. Coordinating review of videos scheduled for destruction.
  7. Maintaining a record of cameras and to whom they are assigned.
  8. Recommending discipline for violations of the body worn camera policy in accordance with MO 314-Disciplinary System.
- C. Monthly, the BWC administrator or his/her designee will use a random generator to select and review no less than six BWC recordings to:
  1. Ensure that the equipment is operating properly.
  2. Ensure that officers are using the devices appropriately.
  3. Identify any areas where additional training or guidance may be required.

#### **XVI. MAINTENANCE**

- A. Officers will inspect and test their BWC prior to the start of each shift and verify that it is functioning properly and properly charged.

1. If the camera is not functioning properly, the officer will notify his/her supervisor.
  2. The officer will document the issue on a memorandum form.
  3. If a spare camera is not available for use, the officer will notify his/her supervisor and indicate such in the memorandum.
- B. Cameras that are in need of repair will be taken out of service and turned over to the BWC Administrator along with the completed memorandum form.
1. The BWC Administrator will facilitate the repair or replacement of cameras as needed.

**XVII. TRAINING**

- A. Officers must complete initial training prior to utilizing a BWC.
1. Periodic training may be required to update officers on any changes to policy, procedures, operation, calibration or performance of the equipment.

Original: 08/24/2020			