

**NEW SMYRNA BEACH POLICE DEPARTMENT
NEW SMYRNA BEACH, FLORIDA**

POLICY AND PROCEDURE DIRECTIVE

TITLE: SE OF FORCE/ NON-LETHAL

NUMBER: 4-2

EFFECTIVE: 08/14

REFERENCE:

RESCINDS/AMENDS: 4-1-09

REVISED: 06/23

ATTACHMENTS: [FSS 776.05.pdf](#) , [FSS 943.1735.pdf](#)

A. PURPOSE

The purpose of this directive is to establish guidelines to govern the use of force/non-lethal, by officers of the New Smyrna Beach Police Department (NSBPD) and to define the procedure for reporting and notification in incidents regarding the use of force/non-lethal as well as guidelines for training.

B. POLICY

Members may use only that level of physical force necessary in the performance of their duties within the limits established by [FSS 776.05](#) and consistent with the training and policies of the New Smyrna Beach Police Department. The appropriateness of force used is dependent on the “totality of the circumstances” at the moment the force is used. The use of deadly physical force will be governed by [Directive 4-1](#).

It is the responsibility of each member to be aware of the requirements of [FSS 776.05](#) and to guide their actions based upon that law and Departmental policy and training.

Only issued or approved equipment will be carried on duty and used when using force, except in emergency situations when a member may use any resources at their disposal.

All force used, with the exception of mere handcuffing, blanketing or escorting, will require the involved member(s) to complete an incident report and the on-duty supervisor will complete an entry in the appropriate “Blue Team” report module.

Only those members that have successfully completed an approved NSB Taser course will be authorized to deploy the Taser. Each member will complete annual re-certification training with the Taser. The Taser will be used in accordance with [NSBPD Directive 4-4 Taser Utilization](#), which is available on DMS.

Use of restraining devices is mandatory on all prisoners unless in the member’s judgment unusual circumstances exist which make the use of restraining devices impossible or unnecessary (e.g. prisoner is very elderly, handicapped, etc.).

- Hobble – A device that prevents or limits the locomotion of a human, by tethering one or more legs. The use of a Hobble is permitted by the department, subsequent to training.
- Feet to Back “Hog” Tying – Method of securing the feet to handcuffed hands behind a person’s back. Hog tying is prohibited by the Department.

C. DEFINITIONS

APPROPRIATE FORCE: The reasonable force, based upon the totality of the circumstances known by the member, to affect an arrest, overcome resistance, control an individual or situation, defend self or others, or to prevent a subject's escape.

CHOKE HOLD: The intentional and prolonged application of force to the throat, windpipe, or airway of another person that prevents the intake of air. The term does not include any hold involving contact with another person's neck that is not intended to prevent the intake of air. [FSS 943.1735](#)

DE-ESCALATION: Taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary. De-escalation may include the use of such techniques as command presence, advisements, warnings, verbal persuasion, and tactical repositioning.

EXCESSIVE USE OF FORCE: Use of force that exceeds the degree of force permitted by law, policy, or the observing officer's employing agency.

FORCE: Any intentional physical strength or energy exerted or brought to bear upon or against a person for the purpose of compulsion, constraint, or restraint.

NON-DEADLY/LESS LETHAL FORCE: is the use of force that is neither likely nor intended to cause death or great bodily harm.

PHYSICAL FORCE: is defined as the necessary employment of police restraint holds and/or other force not utilizing weapons but employed in self-defense, or the defense of others by a police officer. Members shall use appropriate techniques learned in departmental physical force training.

TOTALITY OF THE CIRCUMSTANCES: While the U.S. Supreme Court identified three (3) factors that should be evaluated in determining whether an officer's use of force was objectively reasonable, this list was not intended to be all inclusive. The totality of the circumstances at the time that led an officer to believe force was needed is critical. Other factors such as whether an individual is violent, the possibility that the individual is armed, and the number of persons with whom the officer must contend with at the time are all relevant factors to consider. Individual factors alone would not give a reasonable officer the belief that deadly force is necessary. For example, resisting arrest or flight alone would not justify the use of deadly force.

D. PROCEDURE

4.2.1 De-Escalation

1. An officer shall use de-escalation techniques and other alternatives to higher levels of force consistent with their training whenever practicable and appropriate before resorting to force and to reduce the need for force.
2. Whenever practicable and when such delay will not compromise the safety of the officer or another and will not result in the destruction of evidence, escape of a suspect, or commission of a crime, an officer shall allow an individual time and opportunity to submit to verbal commands before force is used.
3. Officers are responsible for being aware of the option to de-escalate to the point of disengaging contact with a person if circumstances indicate that such action is appropriate.

4.2.2 When de-escalation techniques are not effective or appropriate, an officer may consider the use of less-lethal force to control a non-compliant or actively resistant individual.

4.2.3 Officers are authorized to use agency approved, less-lethal force techniques and issued equipment:

1. To protect the individual, officer(s) or others from immediate physical harm,

2. To restrain or subdue an individual who is actively resisting or evading arrest, or;
3. To bring an unlawful situation safely and effectively under control.

4.2.4 Physical force shall not be used against individuals in restraints, except as objectively reasonable to prevent their escape or prevent imminent bodily injury to the individual, the officer, or another person. In these situations, only the minimal amount of force necessary to control the situation shall be used.

1. While using physical force, the officer shall make every reasonable effort to prevent injury to the person the force is being applied against as well as the officer.
2. Termination of Use of Force - When it is objectively reasonable that a subject is fully in law enforcement's control, then the force must terminate.
3. Use of Choke Holds (Vascular Neck Restraints) - The use of choke holds is prohibited, except in situations where the use of deadly force is allowed by law.

4.2.5 An officer has a duty and responsibility to intervene to prevent or stop the use of excessive force by another officer.

4.2.6 If an officer makes an arrest and the subject is in a stomach-down position, the officer will immediately assist the subject to a sitting or standing position to avoid Positional Asphyxia.

4.2.7 Officers should be aware of the potential for Positional Asphyxia after the use of physical force, specifically:

1. Predisposing Factors to Asphyxia – Certain factors may render some individuals more susceptible to asphyxia following a violent struggle, particularly when prone in a face down position:
 - Obesity
 - Alcohol and high drug use
 - An enlarged heart (renders an individual more susceptible to a cardiac arrhythmia under conditions of low blood oxygen and stress).
 - Sprayed with OC spray
2. The risk of asphyxia is compounded when an individual with predisposing factors becomes involved in a violent struggle with an officer or officers, particularly when physical restraint includes use of behind-the-back handcuffing combined with placing the subject in a stomach-down position.

4.2.8 Officers are responsible for rendering medical assistance at incidents:

1. Where serious or life threatening injuries are sustained by individuals.
2. Subject has a visible injury requiring medical attention, including injuries prior to and subsequent to the use of force
3. OC, Taser, or Baton was used.
4. Use of a Police Canine, when a bite or other injury occurs

4.2.9 Any member using force pursuant to their duties or any off-duty member using force regardless of whether or not it is pursuant to their duty as a police officer will:

1. Immediately notify his immediate supervisor of the incident.
 - If the supervisor is not on duty, the current on-duty supervisor will be notified.
 - In the case of off-duty incidents, the member will immediately notify the on-duty supervisor for NSBPD, or if outside the City, the police agency of jurisdiction.
 - In cases of a non-arrest or unarrest incident where force has been used, the member will obtain permission from the supervisor prior to the release of the subject. An incident report describing the incident must be completed.

NOTE: If a non-sworn employee of the City aids a sworn member in a subject resistance, a witness affidavit and any other applicable reports will be taken from said employee. The non-sworn employee will not complete data entry into the Blue Team report system. The on-duty supervisor, however, must list them as a witness in the appropriate section of the Blue Team report.

2. Exposure to OC:

- Persons exposed to OC will be taken to the Eyewash Facility located in the NSB holding facility sally-port before being released or brought to VSO booking.
- Persons will not be brought to the Eyewash Facility if they continue to be combative, display excessive hyperactive behavior after OC has been administered, exhibit any other signs of physical distress (e.g., difficulty breathing, chest pain, and/or other physical complaints) or have other physical injuries or complaints of injuries needing physical attention. Such treatment will be rendered by a medical professional without delay and will be noted.
- A notation shall be made of persons being taken into custody or who will be issued a Notice to Appear and who refused medical treatment. If medical has been summoned the refusal will be noted on the Refusal of Medical Treatment Form by the persons signature or notation if the person refuses to sign.
- Refusal for treatment at the Eyewash Facility by a person exposed to OC who does not require additional medical attention must be witnessed by an on-duty supervisor and so noted.
- Persons who are to be released should be encouraged to go to the hospital, transported if so requested, but they cannot be compelled to do so unless they are unable to make a rational determination themselves. The subject's acceptance or refusal of medical care will be noted on the appropriate report(s).

Note: Deficiencies to the NSB Eyewash Facility will be forwarded through the chain of command to the Administrative Services Manager.

E. REPORTING, MEMBER RESPONSIBILITY

4.2.10 Report, or cause to be reported, all facts relative to the incident in an incident report whether or not an arrest was made. Force used against crowds or unknown person will still be documented recording all possible information.

4.2.11 Attempt to locate and identify any witnesses and depose their observations. The originals will be attached and forwarded to Office of Professional Standards, with the exception of criminal cases where the originals must go with the criminal package.

4.2.12 Complete the required incident report and submit to the on-duty supervisor by the end of their tour of duty. If the force incident is crime related, appropriate crime report(s) will be submitted.

F. SUPERVISOR RESPONSIBILITY

4.2.13 Supervisor's will:

1. Respond to the scene of the incident immediately. If the member's immediate supervisor is not available, such supervisor will arrange for the shift corporal or a supervisor from another section to respond to the scene.
2. Ensure that members receive any necessary assistance, including medical treatment. They will also ensure that any injuries or exposures to members are properly documented on the First Report of Injury Form to bring the incident to the judge's attention.
3. Ensure that medical treatment for the subject is evaluated per subsection **4.2.8** of this directive.
4. Ensure that photographs are taken of all subjects when force is used (non-custodial person have the right to refuse). In a Taser incident, photos of the Taser contact area are necessary.

NOTE: A photograph showing lack of injury may be as important as one that shows injury.

5. Determine if an investigator should respond to the scene and the level of investigators services to be utilized (including photos, measurements, and diagrams). In minor incidents, the unit camera may be used (film/digital photos to be turned in immediately for processing).
6. Ensure that a thorough neighborhood check of the scene is conducted and documented.
7. Ensure that all reports are prepared and submitted by the end of the tour of duty. In the event that a member is unable to complete reports due to injuries, the supervisor will prepare or cause them to be.
8. Complete the required Blue Team data entry and all related reports for completion and accuracy before forwarding them to the Commanding Officer of the Operations Division by the end of their tour of duty.
 - Additional subjects will be documented on separate force reports.

G. OPERATIONS DIVISION COMMANDING OFFICER RESPONSIBILITY

4.2.14 Operations Division Commanding Officer will:

1. Review the Blue Team report for completion and accuracy. Defensive Tactics Instructors and/or the Department Training Coordinator may be used to assist in the review.
2. If needed, return it to the supervisor who completed the Blue Team entry for clarification.
3. Forward the original Blue Team report and affidavits to the Office of Professional Standards without unnecessary delay.

H. OFFICE OF PROFESSIONAL STANDARDS, DEPUTY CHIEF RESPONSIBILITY

4.2.15 The Deputy Chief will:

1. Review the Blue Team report for completion and accuracy.
2. If needed, return it to the Operations or Support Services Division Commanding Officer for clarification.
3. Assess if the use of force is consistent with Departmental training and policy.
4. Forward the original Blue Team report and affidavits (if not criminal) to the Chief of Police without unnecessary delay.
5. At the conclusion of each calendar year, cause the review and statistical analysis of all use of force reports. The analysis is intended to, but not limited to:
 - Identify trends and patterns;
 - Identify training needs;
 - Identify the need for policy revision

I. OFFICE OF THE CHIEF RESPONSIBILITY

4.2.16 The Chief of Police shall review all uses of force. The Chief of Police will:

1. Review the Blue Team report for completion and accuracy.
2. If needed, return it to the Office of Professional Standards for clarification.
3. Determine if the use of force is consistent with Departmental training and policy.
4. If the use of force is not consistent with training and policy the Chief will refer the report back to the Office of Professional Standards for remedial training and/or internal investigation as deemed appropriate.
5. If the use of force is consistent with training and policy the report will be returned to the Office of Professional Standards for filing into the appropriate RMS component.

J. TRAINING

4.2.17 Use of Force/Non-Lethal training will be conducted and documented in accordance with [Directive 4-3](#).

Revised: BSS 06/23

**Approved: Signature on file
Chief Eric Feldman**