

EFFECTIVE DATE:

January 10th, 2022RESCINDS: G.O. 101 former &
former G.O. 110 eff./07/01/2006*SUBJECT:* PART I**USE OF NON-DEADLY FORCE**

PART II

USE OF DEADLY FORCE**This Department Order consists of the following numbered sections:****PART I**

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| 306.1 | Purpose |
| 306.2 | Policy |
| 306.3 | Definitions |
| 306.4 | Use of Force & Use of Force Tools |
| 306.5 | Determining the Objective Reasonableness of Force |
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PART II

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PART I**306.1****PURPOSE**

Police Officers are authorized to use reasonable and legitimate force in specific circumstances. Federal constitutional and state statutory standards dictate when and how much force can be used. This Order is meant to establish and guide Officers to make good use of force decisions and procedures to apply use of force for the purposes of overcoming resistance to arrest, to prevent escape, and to defend oneself or a third person against physical assault. All Officers will be familiar with Article 35 of the New York State Penal Law and the difference between physical force and deadly physical force.

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SALAMANCA POLICE USE OF FORCE

306.2

POLICY

Police Officers who are using physical force will do so in an objectively reasonable manner under the circumstances. Police Officers using physical force will do so under circumstances involving an arrest, preventing an escape, preventing or terminating a criminal mischief or larceny; or, in defense of themselves or others. Officers are instructed in what the Court’s ruling was in *Graham v. Connor* which says that objectively reasonable force will be measured by the following three tenets:

1. The severity of the crime at issue;
2. Whether the suspect poses an immediate threat to the safety of the officers or others; and,
3. Whether the suspect is actively resisting or attempting to evade arrest by flight.

All Police Officers are mandated to report in writing all instances of physical force or its equivalent and submit a written Use of Force report to their immediate supervisor. As the Supreme Court has recognized, this reasonableness inquiry embodies “allowance for the fact that Police Officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation”. This policy is written in recognition of the value of all human life and dignity without prejudice to anyone. Vesting our Police Officers with the authority to use reasonable force and to protect the public welfare requires a careful balance of all interests.

306.3

DEFINITIONS

OBJECTIVELY REASONABLE – An objective standard used to judge an Officer’s actions. Under this standard, a particular application of force must be judged through the perspective of a reasonable Officer facing the same set of circumstances, without the benefit of 20/20 hindsight, and be based on the totality of facts that are known to the Officer at the time that the force was used.

NON-DEADLY FORCE – Necessary force which is NOT LIKELY to cause death or great bodily harm.

PHYSICAL FORCE – the necessary application of wrist and/or joint manipulation, takedowns, soft and hard-hand techniques and submission holds, use of pepper spray, baton strikes to the arms or legs, and in most cases the use of a Taser or other CEW (conducted electrical weapon). Submission holds involving the neck are prohibited unless the Officer is justified and as a last resort technique.

RESTRAINING FORCE – physical force which is limited to holding and restraining a person.

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306.3 DEFINITIONS CONTINUED

DEADLY PHYSICAL FORCE – Physical force which, under the circumstances in which it is used, is readily capable of causing death, other serious physical injury, or which creates some specified degree of risk that a reasonable and prudent person would consider likely to cause death or serious physical injury.

DEFENSIVE FORCE – the necessary infliction of physical battery to overcome violent resistance or to protect self or others from assault or injury.

PHYSICAL INJURY – Impairment of physical condition or substantial pain.

SERIOUS PHYSICAL INJURY – Physical injury which creates a substantial risk of death, or which caused death or serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.

CHOKEHOLD – submissions applied to the neck to cut-off blood flow to the brain or stopping the flow of air to the lungs by compressing the windpipe.

REASONABLE CAUSE TO BELIEVE – Reasonable cause to believe that a person has committed an offense exists when evidence or information which appears reliable, discloses facts or circumstances which are collectively of such weight and persuasiveness as to convince a person of ordinary intelligence, judgment, and experience that it is reasonably likely that such offense was committed and that such person likely committed it. Except as otherwise provided in Chapter 70 of the Criminal Procedure Law, such apparently reliable evidence may include or consist of hearsay.

OBSTRUCTION OF BREATHING – the intentional placing of hands, arms, or legs over the nose or mouth or pressure applied to the neck or throat of a person.

WEAPON - any firearm, shotgun, rifle, gun or other thing used to discharge a bullet or ball using gunpowder, pepper spray, taser, baton, or other item fashioned into a club or billy, bean bag gun, bola wrap round, round fired from a gun to produce a gas or nerve agent, or any pepper balls which when used are discharged from a distance to its target.

306.4

USE OF FORCE

A. In general terms, force is authorized to be used when reasonably believed to be necessary to effect a lawful arrest or detention, prevent the escape of a person from custody, prevent or terminate a criminal mischief or larceny, or in the defense of one's self or another.

B. Under the 4th Amendment to the United States Constitution Bill of Rights, a Police Officer may only use 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.

C. All Use of Force shall be reported to an immediate supervisor prior to the end of each Officer's duty shift and as soon as is practical. All Use of Force Forms will be completed as soon as practical and at the direction of the immediate supervisor.

306.4 DEFINITIONS CONTINUED

D. Officers are authorized to use objectively reasonable force to accomplish lawful objectives, including but not limited to:

1. effecting an arrest or prevent the escape from custody of a subject whom the officer reasonably believes has committed an offense;
2. effecting an investigatory stop or detention where there is reasonable suspicion to believe that criminal conduct has occurred or is ongoing;
3. where there is reasonable basis to believe the subject poses a physical threat to an officer or others, including the subject;
4. taking subjects into protective custody, including civil custody, when authorized by law, such as persons who are in danger to themselves or others or persons incapacitated by intoxicating agents;
5. preventing a subject from committing suicide or inflicting serious physical injury upon themselves;
6. assisting a licensed medical provider in providing necessary medical treatment; or
7. overcoming resistance to a police order.

USE OF FORCE TOOLS

1. VERBALIZATION – that verbal persuasion by the Officer in attempt to defuse the situation.
2. RESTRAINT TECHNIQUES – those techniques an Officer feels necessary to use to effect “take down and control holds” by using hands, police baton, and/or handcuffs.
3. CHEMICAL WEAPONS – Cap-stun, oleoresin capsicum or “pepper spray” when used as a subservient.
4. PERSONAL WEAPONS – the punching, kicking, etc an Officer may resort to in accomplishing lawful objectives.
5. CONDUCTED ELECTRICAL WEAPONS – a weapon which when used delivers an electrical energy charge to cause neuromuscular incapacitation
6. IMPACT WEAPONS – the Police baton, ASP, or expandable weapon when used as an impact instrument by the Officer.
7. FIREARMS – the ultimate use of force when the Officer is compelled to use his or her sidearm, shotgun, M4, or other Departmental weapon which a shot is discharged by gunpowder

306.5

DETERMINING THE OBJECTIVE REASONABLENESS OF FORCE

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

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

1. The severity of the crime or circumstance;

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meaning the Officer had no other choice under the circumstances to avoid being seriously injured or killed.

PART II

306.8 USE OF DEADLY PHYSICAL FORCE

A. Deadly physical force may be used by an Officer to protect themselves or another person from what the Officer reasonably believes is an imminent threat of serious physical injury or death.

B. Deadly physical force may be used to stop a fleeing suspect where:

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 (see Tennessee V Garner); and,

2. The Officer reasonably believes that the suspect poses an imminent threat of serious physical injury to the Officer or to others.

3. Where feasible, some warning should be given prior to the use of deadly physical force.

C. POLICY

1. Apprehension and Pursuit Situations:

a. When an Officer acting on personally known information has reasonable cause to believe that an armed and dangerous subject has committed a felony which involved the use or attempted use , or threatened imminent use of Deadly Physical Force against a person; and,

b. There is substantial risk that the fleeing subject will cause death or serious physical injury if not immediately apprehended; and,

c. There is no other reasonable means to effect the arrest; and,

d. The discharge does not appear likely to injure innocent bystanders.

The foundation of this policy is found in Section 35.30 of the Penal Law as modified by the U.S. Supreme Court in Tennessee V. Garner (1985).

2. Injured Animal:

An Officer may kill a dangerous animal or an animal so badly injured that it should be destroyed to prevent further suffering. All other options shall be exhausted; however, before shooting the animal, all other Departmental procedures governing same must be followed.

The supervisor on duty shall be notified if feasible and practical, before the discharge of a firearm.

3. Firearm Practice and Testing:

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306.8 USE OF DEADLY FORCE CONTINUED – PROCEDURES AND PROHIBITIONS

For target practice, other legitimate competition or purpose, or ballistic testing at approved sites.

D. PROCEDURES AND PROHIBITIONS

1. Juveniles

No distinction shall be made relative to the age of the intended target of Deadly Physical Force. Self defense and imminent threat shall be the only procedural guidelines for employing Deadly Physical Force.

2. Moving Vehicles

Discharging a firearm at or from a moving vehicle is prohibited unless the occupants of same are using Deadly Physical Force against the Officer, or another and the Officer reasonably believes that he or she will not endanger innocent persons.

3. Warning Shots

A Police Officer is not justified in using his or her firearm to fire a warning shot.

4. Firing Shots for Alarm

Firearms shall not be discharged to summon assistance except where the Police Officer's safety or that of another is seriously endangered and he believes there is no reasonable alternative. Extreme care must be exercised in such situations to prevent injury to the Officer or other persons.

5. Drawing or Displaying

An Officer shall draw or display a firearm ONLY if there is reason to fear for the personal safety of the Officer or others. If any Police Officer displays or points his or her pepper spray, taser, baton, or firearm at another person, he or she will file a Use of Force report to his or her supervisor before the end of his or her shift and inform his or her supervisor.

E. STEPS TO TAKE WITH INVOLVED OFFICERS

1. In every instance in which an Officer uses Deadly Physical Force and where such use of force results in death, alleged bodily injury or bodily injury to another person, the following steps shall be taken:

a. The Officer shall report or cause to be reported, all facts relative to the incident on an official Salamanca Police Use of Force Report.

b. The Officer's weapon will be replaced with another weapon and the weapon used in the incident will be safeguarded and turned over to the investigating Officer.

c. The involved Officer will be given the opportunity to call his family as soon as possible to avoid the possibility of their learning about the incident through other than official sources, eg., press, radio, TV, etc.

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306.8(E)(1) USE OF DEADLY FORCE – REPORT OF INJURY CONTINUED:

d. The Officer shall not be allowed to talk to the press. All information regarding the incident will be given out through the office of the Chief of Police.

e. Prior to the Officer making a written statement, he shall be provided the opportunity to consult with an attorney. The Officer will be reassured that a request for an attorney will not be in any way construed as any sort of admission of wrongdoing but rather an expression of a Constitutional Right.

f. Supervisors and other department personnel must ensure that the Officer is treated in a dignified manner. He or she should be accompanied by a fellow Officer during the initial phases of the inquiry. All personnel should be sensitive to the psychological trauma that is associated with these types of incidents. Behavior such as blaming, ridiculing, teasing, and isolating the involved Officer will only increase the potential trauma and therefore should not be tolerated.

2. Assignment to Administrative Duty

When a member is involved in a shooting or use of force that results in serious physical injury, the Chief of Police or his designee will assign that member to administrative duty. The assignment to administrative duty does not imply guilt or innocence of the Officer involved.

The Administrative duty will not place the Officer in the position where the use of force may be necessary due to the nature of the assignment.

Administrative duty assignment will be made in the best interests of the Department and the Officer, pending Departmental and Grand Jury review and disposition of the incident.

At some point during the investigation of an Officer who used deadly force, the Officer will be transported to headquarters and at that time, the weapon (firearm, taser, etc) will be taken into evidence and the Officer will be issued another weapon by the senior Armor. The Officer(s) involved in the deadly force incident will then be granted time to decompress: up to 48 hours.

When a member is assigned to administrative duty he or she will:

- a. Refrain from routine exercise of Police arrest and intervention powers.
- b. Refrain from any public discussion of his or her administrative assignment or circumstances related to his or her use of force.
- c. Retain all rights, privileges, and employee benefits.
- d. Shall assure their availability to the Police Department, County, State and Federal authorities to assist, when necessary, in the investigation of the incident until it is concluded.

F. DISCHARGE OF A WEAPON BY A POLICE OFFICER

a. Any Salamanca Police Department employee who discharges a weapon ON DUTY OR OFF DUTY where a person or persons COULD be struck by a bullet from the weapon including situations wherein such officer discharges his or her weapon in the direction of a person, shall **VERBALLY** report the incident to his or her supervisor/s **WITHIN SIX (6) HOURS** of the occurrence of the incident and shall prepare and file a **WRITTEN** report of the incident **WITHIN FORTY-EIGHT HOURS (48)** of the occurrence of the incident. Nothing contained in this section shall prevent any officer from invoking his or her constitutional right to avoid self-incrimination.

The above standard procedure is codified in Section 837 of the Executive Law.

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DISCHARGE OF A WEAPON BY A POLICE OFFICER

b. Any Salamanca Police Officer, Police Supervisor, or most senior Officer working who receives a call or information of a weapon discharge by an Officer where someone could have been struck shall create a Police report with an incident number.

c. Any Salamanca Police Officer who discharges a weapon on duty for any reason shall report the discharge to the dispatch Officer. The dispatch Officer will then create an incident number and report listing the Officer who discharged his or her weapon. The incident will be complete including entering the name of the Officer in the "Persons" portion of the report.

G. FIREARMS

1. Sworn members of the Salamanca Police Department may carry firearms off duty wherever legal to do so within New York State.

2. The Officer must possess either:

a. a valid NYS Pistol Permit with all owned weapons properly attached,

OR

b. Completed and returned to the Sergeant of the Administrative Division an "Acquisition or Disposition of Firearms by Police Officers and Peace Officers" (PPB – 19/80).

3. Employees may, once approved by the Chief of Police in writing, carry a personal weapon on duty as long as it is the caliber and type currently being used by the Department. The firearm must be inspected and approved by the Department Armor prior to test.

4. All sworn Officers must attend firearms training and pass a qualification course on a Department-authorized range at least once per year with any firearm that he or she is authorized to use.

5. In addition to authorized sidearms, any employee utilizing agency authorized firearms, must first show proficiency for said firearm attained through authorized Department training.

6. Carrying Service Firearm Off-duty

a. Members of the Salamanca Police Department MAY carry Department-issued firearms off duty wherever it is legal to do so within New York State.

b. If the Department-issued firearm is carried off-duty, it MUST be loaded with issued ammunition.

c. Department issued firearms will not be used by members engaged in outside employment.

7. All sworn personnel will be issued copies of and be instructed in the policies governing Deadly Physical Force before being authorized to carry a firearm.

306.9

OTHER FACTORS IN USE OF FORCE & TRAINING

A. PROHIBITED USES OF FORCE

1. Force shall not be used by an Officer for the following reasons:

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OTHER FACTORS IN USE OF FORCE & TRAINING – PROHIBITED USES OF FORCE

- a. To extract an item from the BODY CAVITY of a subject without a warrant, except where exigent circumstances are present.
- b. To coerce a confession from a subject in custody.
- c. To obtain blood, saliva, urine, or other bodily fluids or cells, from an individual for the purposes of scientific testing in lieu of a Court Order where required;
- d. Against persons who are handcuffed or restrained unless it is used to prevent injury, escape, criminal mischief, or otherwise overcome active or passive resistance posed by the subject.

B. TRAINING

1. All Officers should receive training and demonstrate their understanding on the proper application of force.
2. Training topics will include use of force, conflict prevention, conflict resolution and negotiation, and de-escalation techniques and strategies, including, but not limited to, interacting with persons presenting in an agitated condition as well as duty to intervene and prohibited conduct.
3. This policy is not intended to be a substitute for proper training in the use of force. Comprehensive training is the key to the real-world application of the concepts discussed within this policy.

A. Any employee using Physical Force or Defensive Force pursuant to his or her duties as a Police Officer (whether on or off duty) shall report or cause to be reported , all facts relative to the incident on a Use of Force Form.

1. Reporting Restraining Force will be left to the discretion of the arresting Officer(s) and Supervisor(s).

B. Only issued or approved equipment will be carried on duty and used when applying any level of Non-Deadly Force, except in emergency situations when an employee must use any resources at his or her disposal. The use of the baton is considered a use of force as such; necessary reports must be completed. The Police baton, cap-stun “pepper spray”/oleoresin capsicum and in most instances, electronic control weapons, ie., tasers, are the only approved non-lethal weapon issued by the Department.

C. Use of restraining devices is mandatory on all prisoners, unless in the employee’s judgment unusual circumstances exist which make the use of restraining devices impossible or unnecessary (eg.; prisoner is very elderly or handicapped etc.). The mere placing of handcuffs on a prisoner will not be construed to be a use of Physical Force. However, when the handcuffs become an appliance to exert force necessary to subdue a prisoner or where the suspect physically resists the application of handcuffs, a use of Physical Force has occurred, and the necessary reports must be completed.

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306.10 (E) PROCEDURES FOLLOWING USE OF FORCE/DEADLY FORCE CONTINUED:

D. After any level of Non-Deadly Force is used, an employee shall immediately evaluate the need for medical attention or treatment for that person upon whom the force was used and arrange for such treatment when:

1. The Person on whom the force was used complains of pain, injury, or requests medical attention because of or in connection with that use of force.

E. The employee shall immediately notify his or her immediate supervisor of the incident. In case of off-duty incidents, the employee shall notify by phone or in person, the on-duty shift supervisor as soon as possible, and the local authority, if necessary, if the incident occurred in another jurisdiction. If the employee be a supervisor involved in an incident, that supervisor will notify his or her immediate supervisor as soon as is practicable.

F. The employee shall attempt to locate and identify any witnesses, documenting their statements.

G. The employee shall prepare and submit the reports required by current directives. The Officer initiating Use of Force shall prepare the Use of Force form and include all Officers involved in the incident. If more than one employee is involved in a Use of Force incident, each employee shall complete a narrative in the New York State Incident Report outlining their actions and observations; or, can provide a detailed supporting deposition of the actions taken during the Use of Force incident. All copies of the report(s) will then be forwarded together, along with other applicable reports to the shift supervisor for approval.

H. The on-duty Police Supervisor shall respond to the scene of the incident immediately and in cases where serious physical injury or death are reported, the Police Chief or his designee .

I. The Police Supervisor shall ensure that employees receive any necessary assistance, including medical treatment. The Police Supervisor shall also ensure that any injuries to employees are properly documented including referral to the Supervisor responsible for or to the completion of a C-2 Form among any other necessary documentation.

J. The Police Supervisor shall ensure the medical treatment for the defendant is evaluated as outlined in this Use of Force general order.

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PROCEDURES FOLLOWING USE OF FORCE/USE OF DEADLY FORCE

K. The Police Supervisor shall determine if an investigator should respond to the scene (including photos, measurements, and diagrams). If an injury or complaint of pain exists, supervisors are encouraged to take photographs.

1. A photograph showing no injury may be as important as one which shows injury.

L. If determined that Restraining Force was used by subordinate personnel, the Supervisor shall investigate the incident. When use of Restraining Force has been made necessary by resistance without violence, and when there are not significant injuries, reports of the use of Restraining Force shall not be made mandatory. The arrest incident and resisting arrest charges shall be left to the discretion of the arresting Officer and Supervisor.

M. Upon notification of the Use of Physical or Defensive Force by subordinate personnel, the Supervisor shall initiate an investigation into the incident.

1. He or she shall review the report(s) describing the Use of Force, and all other relative reports.
2. The Police Supervisor shall make a determination whether or not the Police Lieutenant, Police Captain, or Chief of Police needs to be made aware of the incident and shall do so both verbally (this includes a message by phone); and, in writing.
3. The absence of discrepancies or additional facts, the supervisor shall submit a supplemental report stating that the investigation has been conducted and that facts are as reported in the official incident report, and Use of Deadly/Physical Force Report.
4. When the Supplemental Report and pertinent reports cannot be routed through the Chain of Command immediately, the Supplemental Report and pertinent reports will be routed directly to the Chief of Police and the incident shall be verbally reported through the Chain of Command at the first opportunity.
5. The Supplemental Report shall be captioned with the type of Force Used (Restraining, Physical, Defensive).
6. The Police Chief or his designee will cause to be filed an annual Use of Force Report.
7. The Police Chief or his designee will file other reports as required by law and as necessary per the DCJS or other State regulatory agency.

N. COMPLETION OF USE OF DEADLY/PHYSICAL FORCE REPORT

1. Front Page – Page 1 of 2

TOP **“SUBJECT”** BLOCK – Enter the suspect’s Last Name and First Name, then enter his or her middle initial.

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Enter the correct NYS Incident # to the right of your name and immediately under that enter the date and time force was used.

Enter the suspect's d.o.b. in the box under the suspect's name. One box to the right of that is "sex" – enter male or female. One box to the right of "sex" is the "race" box – enter "W" for White, "B" for Black, "N" for Native American, "H" for Hispanic, "A" for Asian or Pacific Islander. One box to the right of that is "Height" – enter the suspects height in feet and inches. One box to the right of that is weight – enter the suspect's weight in pounds, then one box to the right of that is the Incident Location – enter where Use of Force was initiated – preferably the street and if outside the City, write the Town name next to the street name.

Next BLOCK down is "**TACTIC EFFECTIVENESS**" – The Officer will see several boxes and several lines up and down on the page above and next to each line is a description of the type of tactic used by all officers involved in a Use of Force incident. There is a "Yes" column and a "No" . Check Yes if Verbal Commands were used to stop a suspect's conduct – check No if they were not. Was OC "pepper spray" used? Check the appropriate box Yes or NO. Was the Taser Used? Was Joint Manipulation, empty hand technique (punch/kick), expandable baton, or a firearm used? Check Yes or No. Was another Use of Force tactic used – write the tactic used on the space provided and check Yes or No. Immediately to the right of the tactic list are a series of small boxes the Officer will check on whether or not each tactic was effective. The columns are: "Not Effective", "Moderately Effective", "Effective", "Indicate Order of Tactics Used", and the Officer's Badge #'s Using the Tactic". If a particular tactic used was not effective, the Officer will indicate that by checking the box under that column. If a particular tactic was moderately effect, the Officer will indicate that by checking that box – moderately effective means the tactic was used but it had little effect and did not stop the incident. If a particular tactic used for effective, the Officer will indicate that it was by checking the corresponding box. To indicate the order of tactics used the Officer will write a "1" next to the box in the corresponding column of the first tactic used, a "2" in the second, a "3" in the third and so on; and, the badge numbers of each Officer using that tactic on the line next to it.

"DISPLAYED/POINTED AT" The Officer will indicate whether they pointed their pepper spray, taser, baton, or firearm at a suspect by checking the box directly across from the Tactic used.

Next BLOCK down is "**NARRATIVE**" – First the Officer will select a box that corresponds to the behavior of the suspect during the Use of Force incident. If the suspect was Failing to Adhere to Verbal Commands – the Officer will check that box. Was the suspect using dead weight to passively resist? Check that box if he is she was. Was the suspect pulling away, defensively resisting; or, actively resisting by striking or attempting to assault the Officer? Check those corresponding boxes to those that apply. Was the suspect in possession of, attempt or use a weapon? If Yes then check the box. Immediately under that are several lines where the Officer will give a detailed narrative of his or her recollection of the incident.

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Next Block down is **"NAME OF EACH OFFICER INVOLVED"** – THE Officer will write his or her name, badge #, whether or not they were in a Police uniform, and whether or not they were treated – each item will be written in the corresponding box provided. TOP **"WITNESSES"** BLOCK – Enter the name if any witnesses, their address, daytime phone number, and evening phone number in the spaces provided.

NEXT is **"OFFICER SIGNATURE"** – the Officer will sign their name, write their rank, and the date.

BELOW the above line is a BLOCK entitled **"MEDICAL – COMPLETED BY SUPERVISOR"** – The on-duty Supervisor at the time Force was Used, shall complete this section during the course of his or her investigation. The on-duty Supervisor will check the appropriate boxes: was the subject sober, under the influence of alcohol, intoxicated by alcohol, drugs, or emotionally disturbed? The supervisor will indicate their answer by placing an 'X' or a check mark inside the box. If the subject was injured before the incident, the Supervisor will check either Yes or No and if Yes, the Supervisor will write a brief description of how on the line provided. If the subject was injured during the incident, the Supervisor will check Yes or No and if the Yes box is checked, the Supervisor will write a brief description on the line provided. If the subject was exposed to OC "pepper spray" as the subject treated – the Supervisor will write Yes on the line provided if the subject was treated and check the box "at hospital" if the subject went to the hospital following the exposure or if the "eyes flushed" that box will be checked if that is what occurred. If the subject was tasered and treated at scene – the Supervisor will write Yes or No on that blank – if the subject was treated somewhere else the Supervisor will write Yes or No on that line and the name of the Officer discharging the Taser will go on the line "by". If the subject was hospitalized (taken to the hospital) the Supervisor will check Yes and by what method they were transported there – the Supervisor will check either a Sheriff vehicle, ambulance, or other and write the name of the agency transporting on the line provided – if the subject was not taken to the hospital, the Supervisor will check the "No" box and write the reason on the line provided. The Supervisor will write the name of the hospital on the line provided and the name of the attending medical professional on the line provided if the subject was taken to the hospital. Next to "Subject:" the Supervisor will indicate whether the subject was admitted, treated and released, no treatment, or refused, by checking the appropriate box. The Supervisor will write the Time of Treatment/Refusal on the line provided if that is the case and the name of the person who is a witness to the refusal on that space provided if there was a witness.

If Evidence work was performed, photos taken, diagrams made, other – the Supervisor will check the appropriate boxes and write the appropriate information on the lines provided. The Supervisor will indicate on the form of whom the photos or evidence work was taken - the Officer, the Subject, or other. The Supervisor will check boxes of what kinds of reports were completed: Incident, Supplemental, DIR, or other and then write any name of any other report on the line provided. The Supervisor will then put a small narrative on the lines provided.

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The Supervisor who completed the Use of Force form will forward the Use of Force report to the Captain. The Police Captain will review the Use of Force form/report and indicate by checking the appropriate box – whether the incident is justified or whether more investigation is necessary to make a more informed decision. The Captain will then sign, write his or her badge number, and the date on the lines provided. The Use of Force form will then go into Use of Force folder for the year designated. A copy should go into the incident case file completed by the Officer.

306.11 ON-LINE UCR USE OF FORCE REPORTS

The Chief of Police or his or her designee, will submit an on-line UCR report through the current New York State system being used (EJustice as of 2021). The Salamanca Police Department will ensure that all use of force incidents involving the use or display of a weapon, be reported using EJustice in accordance with the guidelines of this General Order and New York State laws. “Display” shall mean to point the weapon at another person; and, shall include discharges of the weapon. If a weapon is discharged, the weapon need not only be pointed at the person but includes accidental discharges while being taken out of the place where it’s regularly kept by the Officer. Reports involving the use or display of a weapon will be kept and maintained with other use of force reports.

306.12 POLICE CHIEF’S MESSAGE

New laws were enacted and executive orders put into place beginning in 2019. This new legislation includes actions taken by legislators and citizens to reform and improve Police Use of Force incidents. The State of New York is attempting to streamline incidents to the Office of the Attorney General Special Investigations and Prosecutions Unit and the Law Enforcement Misconduct Investigative Office in their attempt to increase Police accountability. Each Office investigates and makes recommendations for individual Officers and Agencies. All Salamanca Police Officers will be held to the highest standards concerning the Use of Force, held to keep themselves educated on the new laws, and are encouraged to make suggestions on how our agency can best suit the needs of our community.

THIS POLICY IS FOR INTERNAL USE ONLY TO PROVIDE OPERATIONAL GUIDEPOSTS AND DOES NOT, AND IS NOT INTENDED TO, DEFINE ANY APPLICABLE LEGAL STANDARD; BUT, IN MANY INSTANCES DEFINES CONDUCT THAT EXCEEDS CURRENT STANDARDS. NOTHING IN THIS POLICY IS INTENDED TO CREATE NOR DOES CREATE AN ENFORCEABLE LEGAL RIGHT, DUTY OF CARE, OR PRIVATE RIGHT OF ACTION. ANY CORRECTIVE ACTION OR DISCIPLINE TAKEN IN RESPONSE TO VIOLATION OF THIS POLICY IS SUBJECT TO THE EXCLUSIVE DISCRETION OF THE CHIEF OF POLICE.