



Rochester Police Department General Order



EFFECTIVE DATE: April 20, 2015	SUBJECT: USE OF DEADLY PHYSICAL FORCE	ORDER# 340
RESCINDS: G.O. 340 (05/21/11)	REFERENCE STANDARD(S): NYS: 14.1,.4;20.1,.4-.7;21.1,.2;32.4;40.2	PAGE 1 of 13
ATTACHMENT(S): Firearms Discharge Reporting Guidelines		
Chief's Signature: <i>Michael L. Ciminelli</i>		

I. DEFINITIONS

No definitions listed.

II. POLICY

- A. Members of the Rochester Police Department (RPD) may use deadly physical force, as defined by Article 10 of the New York State Penal Law, only when the use of deadly physical force is necessary to defend the member or another person from what the member reasonably believes to be the use or imminent use of deadly physical force.

Reasonable belief exists when both of the following **subjective and objective** conditions are met:

1. The member reasonably believes another person is using or is about to use deadly physical force, and that it is necessary for the member to use deadly physical force to defend himself or another person, and
 2. Evidence or information which appears reliable discloses facts circumstance which are collectively of such weight and persuasiveness as to convince a member of ordinary intelligence, training, judgment, and experience that another person is using or is about to use deadly physical force, and that it is **necessary** for the member to use deadly physical force to defend himself or another person.
- B. Members of the RPD may use Kinetic Energy Impact Projectiles (KEIP), commonly known as "Bean Bag Rounds", as a means of less lethal force in non-deadly use of force situations.

KEIP are intended to provide a member with a less lethal alternative to safely take into custody violent or dangerous persons by allowing members to deliver impact projectiles from an extended range. The impact projectiles are designed to incapacitate a subject with a minimal potential for causing death or serious physical injury compared to standard projectiles when used consistent with training. However, members must recognize that a potential for death or serious physical injury from these impact projectiles does exist, and that care must be exercised in their use.

- C. The Pepperball Launching System (PLS) may be used as a means of less lethal force. The PLS delivers an irritant, Capsaicin II, by means of a compressed gas propellant. Only those members that have successfully completed an annual PLS training course will be authorized to deploy the PLS. Its primary use is to disperse groups engaged in civil disorder from a safe distance, but also allows members to take violent or dangerous individuals into custody. Nothing shall preclude it from being used in other situations in accordance with current directives and training.
- D. **Less lethal force will be consistent with Departmental training and use of force continuum.**
- E. The fact that a member is justified in using deadly physical force or less lethal force does not allow reckless conduct by the member.

III. FIREARM GUIDELINES

- A. **Members are justified in removing firearms from holsters and/or gun mounts and pointing the firearm if the member reasonably believes:**
 - 1. That a person or a situation poses or may pose an immediate threat of death or serious physical injury either to themselves or another person.
 - 2. There is justification to use a firearm against an animal pursuant to Section III.B below.
- B. Members may use firearms against animals when they are:
 - 1. Attacking or presenting an imminent danger to any person.

2. Destructive, injured, or threatening, with supervisory approval when there is time to obtain it.

C. Warning shots are prohibited.

D. Discharge of a firearm from or at a moving vehicle is prohibited unless the member reasonably believes that the occupant(s) of the vehicle are using or are about to use deadly physical force against the member or another person. Therefore, shooting at a fleeing vehicle that is traveling away from the member and is no longer a threat to the member or a third person is prohibited.

IV. GUIDELINES - LESS LETHAL SHOTGUN AND KINETIC ENERGY IMPACT PROJECTILES

A. Only those members who have successfully completed the specific Department approved training and have demonstrated proficiency in the use of less lethal force shotguns will be authorized to deploy KEIP.

B. Only Department approved KEIP and shotguns assigned for their exclusive use will be authorized for use by trained members. The only weapon designated for use with less lethal ammunition is the RPD's Remington 870 shotgun, 12 gauge, pump action, with orange colored stocks to differentiate them from the standard RPD issued shotgun.

C. Less lethal shotguns will be stored unloaded in a rifle case in the trunk of marked patrol vehicles. The weapon is to remain in its case in the trunk until needed for field use situations or routine maintenance. It is not to be placed in the shotgun rack in the interior of the patrol vehicle. Only KEIP will be stored in the rifle case and used with less lethal shotguns.

D. KEIP should only be used when lesser levels of force have been unsuccessful or their use is inappropriate, as defined by the use of force continuum.

E. Use of KEIP will be at the discretion of the authorized member once on scene, and with supervisory approval when there is time to obtain approval.

F. The member with the less lethal shotgun should formulate a plan and be prepared to implement it. The plan should include, at a minimum:

1. Deadly physical force coverage by another member;
 2. A takedown team of a least two (2) members;
 3. Notification to all members on scene that impact projectiles are going to be deployed to prevent the firing of unintentional deadly physical force rounds, unless done so with cause.
 4. Providing the subject with an opportunity to comply. The subject should not be forewarned of being struck with impact projectiles, as this will only diminish any desired effect.
- G. All impact projectiles that are fired at and strike any person in a field use situation will be processed and preserved as evidence by an Evidence Technician.

V. GUIDELINES - LESS LETHAL PEPPERBALL LAUNCHING SYSTEM

- A. Only those members who have successfully completed the specific Department approved training and have demonstrated proficiency in the use of PLS will be authorized to deploy same.
- B. Only Department approved PLS will be authorized for use by trained members.
- C. When not in use, the PLS will be stored in a designated, secure location that is only accessible by certified users.
- D. When deploying the PLS a member will make a notification over the police radio that they are on scene.
- E. The PLS should only be used when lesser levels of force have been unsuccessful or their use is inappropriate, as defined by the use of force continuum.
- F. Use of PLS will be at the discretion of the authorized member once on scene, in accordance with current training and standard operating procedure guidelines and with supervisory approval when there is time to obtain approval. For situations involving crowd control/Mobile Field Force (MFF) authorization for use and deployment of the PLS will be obtained prior to its use from the Incident Commander or MFF Commander.

- G. The member with the PLS should formulate a plan and be prepared to implement it. The plan should include, at a minimum:
1. Deadly physical force coverage by another member;
 2. A takedown team of a least two (2) members;
 3. Providing the subject with an opportunity to comply without risk to the safety of members or others.

VI. PROCEDURES

When a member discharges a firearm, whether on or off duty, other than for training, legal hunting, or target practice, or uses deadly physical force with any instrument, he will immediately notify the on-duty supervisor of his Division or Section and submit the required reports following guidelines listed in Attachment A.

- A. If a firearm discharge is accidental or unintentional and did not injure anyone:
1. The member's supervisor will respond to the scene and ensure that an Incident Report documenting the particulars is completed.
 2. The member's Section Platoon Commanding Officer will:
 - a) Respond to the scene.
 - b) Notify an on-duty supervisor within the area of occurrence if outside the jurisdiction of the City of Rochester.
 - c) Conduct a preliminary investigation into the incident.

NOTE: If response to the scene is inappropriate due to the distance from the City of Rochester, the member's Section Platoon Commanding Officer will obtain preliminary information from the case coordinator of the investigating agency.

- d) Notify the Staff Duty Officer, if on duty, the Patrol Division Commander, if the incident occurred within his

Patrol Division Command, and the member's Bureau/Division Commanding Officer.

3. The Staff Duty Officer, Patrol Division Commander or member's Bureau/Division Commanding Officer, will notify the Deputy Chief of Operations, and the Commanding Officer of the Professional Standards Section (PSS).
 4. The Deputy Chief of Operations and Commanding Officer of PSS will:
 - a) Make a determination based on the circumstances of the situation as to whether to respond to the scene.
 - b) The Commanding Officer of PSS will document any non-response to the scene by the Deputy Chief of Operations or PSS personnel and make it a part of the PSS incident file.
 5. All reports will be immediately forwarded through the chain of command, a copy of which will be forwarded to PSS.
- B. If the discharge of a firearm, which includes the less lethal shotgun, is directed at a person (whether or not that person is struck), or if as a result of any discharge, a person is injured or a death occurs:
1. The member's supervisor will:
 - a) Respond to the scene.
 - b) Call for medical assistance, if needed.
 - c) Secure the scene and any evidence.
 - d) Manage the scene by controlling access to it. Access is limited to:
 - (1) Evidence Technicians
 - (2) Major Crimes Investigations
 - (3) PSS personnel
 - (4) District Attorney's Office personnel

NOTE: All others will be restricted and only allowed entry with the permission of the ranking officer at the scene or the Technician Sergeant.

- e) Notwithstanding the need for medical attention, isolate and secure the involved member(s). Until directed to another location by a supervisor of the rank of Captain or higher, keep the involved member(s) at the scene or near the scene, out of view of the public, but accessible to responding Command Officers.
 - f) Gather preliminary information from the involved member(s) as to circumstances of the incident.
 - g) Establish a command post and staging area.
 - h) Advise their on-duty Commanding Officer.
 - i) Immediately prepare and submit an Incident Report, Subject Resistance Report, RPD 1377, and any other reports so directed by the RPD.
2. The member's supervisor, or Section Platoon Commanding Officer, will notify the Staff Duty Officer if on duty, the Patrol Division Commander, if the incident occurred within his Patrol Division Command, and the member's Bureau/Division Commanding Officer. A response to the scene is required (whether the incident is on or off duty).

If the scene is located outside the City of Rochester, the Patrol Division Commander or the member's Bureau/Division Commanding Officer, will determine whether to respond to the scene after considering:

- a) Apparent surrounding circumstances;
- b) Injuries to police and/or non-police personnel;
- c) Distance from the City of Rochester.

3. The Patrol Commander will:
- a) Immediately notify the Deputy Chief of Operations, the Commanding Officer of PSS, and the member's Bureau/Division Commanding Officer.
 - a) Ensure that the involved member(s):
 - (1) Receives medical assistance, if needed.
 - (2) Is afforded privacy from inquires from the public and all Departmental personnel not involved in the actual investigation of the incident.
 - (3) Receives trauma crisis counseling as required in Section C below.
 - b) Ensure that the involved member's supervisor is relieved from the scene if experiencing psychological trauma.
 - c) Initiate and coordinate a preliminary investigation of the circumstances surrounding the incident (unless otherwise directed by established authority) and promptly report the results of the preliminary investigation to the member's Bureau/Division Commanding Officer, Deputy Chief of Operations, or the Chief of Police if applicable, according to the chain of command.
 - d) Appoint supervisory personnel to make notify/transport of the involved member's significant others.
 - e) Be responsible for ensuring the notify/transport functions, to include periodic MDC updates.

NOTE: Only the appointed supervisor will conduct the notify/transport and periodic updates.

- f) Except as directed by the Chief of Police, ensure that the firearm used (and any related equipment), other than the less lethal shotgun when used in an incident which there was no serious physical injury or death, is secured

by a supervisor or an Evidence Technician and that said firearm is properly rendered safe when secured.

NOTE: If necessary, firearms will be placed in the Property Clerk's Office until the completion of any internal or legal proceedings; or, in the case of an accidental/unintentional discharge not resulting in damage or injury, until said firearm is examined by a Firearms Training Unit armorer and found to be functioning properly. The Firearms Training Unit staff will replace the weapon and equipment as directed by the Chief of Police or a Deputy Chief of Police.

4. The DCO and Commanding Officer of PSS will:
 - a) Make a determination based on the circumstances of the situation as to whether to respond to the scene.
 - b) The Commanding Officer of PSS will document any non-response to the scene by the Deputy Chief of Operations or PSS personnel and make it a part of the PSS incident file.
5. The reports will be forwarded through the chain of command to the Chief of Police prior to the conclusion of the tour of duty on which the incident occurred by the member or if the member is incapacitated, by their on-duty supervisor.
6. The Office of the Chief of Police will forward:
 - a) The original case package to PSS.
 - b) Copies to the Professional Development Section and Law Department.
- C. Critical Incident Counseling is mandated in all cases of use of deadly physical force:
 1. On-scene and/or at any other location as directed by the Chief of Police or his designee.
 2. At two week follow-up.
 3. At six week follow-up.

4. At one year follow-up.
 5. Other counseling as may be requested by the employee or directed by the Chief of Police.
- D. If a firearm discharge is directed at an animal:
1. The member's supervisor will submit an Incident Report.
 2. The member's Section Platoon Commanding Officer will:
 - a) Respond to the scene of the incident, and direct a thorough investigation.

NOTE: Attachment A should be used as a guide when investigating the incident.
 - b) Notify the Commanding Officer of PSS.
 3. The Commanding Officer of PSS will:
 - a) Make a determination based on the circumstances of the situation as to whether to respond to the scene and/or make further notifications.
 - b) Document any non-response to the scene by PSS and make it a part of the incident file.
 4. The supervisor will ensure that:
 - a) An Evidence Technician responds to the scene for photos and recovery of any on-scene evidence.
 - b) The City of Rochester's Animal Services (RAS) personnel are called to the scene of any animal shot in the City or which appears to be suffering from disease (e.g., rabies).
 - c) If the animal has suffered a fatal wound and does not appear to be diseased:
 - (1) The animal can be released to the owner for proper disposal; or
 - (2) If the owner cannot be located or does not request custody of the animal, the City of Rochester

Service Bureau will be notified for immediate pickup. A member should remain at the scene until the Service Bureau arrives, unless directed otherwise by a supervisor.

- (3) RAS will be the only means by which an animal is transferred to a designated animal hospital or veterinarian for euthanasia in incidents where the animal suffers from an untreatable/unsurvivable wound.

NOTE: Owners may be allowed, if requested, to transport the animal. Members will not transport the animal.

- d) If the animal has suffered a non-fatal wound:
 - (1) Allow the owner to transport the animal to their veterinarian for treatment; or
 - (2) RAS personnel will transport the animal to:
 - (a) The owner's veterinarian of choice within Monroe County if the animal has a treatable injury.
 - (b) An approved emergency veterinarian service if the owner does not have a veterinarian of choice and the animal has a treatable injury.
- e) The Incident Report is forward through the normal distribution process, a copy of which will be forwarded to PSS.

- E. If the owner inquires about reimbursement for veterinarian fees or compensation for the animal, the supervisor will instruct the owner to contact the City of Rochester's Law Department office on the next business day to receive instructions on how to file a claim against the City.

VII. ASSIGNMENT TO ADMINISTRATIVE DUTY

- A. When a member is involved in a shooting or other use of a countermeasure that results in serious physical injury or death, the Chief of Police or his designee will assign that member to administrative duty. The temporary placement to an administrative assignment does not imply the guilt or innocence of the member involved.
1. The administrative duty will not assign the member to duties that have a high potential for arrest and subject resistance incidents.
 2. Administrative duty assignment will be made in the best interest of the Department and the member.
- B. When a member is assigned to administrative duty, they will:
1. Refrain from routine exercise of patrol function arrest and intervention powers.
 2. Refrain from any public discussion of their administrative assignment or circumstances related to the incident.
 3. Retain all rights, privileges and employee benefits.
 4. Retain responsibility for compliance with all laws, Departmental Rules and Regulations, General and Administrative Orders, and directives governing Department personnel.
- C. A member's return to full-duty status will be based upon the results of relevant investigations and the Chief's decision regarding these matters.

Attachment

APPENDIX

FIREARMS DISCHARGE REPORTING GUIDLINES

Any Crime, Incident, or subject Resistance Report relating to the discharge of a firearm or the use of deadly physical force by a member should include, but not be limited to, the following:

1. Nature of the incident; how dispatched and/or initial perception
2. Lighting and weather conditions
3. Whether the member was on or off duty / uniform or plainclothes
4. Circumstances leading to the discharge of the firearm (reason for use of deadly physical force) include any escalation of force, if applicable
5. Number of rounds fired by the member and adversary. If applicable, include succession of rounds fired
6. Description of firearm(s) used, if applicable, including:
 - a) whether or not authorized service weapon
 - b) type (e.g., revolver, semi-automatic, shotgun, rifle, etc)
 - c) make, caliber and serial number
 - d) number of rounds (capacity and actual)
 - e) type of ammunition used
 - f) type of holster and whether Department issued
 - g) pistol permit number, if applicable
7. A complete description of any instrument/weapon used by the officer other than Department issued firearms
8. Witness(es) contact data, including daytime and evening contact information, and witness(es) who may have seen only part or the entire incident
9. Name(s) and assignment(s) of members present at the scene with statements as to their involvement
10. Complete description of weapon(s) used by adversary and the weapons complete description
11. Suspect information in narrative should indicate any previous knowledge of suspect and any known tendencies towards violence



Rochester Police Department Training Bulletin



EFFECTIVE DATE: January 21, 2015	SUBJECT: Legal Issues - Non Traditional Deadly Physical Force	Bulletin# L- 58-15
RESCINDS: New	REFERENCE STANDARD(S): CALEA: NYS:	PAGE 1 of 4

- A. Members of the Rochester Police Department (RPD) may use deadly physical force, as defined by Article 10 of the New York State Penal Law, only when the use of deadly physical force is necessary to defend the member or another person from what the member reasonably believes to be the use or imminent use of deadly physical force.

Reasonable belief exists when both of the following subjective and objective conditions are met:

1. The member reasonably believes another person is using or is about to use deadly physical force, and that it is necessary for the member to use deadly physical force to defend the member or another person, and
2. Evidence or information which appears reliable discloses facts or circumstances which are collectively of such weight and persuasiveness as to convince a member of ordinary intelligence, training, judgment, and experience that another person is using or is about to use deadly physical force, and that it is necessary for the member to use deadly physical force to defend the member or another person. **(General Order 340)**

- B. Members may use only that level of physical force necessary in the performance of their duties within the limits established by Article 35 of the New York State Penal Law and consistent with the training and policies of the Rochester 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 is governed by GO 340. It is the responsibility of each member to be aware of the requirements of Article 35 and to guide the member’s actions based upon that law, Departmental policy and training.

- C. 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 the member's disposal. **(General Order 335).**

I. Background and Considerations:

- A. The use of deadly physical force is normally taught from the perspective of firearms and defensive tactics training: those persons armed with firearms or other deadly weapons dangerous instruments, or otherwise constitute an imminent threat of deadly force.
- B. The NYS Penal Law defines deadly physical force as, "Physical force which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury," (NYS Penal Law, §10.11). **Thus, while deadly physical force is usually associated with firearms, use of other weapons or techniques may also constitute deadly physical force if they are used in a manner that is readily capable of causing death or other serious physical injury. Also, deadly physical force could include both trained and untrained techniques, and both issued and non-issued equipment, depending on the manner in which the techniques and equipment are used.**
- C. Officers must consider that many techniques or responses can result in unintentional death or serious physical injury in the circumstances under which they are used. For instance:
1. **Body positions-** Positional asphyxia may occur when the position of a person's body interferes with respiration, resulting in serious injury or death. Prolonged restraint and struggling, particularly when the lungs are being squeezed while empty, can result in exhaustion. This can occur without the subject being aware of it and can lead to sudden death. The risk of positional asphyxia can increase when a person is restrained in the prone position. Current training dictates that once a member believes the scene is safe, the member would remove a subject from the prone position by placing them on their side, in a seated position on their buttocks, or in a standing position. Bending a subject forward or placing weight on the subject can also have a negative effect on the subject's ability to breathe. Other risk factors that could increase the risk of positional asphyxia include, but are not limited to: obesity, prior cardiac or respiratory problems, and the use of drugs.

2. **Restraints-** The inappropriate use of handcuffs or hobbles could result in serious physical injury or death. Remember your training, "Never handcuff a person to yourself, a fixed object, or a vehicle," (DT Instructor Manual, p. 105, © 2005). For larger subjects, additional handcuffs may be linked together to reduce the pressure on a subjects chest and allow them to breathe more comfortably. The hobble should only be applied in accordance with current training. Inappropriate use of the hobble such as, but not limited to hog-tying, could result in death or serious physical injury.
3. **Choke holds-** include any hold that applies pressure to a subject's throat which reduces or prevents air from passing through the neck of a subject. Lateral vascular neck restraints are techniques that apply pressure to the vascular structure of a subject's neck. These techniques are not taught by the Rochester Police Department and are prohibited, except in extreme circumstances when deadly physical force is authorized.
4. **Empty hand impact techniques** - Impacts above the clavicle, especially repeated impacts to the head with forearms or elbow strikes, may constitute deadly physical force.
5. **Impact techniques with an impact instrument or tool** - As per the Monadnock Baton Chart (© 2001), impacts above the clavicle with any tool may have a high level of resultant trauma and may include unconsciousness, serious bodily injury, shock, or death, constituting deadly physical force.
6. **Use of any other dangerous instruments, or any issued equipment in a manner not as designed may constitute deadly physical force.**
 - a. The use of any resources at the officer's disposal may be used during emergency situations, however an officer's response, will be judged by the same standards as an officer using any other impact instrument in that situation.
7. **TASER** - In all use of force situations, officers need to be aware of the potential of serious physical injury or death occurring as a result of secondary or unintended injury. For instance, use of the TASER CEW might otherwise be justified as a force option, but not if the subject is on an elevated platform and at risk of becoming

seriously injured from falling. Officers must strictly comply with departmental training in use of the TASER.

8. Use of a vehicle- Intentionally or recklessly striking someone with a fleet motor vehicle has the potential to cause serious physical injury or death.



Rochester Police Department General Order



EFFECTIVE DATE: April 20, 2015	SUBJECT: <p style="text-align: center;">SUBJECT RESISTANCE REPORT</p>	ORDER# 335
RESCINDS: G.O. 335 (05/21/11)	REFERENCE STANDARD(S): <p style="text-align: center;">NYS: 14.1, 20.1, 20.6, 20.7, 21.1, 21.2, 40.2</p>	PAGE 1 of 12
ATTACHMENT(S): (A) Subject Resistance Report, RPD 1377		
Chief's Signature: <i>Michael L. Ciminelli</i>		

I. DEFINITIONS

- A. 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.
- B. 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.

II. POLICY

- A. **Members may use only that level of physical force necessary in the performance of their duties within the limits established by Article 35 of the New York State Penal Law, and consistent with the training and policies of the Rochester 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 GO 340.

It is the responsibility of each member to be aware of the requirements of Article 35 and to guide his actions based upon that law and Departmental policy and training.

- B. 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.

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- C. All force used, with the exception of mere handcuffing, blanketing, escorting, or application of hobble or spit sock, will require a Subject Resistance Report, RPD 1377, (SRR-Attachment A).
- D. Only those members that have successfully completed an approved RPD Taser course will be authorized to deploy the Taser. Each member will complete biennial re-certification training with the Taser, and the Taser will be used in accordance with this training.
- E. Only those members that have successfully completed an approved Pepperball Launching System (PLS) annual training course will be authorized to deploy the PLS. Each member will complete annual training with the PLS, and the PLS will be used in accordance with this training.
- F. 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.).

III. PROCEDURES

- A. 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 their immediate supervisor of the incident.
 - a) If the supervisor is not on duty (e.g., Technicians on the 1st or 3rd platoon), the supervisor in the Section of occurrence will be notified.
 - b) In the case of off-duty incidents, the member will immediately notify the supervisor in the area of occurrence, or if outside the City, the Commander of the Patrol Division, or Staff Duty Officer, and the police agency of jurisdiction. (Incidents that stem from additional employment will follow guidelines in GO 245.).
 - c) In cases of a non-arrest or unarrest incident where force has been used, the member will obtain

permission from a 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 supporting deposition and any other applicable reports will be taken from said employee. The non-sworn employee will not complete an SRR. Members, however, must list them as a witness on their SRR.

2. After force is used, immediately evaluate the need for medical attention or treatment for that person upon whom the techniques were used and arrange for such treatment when:
 - a) That subject has a visible injury requiring medical attention, including injuries prior to the use of force;
 - b) Subject complains of injury or requests for medical attention;
 - c) OC, PLS or the Taser was used.

Note: ALL subjects who are exposed to a Taser application need to be transported to a hospital to be seen by a medical professional for treatment.

3. Exposure to OC or PLS
 - a) Persons exposed to OC or PLS will be taken to the Eyewash Facility located in the Public Safety Building (PSB) garage before being released or brought to booking.
 - b) Persons will not be brought to the Eyewash Facility if they continue to be combative, display excessive hyperactive behavior after OC or PLS 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 without delay and will be noted on the SRR.

Note: Deficiencies to the PSB Eyewash Facility will be forwarded through the chain of command to the Commanding Officer of the Technical Services Section.

- c) Persons being taken into custody, or who will be issued an appearance ticket, and who refuse medical treatment, must be transported to a hospital where the refusal will be witnessed by hospital medical staff (must be either a doctor, physician's assistant, or nurse) and noted on the SRR.
 - d) Refusal for treatment at the Eyewash Facility by a person exposed to OC or PLS who does not require additional medical attention must be witnessed by an on-duty supervisor and noted on the SRR.
 - e) Persons who are to be released should be encouraged to go to the hospital, and transported if requested, however 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 SRR.
4. After force is used, photograph all subjects upon whom the techniques were used prior to being released or brought to booking (non-custodial persons have the right to refuse).
- a) In a Taser or PLS incident, photos of the Taser or PLS contact area (to include the impact area of a PLS deployment in a civil disorder incident) are necessary.
 - b) In minor incidents, the issued camera may be used (SD card and Digital Image Pack Report, RPD 1350 are to be turned in immediately for processing).
 - c) A technician may be used for more complex scenes (e.g., where multiple photos, measurements, and diagrams would be necessary).

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

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5. Report, or cause to be reported, all facts relative to the incident on the SRR whether or not an arrest was made.
6. Force used against crowds or unknown persons will still be documented recording all possible information.
7. Attempt to locate and identify any witnesses and depose their observations. Original Depositions will be attached to the criminal package and copies attached to the SRR. If there is no criminal package, the original depositions will be attached to the SRR.
8. Prepare and submit the SRR and related reports to their supervisor by the end of the tour of duty. All incidents will be documented on an RMS Incident Report with the appropriate 'Occurred Incident Type'. All copies of these report(s) will then be forwarded together, along with other applicable reports, to the coordinating supervisor for approval.
 - a) If more than one member is involved in a force incident, one member will complete the SRR outlining only his/her involvement in the incident. All other members using force will complete their own first page of the SRR, outlining their involvement or use of force as well as BOX 14 indicating the member's information as RO.
 - b) Additional subjects will be documented on separate force reports.

B. Supervisors will:

1. Respond to the scene of the incident immediately. If the member's immediate supervisor is not available, such supervisor will arrange for another on-duty supervisor 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 an Injury and Exposure Report, RPD 1250 and noted on the Prisoner Data Report so that the judge is aware of the incident.

3. Ensure that medical treatment for the subject is evaluated and afforded per Section III.A.2.
4. Ensure that photographs are taken of all subjects when force is used (non-custodial person have the right to refuse).
5. Determine if a technician should respond to the scene and the level of technician's services to be utilized (including photos, measurements, and diagrams). In minor incidents, the member may use their issued camera (ensure the SD card and Digital Image Pack Report, RPD 1350 are turned in immediately for processing).
6. Ensure that a thorough neighborhood check of the SRR scene is conducted and documented on the SRR form.
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. Review the SRR and all related reports for completion and accuracy before forwarding them to PSS, via the Chain of Command, by the end of the tour of duty.

NOTE: If the incident occurred in a section other than the involved member's, the supervisor will also send a copy to the section of occurrence.

C. Platoon Commanding Officers will:

1. Review the SRR for completion and accuracy. Defensive Tactics Instructors may be used to assist in the review of the SRR.
2. If needed, return the SRR to the reviewing supervisor for clarification.
3. Forward the original SRR and depositions to PSS without unnecessary delay.

**SUBJECT RESISTANCE REPORT, RPD 1377
FORM COMPLETION**

SUBJECT

BLOCKS 1-10: List all information pertaining to the subject, the CR number, date, time, location and car beat of the incident.

BLOCK 11: Indicate if the subject was charged or released. If released, enter the name of the approving supervisor; if charged, list the charges.

SUBJECT ACTIONS

BLOCK 12: Check the appropriate box(es) indicating the type of resistance encountered.

TACTIC EFFECTIVENESS/NARRATIVE

BLOCK 13: Indicate, by checking if listed tactic was used. Indicate the order in which the tactic was used in column one (Order). For the tactic used, indicate the level of effectiveness that best applies in column two (Effectiveness). In cases where the tactic is not listed, Check the other box and indicate the tactics used in the narrative referencing box 13.

NARRATIVE

BLOCK 14: Describe incident fully and include:

- a. The subject resistance, behavior or conduct and the verbal statements (describe, give examples).
- b. ALL specific techniques or force used by the officer (e.g., verbal directions, pressure point, PR-24 techniques).
- c. Reason(s) why tactics were used.
- d. Explain the effectiveness of the tactic if necessary.

- e. Specific equipment used (e.g., hands, PR-24, handcuffs). It is important to indicate when equipment is used in conjunction with a technique (e.g., PR-24 jab as opposed to a fist jab).
- f. Member(s) who are involved in SRR's while in plainclothes must describe their own clothing.

NOTE: Do not duplicate information already supplied in other reports.

OFFICER

Check the appropriate box indicating whether you are the primary officer or an assisting officer.

LAW ENFORCEMENT OR OTHER PERSONNEL AT SCENE

BLOCK 15:

- a. List the reporting officer's name as well as other law enforcement officers or other support personnel at the scene, include police ID's or agency name, when applicable.
- b. Enter the personnel's height, weight, section, and platoon.
- c. Duty type- Enter OFF for Off-duty; ON for on-duty or AE if incident occurred while individual was performing additional employment.
- d. Uniform- Enter U if the member was in uniform or P if the member was in plainclothes.
- e. Injured/Treated- Enter either a "Y" (yes) or "N" (No) response in both the upper (injured) and lower (treated) parts of this box.
- f. Addendum- Enter Y if the member submitted an Addendum Report; enter N if not.

WITNESSES

BLOCK 16: Enter the name, address, and applicable phone number(s) of witnesses and those contacted during the neighborhood check, or addresses checked with no answer.

MEDICAL

BLOCK 17: Check the box that best describes the physical state of the subject at the time of the incident.

BLOCK 18: Indicate if subject had those injuries during the incident and describe those injuries.

BLOCK 19: Indicate if subject incurred injuries during the incident and describe those injuries.

BLOCK 20: If subject was exposed to OC, indicate where subject was treated and by whom. If the subject was NOT exposed, enter N/A on the line provided.

BLOCK 21: If subject was not taken to the hospital, state the reason. If the subject was taken to the hospital, indicate which method the subject was transported.

BLOCK 22: If the subject was taken to the hospital, indicate the name of the hospital.

BLOCK 23: Enter the name of the attending medical professional.

BLOCK 24: Indicate subject treatment status.

BLOCK 25: Enter appropriate time.

BLOCK 26: Enter the name and title of person witnessing refusal.

BLOCK 27: TECH WORK: Check the appropriate box indicating whether tech work was performed. If tech work was not done explain why. If tech work was performed indicate who performed the tech work.

BLOCK 28: REPORTS COMPLETED: Indicate any additional reports completed and their CR#'s.

BLOCK 29: COMMANDING OFFICER ON SCENE: Enter the name, rank and assignment of the Commanding Officer coordinating the investigation.

ADMIN REVIEW

BLOCK 30: REVIEWING SUPERVISOR/COMMANDING OFFICER: Enter the name and rank of the Supervisor reviewing the report and date.

BLOCK 31: REVIEWING COMMANDING OFFICER: Enter the name of the reviewing Section/Unit Commanding Officer and date.



Rochester Police Department General Order



EFFECTIVE DATE: May 21, 2011	SUBJECT: USE OF DEADLY PHYSICAL FORCE	ORDER# 340
RESCINDS: G.O. 340 (06/14/04)	REFERENCE STANDARD(S): CALEA: 1.2.2,.7,3.1-.3,.5-.8,.12;22.2.5,.10;26.1.1;46.1.4;52.1.8;82.2.1 NYS: 14.1,.4;20.1,.4-.7;21.1,.2;32.4;40.2	PAGE 1 of 13
ATTACHMENT(S): Firearms Discharge Reporting Guidelines		

I. POLICY

- A. Members of the Rochester Police Department (RPD) may use deadly physical force, as defined by Article 10 of the New York State Penal Law, only when the use of deadly physical force is necessary to defend the member or another person from what the member reasonably believes to be the use or imminent use of deadly physical force.

Reasonable belief exists when both of the following subjective and objective conditions are met:

1. The member reasonably believes another person is using or is about to use deadly physical force, and that it is necessary for the member to use deadly physical force to defend himself or another person, and
 2. Evidence or information which appears reliable discloses facts circumstance which are collectively of such weight and persuasiveness as to convince a member of ordinary intelligence, training, judgment, and experience that another person is using or is about to use deadly physical force, and that it is necessary for the member to use deadly physical force to defend himself or another person.
- B. Members of the RPD may use Kinetic Energy Impact Projectiles (KEIP), commonly known as "Bean Bag Rounds", as a means of less lethal force in non-deadly use of force situations.

KEIP are intended to provide a member with a less lethal alternative to safely take into custody violent or dangerous persons by allowing members to deliver impact projectiles from an extended range. The impact projectiles are designed to incapacitate a subject with a minimal potential for causing death or serious physical injury



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compared to standard projectiles when used consistent with training. However, members must recognize that a potential for death or serious physical injury from these impact projectiles does exist, and that care must be exercised in their use.

- C. The Pepperball Launching System (PLS) may be used as a means of less lethal force. The PLS delivers an irritant, Capsaicin II, by means of a compressed gas propellant. Only those members that have successfully completed an annual PLS training course will be authorized to deploy the PLS. Its primary use is to disperse groups engaged in civil disorder from a safe distance, but also allows members to take violent or dangerous individuals into custody. Nothing shall preclude it from being used in other situations in accordance with current directives and training.
- D. Less lethal force will be consistent with Departmental training and use of force continuum.
- E. The fact that a member is justified in using deadly physical force or less lethal force does not allow reckless conduct by the member.

II. FIREARM GUIDELINES

- A. Members are justified in removing firearms from holsters and/or gun mounts and pointing the firearm if the member reasonably believes:
 - 1. That a person or a situation poses or may pose an immediate threat of death or serious physical injury either to themselves or another person.
 - 2. There is justification to use a firearm against an animal pursuant to Section II.B. below.
- B. Members may use firearms against animals when they are:
 - 1. Attacking or presenting an imminent danger to any person.
 - 2. Destructive, injured, or threatening, with supervisory approval when there is time to obtain it.
- C. Warning shots are prohibited.

- D. Discharge of a firearm from or at a moving vehicle is prohibited unless the member reasonably believes that the occupant(s) of the vehicle are using or are about to use deadly physical force against the member or another person. Therefore, shooting at a fleeing vehicle that is traveling away from the member and is no longer a threat to the member or a third person is prohibited.

III. GUIDELINES - LESS LETHAL SHOTGUN AND KINETIC ENERGY IMPACT PROJECTILES

- A. Only those members who have successfully completed the specific Department approved training and have demonstrated proficiency in the use of less lethal force shotguns will be authorized to deploy KEIP.
- B. Only Department approved KEIP and shotguns assigned for their exclusive use will be authorized for use by trained members. The only weapon designated for use with less lethal ammunition is the RPD's Remington 870 shotgun, 12 gauge, pump action, with orange colored stocks to differentiate them from the standard RPD issued shotgun.
- C. Less lethal shotguns will be stored unloaded in a rifle case in the trunk of marked patrol vehicles. The weapon is to remain in its case in the trunk until needed for field use situations or routine maintenance. It is not to be placed in the shotgun rack in the interior of the patrol vehicle. Only KEIP will be stored in the rifle case and used with less lethal shotguns.
- D. KEIP should only be used when lesser levels of force have been unsuccessful or their use is inappropriate, as defined by the use of force continuum.
- E. Use of KEIP will be at the discretion of the authorized member once on scene, and with supervisory approval when there is time to obtain approval.
- F. The member with the less lethal shotgun should formulate a plan and be prepared to implement it. The plan should include, at a minimum:
1. Deadly physical force coverage by another member;
 2. A takedown team of a least two (2) members;

3. Notification to all members on scene that impact projectiles are going to be deployed to prevent the firing of unintentional deadly physical force rounds, unless done so with cause.
 4. Providing the subject with an opportunity to comply. The subject should not be forewarned of being struck with impact projectiles, as this will only diminish any desired effect.
- G. All impact projectiles that are fired at and strike any person in a field use situation will be processed and preserved as evidence by an Evidence Technician.

IV. GUIDELINES - LESS LETHAL PEPPERBALL LAUNCHING SYSTEM

- A. Only those members who have successfully completed the specific Department approved training and have demonstrated proficiency in the use of PLS will be authorized to deploy same.
- B. Only Department approved PLS will be authorized for use by trained members.
- C. When not in use, the PLS will be stored in a designated, secure location that is only accessible by certified users.
- D. When deploying the PLS a member will make a notification over the police radio that they are on scene.
- E. The PLS should only be used when lesser levels of force have been unsuccessful or their use is inappropriate, as defined by the use of force continuum.
- F. Use of PLS will be at the discretion of the authorized member once on scene, in accordance with current training and standard operating procedure guidelines and with supervisory approval when there is time to obtain approval. For situations involving crowd control/Mobile Field Force (MFF) authorization for use and deployment of the PLS will be obtained prior to its use from the Incident Commander or MFF Commander.
- G. The member with the PLS should formulate a plan and be prepared to implement it. The plan should include, at a minimum:
 1. Deadly physical force coverage by another member;

2. A takedown team of a least two (2) members;
3. Providing the subject with an opportunity to comply without risk to the safety of members or others.

V. PROCEDURES

When a member discharges a firearm, whether on or off duty, other than for training, legal hunting, or target practice, or uses deadly physical force with any instrument, he will immediately notify the on-duty supervisor of his Division or Section and submit the required reports following guidelines listed in Attachment A.

- A. If a firearm discharge is accidental or unintentional and did not injure anyone:
 1. The member's supervisor will respond to the scene and ensure that an Incident Report documenting the particulars is completed.
 2. The member's Division/Section Platoon Commanding Officer will:
 - a) Respond to the scene.
 - b) Notify an on-duty supervisor within the area of occurrence if outside the jurisdiction of the City of Rochester.
 - c) Conduct a preliminary investigation into the incident.

NOTE: If response to the scene is inappropriate due to the distance from the City of Rochester, the member's Division/Section Platoon Commanding Officer will obtain preliminary information from the case coordinator of the investigating agency.

- d) Notify the Staff Duty Officer, if on duty, the Patrol Division Commander, if the incident occurred within his Patrol Division Command, and the member's Bureau/Division Commanding Officer.

3. The Staff Duty Officer, Patrol Division Commander or member's Bureau/Division Commanding Officer, will notify the Deputy Chief of Operations, and the Commanding Officer of the Professional Standards Section (PSS).
 4. The Deputy Chief of Operations and Commanding Officer of PSS will:
 - a) Make a determination based on the circumstances of the situation as to whether to respond to the scene.
 - b) The Commanding Officer of PSS will document any non-response to the scene by the Deputy Chief of Operations or PSS personnel and make it a part of the PSS incident file.
 5. All reports will be immediately forwarded through the chain of command, a copy of which will be forwarded to PSS.
- B. If the discharge of a firearm, which includes the less lethal shotgun, is directed at a person (whether or not that person is struck), or if as a result of any discharge, a person is injured or a death occurs:
1. The member's supervisor will:
 - a) Respond to the scene.
 - b) Call for medical assistance, if needed.
 - c) Secure the scene and any evidence.
 - d) Manage the scene by controlling access to it. Access is limited to:
 - (1) Evidence Technicians
 - (2) Major Crimes Section
 - (3) PSS personnel
 - (4) District Attorney's Office personnel

NOTE: All others will be restricted and only allowed entry with the permission of the ranking officer at the scene or the Technician Sergeant.

- e) Notwithstanding the need for medical attention, isolate and secure the involved member(s). Until directed to another location by a supervisor of the rank of Captain or higher, keep the involved member(s) at the scene or near the scene, out of view of the public, but accessible to responding Command Officers.
 - f) Gather preliminary information from the involved member(s) as to circumstances of the incident.
 - g) Establish a command post and staging area.
 - h) Advise their on-duty Commanding Officer.
 - i) Immediately prepare and submit an Incident or Crime Investigation Report and Subject Resistance Report, RPD 1377, and any other reports so directed by the RPD.
2. The member's supervisor, or Division/Section Platoon Commanding Officer, will notify the Staff Duty Officer if on duty, the Patrol Division Commander, if the incident occurred within his Patrol Division Command, and the member's Bureau/Division Commanding Officer. A response to the scene is required (whether the incident is on or off duty).

If the scene is located outside the City of Rochester, the Patrol Division Commander or the member's Bureau/Division Commanding Officer, will determine whether to respond to the scene after considering:

- a) Apparent surrounding circumstances;
- b) Injuries to police and/or non-police personnel;
- c) Distance from the City of Rochester.

3. The Patrol Division Commander will:
- a) Immediately notify the Chief of Staff, the Deputy Chief of Operations, the Commanding Officer of PSS, and the member's Bureau/Division Commanding Officer.
 - a) Ensure that the involved member(s):
 - (1) Receives medical assistance, if needed.
 - (2) Is afforded privacy from inquires from the public and all Departmental personnel not involved in the actual investigation of the incident.
 - (3) Receives trauma crisis counseling as required in Section C below.
 - b) Ensure that the involved member's supervisor is relieved from the scene if experiencing psychological trauma.
 - c) Initiate and coordinate a preliminary investigation of the circumstances surrounding the incident (unless otherwise directed by established authority) and promptly report the results of the preliminary investigation to the Deputy Chief of Operations and the member's Bureau/Division Commanding Officer, or the Chief of Police if applicable, according to the chain of command.
 - d) Appoint supervisory personnel to make notify/transport of the involved member's significant others.
 - e) Be responsible for ensuring the notify/transport functions, to include periodic MDC updates.

NOTE: Only the appointed supervisor will conduct the notify/transport and periodic updates.

- f) Except as directed by the Chief of Police, ensure that the firearm used (and any related equipment), other than the less lethal shotgun when used in an incident which there was no serious physical injury or death, is secured

by a supervisor of an Evidence Technician and that said firearm is properly rendered safe when secured.

NOTE: If necessary, firearms will be placed in the Property Clerk's Office until the completion of any internal or legal proceedings; or, in the case of an accidental/unintentional discharge not resulting in damage or injury, until said firearm is examined by a Firearms Training Unit armorer and found to be functioning properly. The Firearms Training Unit staff will replace the weapon and equipment as directed by the Chief of Police or a Deputy Chief of Police.

4. The Deputy Chief of Operations and Commanding Officer of PSS will:
 - a) Make a determination based on the circumstances of the situation as to whether to respond to the scene.
 - b) The Commanding Officer of PSS will document any non-response to the scene by the Deputy Chief of Operations or PSS personnel and make it a part of the PSS incident file.
5. The reports will be forwarded through the chain of command to the Chief of Police prior to the conclusion of the tour of duty on which the incident occurred by the member or if the member is incapacitated, by their on-duty supervisor.
6. The Office of the Chief of Police will forward:
 - a) The original case package to PSS.
 - b) Copies to the Professional Development Section and Law Department.
- C. Critical Incident Counseling is mandated in all cases of use of deadly physical force at:
 1. On-scene and/or at any other location as directed by the Chief of Police or his designee.
 2. Two week follow-up.
 3. Six week follow-up.

4. One year follow-up.
 5. Other counseling as may be requested by the employee or directed by the Chief of Police.
- D. If a firearm discharge is directed at an animal:
1. The member's supervisor will submit an Incident Report.
 2. The member's Division/Section Platoon Commanding Officer will:
 - a) Respond to the scene of the incident, and direct a thorough investigation.

NOTE: Attachment A should be used as a guide when investigating the incident.
 - b) Notify the Commanding Officer of PSS.
 3. The Commanding Officer of PSS will:
 - a) Make a determination based on the circumstances of the situation as to whether to respond to the scene and/or make further notifications.
 - b) Document any non-response to the scene by PSS and make it a part of the incident file.
 4. The supervisor will ensure that:
 - a) An Evidence Technician responds to the scene for photos and recovery of any on-scene evidence.
 - b) The City of Rochester's Animal Services (AS) personnel are called to the scene of any animal shot in the City or which appears to be suffering from disease (e.g., rabies).
 - c) If the animal has suffered a fatal wound and does not appear to be diseased:
 - (1) The animal can be released to the owner for proper disposal; or

(2) If the owner cannot be located or does not request custody of the animal, the City of Rochester Service Bureau will be notified for immediate pickup. A member should remain at the scene until the Service Bureau arrives, unless directed otherwise by a supervisor.

(3) The AS will be the only means by which an animal is transferred to a designated animal hospital or veterinarian for euthanasia in incidents where the animal suffers from an untreatable/unsurvivable wound.

NOTE: Owners may be allowed, if requested, to transport the animal. Members will not transport the animal.

d) If the animal has suffered a non-fatal wound:

(1) Allow the owner to transport the animal to his veterinarian for treatment; or

(2) AS personnel will transport the animal to:

(a) The owner's veterinarian of choice within Monroe County if the animal has a treatable injury.

(b) An approved emergency veterinarian service if the owner does not have a veterinarian of choice and the animal has a treatable injury.

e) The Incident Report or Crime Report is forward through the normal distribution process, a copy of which will be forwarded to PSS.

E. If the owner inquires about reimbursement for veterinarian fees or compensation for the animal, the supervisor will instruct the owner to contact the City of Rochester's Law Department office on the next

business day to receive instructions on how to file a claim against the City.

VI. ASSIGNMENT TO ADMINISTRATIVE DUTY

- A. When a member is involved in a shooting or other use of a countermeasure that results in serious physical injury or death, the Chief of Police or his designee will assign that member to administrative duty. The temporary placement to an administrative assignment does not imply the guilt or innocence of the member involved.
 - 1. The administrative duty will not assign the member to duties that have a high potential for arrest and subject resistance incidents.
 - 2. Administrative duty assignment will be made in the best interest of the Department and the member.
- B. When a member is assigned to administrative duty, they will:
 - 1. Refrain from routine exercise of patrol function arrest and intervention powers.
 - 2. Refrain from any public discussion of his administrative assignment or circumstances related to the incident.
 - 3. Retain all rights, privileges and employee benefits.
 - 4. Retain responsibility for compliance with all laws, Departmental Rules and Regulations, General and Administrative Orders, and directives governing Department personnel.
- C. A member's return to full-duty status will be based upon the results of relevant investigations and the Chief's decision regarding these matters.

Attachment

APPENDIX

FIREARMS DISCHARGE REPORTING GUIDLINES

Any Crime, Incident, or subject Resistance Report relating to the discharge of a firearm or the use of deadly physical force by a member should include, but not be limited to, the following:

1. Nature of the incident; how dispatched and/or initial perception
2. Lighting and weather conditions
3. Whether the member was on or off duty / uniform or plainclothes
4. Circumstances leading to the discharge of the firearm (reason for use of deadly physical force) include any escalation of force, if applicable
5. Number of rounds fired by the member and adversary. If applicable, include succession of rounds fired
6. Description of firearm(s) used, if applicable, including:
 - a) whether or not authorized service weapon
 - b) type (e.g., revolver, semi-automatic, shotgun, rifle, etc)
 - c) make, caliber and serial number
 - d) number of rounds (capacity and actual)
 - e) type of ammunition used
 - f) type of holster and whether Department issued
 - g) pistol permit number, if applicable
7. A complete description of any instrument/weapon used by the officer other than Department issued firearms
8. Witness(es) contact data, including daytime and evening contact information, and witness(es) who may have seen only part or the entire incident
9. Name(s) and assignment(s) of members present at the scene with statements as to their involvement
10. Complete description of weapon(s) used by adversary and the weapons complete description
11. Suspect information in narrative should indicate any previous knowledge of suspect and any known tendencies towards violence



Rochester Police Department General Order



EFFECTIVE DATE: May 21, 2011	SUBJECT: SUBJECT RESISTANCE REPORT	ORDER# 335
RESCINDS: G.O. 335 (03/17/06)	REFERENCE STANDARD(S): CALEA: 1.2.7,3.1, 3.2, 3.4, 3.5, 3.6, 3.7, 3.9, 3.10, 3.12, 3.13, 26.1.1, 46.1.4, 82.2.1-5 NYS: 8.1, 14.1, 20.1, 20.6, 20.7, 21.1, 21.2, 32.1, 40.2	PAGE 1 of 11
ATTACHMENT(S): (A) Subject Resistance Report, RPD 1377		

I. DEFINITIONS

- A. 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.
- B. 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.

II. POLICY

- A. Members may use only that level of physical force necessary in the performance of their duties within the limits established by Article 35 of the New York State Penal Law, and consistent with the training and policies of the Rochester 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 GO 340.

It is the responsibility of each member to be aware of the requirements of Article 35 and to guide his actions based upon that law and Departmental policy and training.

- B. 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 his disposal.



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- C. All force used, with the exception of mere handcuffing, blanketing or escorting, will require a Subject Resistance Report, RPD 1377, (SRR-Attachment A).
- D. Only those members that have successfully completed an approved RPD Taser course will be authorized to deploy the Taser. Each member will complete biennially re-certification training with the Taser. The Taser will be used in accordance with the standard operating procedures, which are available in Professional Development Section (PDS) and on the RPD web.
- E. Only those members that have successfully completed an approved Pepperball Launching System (PLS) annual training course will be authorized to deploy the PLS. Each member will complete annual training with the PLS. The PLS will be used in accordance with the standard operating procedures, which are available in Professional Development Section (PDS) and on the RPD web.
- F. 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.).

III. PROCEDURES

- A. Any member using force pursuant to his duties or any off-duty member using force regardless of whether or not it is pursuant to his duty as a police officer will:
 - 1. Immediately notify his immediate supervisor of the incident.
 - a) If the supervisor is not on duty (e.g. Technicians on the 1st or 3rd platoon), the supervisor in the Section of occurrence will be notified.
 - b) In the case of off-duty incidents, the member will immediately notify the supervisor in the area of occurrence, or if outside the City, the Commanding Officer of the Patrol Division, (or Section Platoon Commanding Officer) and the police agency of jurisdiction. (Incidents that stem from additional

employment will follow guidelines in GO 245.).

- c) 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 supporting deposition and any other applicable reports will be taken from said employee. The non-sworn employee will not complete an SRR. Members, however, must list them as a witness on their SRR.

2. After force is used, immediately evaluate the need for medical attention or treatment for that person upon whom the techniques were used and arrange for such treatment when:

- a) That subject has a visible injury requiring medical attention, including injuries prior to the use of force;
- b) Subject complaints of injury or requests for medical attention;
- c) OC, PLS or the Taser was used.

Note: ALL subjects who are exposed to a Taser application need to be transported to a hospital to be seen by a medical professional for treatment.

3. Exposure to OC

- a) Persons exposed to OC will be taken to the Eyewash Facility located in the City Public Safety Building (CPSB) garage before being released or brought to booking.
- b) 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 without delay and will be noted on the SRR.

Note: Deficiencies to the CPSB Eyewash Facility will be forwarded through the chain of command to the Commanding Officer of the Technical Services Section.

- c) Persons being taken into custody or who will be issued an appearance ticket and who refuse medical treatment must be transported to a hospital where the refusal will be witnessed by hospital personnel and noted on the SRR.
- d) 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 on the SRR.
- e) 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 SRR.

4. Exposure to PLS:

- a) Persons exposed to PLS will be taken to the Eyewash Facility located in the City Public Safety Building (CPSB) garage before being released or brought to booking.
- b) Persons will not be brought to the Eyewash Facility if they continue to be combative, display excessive hyperactive behavior after PLS 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 without delay and will be noted on the SRR.

- c) Persons being taken into custody or who will be issued an appearance ticket and who refuse medical treatment must be transported to a hospital where the refusal will be witnessed by hospital personnel and noted on the SRR.
 - d) Refusal for treatment at the Eyewash Facility by a person exposed to PLS who does not require additional medical attention must be witnessed by an on-duty supervisor and so noted on the SRR.
 - e) 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 SRR.
5. Report, or cause to be reported, all facts relative to the incident on the SRR whether or not an arrest was made. Force used against crowds or unknown person will still be documented recording all possible information.
6. Attempt to locate and identify any witnesses and depose their observations. The originals will be attached to the SRR and forwarded to the Professional Standards Section (PSS), with the exception of criminal cases where the originals must go with the criminal package.
7. Prepare and submit the SRR and related reports to their supervisor by the end of the tour of duty. If the force incident is crime related, appropriate crime report(s) will be submitted. Any other situation will be documented on an Incident Report. All copies of these report(s) will then be forwarded together, along with other applicable reports, to the coordinating supervisor for approval.
- a) If more than one member is involved in a force incident, one member will complete the SRR outlining only his/her involvement in the incident. All other members using force will complete their own first page of the SRR, outlining their involvement or use of force as well as BOX 14 indicating the member's information as RO.

- b) Additional subjects will be documented on separate force reports.

B. Supervisors will:

1. Respond to the scene of the incident immediately. If the member's immediate supervisor is not available, such supervisor will arrange for a supervisor from another section to respond to the scene.
2. Ensure that members receive any necessary assistance, including medical treatment. They will also insure that any injuries or exposures to members are properly documented on an Injury and Exposure Report, RPD 1250 and noted on the Prisoner Data Report to bring the incident to the judge's attention.
3. Ensure that medical treatment for the subject is evaluated per Section II.A.2.

Ensure that photographs are taken of all subjects when force is used (non-custodial person have the right to refuse). In a Taser/PLS incident, photos of the Taser/PLS contact area (to include the impact area of a PLS deployment in a civil disorder incident) are necessary.

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

4. Determine if a technician should respond to the scene and the level of technician's services to be utilized (including photos, measurements, and diagrams). In minor incidents, the unit camera may be used (film to be turned in immediately for processing).
5. Ensure that a thorough neighborhood check of the SRR scene is conducted and documented on the SRR form.
6. 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.

7. Review the SRR and all related reports for completion and accuracy before forwarding them to PSS, via the Chain of Command, by the end of the tour of duty.

NOTE: If the incident occurred in a section other than the involved member's supervisor will also send a copy to the section of occurrence.

C. Platoon Commanding Officers will:

1. Review the SRR for completion and accuracy. Defensive Tactics Instructors may be used to assist in the review of the SRR.
2. If needed, return it to the reviewing supervisor for clarification.
3. Forward the original SRR and depositions to PSS without unnecessary delay.

**SUBJECT RESISTANCE REPORT, RPD 1377
FORM COMPLETION**

SUBJECT

BLOCKS 1-10: List all information pertaining to the subject, the CR number, date, time, location and car beat of the incident.

BLOCK 11: Indicate if the subject was charged or released. If released, enter the name of the approving supervisor; if charged, list the charges.

SUBJECT ACTIONS

BLOCK 12: Check the appropriate box(es) indicating the type of resistance encountered.

TACTIC EFFECTIVENESS/NARRATIVE

BLOCK 13: Indicate, by checking if listed tactic was used. Indicate the order in which the tactic was used in column one (Order). For the tactic used, indicate the level of effectiveness that best applies in column two (Effectiveness). In cases where the tactic is not listed, Check the other box and indicate the tactics used in the narrative referencing box 13.

NARRATIVE

BLOCK 14: Describe incident fully and include:

- a. The subject resistance, behavior or conduct and the verbal statements (describe, give examples).
- b. ALL specific techniques or force used by the officer (e.g., verbal directions, pressure point, PR-24 techniques).
- c. Reason(s) why tactics were used.
- d. Explain the effectiveness of the tactic if necessary.

- e. Specific equipment used (e.g., hands, PR-24, handcuffs). It is important to indicate when equipment is used in conjunction with a technique (e.g., PR-24 jab as opposed to a fist jab).
- f. Member(s) who are involved in SRR's while in plainclothes must describe their own clothing.

NOTE: Do not duplicate information already supplied in other reports.

OFFICER

Check the appropriate box indicating whether you are the primary officer or an assisting officer.

LAW ENFORCEMENT OR OTHER PERSONNEL AT SCENE

BLOCK 15:

- a. List the reporting officer's name as well as other law enforcement officers or other support personnel at the scene, include police ID's or agency name, when applicable.
- b. Enter the personnel's height, weight, section, and platoon.
- c. Duty type- Enter OFF for Off-duty; ON for on-duty or AE if incident occurred while individual was performing additional employment.
- d. Uniform- Enter U if the member was in uniform or P if the member was in plainclothes.
- e. Injured/Treated- Enter either a "Y" (yes) or "N" (No) response in both the upper (injured) and lower (treated) parts of this box.
- f. Addendum- Enter Y if the member submitted an Addendum Report; enter N if not.

WITNESSES

BLOCK 16: Enter the name, address, and applicable phone number(s) of witnesses and those contacted during the neighborhood check, or addresses checked with no answer.

MEDICAL

BLOCK 17: Check the box that best describes the physical state of the subject at the time of the incident.

BLOCK 18: Indicate if subject had those injuries during the incident and describe those injuries.

BLOCK 19: Indicate if subject incurred injuries during the incident and describe those injuries.

BLOCK 20: If subject was exposed to OC, indicate where subject was treated and by whom. If the subject was NOT exposed, enter N/A on the line provided.

BLOCK 21: If subject was not taken to the hospital, state the reason. If the subject was taken to the hospital, indicate which method the subject was transported.

BLOCK 22: If the subject was taken to the hospital, indicate the name of the hospital.

BLOCK 23: Enter the name of the attending medical professional.

BLOCK 24: Indicate subject treatment status.

BLOCK 25: Enter appropriate time.

BLOCK 26: Enter the name and title of person witnessing refusal.

BLOCK 27: TECH WORK: Check the appropriate box indicating whether tech work was performed. If tech work was not done explain why. If tech work was performed indicate who performed the tech work.

BLOCK 28: REPORTS COMPLETED: Indicate any additional reports completed and their CR#'s.

BLOCK 29: COMMANDING OFFICER ON SCENE: Enter the name, rank and assignment of the Commanding Officer coordinating the investigation.

ADMIN REVIEW

BLOCK 30: REVIEWING SUPERVISOR/COMMANDING OFFICER: Enter the name and rank of the Supervisor reviewing the report and date.

BLOCK 31: REVIEWING COMMANDING OFFICER: Enter the name of the reviewing Section/Unit Commanding Officer and date.

**SUBJECT RESISTANCE REPORT, RPD 1377
FORM COMPLETION**

SUBJECT

BLOCKS 1-10: List all information pertaining to the subject, the CR number, date, time, location and car beat of the incident.

BLOCK 11: Indicate if the subject was charged or released. If released, enter the name of the approving supervisor; if charged, list the charges.

SUBJECT ACTIONS

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- f. Member(s) who are involved in SRR's while in plainclothes must describe their own clothing.

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Enter the name and rank of the Supervisor reviewing the report and date.

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