

NIAGARA FALLS POLICE DEPARTMENT

GENERAL ORDER

EFFECTIVE DATE: 09/03/2013	SUBJECT: USE OF FORCE; DEADLY WEAPONS - FIREARMS	Number 122.20 (NYSLEAP A-20-5, T-32-3)
RESCINDS: 06/05/2012		Number of pages 6

I. Purpose:

To provide members of the Niagara Falls Police Department with guidelines and procedures for the issuance, training, proper use, maintenance, and documentation of department issued handguns and ammunition, and off-duty weapons. It applies to all officers of the Department regardless of duty status or geographical area of employment.

II. Policy:

It is the policy of the Niagara Falls Police Department that all officers issued and authorized to carry firearms shall carry the type and model firearm and ammunition approved by the Firearms Training Unit and demonstrate competence through, at minimum, annual proficiency qualification conducted by the FTU.

III. Definitions:

A. Definitions:

1. **Active Resistance:** Physically evasive movements to defeat an officer's attempt at control or custody, including bracing, tensing, pulling away, or pushing.
2. **Authorized Weapons:** All weapons approved, authorized and issued to officers who have been trained and met required proficiency standards by the Niagara Falls Police Department Firearms Training Unit, including firearms, impact weapons, chemical agents, and electronic controlled weapons.
3. **Deadly Physical Force:** Force which, under the circumstances in which it is used, can reasonably be expected to cause death or serious physical injury.
4. **De-escalation of Force:** A conscious reduction in the level of force used in response to a decrease in the level of resistance or compliance.

5. Force: To compel by physical means; physical contact or action beyond mere restraint. Any physical strike or instrumental contact with a person, any intentional attempted physical strike or instrumental contact that does not take effect, or any significant physical contact that restricts the movement of a person, including: aiming a firearm, discharging a firearm, use of chemical agents, use of impact weapons, use of an electronic controlled weapon, acquiring a target with an electronic controlled weapon, the taking of a subject to the ground, and any physical contact that includes control techniques. The escorting or handcuffing of a person with minimal or no resistance shall not constitute the use of force. Use of force is lawful if it is objectively reasonable under the circumstances and the minimum amount of force necessary to affect an arrest or protect the officer or other person.
6. Imminent Threat: An officer's reasonable perception of impending death, danger, or serious injury from any action or outcome which may occur during an encounter.
7. Objective Reasonableness: A balance between the rights of the person being arrested and the government interests that allows the use of force. Facts and circumstances make up what is objectively reasonable.
8. Passive Resistance: Physical actions that do not prevent the officer's attempt to control, for example, a person who does not cooperate with commands, but does not take action to prevent being taken into custody.
9. Physical Injury: Impairment of physical condition or substantial pain.
10. Serious Physical Injury: Physical injury which creates a substantial risk of death, or which causes death or serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.

IV. Authorized Firearms; On-Duty

A. Handgun:

1. Authorized Handgun: All members of the Niagara Falls Police Department shall carry an issued Smith & Wesson Model M&P40, .40 caliber semi-automatic handgun while on-duty.

2. Ammunition: Officers shall use Winchester Ranger Law Enforcement 40 Smith and Wesson 165 Grain T-Series ammunition. Uniform members shall carry a minimum of 46 rounds of authorized ammunition while on duty; non-uniform members will carry a minimum of 31 rounds.
3. Holsters: Uniformed and non-uniformed officers will carry their weapons in issued holsters or in holsters that are approved for safety by the Firearms Training Unit.
4. Training: Officers shall not be issued a handgun until they have successfully completed the Basic Firearm Course at a Law Enforcement Academy recognized and certified by the New York State Division of Criminal Justice Services.
5. Handgun Qualification:
 - a. All handgun qualifications will be conducted under the direction of a certified Firearms Training Unit Instructor.
 - b. All officers will be required to qualify annually with their service weapon during in-service training.
 - c. Only two attempts at qualification will be allowed per scheduled shooting session, except in the event of equipment malfunction. No "warm up" shooting will be permitted.
 - d. Pistol Qualification scoring requirements are as follows:
 1. Qualification requires a score of 80 percent.
 2. 50 rounds will be fired on a timed course with seven stages, varying from 3-25 yards using a B-60 THUG Target.
 - e. If an officer fails after the second chance to meet the required score, the officer will immediately relinquish his weapon to the Firearms Training Unit. The FTU shall immediately notify the Superintendent of Police and the officer's Shift or Division Commander.
6. Failure to Qualify:

- a. If an officer fails to qualify with his/her duty weapon, the officer will be temporarily relieved of his/her handgun and temporarily placed on administrative duty.
- b. The officer will be allowed to practice and receive remedial training given by a Firearms Training Unit instructor during a time established by the FTU.
- c. The officer will be tested on the qualification course until he or she qualifies.
- d. Failure to qualify after 14 days shall render the officer "unfit for duty", and, at the discretion of the Superintendent of Police, may lead to termination proceedings pursuant to New York State Civil Service Law and existing collective bargaining agreements.
- e. Barring extenuating circumstances, officers will only be permitted to receive two 40-hour blocks of remedial training.

B. Patrol Rifle:

- 1. Authorized Patrol Rifle: Members of the department trained by the Firearms Training Unit and authorized by the Superintendent of Police may carry a NFPD issued Smith & Wesson Model M&P15 .223 Caliber Rifle while on-duty.
- 2. Ammunition: Officers carrying this rifle shall use Winchester Ranger Law Enforcement 64 Grain Powerpoint ammunition and shall carry a minimum of 50 rounds of authorized ammunition.
- 3. Training: Officers shall not be issued a Patrol Rifle until they have successfully completed the NFPD Firearms Training Unit Patrol Rifle Qualification Course, which consists of a review of NFPD firearms and use of force policies, safety rules, comparisons of different types of firearms, deployment, malfunction, weapon break down, and weapon retention.
- 4. Qualification:
 - a. All rifle qualifications will be conducted under the direction of a certified Firearms Training Unit Instructor.
 - b. Rifle qualifications shall be conducted annually, and will require the officer to successfully complete the Patrol Rifle

Qualification Course at least twice, scoring a minimum of 90% each time, before being authorized for carry on patrol.

- c. Officers shall fire 50 rounds from various positions 7-25 yards from a full size B-60 target, at the direction of the FTU Instructor
- 5. An officer who fails to qualify shall not carry a Patrol Rifle under any circumstances.

C. Firearms Guidelines/Restrictions:

- 1. No officer shall carry or use any other type of firearm or ammunition while on duty, unless specifically authorized by the Superintendent of Police.
- 2. No officer shall carry a back-up or secondary handgun while on-duty.
- 3. No officer shall alter or modify a department issued firearm or ammunition in any way without written approval of the Firearms Training Unit.
- 4. Officers will immediately report the loss or theft of any firearm in their possession to their Supervisor and the Superintendent of Police.
- 5. Officers must keep their firearms clean and in workable condition at all times.
- 6. While on-duty, officers shall secure their weapons in a lockbox or secure storage. Where a lock box or secure storage is not available, on-duty officers will secure their weapons in the trunk of their vehicles.

V. Off-Duty Weapons:

- A. All privately owned firearms carried as an off-duty weapon must be registered with the Firearms Training Unit and New York State Police through submission of a "C" Form.
- B. Any officer working secondary employment in the capacity of a police officer must carry his/her NFPD issued handgun. No other handguns are authorized for carry, whether the secondary employment is in uniform or plainclothes.

- C. Carrying a weapon off-duty is not required. Each officer may choose whether to be armed or unarmed while off-duty. When carrying a weapon off-duty, officers will:
 - 1. Not consume or be under the influence of alcoholic beverages
 - 2. Abide by the Use of Force policy.
 - 3. Be covered by the same standards and requirements as if on duty when he/she uses a firearm while acting in the official capacity as a police officer.
 - 4. Have proper NFPD identification in their possession.
- D. An off-duty officer taking official action will be considered on-duty at the commencement of the action.
- E. Officers are responsible for the safe storage of their weapons when off-duty. Weapons shall be maintained in a locked or secure location in the home. Weapons shall be stored with an appropriate child safety device.