

# NIAGARA FALLS POLICE DEPARTMENT

## GENERAL ORDER

EFFECTIVE DATE: 09/03/2013	SUBJECT: <b>USE OF FORCE; NON DEADLY WEAPONS - IMPACT WEAPONS</b>	Number 122.50 (NYSLEAP A-20-6)
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 authorization, use, training and reporting of impact weapon use.

**II. Policy:**

It is the policy of the Niagara Falls Police Department that officers shall use the least amount of force necessary to accomplish their lawful objectives while safeguarding their own lives and the lives of others. Consistent with this policy, the Department authorizes the use of impact weapons by officers trained in their use as an incapacitating weapon to control a subject exhibiting at minimum, active resistance to a lawful arrest, or to otherwise control a combative, uncooperative person when verbal commands and persuasion have been ineffective in inducing cooperation; or to prevent a subject from harming himself/herself or others.

**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. **Command Presence:** An officer projecting the appearance of being in control both of self and the situation in a manner that actually helps create such control.
4. **Deadly Physical Force:** Force which, under the circumstances in which it is used, can reasonably be expected to cause death or serious physical injury.

5. De-escalation of Force: A conscious reduction in the level of force used in response to a perception of decrease in the level of resistance or compliance.
6. 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.
7. Hard Hand Control: Impact oriented techniques that include knee strikes, elbow strikes, punches, and kicks. Control strikes are used to subdue a subject and include strikes to pressure points such as: the common peroneal nerve (side of the leg), radial nerve (top of the forearm), or brachial plexus origin (side of neck).
8. Harm: Injury inflicted upon a person, whether visible or not.
9. Impact Weapons: Devices used for striking, which may disable or cause temporary motor dysfunction; such as an expandable or straight baton approved by the agency. These devices are not fundamentally designed to cause death or great bodily harm.
10. 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.
11. Non-Deadly force: Any use of force not intended to cause, nor likely to cause, death or serious bodily harm.
12. 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.

13. 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.
14. Physical Injury: Impairment of physical condition or substantial pain.
15. Reportable use of force: All force used above non-resistant compliant handcuffing with the exception of drawing a firearm at low ready position. While it does not include unresisted (cooperative) handcuffing, it does include handcuffing individuals to objects.
16. Resisted Handcuffing: When a person actively resists being placed in handcuffs and the officers must use "soft hand controls" to gain compliance by forcibly moving the subject's wrists or arms, or to physically maneuver the subject's body so the handcuffs can be applied. The "resistance" may range from an active struggle to a person simply "locking" his/her arms to prevent compliant handcuffing. Conversely, "unresisted (cooperative) handcuffing" occurs whenever the subject complies with the officer's verbal commands and/or unresistingly allows the officers to position their arms in order to apply handcuffs, or the subject positions their arm as commanded for the application of handcuffs.
17. 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.
18. Soft Hand Control: The use of physical strength and skill in defensive tactics to control arrestees that are reluctant to be taken into custody and offer some degree of physical resistance. Such techniques are not impact oriented and include pain compliance pressure points, takedowns, joint locks, and simply grabbing a subject. Touching or escort holds may be appropriate for use against levels of passive physical resistance.
19. Supervisor: A supervisor includes a Lieutenant who is assigned responsibility for supervising officers.
20. Tactical Communication/Verbal Commands: Communication consisting of verbal dialogue, requests, instructions, and commands.
21. Weapon: Any instrument, article or substance, including a vehicle, which, under the circumstances in which it is used, attempted to be

used, or threatened to be used, is readily capable of causing death or other serious bodily injury.

**IV. Procedures:**

**A. Authorized Impact Tools:**

**1. Authorized Equipment:**

- a. A baton authorized for carry by the NFPD Firearms Training Unit. The authorized baton shall be:
  1. 26" in length and 1" in diameter and shall be constructed of wood or polycarbonate.
- b. An approved expandable baton authorized for carry by the Firearms Training Unit.
  1. The NFPD Firearms Training Unit will maintain a list of approved expandable batons and they shall be no longer than 21" in length.

**B. Training:**

1. All officers must have successful completed Defensive Tactics training as part of Basic Police Training at a New York State Certified Law Enforcement Academy prior to being issued and authorized to carry a baton /expandable baton.
2. All officers are required to complete refresher training every two years with the police baton/expandable baton in conjunction with Arrest Control Techniques/Use of Force training conducted by the Training Division and Firearms Training Unit.

**C. Items Prohibited for Carry:**

1. All other devices including but not limited to saps, sap gloves, brass knuckles, billy clubs, PR-24 type devices, batons with ornate carvings or a metal ball attached to either end, yawara sticks, iron claws, shirkins, ropes, and non-department issued leg restraint devices, including rope or cord hobbles.

**D. Impact Tool/Device - General Guidelines**

1. If a person actively resists and/or attacks an officer or other person, an officer is permitted to strike the person with an impact tool/device, provided the officer uses reasonable care to confine such strikes and

power levels, to areas of the body which, if struck, are not intended or likely to cause serious bodily injury.

2. The head and neck shall not be intentionally struck with the impact tool/device, unless the officer is justified in using deadly force. The compelling reason must be clearly articulated, such as, given the circumstances, the use of deadly force was the only alternative.
3. When feasible, just prior to use of an impact weapon, the officer will give a verbal warning, unless to do so would place any other person at risk.
4. Impact tools/devices shall be maintained in serviceable condition and shall not be modified, altered or fitted with any unauthorized add-on device in any way. They may be marked with the officer's PR number but shall not be marked or adorned in any other fashion.
5. If a subject engages in passive resistance, the impact tool/device may be used only to apply come-along/escort-compliance holds. A person, who remains non-violent, shall not intentionally be struck with the impact tool.
6. No handcuffed or restrained person shall be struck with an impact weapon.
7. Defective, broken, or altered impact tools shall not be carried.
  - a. An officer who discovers an impact tool/device that is unserviceable must immediately cease carrying the item and, if issued by the Department, promptly submit a written request for replacement through the chain of command.
  - b. All officers shall receive the designated training on each impact tool or device that they intend to carry before carrying the tool or device on or off duty. The mandatory training will be recorded in the officer's permanent training record. The Training Division will insure that the appropriate training is current and documented for all officers.

V. De-escalation:

- A. When reasonable and safe under the totality of circumstances, officers must use advisements, warnings, verbal persuasion, and other tactics. Additionally, under the totality of the circumstances, an officer should de-escalate force, including, when reasonable and safe, disengaging to a position that is tactically more secure or allows an officer greater distance, if to do so will reduce the immediacy of the threat and allow more time for

the officer to call for backup or to consider or deploy a greater variety of force options.

VI. Medical Treatment:

- A. Any time there is an injury or an alleged injury as a result of force used by department personnel or an officer encounters an individual with obvious injuries and the circumstances of the encounter coupled with the nature of the injuries are such that the person may claim the injuries resulted from the contact with the officer, the involved officer's shall:
  - 1. Visually examine any person claiming injury, request medical attention and immediately notify a supervisor. When an individual is struck with an impact tool/device, an ambulance shall be called to the scene of the incident to examine the person at the earliest and safest opportunity. Medical personnel will determine whether further medical attention is required.

VII. Reporting:

- A. All incidents of impact weapon use shall be documented on a Use of Force Report and reviewed by the on-scene Supervisor.
- B. After review by the Supervisor, a copy of the Use of Force Report shall be forwarded to the Office of Professional Standards and the Superintendent of Police.

VIII. Supervisor's Responsibility:

- A. Supervisory personnel shall respond to the scene of impact weapon use and review the incident for consistency with policy and training.
- B. Supervisory shall ensure appropriate medical care is provided and review Use of Force Report prior to submittal.
- C. Supervisor will oversee proper collection of evidence.
- D. Supervisors shall ensure that photographs of the affected area shall be taken and Crime Scene Unit personnel notified.