



# **FREEPORT POLICE DEPARTMENT**

## **GENERAL ORDER 9.10**

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|--|---------------------------------|--------------------|
| <b>ISSUED DATE:</b> 8/4/2014                               | <b>EFFECTIVE DATE:</b> 8/4/2014 | <b>REVISES:</b>    |
| <b>SUPERSEDES:</b>   | <b>RE-EVALUATION DATE:</b>      | <b>PAGE 1 of 4</b> |
| <b>SUBJECT: USE OF DEADLY FORCE</b>                        |                                 |                    |
| <b>DISTRIBUTION: TO ALL MEMBERS OF THE DEPARTMENT</b>      |                                 |                    |
| <b>ISSUING AUTHORITY: MIGUEL BERMUDEZ, CHIEF OF POLICE</b> |                                 |                    |

**Policy:** The policy of the Police Department is to prevent crime and arrest offenders while protecting human life. In situations where it is necessary to engage in the lawful use of force, officers will use force based upon the totality of circumstances using a reasonable and necessary standard to effectively bring an incident or person under control.

**Purpose:** To establish procedures for the use of deadly force by officers, and the subsequent notifications for such incidents.

**Scope:** All members of the Freeport Police Department

### **I. Definitions:**

- A. **Deadly Force:** means force which under the circumstances in which it is used, is readily capable of causing death or other serious physical injury to another human being.
- B. **Imminent:** *does not* mean immediate or instantaneous, but rather that an action is pending. Thus, a subject may pose an imminent danger even if he is not at that very moment pointing a weapon at a Police Officer. For example, imminent danger may exist if Police Officers have probable cause to believe any of the following:
  - 1. A subject possesses a weapon or is attempting to gain access to a weapon under circumstances indicating an intention to use it against the police officer or others, *or*
  - 2. A subject is armed and running to gain a tactical advantage of

cover, *or*

3. A subject with the capability of inflicting death or serious physical injury or otherwise incapacitating a police officer and is demonstrating an intention to do so, or
4. a subject is attempting to escape from the vicinity of a violent confrontation where the subject inflicted or attempted to inflict death or serious physical injury.

- C. **Reasonable and necessary** : facts and circumstances, including rational inferences drawn there from, known to the Police Officer at the time of the use of force, that would cause a reasonable Police Officer to conclude the force used is warranted.
- D. **Serious physical injury**: means 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. (PL)
- E. **Totality of circumstances**: all facts and circumstances known to the police officer at the time, reasonably perceived by the police officer, as the basis for the use of force decision.

## II. Rules

- A. *Officers* will not use force except as provided by law.
- B. A Member of the Department will notify a supervisor, as soon as practical, whenever he uses deadly force.
- C. Officers will notify a supervisor, as soon as practical, when they have discharged a firearm, except while lawfully hunting or target shooting.

## III. Procedure

- A. *Encounters* a situation where the totality of circumstances suggests use of deadly force may be necessary.
- B. *Requests* assistance as necessary and if practical.
- C. *Continually* assesses the circumstances and, as appropriate, *escalates* or *de-escalates* the use of force.
- D. *Considers* factors such as the following, when determining the totality of circumstances:
  1. cover
  2. concealment

3. risk of crossfire
4. occupied buildings or dwellings nearby
5. highly populated area
6. possibility of ricochets
7. whether a threat to life is imminent
8. other force methods available, if practical.

E. *Determines* the force that is reasonable and necessary, based on changing circumstances.

**Note:** The determination of what is or is not reasonable force is based on each individual situation and is a judgment decision for the individual police officer to make based on the totality of circumstances.

F. *Will not:*

1. use deadly force on the basis of mere suspicion,
2. fire warning shots,
3. fire *at* or *from* a moving vehicle unless deadly force is being used against the police officer or another by means other than a moving vehicle,

**Note:** Members should be fully aware that shots fired at a moving vehicle may create a greater danger to the public, or other responding officers, than is posed by the moving vehicle itself.

4. use deadly force in circumstances that present a grave risk of death or serious physical injury to innocent persons.

**Note:** In every situation, Members of the Department are expected to act with intelligence and employ sound judgment, in compliance with department policy. Involved Members of the Force must be able to clearly explain their reasons for the use of deadly force. All cases will be thoroughly investigated.

G. If use of deadly force *is not* authorized by law, *and/or is not* justified by the totality of circumstances, *considers* alternative use of force methods such as:

1. Use of Electronic Control Devices (ECD)/Taser,
2. Use of Oleoresin Capsicum (OC),
3. Use of Impact Weapons.

- H. *When practical*, prior to using deadly force, *identifies* himself as a Police Officer and *issues* a verbal warning “**POLICE DON’T MOVE**”.
- I. *Uses* deadly force if:
  - 1. the totality of circumstances justifies the use of deadly force, **and**
  - 2. the use of deadly force is reasonable and necessary.
- J. *Apprehend* and *handcuff* the subject, if practical.
- K. *Administer* first aid, if necessary.
- L. If he is **on duty** in Freeport or within Nassau County, Suffolk County or New York City, *requests* the following from Freeport Police Desk:
  - 1. an ambulance,
  - 2. a supervisor,
  - 3. additional assistance, as needed.
- M. If he is **off duty** in Freeport, notifies the Freeport Police Desk
- N. If he is **off duty** and outside Freeport, notifies:
  - 1. Regional 911 from his location, **and**
  - 2. the Freeport Police Desk

#### IV. Addendums

- A. General Order 9.50 – Member Involved Firearms Discharge Investigation Procedure

BY ORDER OF:

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MIGUEL BERMUDEZ  
CHIEF OF POLICE