

# Use of Force / De-Escalation

PLEASANTVILLE POLICE REFORM AND REINVENTION COLLABORATIVE

DECEMBER 16, 2020



# Training



- ▶ *Police training and culture for decades have emphasized that officers need to immediately take control of every situation, to never back up or tactically reposition, and to resolve every matter as quickly as possible. (DOJ)*
- ▶ This way of thinking put the subjects we encounter and the responding officers, at greater risk. In addition, it endangers the public trust we have worked so hard to build. Our officers know the resources that are available, and have been trained that time and space are allies to a peaceful resolution.

# Department Training

- ▶ Firearms training conducted twice a year.
- ▶ Includes proficiency and scenario based training.
- ▶ Annual training includes:
  - ▶ Use of Force (including our policy, state and federal civil and criminal law)
  - ▶ Confrontational Situations
  - ▶ Weapons Policies
  - ▶ Taser recertification



# Training Implemented in 2020

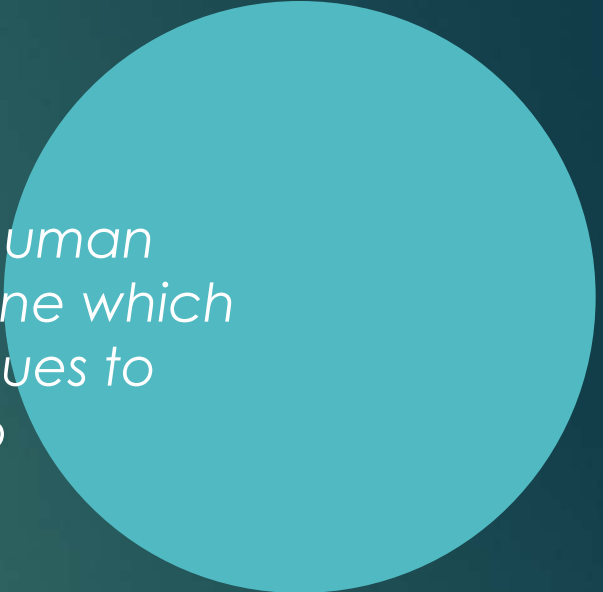
## DE-ESCALATION AND COMMUNICATION

- ▶ Managing and Controlling Other People's Behavior
- ▶ Managing and Controlling Your Own Emotions and Behaviors.
- ▶ Topics Covered Include:
  - ▶ Intent vs. Impact Communications
  - ▶ Communicating with persons in crisis
  - ▶ Low, Moderate and High Risk communications
  - ▶ Calming techniques, empathy and gaining rapport

# Training Implemented in 2020



## DE-ESCALATION AND COMMUNICATION

- ▶ *“The goal of the training is to equip the officers to assess human reactions in themselves and in others so they can determine which countermeasures are appropriate. De-escalation techniques to leverage communication, and gain compliance, are also addressed.” (NYMIR)*
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# Training Implemented in 2020

## ANTI-BIAS POLICING

Topics Covered Include:

- ▶ Implicit and Explicit Bias
- ▶ Microaggressions
- ▶ Procedural Justice



# Training Implemented in 2020

## ANTI-BIAS POLICING

- ▶ *“Members of the public must feel that police in their area are acting, and reacting, in a fair and impartial manner, regardless of the public’s race, age, gender, socioeconomic status, etc. In order for there to be that trust, law enforcement officers must exhibit fairness during each and every encounter with members of the public. The course represents just a start to more unbiased way of thinking, reacting, and ultimately, effective policing.” (NYMIR)*



# Future Training

## **PRINCIPLED POLICING** (NYS Department of Criminal Justice Services)

- ▶ **Procedural Justice and Police Legitimacy:** This training session will focus on understanding police legitimacy and procedural justice, the relationship between the community and the police and the role history has played in hindering legitimacy in some communities.

**A Tactical Mindset:** Through visual and scenario-based training modules, the second training puts into practice the basic principles of Procedural Justice to increase officer safety improve the ability of police officers to do their jobs and recognize situations where procedural justice principles may apply.



# Future Training

## PRINCIPLED POLICING (NYS Department of Criminal Justice Services)

- ▶ *“Focuses on the way police interact with the public and how these interactions influence crime rates and the public’s view of police and willingness to obey the law. Evidence shows that practicing procedural justice can have a significant impact on compliance, cooperation, public safety and officer safety.” (DCJS)*

# De-Escalation

- ▶ Defined as *“The strategic slowing down of an incident in a manner that allows officers more time, distance, space and tactical flexibility during dynamic situations on the street.”* (Department of Justice)
- ▶ Gain compliance through non-violent means.
  - ▶ Can be achieved verbally, tactically and /or over time.
- ▶ Assess our own reactions and manage ourselves.

# Applying De-escalation



## ▶ **TRAINING**

- ▶ De-escalation Training and Communication (online)
- ▶ Disability Awareness (in-house)
- ▶ Crisis Intervention Training (NYS & Westchester County)
- ▶ Pleasantville PD Policies and Procedures review

# Applying De-escalation

## ► CULTURE

“Culture is not just one thing; it’s everything. Culture drives expectation and beliefs. **Expectations and beliefs drive behaviors.** Behaviors drive habits. And habits create the future. It all starts with culture.” (emphasis added)

(Jon Gordon, [The Power of Positive Leadership](#))

# De-Escalation



# De-Escalation



- ▶ It is important that officers retain the ability to use force, if in their training and experience, the use of force is reasonable and the officer believes it is the safest way to end the situation.
- ▶ CONSTANT REVIEW, BOTH ON SCENE AND AFTER THE FACT.



# Physical Force


- ▶ Definitions:

- ▶ **Deadly Physical Force:** Physical force which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury.
- ▶ **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
- ▶ **Physical Injury:** Impairment of physical condition or substantial pain.



# Pleasantville Use of Force Policy



- ▶ Updated in December 2019
  - ▶ Closely mirrors the New York State Use of Force Model Policy issued by the Municipal Police Training Council
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# Pleasantville Use of Force Policy

## KEY TAKEAWAYS

- ▶ Requires “Sworn members shall utilize only the level of force required to accomplish the performance of their official duties.”
- ▶ Directs the officer to utilize verbal persuasion and de-escalation prior to the use of force, when feasible.
- ▶ Uses “Objective Reasonableness” as the standard by which an officer’s use of force will be judged
  - ▶ In line with State and Federal standard (*Graham v. Connor*)

# Pleasantville Use of Force Policy

## PROGRESSION OF FORCE

- ▶ The officer constantly evaluates the amount of force being utilized.
- ▶ The level of force is increased only when the lower levels of force are proving not to be effective.
- ▶ Officers are required to de-escalate whenever possible.

# Pleasantville Use of Force Policy

## LEVELS OF FORCE

- ▶ Verbal Direction
- ▶ Physical Direction
- ▶ Inflammatory Agent (i.e. Pepper Spray)
- ▶ Taser
- ▶ Impact Weapon (i.e. Police Baton)
- ▶ Firearm (Deadly Physical Force)



# Pleasantville Use of Force Policy

## **DUTY TO INTERVENE / RESPONSIBILITY TO RENDER MEDICAL AID**

- ▶ Both are key components of the Policy
- ▶ Officers have the responsibility to intercede to prevent the use of unreasonable force by another officer.
- ▶ Timely medical aid is required to be provided to anyone who sustains an injury.
- ▶ In both situations, reporting to a supervisor is required.

# Pleasantville Use of Force Policy

## MANDATED REPORTABLE USES OF FORCE

- ▶ Use of force that results in a physical injury.
- ▶ Use of force incidents that a reasonable person would believe is likely to cause an injury.
- ▶ Incidents that result in a complaint of pain from the suspect except complaints of minor discomfort from compliant handcuffing.
- ▶ Incidents where a conducted energy device (Taser) was intentionally discharged or accidentally discharged after being displayed.
- ▶ Incidents where a firearm was discharged at a subject.

# New York State Required Reporting

- ▶ In addition, NY State law requires reporting of any occurrence in which a police officer employs the use of force when, even in the absence death or injury, one of the following is initiated by an officer:
  - ▶ brandishes, uses or discharges a firearm at or in the direction of another person;
  - ▶ uses a chokehold or similar restraint that applies pressure to the throat or windpipe of a person in a manner that may hinder breathing or reduce intake of air;
  - ▶ displays, uses or deploys a chemical agent, including, but not limited to, oleoresin capsicum, pepper spray or tear gas;
  - ▶ brandishes, uses or deploys an impact weapon, including, but not limited to, a police baton; or
  - ▶ brandishes, uses or deploys an electronic control weapon, including a Taser.



# Deadly Physical Force

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

# Deadly Physical Force

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

- ▶ The officer has probable cause to believe the suspect has committed a felony involving the infliction or threat of serious physical injury or death, **and**
- ▶ The officer reasonably believes that the suspect poses an imminent threat of serious physical injury to the officer or to others, **and**
- ▶ There is no other reasonable means to effect the arrest; **and**
- ▶ The discharge does not appear likely to injure innocent bystanders.

# “8 Can’t Wait”

- ▶ Part of the Campaign Zero initiative, “8 Can’t Wait” is “...a campaign to bring immediate change to police departments” (8 Can’t Wait website)
- ▶ The Pleasantville PD Use of Force Policy encompasses six (6) of the “8 Can’t Wait” policies, either in whole or in substantive part.

# “8 Can’t Wait”

8 Can’t Wait	Included in Pleasantville Police Use of Force Policy
Requires De-Escalation	Yes
Use of Force Continuum	Yes
Bans Chokeholds & Strangleholds	Yes
Require Warning Before Shooting	Yes
Ban Shooting at Moving Vehicles	No
Exhaust All Alternatives	No
Duty to Intervene	Yes
Comprehensive Reporting	Yes

# “8 Can’t Wait” – Where our Policy is different.

- ▶ EXHAUST ALL ALTERNATIVES

- ▶ “Require officers to exhaust all other alternatives, including non-force and less lethal force options, prior to resorting to deadly force.”

- ▶ Currently, the Department uses the Objectively Reasonable Standard as previously discussed.

# “8 Can’t Wait” – Where our Policy is different.

- ▶ Shooting at Moving Vehicles:

- ▶ “Ban officers from shooting at moving vehicles in all cases, which is regarded as a particularly dangerous and ineffective tactic. While some departments may restrict shooting at vehicles to particular situations, these loopholes allow for police to continue killing in situations that are all too common. 62 people were killed by police last year in these situations. This must be categorically banned.”


- ▶ Section 106-4 of the Pleasantville Policies and Procedures Manual states:

- ▶ “Members are prohibited from discharging a firearm from or at a moving vehicle unless the occupants of the vehicle are using deadly physical force against the member or another.”

# Use of Force Incident - Concerns



## TWO AREAS OF CONCERN:

- ▶ The officer is authorized to use force, but uses it in a manner or to a level that is inappropriate.
  - ▶ The officer uses force when not authorized to do so.
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# Use of Force Concerns

## PREVENTION

The officer is authorized to use force, but uses it in a manner or to a level that is inappropriate.

- ▶ Training
- ▶ Reporting and review

The officer uses force when not authorized to do so.

- ▶ Training
- ▶ Culture

# Uses of Force since 2016

- ▶ One Taser Deployment
- ▶ Two parties arrested at gunpoint:
  - ▶ Burglary
  - ▶ Criminal possession of a weapon (intoxicated subject)



# Other Factors

- ▶ Between bail reform changes, new discovery requirements and Pleasantville PD policy, we are taking fewer people into custody, reducing the risk of the need to use force to make an arrest.
- ▶ The Pleasantville Police Department does not have specialized divisions, steady tours or squads.
- ▶ While we realize that a lack of complaints does not guarantee a lack of improper uses of force, there have been no personnel complaints filed regarding an officer's use of force in my time as Chief.