

Use of Force

300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner (Executive Law § 840).

In addition to those methods, techniques, and tools set forth below, the guidelines for the reasonable application of force contained in this policy shall apply to all policies addressing the potential use of force, including but not limited to the Control Devices and Conducted Energy Device policies.

300.1.1 DEFINITIONS

Definitions related to this policy include:

Deadly force - Force reasonably anticipated and intended to create a substantial likelihood of causing death or very serious injury. This includes force that, under the circumstances, is readily capable of causing death or serious physical injury (Executive Law § 840).

Feasible - Reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.

Force - The application of physical techniques or tactics, chemical agents, or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed, or restrained.

Imminent - Ready to take place; impending. Note that imminent does not mean immediate or instantaneous.

Totality of the circumstances - All facts and circumstances known to the officer at the time, taken as a whole, including the conduct of the officer and the subject leading up to the use of force.

300.2 POLICY

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

Officers must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties.

The Colonie Police Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation, and a careful balancing of all interests.

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300.2.1 DUTY TO INTERVENE AND REPORT

Any officer present and observing another law enforcement officer or a member using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intervene to prevent the use of unreasonable force.

Any officer who observes another law enforcement officer or a member use force that is potentially beyond that which is objectively reasonable under the circumstances should report these observations to a supervisor as soon as feasible.

300.2.2 PERSPECTIVE

When observing or reporting force used by a law enforcement officer, each officer should take into account the totality of the circumstances and the possibility that other law enforcement officers may have additional information regarding the threat posed by the subject.

300.3 USE OF FORCE

Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by this department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

300.3.1 ALTERNATIVE TACTICS - DE-ESCALATION

The Colonie Police Department defines de-escalation as using tactics and strategies to lower the intensity during a call for police service.

- The goal of de-escalation is to reduce the necessity or level of force required whenever possible.

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De-escalation may include both verbal and physical control tactics.

- There are times when officers need to quickly and decisively intervene with force in order to prevent a situation from escalating.

Foundational to an officer's ability to effectively de-escalate a situation largely depend on managing Time, Distance, and Cover principles that have been taught in department training.

- A better outcome may result if officers can buy more time to assess the situation and their options, bring additional resources to the scene, and develop a plan for resolving the incident.
- Solid tactics, communication skills, and teamwork are oftentimes the most effective tools at an officer's disposal for safely resolving incidents.

Crisis Communications and Verbal De-escalation

These strategies are designed to calm situations and lower emotions, especially involving a person in crisis.

- These subjects may have a mental illness, a developmental disability, a condition such as autism, drug addiction, or any other condition that can cause them to behave erratically.

Members should attempt crisis communication strategies and verbal de-escalation skills listed below in order to help the person in crisis stabilize their emotions:

- Introduce themselves and attempt to obtain the person's name.
- Be patient, polite, calm and courteous and avoid overreacting.
- Speak and move slowly and in a non-threatening manner.
- Moderate the level of direct eye contact.
- Remove distractions or disruptive people from the area.
- Provide for sufficient avenues of retreat or escape should the situation become volatile.
- Use active listening skills (e.g., emotion labeling, mirroring, paraphrasing, summarizing, open-ended questions).

Active listening skills allow an officer to demonstrate empathy, establish rapport and gain influence in order to persuade a subject to adopt a behavior change.

[See attachment: Behavioral Influence Stairway Model.pdf](#)

When practical, an officer should conduct a Thought, Emotion, Behavior (TEB) assessment to guide their communications approach.

[See attachment: Azar-Dickens Police Assessment Matrix.pdf](#)

Responding officers generally should not:

- Use stances or tactics that can be interpreted as aggressive.

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- Allow others to interrupt or engage the person.
- Corner a person who is not believed to be armed, violent or suicidal.
- Argue, speak with a raised voice or use threats to obtain compliance.

Crisis Communications and Verbal De-Escalation : Exceptions

The Colonie Police Department recognizes there are circumstances where crisis communication strategies and verbal de-escalation may not be an appropriate response. Some circumstances where these strategies may not be appropriate are listed below:

- (a) When an officer is faced with an imminent threat.
- (b) When an officer is dealing with a subject that displays clear thinking, low emotions, and non-compliant behaviors.
 1. Direct communications and clearly establishing limits and consequences is an appropriate approach. (NOTE Crisis communication strategies are designed to lower emotions and return a person to a normal functioning level, which is not the case with this TEB profile.)
- (c) When an officer cannot make contact or establish effective dialogue with the subject due to the following:
 1. extreme levels of intoxication
 2. severe cognitive impairment
 3. extreme levels of agitation
 4. violent irrational behaviors

These subjects should be considered in a state of a medical emergency. Quickly establishing control to minimize the intensity and duration of resistance in order to provide emergency medical care should be the priority.

300.3.2 USE OF FORCE TO EFFECT AN ARREST

A police officer or a peace officer may use reasonable physical force to effect an arrest, prevent escape of a person from custody, or in defense of self or others from imminent physical force (Penal Law § 35.30).

Force shall not be used by an officer to (Executive Law § 840):

- (a) Extract an item from the anus or vagina of a subject without a warrant, except where exigent circumstances are present.
- (b) Coerce a confession from a subject in custody.
- (c) Obtain blood, saliva, urine, or other bodily fluid or cells from an individual for scientific testing in lieu of a court order where required.
- (d) Against persons who are handcuffed or restrained unless it is used to prevent injury, escape, or otherwise overcome active or passive resistance posed by the subject.

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300.3.3 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include but are not limited to:

- (a) Immediacy and severity of the threat to officers or others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- (c) Officer/subject factors (e.g., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The effects of suspected drug or alcohol use.
- (e) The individual's mental state or capacity.
- (f) The individual's ability to understand and comply with officer commands.
- (g) Proximity of weapons or dangerous improvised devices.
- (h) The degree to which the individual has been effectively restrained and his/her ability to resist despite being restrained.
- (i) The availability of other reasonable and feasible options and their possible effectiveness.
- (j) Seriousness of the suspected offense or reason for contact with the individual.
- (k) Training and experience of the officer.
- (l) Potential for injury to officers, suspects, and others.
- (m) Whether the individual appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.
- (n) The risk and reasonably foreseeable consequences of escape.
- (o) The apparent need for immediate control of the individual or a prompt resolution of the situation.
- (p) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (q) Prior contacts with the individual or awareness of any propensity for violence.
- (r) Any other exigent circumstances.

300.3.4 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Officers may only apply those pain compliance techniques for which they have successfully completed department-approved training. Officers utilizing any pain compliance technique should consider:

- (a) The degree to which the application of the technique may be controlled given the level of resistance.

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- (b) Whether the individual can comply with the direction or orders of the officer.
- (c) Whether the individual has been given sufficient opportunity to comply.

The application of any pain compliance technique shall be discontinued once the officer determines that compliance has been achieved.

300.3.5 STATE RESTRICTIONS ON THE USE OF NECK RESTRAINTS

Any application of pressure to the throat, windpipe, neck, or blocking the mouth or nose of a person in a manner that may hinder breathing or reduce intake of air or obstructs blood circulation is prohibited unless deadly physical force is authorized (Exec. Law § 840) and is subject to the following guidelines and requirements:

- (a) At all times during the application of any type of neck restraint, the response of the individual should be monitored. The restraint should be discontinued when circumstances indicate that the application no longer reasonably appears necessary.
- (b) Any individual who has had any type of neck restraint applied, regardless of whether he/she was rendered unconscious, shall be promptly examined by paramedics or other qualified medical personnel and should be monitored until such examination occurs.
- (c) The officer shall inform any person receiving custody, or any person placed in a position of providing care, that the individual has been subjected to a neck restraint and whether the individual lost consciousness as a result.
- (d) Any officer attempting or applying any type of neck restraint shall promptly notify a supervisor of the use or attempted use of such restraint.
- (e) The use or attempted use of any type of neck restraint shall be thoroughly documented by the officer in any related reports.

300.3.6 USE OF FORCE TO SEIZE EVIDENCE

In general, officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. In the instance when force is used, officers should not intentionally use any technique that restricts blood flow to the head, restricts respiration, or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted.

300.4 DEADLY FORCE APPLICATIONS

When reasonable, the officer shall, prior to the use of deadly force, make efforts to identify himself as an officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts.

Use of deadly force is justified in the following circumstances involving imminent threat or imminent risk:

- (a) An officer may use deadly force to protect himself or others from what the officer reasonably believes is an imminent threat of death or serious bodily injury.

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- (b) An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the individual has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to any other person if the individual is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

However, an officer should not use deadly force against a person whose actions are a threat solely to themselves or property.

Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if an officer reasonably believes that the individual has a weapon or is attempting to access one and intends to use it against the officer or another person. An imminent danger may also exist if the individual is capable of causing serious bodily injury or death without a weapon, and the officer believes the individual intends to do so.

300.4.1 MOVING VEHICLES

Shots fired at or from a moving vehicle are rarely effective and involve considerations and risks in addition to the justification for the use of deadly force.

When feasible, officers should take reasonable steps to move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants.

An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the imminent threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others.

Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle.

300.5 REPORTING THE USE OF FORCE

Any use of force by a member of this department shall be documented promptly, completely, and accurately in an appropriate report, depending on the nature of the incident. The officer should articulate the factors perceived and why the officer believed the use of force was reasonable under the circumstances. The report shall be submitted to the member's supervisor.

To collect data for purposes of training, resource allocation, analysis, and related purposes, the Department may require the completion of additional report forms, as specified in department policy, procedure, or law (Executive Law § 840).

See the Report Preparation Policy for additional circumstances that may require documentation.

300.5.1 NOTIFICATIONS TO SUPERVISORS

Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances:

- (a) The application caused a visible injury.

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- (b) The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.
- (c) The individual subjected to the force complained of injury or continuing pain.
- (d) The individual indicates intent to pursue litigation.
- (e) Any application of the conducted energy device or control device.
- (f) Any application of a restraint device other than handcuffs, shackles, or belly chains.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was struck or kicked.
- (i) An individual alleges unreasonable force was used or that any of the above has occurred.

300.6 MEDICAL CONSIDERATIONS

Once it is reasonably safe to do so, medical assistance shall be obtained for any person who exhibits signs of physical distress, has sustained visible injury, expresses a complaint of injury or continuing pain, or was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until the individual can be medically assessed. Individuals should not be placed on their stomachs for an extended period, as this could impair their ability to breathe.

Based upon the officer's initial assessment of the nature and extent of the individual's injuries, medical assistance may consist of examination by an emergency medical services provider or medical personnel at a hospital or jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

The on-scene supervisor or, if the on-scene supervisor is not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Individuals who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics, and imperviousness to pain, or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away.

See the Medical Aid and Response Policy for additional guidelines.

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300.6.1 ADDITIONAL STATE REQUIREMENTS

An officer should take steps to obtain medical attention for a person who reasonably appears to be mentally ill and is behaving in a manner that is likely to result in serious harm to the person or to others.

Officers should document requests for medical or mental health treatment as well as efforts to arrange for such treatment.

300.7 SUPERVISOR RESPONSIBILITIES

A supervisor should respond to a reported application of force, if reasonably available. When a supervisor is able to respond to an incident in which there has been a reported application of force, the supervisor is expected to complete the following (Executive Law § 840):

For all uses of force, supervisors should:

- (a) Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- (b) Assist in identifying witnesses and officers present to ensure inclusion in related reports.
- (c) Supervisors should require that officers who engaged in the use of force submit the appropriate report.
- (d) Review and approve all related reports.
- (e) Consider reviewing body-worn camera footage.
- (f) If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.
- (g) Forward the use of force report to the Shift Commander and the Training Unit.

When any use of force includes Control Device deployment, CED deployment, firearms pointed, or results in visible injury and/or a complaint of injury, or the potential of civil litigation, supervisors should:

- (a) Ensure that any injured parties are examined and treated.
- (b) Review and preserve body-worn camera footage from the Officers involved in the use of force.
- (c) When practical, obtain a recorded interview with the individual upon whom force was applied. Supervisors should attempt to time the interview so that it will not interfere with the on-going criminal investigation. If this interview is conducted without the individual having voluntarily waived his/her *Miranda* rights, the following shall apply:
 1. The content of the interview should not be summarized or included in any related criminal charges.
 2. The fact that a recorded interview was conducted should be documented in a property or other report.

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3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
 - (d) If applicable, once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas.
 1. These photographs should be retained until all potential for civil litigation has expired.
 - (e) If the Use of Force incident results in an injury that requires hospitalization to the individual or officer(s), the supervisor shall make notification to the Shift Commander or on-call Lieutenant as soon as practical.
 - (f) Forward all findings and relevant materials to the Shift Commander.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

Whenever recorded images of an officers use of force are reviewed by a member of the Colonie Police Department or released in accordance with department policy, the attached advisory will be given: [Video Advisory](#)

300.7.1 SHIFT COMMANDER RESPONSIBILITIES

The Shift Commander shall review each use of force by any personnel within his/her command to ensure compliance with this policy and to address any training issues.

When any use of force results in hospitalization to the individual or officer(s) the Shift Commander shall make notification to the Field Operations Deputy Chief as soon as practical.

The Shift Commander shall discuss the results of his review of all use of force cases that involve physical injury or the potential of civil litigation with the Field Operations Deputy Chief.

Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy noncompliance or if for any reason further investigation may be appropriate.

- (a) Disciplinary actions will be consistent with any applicable disciplinary guidelines and collective bargaining agreements.

300.8 TRAINING

Officers shall receive annual training on this policy and demonstrate their knowledge and understanding.

Subject to available resources, officers should receive periodic training on guidelines regarding vulnerable populations, including but not limited to children, elderly, pregnant persons, and individuals with physical, mental, or intellectual disabilities.

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300.8.1 TRAINING REQUIREMENTS

Required annual training shall include:

- (a) Legal updates.
- (b) De-escalation tactics, including alternatives to force.
- (c) The duty to intervene.
- (d) The duty to request and/or render medical aid.
- (e) Warning shots (see the Firearms Policy).
- (f) All other subjects covered in this policy (e.g., use of deadly force, chokeholds and carotid holds, discharge of a firearm at or from a moving vehicle, verbal warnings).
- (g) Applications of conflict prevention, conflict resolution and negotiation, and any other training required by the Municipal Police Training Council Use of Force Model Policy (Executive Law § 840).

300.9 POLICY AVAILABILITY

This policy shall be readily available to the public upon request and shall be posted on the department website (Executive Law § 840).

300.10 USE OF FORCE ANALYSIS

At least annually, the Administrative Services Deputy Chief should prepare an analysis report on use of force incidents. The report should be submitted to the Chief of Police. The report should not contain the names of officers, suspects, or case numbers, and should include:

- (a) The identification of any trends in the use of force by members.
- (b) Training needs recommendations.
- (c) Equipment needs recommendations.
- (d) Policy revision recommendations.

Attachments

Azar-Dickens Police Assessment Matrix.pdf

Azar-Dickens Police Assessment Matrix[©]

Version 4

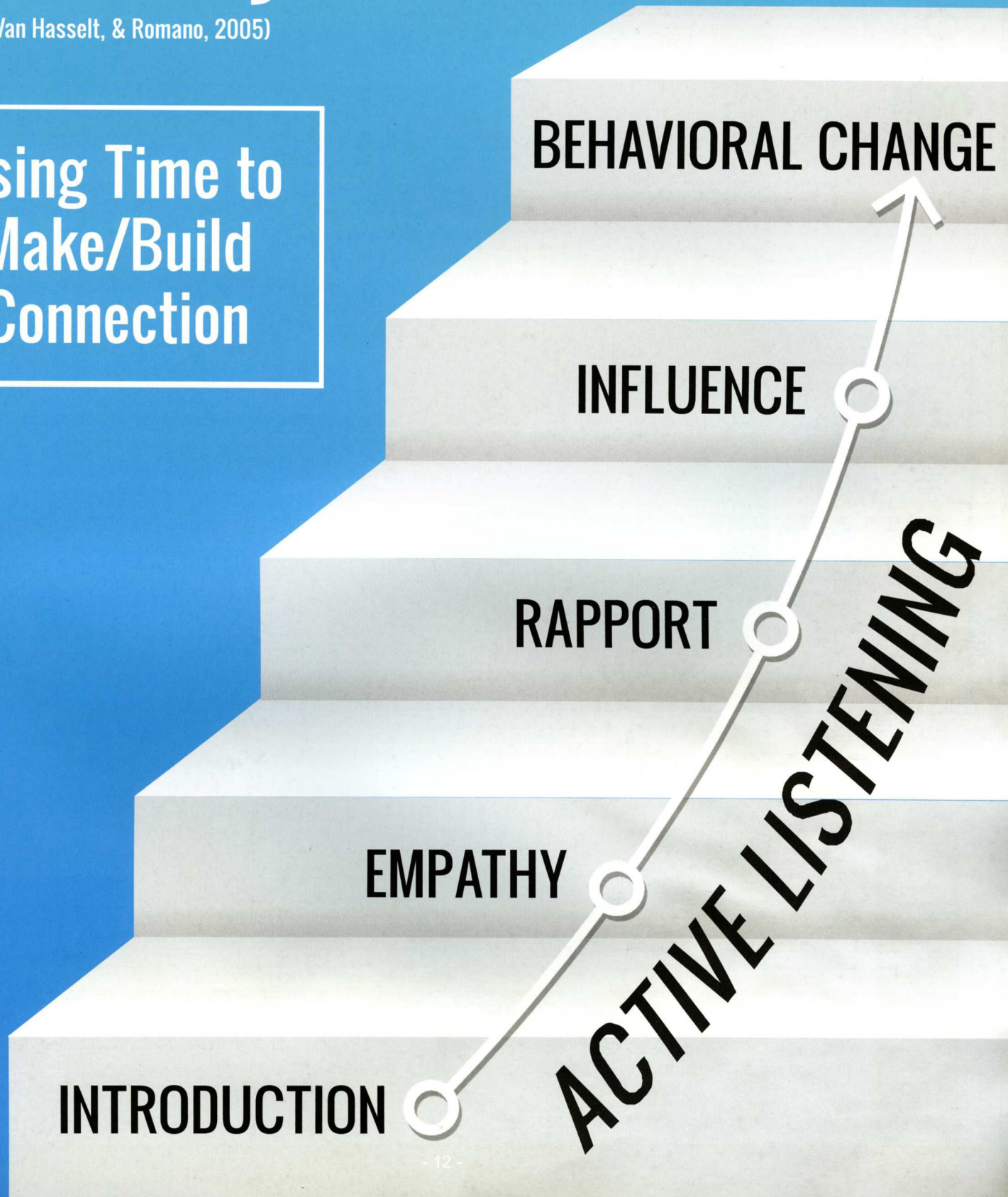
THOUGHT	Contaminated	Contaminated	Contaminated	Contaminated	Clear	Clear	Clear	Clear
EMOTION	High	High	Low	Low	High	High	Low	Low
BEHAVIOR	Compliant	Non-Compliant	Compliant	Non-Compliant	Compliant	Non-Compliant	Compliant	Non-Compliant
APPROACH STYLE	Crisis comm	Crisis comm	Crisis comm	Crisis comm	Crisis comm to reduce emotion then problem solving strategies	Crisis comm to reduce emotion then problem solving strategies	Task focused communication	Directive comm (clarify limits and make aware of consequences)
PSYCHOLOGICAL STATUS	Likely mental health or drug	Likely mental health or drug	Likely mental health or drug	Likely mental health or drug	Likely a mood problem or angry	Likely a mood problem or angry	Likely not mentally ill	Defiant/ likely not mentally ill. Purposeful behavior
VOLATILITY RISK	Moderate risk but be alert	High risk	Low risk but be alert	Moderate risk but be alert	Moderate risk but be alert	High risk	Low risk but be alert	High risk
VOLATILITY TYPE	Primal	Primal	Primal	Primal	Cognitive or Primal	Cognitive or Primal	Cognitive	Cognitive
OTHER BEHAVIOR FACTORS TO CONSIDER	Behavior difficult to predict / Watch for quick changes to non-compliant	Non-compliant likely due to confusion / Suicide by cop often shows this profile	Likely sad but not shown outwardly	Non-compliance likely due to confusion / Any violence is likely due to confusion	Watch for compliance to change quickly	High emotion driving non-compliance	Potential compliant citizen / Watch for over-compliance as a pre-aggression cue	Non-compliance is purposeful / Often anti-police / Likely criminal minded and antisocial

Behavioral Influence Stairway Model.pdf

Behavioral Influence Stairway Model

(Vecchi, Van Hasselt, & Romano, 2005)

Using Time to
Make/Build
Connection



Video Advisory.pdf



COLONIE POLICE DEPARTMENT VIDEO ADVISORY

You are about to view a camera recording of a use-of-force event. Understand that while this recording depicts visual information from the scene, the human eye and brain are highly likely to perceive some things in stressful situations differently than a camera records them, so this photographic record may not reflect how the involved officer actually perceived the event.

The recording may depict things that the officer did not see or hear. The officer may have seen or heard things that were not recorded by the camera. Depending on the speed of the camera, some action elements may not have been recorded or may have happened faster than the officer could perceive and absorb them. The camera has captured a 2-dimensional image, which may be different from an officer's 3-dimensional observations. Lighting and angles may also have contributed to different perceptions. And, of course, the camera did not view the scene with the officer's unique experience and training.

Hopefully, this recording will enhance your understanding of the incident. Keep in mind, though, that these video images are only one piece of evidence to be considered in reconstructing and evaluating the totality of the circumstances. Some elements may require further exploration and explanation before the investigation is concluded.

Signature

Date