

Town of High Level Policy 263-21

Title: **Peace Officer Use of Force and Arrest Policy**
Authority: **Council**
Resolution: #117-21
Policy Related to: Peace Officer Policy Manual
Date Adopted: March 22, 2021
Rescinds: 222-08, 223-08 and 35-18

POLICY

The Town of High Level (“Town”) may employ Peace Officers appointed under the Peace Officer Act of Alberta who have the authority to effect arrests and use the application of physical force when necessary and reasonable to do so. In accordance with requirements under the Peace Officer Act, provincial policy and industry standards this policy will provide guidance and clarity to the procedures and standard operating procedures as it pertains to arrests and the use of force.

POLICY PROCEDURES

Definitions

1.00- **Assaultive Subject:** the subject acts in a way which reasonably leads the officer to believe that he/she or any other person will be assaulted. These actions may include aggressive posturing, punching, kicking, biting and spitting.

1.01 - **Communication:** includes both verbal and non-verbal communication as typified by dialogue, negotiation, directions and loud repetitive commands, all in conjunction with facial expressions, eye contact and body position.

1.02 - **Conducted Energy Weapon (CEW):** an intermediate weapon that delivers a temporarily debilitating electrical charge into a subject. The electrical voltage and current are delivered in a form that is sufficient to disrupt a subject’s ability to control their voluntary nervous system, which temporarily denies them the ability to control skeletal muscles used for movement, such as arms and legs.

1.03 - **Cooperative Subject:** the subject complies with verbal commands or other direction.

1.04 - **Displaying of a Firearm or CEW:** un-holstering the weapon or holding it at the low ready position where the public may be able to see it.

1.05 - **Empty hand soft:** techniques such as pressure points and joint locks that cause pain compliance with little or no potential for injury and are used to control passive or defensive resistance.

1.06 - **Empty hand hard:** techniques that are impact orientated and may include distractions, takedowns, punches, kicks and knee-strikes. It is used to control aggressive, evasive or assaultive subjects.

1.07 - **Firearm:** a barreled weapon from which any shot, bullet or other projectile can be discharged and that is capable of causing serious bodily injury or death to a person, and includes any frame or receiver of such a barreled weapon and anything that can be adapted for use as a firearm. Pistols, shotguns, carbines are all categorized as firearms.

1.08 - **Grievous Bodily Harm or Death:** the subject acts in a way which leads the officer to reasonably believe that grievous bodily harm or death is imminent to the officer or any other person. These actions may include the use of firearms or weapons of opportunity.

1.09 - **High Level Resister:** the subject uses aggressive movements such as twisting, pushing away, pulling or flailing in an attempt to evade being taken into custody. Due to the dynamic movement involved, injury to the officer, subject or others is a real possibility.

1.10 - **Intermediate Weapon:** a weapon whose normal use is not intended or likely to cause grievous bodily harm or death. Includes, but is not limited to, Oleoresin Capsicum (OC) spray, baton, Conducted Energy Weapon (CEW) and special munitions.

1.11 - **Less than Lethal Projectile (LLP):** Intermediate ammunition which are flexible or non-flexible impact projectiles from a mechanical delivery system (firearm) and are intended to cause motor dysfunction in a subject.

1.12 - **Lethal Force:** lethal force is any force option which is likely or intended to cause grievous bodily harm or death. These include, but are not limited to, the use of a firearm, empty-hand techniques and weapons of opportunity.

1.13 - **Low Level Resister:** the subject engages in non-assaultive defensive resistance such as deadweight position, tensing, bracing or holding onto fixed objects, in an attempt to evade being taken into custody.

1.14 - **Non lethal device:** Pepper Ball TCP device - a co2 power device that allows a concentrated discharge of a capsule ball irritant spray that upon impact deploys a sprays at the target.

1.15 - **Officer Presence:** The identified physical presence of an officer.

1.16 - **Oleoresin Capsicum (OC):** Is an inflammatory agent that occurs naturally in cayenne pepper. This aerosol weapon is designed to incapacitate a subject who can then be controlled with minimal physical contact.

1.17 - **Reasonable Force:** a level and duration of force appropriate to the risk posed by a subject's actions and responses, threat level, and is time and context appropriate, when shown that reasonable grounds to use force existed. In accordance with section 25 CC and other relevant sections of the CC this definition encompasses the use of only as much

force as is necessary to achieve a lawful purpose. In ruling, on the use of force the courts consider factors including officer, subject and environmental factors.

Training and Qualifications

2.0 Level 1 Peace Officers shall only be permitted under this policy to effect arrests provided they have received reasonable training in the due process of arrests, and the application of physical force. This training may include, but is not necessarily limited to;

- 2.1.1 Standard police officer training from any federal, provincial or municipal police force,
- 2.1.2 Standard law enforcement training from any federal or provincial agency such as Canadian Border Services Agency, Department of Fisheries, Canada Correctional Services or Provincial branches such as Sheriff services or Natural Resource enforcement agencies.
- 2.1.3 Alberta Peace Officer Induction Training, other Alberta Justice College programs that cover use of force and powers of arrest,
- 2.1.4 Other law enforcement programs as approved by the Justice and Solicitor General's Office, Land Use & Planning Manager or the Sergeant Peace Officer in charge.

2.1 Peace Officers shall recertify annually on the use of force, use of tools and weapons, and powers of arrest to the standard required in Alberta Public Security Peace Officer Policy.

General Authority and Guidelines

3.01. – Whereas a Peace Officer appointed by the Province of Alberta is appointed under *Section 7(5) of the Peace Officer Act of Alberta*, is a person who is appointed for the purposes of preserving and maintaining the public peace, that person is a Peace Officer as defined under Section 2, the definition, “Peace Officer” under Subsection (c), of the Criminal Code of Canada.

3.02 - Whereas a Bylaw Enforcement Officer, appointed under *Section 555 of the Municipal Government Act of Alberta*, is a person who is appointed for the purposes of preserving and maintaining the public peace, that person is a Peace Officer as defined under *Section 2*, the definition, “Peace Officer” under Subsection (c), of the *Criminal Code of Canada* when in execution of their lawfully appointed duties.

3.03 – The authority of Peace Officers governing the use of force is derived from and limited by *Section 25, 26 and 27 of the Criminal Code of Canada*.

3.04 – The authority for Peace Officers to effect arrests in the course of their duties is governed fundamentally by *Section 494/495 of the Criminal Code of Canada* whereas it

states that a Peace Officer may arrest any person without warrant found committing an indictable offense.

3.05 – Peace Officers are not permitted to effect summary offense arrests found under the Criminal Code of Canada unless that offense is stated specifically on their appointment or by warrant that is judicially approved for that Peace Officer.

3.06 – Peace Officers are permitted to effect arrests for indictable offenses found committing during the course of their duties as a Peace Officer, but the Peace Officer is required to transfer custody to the police service of jurisdiction if the Peace Officer does not have the authority specifically on their appointment for the offense.

3.06 – Peace Officers may effect arrests found under the Provincial or Municipal Statutes that specifically appear on their issued appointment, as summary offense arrests, provided that statute provides legislative authority to make the arrest, or the conditions for a summary offense arrests of *Section 495(2)(d) of the Criminal Code* of Canada is met.

3.07 – Whereas the Town of High Level Community Standards Bylaw 976-18 Section 7, and Section 30 and Section 31 of the Criminal Code of Canada provide that any person, or a Peace Officer may arrest a person without warrant for breach of the peace, Peace Officers employed by the Town of High Level shall utilize these provisions when effecting a summary offense disturbance related arrest or apprehension, unless another provincial statute that is found specifically on the Peace Officer appointment exists.

3.08 – Peace Officers may execute arrest warrants provided they are issued pursuant to the statutes that specifically appear on their respective appointments.

3.09 – Any Peace Officer who effects an arrest shall utilize the standard process as any Peace Officer or Police Officer would use when effecting an arrest under *Section 495 of the Criminal Code of Canada*, including reading the accused his or her rights as found under *Section 10 of the Charter of Rights and Freedoms* as well as the warned caution statement.

3.10 – Any Peace Officer who effects an arrest shall conduct a search of the person incident to arrest for any item that may afford evidence to support the arrest, items relevant to officer safety such as weapons, tools of escape such as handcuff keys, or items that may cause harm to the accused.

3.11 – Any Peace Officer who effects an arrest of a person in a motor vehicle may conduct a search of the motor vehicle without a warrant, provided it is necessary to satisfy the conditions incidental to arrest, or additional legislative authority exists to conduct a warrantless search.

3.12 – Any Peace Officer who is causing a vehicle to be towed as a result of a person being arrested or as directed or permitted by a statute the Peace Officer is authorized to enforce, shall to ensure the safe storage of the contents, conduct an inventory of the vehicle contents to ensure that the vehicle owners property is properly accounted for.

3.13 – Any Peace Officer who, when conducting a vehicle search incident to arrest, or, while conducting an inventory, observes any contents criminal or illegal in nature shall immediately cease their conduct, unless a warrantless search is permitted by a statute that the Peace Officer is authorized to enforce and apply for a warrant to search ~~in~~ as necessary.

3.14 – Non-reportable Use of Force Incidents, such as wrist locks, pain-compliance pressure points, or basic joint locks shall be document in the notes and formal report.

3.15 – For the purposes of assessing the level of appropriate force necessary, Officers and reviewing Supervisors shall refer to the generally accepted “National Use of Force Model” as found in Schedule A of this policy.

3.16 – For the purposes of this policy, the displaying of a defensive weapon is not considered a use of force event, unless the weapon is physically employed.

3.17 – An investigative detention is not considered an arrest, although if there is a possible safety risk posed by a detained person, a Peace Officer may, at their reasonable discretion utilize handcuffs when detaining an individual as well a general pat down to search for weapons or additional items that may afford evidence to an offense being investigated.

Use of Force Particulars

4.01 – Subject to Section 3.03 of this Policy, when an event occurs where a Peace Officer is required to use force in the course of their duties, that Peace Officer shall only use as much force as reasonably necessary to achieve their objective.

4.02 - Whenever practicable and reasonable to do so, prior to the use of force, Officers will provide the subject with a verbal warning that force may be used to gain control of the situation. For greater certainty, repeated lawful commands to stop resisting or to comply with a specific verbal order from the Peace Officer is presumed to be a verbal warning that force may be used.

4.03 - When it is impractical to give a warning prior to the application of force, Officers will document the reasons in their notes and report.

4.04 – Nothing in this policy prohibits the use of force before verbal warnings or commands can be issued, provided they are reasonable and appropriate in the circumstances as articulated by the Peace Officer.

4.05 – Whereas Peace Officers are a person who is appointed for the purposes of preserving and maintaining the public peace, they are permitted to defend or protecting themselves, another person or property from the use or threat of force from another person provided that the act committed is reasonable in the circumstances when in the course of their duties.

4.06 – When determining what actions are reasonable in the application of force, the Peace Officer is required to consider all relevant circumstances of the person, the other parties and the act, including, but not limited to, the following factors:

4.1.1 - the nature of the force or threat;

4.1.2 - the extent to which the use of force was imminent and whether there were other means available to respond to the potential use of force;

4.1.3 - the person's role in the incident;

4.1.4 - whether any party to the incident used or threatened to use a weapon;

4.1.5 - the size, age, gender and physical capabilities of the parties to the incident;

4.1.6 - the nature, duration and history of any relationship between the parties to the incident, including any prior use or threat of force and the nature of that force or threat;

4.1.7 any history of interaction or communication between the parties to the incident;

4.1.8 - the nature and proportionality of the person's response to the use or threat of force; and

4.1.9 - whether the act committed was in response to a use or threat of force that the person knew was lawful.

4.07 – Provided the Peace Officer is lawfully placed during the course of their duties, the considerations in Section 4.1.1 to 4.1.7 apply during all forms of defense, arrests or investigative detentions.

4.08 – Peace Officers must be able to articulate all actions including lawful placement, reasonable application of force, post force reporting and warranting of charges following the use of force incident.

4.09 – A use of force incident is any incident where a Peace Officer is required to cause injury, impact or deliberate physical control to a person beyond the degree of basic pressure points or joint locks.

4.10 – For greater certainty, a deliberate physical control incident is categorized as causing a person to be brought to the ground to gain compliance or multiple joint locks on an actively resistant or assaultive person.

4.11 – All use of force incidents shall be reported in an internal Use of Force reporting format and a copy shall be attached to the formal case report.

4.12 – Any use of force incident captured under the Alberta Peace Officer Policy Manual shall be documented on a PS3535 Form and submitted to the Alberta Justice and Solicitor General’s Peace Officer Program Office.

Use of Weapons During the Use of Force

5.01 – Peace Officers are entitled to carry the tools and weapon as they appear on their appointment, and are not permitted to carry any tools or weapons that they so wish.

5.02 – The use or carry of any unauthorized tool or weapon by a Peace Officer is strictly prohibited.

5.03 – The tools and weapons that may be found on a Peace Officer, subject to the authorization on their respective appointment may include;

5.1.1 – Collapsible baton;

5.1.2 – Oleoresin Capsicum Spray (OC Spray);

5.1.3 - Handcuffs;

5.1.4 – Body armour;

5.1.5 – Firearms;

5.1.6 – Pepperball Tactical Compact Pistol (TCP);

5.1.7 – Other tools or equipment necessary to carry out the duties of the Peace Officer, including but not limited to foldable knives, keys, radios, flashlights, radar equipment or other related tools.

5.04 – Peace Officers shall only use those tools and weapons in accordance with their pre-existing policies, directives, and training if available.

Use of Baton During the Use of Force

6.01 - Peace Officers whom have successfully completed certification, may be issued an extendible baton and will be responsible for its care, use and storage.

6.02 – Peace Officers shall conduct training annually on the proper use and tactics of a baton.

6.03 - All Peace Officers certified in the use of the baton will be required to wear a baton while on uniformed duty.

6.04 - All Peace Officers will immediately report any incident in which the baton was used as a means of force to their Supervisor on an Incident Report form and ensure the Public Security Division is notified as soon as practicable.

6.05 - Peace Officers who are carrying authorized batons shall inspect their baton on a weekly basis for the following:

6.1.1 - Wear and tear on the foam grip;

6.1.2 - Bent shaft and stress fractures;

6.1.3 - Abrasions on the tip or a loose tip;

6.1.4 - Secure butt cap;

6.06 – Peace Officers may make minor adjustments to the retaining clip and O-ring to ensure the proper opening and closing capabilities.

6.07 – Peace Officers shall report any defective baton requiring repair or replacement immediately to the Supervisor.

6.08 – Peace Officers shall immediately report any incident in which the baton was used as a means of force to their Supervisor on an Incident Report form and to the Public Security Division.

6.09 – Peace Officers shall ensure that when off-duty, the baton is secured in a locked cabinet within the main office, or when on-call, at their residence, secured in a locked cabinet.

6.10 – If the baton is used in a use of force incident, the Peace Officer shall as soon as safe and practical to do so, ensure the subject whom which the baton was used on, is uninjured, or assessed by a medical professional.

6.11 – The baton is, for the purposes of the Use of Force Model, considered an intermediate weapon.

6.12 – The use of a baton as an intermediate weapon, is permitted under the Use of Force Model as a tool of reasonable force against subjects who, subject to the particular, appropriate and reasonable circumstances, are actively resistant, assaultive or imminent grievous bodily harm or death is displayed.

Use of Oleoresin Capsicum During the Use of Force

7.01 - Peace Officers whom have successfully completed the Oleoresin Capsicum (OC) Spray training course are authorized to carry and use OC Spray while on duty if the authority appears on their Peace Officer Appointment.

7.02 - Peace Officers shall conduct training annually on the proper use and tactics of OC Spray.

7.03 - All Peace Officers certified in the use of OC Spray will be required to carry an OC Spray while on uniformed duty.

7.04 - All Peace Officers will immediately report any incident in which OC Spray was used as a means of force to their Supervisor on an Incident Report form and ensure the Public Security Division is notified as soon as practicable.

7.05 - Peace Officers who are carrying authorized OC Spray shall inspect their OC Spray canister on a weekly basis for the following:

7.1.1 – Damage to the canister that may jeopardize integrity;

7.1.2 – Fluid levels;

7.1.3 – Damage to the flip cap;

7.1.4 – Expiry dates;

7.07 - Peace Officers shall report any defective or damaged OC Spray to their Supervisor, and replace the canister immediately.

7.08 – Peace Officers shall ensure their issued OC Spray is locked in a secure cabinet in the weapons locker when off duty.

7.09 – Whenever reasonable to do so, a Peace Officer shall, prior to use, will advise the potential target(s) that OC Spray may be used if their behavior remains in a state where the use is permitted.

7.10 – Nothing in Section 7.09 of this Policy prohibits the deployment or use of OC Spray in the event prior warning is determined to be unreasonable in the circumstance.

7.11 – Following the use of OC Spray, the Peace Officer shall assess the contaminated subjects, and, if they are displaying symptoms of contamination, immediately request the assistance of emergency medical services to clear them medically prior to continuing the arrest process.

7.12 – Any Peace Officer who has used OC Spray on a subject, shall ensure the safety of themselves and victims by placing the subject in handcuffs.

7.13 – After a subject whom was subjected to the use of OC Spray is under control, the Peace Officer shall, if available utilize clean bottled water and assist in the decontamination process while reassuring the subject the effects are temporary and will not cause any permanent injury.

7.14 - The OC Spray is, for the purposes of the Use of Force Model, considered an intermediate weapon.

7.15 - The use of OC Spray as an intermediate weapon, is permitted under the Use of Force Model as a tool of reasonable force against subjects who, subject to the particular, appropriate and reasonable circumstances, are actively resistant, assaultive or imminent grievous bodily harm or death is displayed.

Use of Firearms During the Use of Force

8.01 – The use of firearms by Peace Officers is governed by Policy 261-19 – “Peace Officer Firearm Policy”.

Use of Pepperball TCP During the Use of Force

9.01 – The Peace Officer use of the Pepperball TCP is governed by Administrative Directive 43 – 20 “Peace Officer Pepperball TCP Policy”.

Use of CEW During the Use of Force

10.01 – Although permitted by the Peace Officer Act and Regulations of Alberta, Peace Officers in the Town of High Level are not permitted to carry or use a CEW at this time.

Use of Empty Hand Techniques During the Use of Force

11.01 – The use of Empty Soft Hand and Empty Hard Hand techniques shall always be the primary use of force application whenever practical and possible in the circumstance.

11.02 – Empty hand techniques may be applied when a subject begins being passive resistant as found the on the Use of Force model in Schedule A.

11.03 – The degree to which empty hand techniques is dynamic and shall escalate or de-escalate with the situation as determined necessary by the Peace Officer.

Grievous Bodily Harm or Death

12.01 – In the event a Peace Officer is confronted with the reasonable threat of grievous bodily harm or death, a Peace Officer shall take whichever means reasonably necessary to protect themselves or another person exposed to grievous bodily harm or death from it.

12.02 – Peace Officers shall recognize that in accordance with Section 24.2 of the Alberta Peace Officer Policy Manual they are not permitted to attend calls where the presence of weapons is anticipated and these events are the mandate of the Royal Canadian Mounted Police.

12.03 – It is recognized that subjects will be encountered during the course of regular duties that may escalate or resort to violence, as well as possess unanticipated weapons which may be used against a victim or a Peace Officer.

12.04 – It is the responsibility of the Peace Officer to act reasonably in the situation and determine the appropriate response to the environment, and if possible in the situation act according to Section 24.2 of the Peace Officer Policy Manual.

12.05 – Peace Officers may resort to a weapon of opportunity in the event of a grievous bodily harm or death event if immediately necessary to preserve their life or the life of a

third party victim, provided it is necessary, reasonable and appropriate in the circumstances to do so.

12.06 – Whereas exposure to a grievous bodily harm or death event is rare and highly unlikely to occur, it is not considered to be a regular duty of the Peace Officer, and weapon of opportunity is not definable but considered unique to the circumstance.

12.07 – In the event of a grievous bodily harm or death event, the Peace Officer shall, as soon as safe and practical to do so, request the assistance of the police service of jurisdiction and emergency medical services, if an injury or death was sustained by any party.

12.08 - In the event of a grievous bodily harm or death event, the Peace Officer shall, as soon as safe and practical to do so submit an incident report to the Justice and Solicitor General's Peace Officer Program Office.

Prohibited Conduct

13.01 – The use of hog-tying a subject, the concept of restraining both the hands and feet together is prohibited.

13.02 – Peace Officers shall not permit a restrained subject to remain in the prone position for any longer than reasonably necessary to restrain an individual and gain control.

13.03 – The use of any form of chokeholds are prohibited.

13.04 – Peace Officers shall refrain from applying direct pressure to the spinal cord of subjects as a method of securing control of the subject except for in exigent circumstances, to be determined at the discretion of the Peace Officer.

Responsibilities

14.01 – The Land Use & Planning Manager is responsible for ensuring that any event requiring reporting under Section 22 of the Alberta Peace Officer Policy Manual as it pertains to the use of force is completed.

14.02 – The Sergeant Community Peace Officer, or the Land Use & Planning Manager in the absence of a Sergeant, is responsible for ensuring any other reportable use of force event found under this policy is reported in the Town of High Level format.

14.03 – The Sergeant Peace Officer, or the Land Use & Planning Manager in the absence of a Sergeant, is responsible for reviewing all use of force reports from subordinate officers.

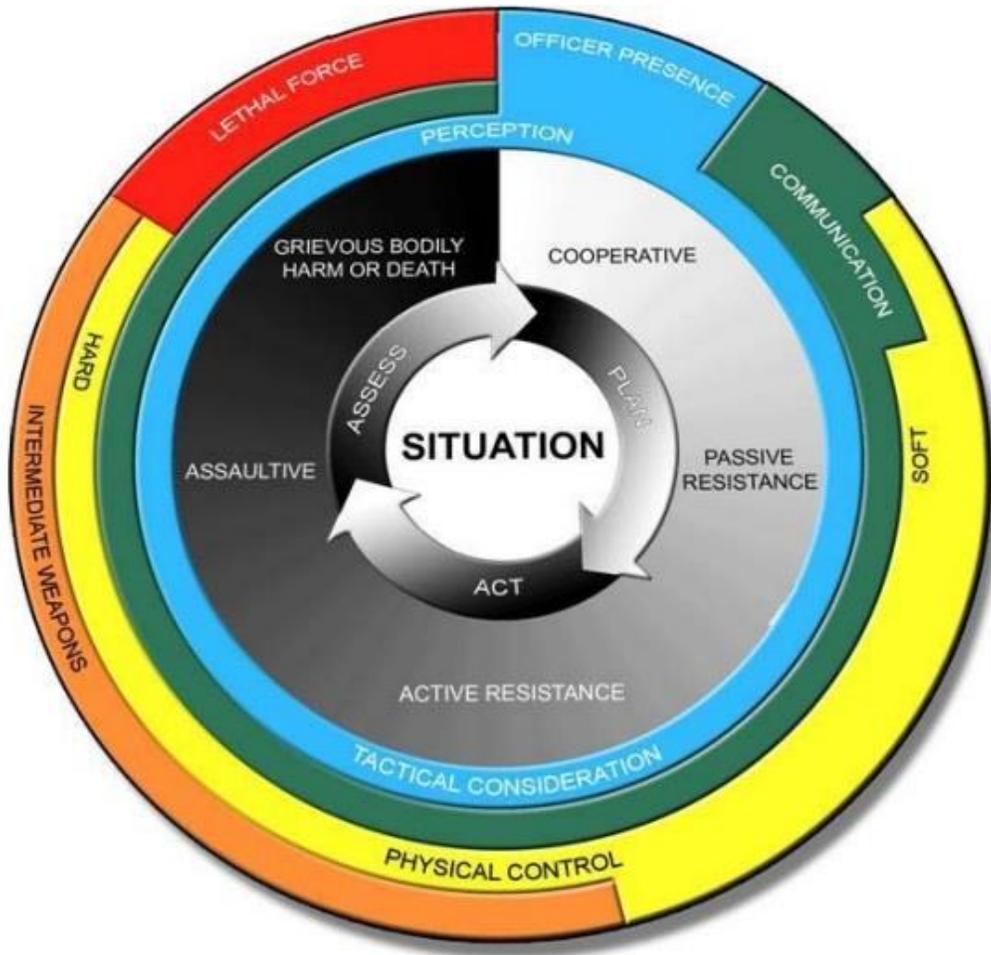
14.04 – The Sergeant Peace Officer, or the Land Use & Planning Manager in the absence of a Sergeant, is responsible for ensuring that all annual training is maintained.

14.05 – Any officer involved in a use of force event is responsible for accurate and honest note taking and reporting of the event as soon as practicable.

Repeals

15.01 – The signing of this policy into force effectively repeals Town of High Level Policy 222-08, Policy 223-08, and Administrative Directive 35-18.

Schedule A



	DATE	RESOLUTION
Adopted	March 22, 2021	# 117-21
Amended	February 28, 2022	# 072-22