



## Broome County Sheriff's Office Policy Statement

<b>Effective Date :</b> 08/01/2019	<b>Rescinds :</b>	<b>Amends :</b> 6/97, 5/99, 5/01, 5/16
<b>Subject :</b> Use of Force	<b>Number :</b> 300	<b>Reference :</b> 20.1; 20.3; 20.7; 21.2
	<b>Special Inst.:</b>	<b>Approved :</b> <i>Sherriff David J. Harder</i>

I. PURPOSE:

- A. To establish within the Broome County Sheriff's Office a policy concerning the use of force and an investigation system to be used in the event of a member using physical force.

II. POLICY:

- A. All officers may use only that level of force that is necessary and reasonable in performance of their duties within the limits established by Article 35 of the New York State Penal Law and consistent with the training given by the B.C.S.O. It is the responsibility of each officer to be aware of the requirements of Article 35, and Defense of Justification 35.00 -35.30 which will be provided during annual training in conjunction with firearms training. (revised 5/99)

III. DISCUSSION:

A. ARTICLE 35, NEW YORK STATE PENAL LAW

A police officer in the course of effecting or attempting to effect an arrest, or of preventing or attempting to prevent the escape from custody, of a person whom he reasonably believes to have committed an offense, may use physical force when and to the extent he reasonably believes such to be necessary to effect the arrest, or to prevent the escape from custody, or to defend himself or a third person from what he reasonably believes to be the use or imminent use of physical force. (new 5/99)

Use of Force (cont'd)

IV. PROCEDURES.

A. FOR MEMBERS USING FORCE

1. Any employee using physical force pursuant to their duties as a law enforcement officer, whether on or off duty, shall report all facts relative to the incident on a SUBJECT MANAGEMENT REPORT.
2. Immediately after any physical force is used, the officer shall evaluate the need for medical attention or treatment for the person upon whom the physical force was used and arrange for such treatment when:
  - a. that person has a visible injury
  - b. that person complains of injury or request medical attention
  - c. chemical spray was used
  - d. Taser was used
3. The employee shall immediately notify his supervisor of the incident. If a supervisor is not on duty the O.I.C. shall be notified. In cases when the incident occurred while off duty the officer shall notify the on-duty supervisor or O.I.C.
4. Officers shall attempt to locate and identify any witnesses and obtain statements from them.
5. If more than one officer is involved in a Use of Force incident, the officer who initiated the use of force shall complete the Subject Management Report detailing only their involvement or use of force. All other officers shall complete a supplemental report detailing their involvement or use of force. Copies of all reports will be forwarded together, along with any applicable reports to the Sheriff.

Use of Force (cont'd)

B. FOR SUPERVISORS

1. The on-duty supervisor or O.I.C. shall respond to the scene of incident immediately after learning of the use of force by an officer.
2. Supervisors shall insure that employees receive any necessary assistance, including medical treatment. They will also ensure that any injuries to employees are properly documented and reported.
3. Supervisors shall ensure that medical treatment for the defendant is evaluated per Section IV, A. 2 of this policy.
4. Supervisors will determine what level of investigation will be utilized; including photos, measurements and diagrams.
5. Supervisors will ensure that a thorough investigation is conducted and all reports are prepared and submitted. The supervisor should identify all police and civilian witnesses to the incident and obtain statements from them. The supervisor shall include a written report documenting his actions and the facts of the incident.
6. If an employee is unable to complete reports due to injuries, the supervisor will prepare or cause them to be prepared and submit them through the chain of command.

C. Information to be included in Subject Management Report:

1. Subjects Name -Person on whom force was used
2. Indicate complaint number of incident
3. Specific location of incident
4. Date of Incident
5. Time of Incident
6. Management control used on subject
7. Narrative describing the reason force was used, how it used and what was used

## Use of Force (cont'd)

8. Effect of force used
9. Officer injury, before or after force used (if any)
10. Subjects injury, before or after force used (if any)
11. Hospitalization of officer (if required)
12. Hospitalization of subject (if required)
13. Names of any other police officers present
14. Witnesses to incident
15. Reporting officer
16. Date and time of report

### D. Review of Force Causing Injuries.

1. When any member uses force, which is alleged to result in injury or death of another, the Sheriff, or his or her designee, shall review such case to ensure:
  - a. The rules and regulations of this department were followed
  - b. Documentation is retained in the event of future litigation
  - c. Additional training is provided if necessary
  - d. The incidents involving the use of force are properly evaluated

### E. SHERIFF'S RESPONSIBILITIES:

1. Notify the County Attorney
2. Establish and maintain a liaison with the District Attorney
3. Present the case to the District Attorney for review
4. Keep the involved officer apprised of the status of the investigation
5. At the conclusion of both the criminal and/or departmental investigation, make the final determination of action to be taken
6. Review policies, training, etc., for possible improvement

## Use of Force (cont'd)

7. Effective, July 11, 2019, Executive Law 837-t requires each police department, county sheriff, and the state police to report any occurrence in which a police officer or peace officer employs the use of force. The Captain of the Law Enforcement Division will be responsible for reporting information for deputies who are involved in use of force incidents that meet the criteria of data collection. Details required to be submitted to DCJS include the date of incident, agency involved, county, town/city, description of circumstances, and demographics of all persons engaging in the use of force or suffering such injury. Incidents involving use of force which are required to be reported are described as:
  - a. When an officer engages in conduct which results in the death or serious bodily injury of another person. Serious bodily injury is defined as bodily injury that involves a substantial risk of death, unconsciousness, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.
  - b. When 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 baton or billy;
    - Brandishes, uses, or deploys an electronic control weapon, including, but not limited to, an electronic stun gun, flash bomb, or long range acoustic device.

Addendum #1

COPY OF EXECUTIVE LAW SECTION 837-t

**Executive**

\* § 837-t. Use of force reporting. 1. The chief of every police department, each county sheriff, and the superintendent of state police shall report to the division, in a form and manner as defined in regulations by the division, any instance or occurrence in which a police officer, as defined in subdivision thirty-four of section 1.20 of the criminal procedure law, or a peace officer, as defined in section 2.10 of the criminal procedure law, employs the use of force as follows:

- a. brandishes, uses or discharges a firearm at or in the direction of another person; or
- b. 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; or
- c. displays, uses or deploys a chemical agent, including, but not limited to, oleoresin capsicum, pepper spray or tear gas; or
- d. brandishes, uses or deploys an impact weapon, including, but not limited to, a baton or billy; or
- e. brandishes, uses or deploys an electronic control weapon, including, but not limited to, an electronic stun gun, flash bomb or long range acoustic device; or
- f. engages in conduct which results in the death or serious bodily injury of another person. Serious bodily injury is defined as bodily injury that involves a substantial risk of death, unconsciousness, protracted and obvious disfigurement, or protracted loss of impairment of the function of a bodily member, organ or mental faculty.

Revised 05/99  
Revised 5/01  
Revised 9/11  
Revised 5/16  
Revised 7/19

2. On an annual basis, the commissioner shall conspicuously publish on the department's website a comprehensive report including the use of force information received under subdivision one of this section during the preceding year. Such reports shall not identify the names of the individuals involved, but for each event reported, shall list the date of the event, the location disaggregated by county and law enforcement agencies involved, the town or city, and any additional relevant location information, a description of the circumstances of the event, and the race, sex, ethnicity, age, or, if unknown, approximate age of all persons engaging in the use of force or suffering such injury.

\* NB Effective July 11, 2019

Revised 05/99  
Revised 5/01  
Revised 9/11  
Revised 5/16  
Revised 7/19