

# Livingston County Sheriff's Office

Subject: <b>USE OF FORCE</b>						Policy <b>A22</b>	
Effective: <b>January 1, 1996</b>				NYSLEAP Standards: <b>14.4, 20.1, 20.5, 21.1, 21.2, 32.3</b>			
				NYSSA Standards: <b>19, 34 &amp; 76</b>			
Rescinded:		Amended:		Sheriff			
Reviewed:							

## I. PURPOSE

Law enforcement around the country and here in New York State are authorized to use reasonable and legitimate force in specific circumstances. Federal constitutional and state statutory standards dictate when and how much force can be used. This policy is founded in these standards, but is not intended to be an exhaustive recitation of state and/or federal legal framework governing use of force. The policy is designed to provide guidance for use of force in accordance with Executive Law §840(4)(d)(3).

## II. POLICY

The federal and state standards by which use of force is measured are both founded in the basic premise of objective reasonableness.

The amount of force that is used by members shall be the amount of force that is objectively reasonable under the circumstances for the member involved to effect an arrest, prevent an escape, or in defense of themselves or others. The standard of objective reasonableness, established by the United States Supreme Court in *Graham v. Connor*, is used in this policy and is intended to provide members with guidelines for the use of force, including deadly physical force.

As the Supreme Court has recognized, this reasonableness inquiry embodies “allowance for the fact that police officers are often forced to make split-second judgments — in circumstances that are tense, uncertain, and rapidly evolving — about the amount of force that is necessary in a particular situation.”

This policy is written in recognition of the value of all human life and dignity without prejudice to anyone. Vesting Deputies with the authority to use reasonable force and to protect the public welfare requires a careful balancing of all interests.

### III. DEFINITIONS

A. **Objectively Reasonable** – An objective standard used to judge a police officers actions. Under this standard, a particular application of force must be judged through the perspective of a reasonable police officer facing the same set of circumstances, without the benefit of 20/20 hindsight, and be based on the totality of the facts that are known to that police officer at the time that the force was used.

B. **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.

C. **Physical Injury** – Impairment of physical condition or substantial pain.

D. **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.

### IV. USE OF FORCE

A. In general terms, force is authorized to be used when reasonably believed to be necessary to effect a lawful arrest or detention, prevent the escape of a person from custody, or in defense of one's self or another.

B. Under the 4th Amendment, a police officer may use only such force as is "objectively reasonable" under the circumstances. The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene.

### V. DETERMINING THE OBJECTIVE REASONABLENESS OF FORCE

A. When used, force should be only that which is objectively reasonable given the circumstances perceived by the member at the time of the event.

B. Factors that may be used in determining the reasonableness of force include, but are not limited to:

1. The severity of the crime or circumstance;
2. The level and immediacy of threat or resistance posed by the suspect;
3. The potential for injury to citizens, police officers, and suspects;
4. The risk or attempt of the suspect to escape;

5. The knowledge, training, and experience of the member;
6. Police Officer/subject considerations such as age, size, relative strength, skill level, injury or exhaustion, and the number of police officers or subjects;
7. Other environmental conditions or exigent circumstances.

#### **VI. DUTY TO INTERVENE**

A. Any member present and observing another police officer using force that he/she reasonably believes to be clearly beyond that which is objectively reasonable under the circumstances shall intercede to prevent the use of unreasonable force, if and when the member has a realistic opportunity to prevent harm.

B. A member who observes another police officer use force that exceeds the degree of force as described in subdivision A of this section should promptly report these observations to a supervisor.

#### **VII. USE OF DEADLY PHYSICAL FORCE**

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

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

1. The member has probable cause to believe the suspect has committed a felony involving the infliction or threat of serious physical injury or death; and,

2. The member reasonably believes that the suspect poses an imminent threat of serious physical injury to the member or to others.

3. Where feasible, some warning should be given prior to the use of deadly physical force.

C. Chokeholds and Obstruction of Breathing or Blood Circulation.

1. Any application of pressure on the throat, windpipe, neck, or blocking the mouth or nose of a person in a manner that may hinder the breathing, reduce intake of air or obstruct blood circulation, is prohibited unless deadly physical force is authorized.

#### **VIII. PROHIBITED USES OF FORCE**

A. Force shall not be used by a member for the following reasons:

1. To extract an item from the anus or vagina of a subject without a warrant, except where exigent circumstances are present;
2. To coerce a confession from a subject in custody;
3. To obtain blood, saliva, urine, or other bodily fluid or cells, from an individual for the purposes of scientific testing in lieu of a court order where required;
4. 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.

## **IX. REPORTING & REVIEWING THE USE OF FORCE**

A. A member who has custody of a person must provide attention to the medical and mental health needs of a person in their custody and obtain assistance and treatment of such needs, which are reasonable and provided in good faith.

1. This includes appropriate and timely medical attention being provided to a party injured as a result of a use of force incident.
2. The immediate mental health needs of a person shall be based upon the reasonable cause to believe that a person, who appears to be mentally ill, is conducting themselves in a manner which is likely to result in a serious harm to themselves or other.

B. Members involved in use of force incidents as described below shall notify their supervisor as soon as practicable and shall complete an LCSO use of force "Subject Management" report.

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

C. A "Subject Management" use of force form should be used to document any reportable use of force incident.

D. Members should document any request for necessary medical or mental health treatment as well as efforts of members to arrange for such treatment.

#### **X. PROCEDURES FOR INVESTIGATING USE OF FORCE INCIDENTS**

A. Where practicable, a supervisor should respond to the scene to begin the preliminary investigation.

B. A supervisor that is made aware of a force incident shall ensure the completion of a "Subject Management" report by all members engaging in reportable use of force and, to the extent practical, make a record of all members present, as well police officers of other agencies.

C. Photographs should be taken which sufficiently document any injuries or lack thereof to members or suspects.

D. The appropriate Division Captain will review the supervisor's report and coordinate any follow up investigation that may be necessary.

E. Failure to follow the protocols set forth in this policy and procedure and applicable state laws and court rulings may result in disciplinary action.

#### **XI. TRAINING**

A. All members will receive training and demonstrate their understanding on the proper application of force annually.

B. Training topics will include use of force, conflict prevention, conflict resolution and negotiation, de-escalation techniques and strategies, including, but not limited to, interacting with persons presenting in an agitated condition as well as duty to intervene and prohibited conduct.

C. This policy is not intended to be a substitute for proper training in the use of force.